

Markets

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44.26 POINTS	0.43 POINT
DOW JONES 10,340.38	NASDAQ 1,961.80
US DOLLAR €0.772 unchanged 0.00	
10-YEAR TREASURY 4.16% ▼ 0.03	
MASSACHUSETTS 286.78 ▲ 0.72	

STEVE BAILEY

Downtown

Sue thy neighbor

CAMBRIDGE — What does a high-powered Harvard Law School professor do when he gets in a dispute with a neighbor? He sues, of course — even if that neighbor takes care of his young son after school every day.

Lucian Bebhuk is the much-quoted co-author of "Pay Without Performance: The Unfulfilled Promise of Executive Compensation." Don't take my word for it, check out his website, where Bebhuk has posted what must be every (positive) word ever written about him or his book. In the book, Bebhuk and another law professor, Jesse Fried, offer their prescription for restoring corporate integrity and reining in runaway executive pay, good goals indeed.

But when Bebhuk is not lecturing America's corporate boardrooms on the need to do the right thing, he is busy suing his next-door neighbor, the nonprofit Agassiz Neighborhood Council. The object of his angst: the group's plan for a children's art studio next to his house.

The lawsuit in Middlesex Superior Court by Bebhuk and three other neighbors — including a Harvard rabbi and a Harvard zoologist — has held up plans for the art studio for more than a year and driven up the cost, says Terry DeLancey, executive director of the neighborhood council, which provides preschool and after-school care for about 100 kids, most of them at the Maria L. Baldwin School a few doors down. "Silly us, we thought we were doing a service for the community," DeLancey said as she showed me a dilapidated carriage house she wants to expand into the art studio. "And we still do."

Bebhuk and his fellow whiners say they are all for an arts center — just not in their backyard. Said Bebhuk at a hearing three years ago: "I come to express my position with some difficulty because I do think it's a great project for Cambridge. And if it were to be on Garfield Street maybe I would be here today speaking like some of the other people who wrote letters of support." Garfield is one street over from Bebhuk's neat gray-and-white Sacramento Street home, which Harvard was kind enough to sell him a few years back.

There are all the usual complaints: traffic, parking, noise. They complain that adults will be allowed to use the arts center when the kids aren't using it. Imagine that. Bebhuk was flabbergasted when I asked him about all this. "Why don't you call our lawyers," he said. "Why don't I send you some material where we describe in great detail how much our life is to be adversely affected by this." My favorite touch: A Harvard professor complaining in a lawsuit about a tiny arts center expanding "institutional use" in his Cambridge neighborhood. It could have been worse, professor. It could have been a dorm.

It has been nearly two years since Cambridge issued a permit to build the arts center. DeLancey, the director, says her group went out of its way trying to accommodate the neighbors. Among those accommodations: agreeing to move the carriage house a few feet to spare a maple tree some neighbors wanted saved. Bebhuk, whose son Alon continues to come to the Agassiz center every day after kindergarten, and a few others couldn't be satisfied, she said. He is satisfied, however, with the care Alon gets at the Agassiz center. "I would not keep my child there if I had not been pleased," Bebhuk said in a deposition.

One of Bebhuk's fellow plaintiffs, Andrew Berry, the Harvard zoologist, framed the issue in his own deposition better than I ever could: "I shouldn't go on" — always a tip-off in a deposition, by the way, that you should not — "but it's not a situation you want to be in . . . being the bastards who want to deprive the poor youth of Cambridge of their lovely new shiny arts center."

One can choose not to be, any time one chooses.

Steve Bailey is a Globe columnist. He can be reached at bailey@globe.com or at 617-929-2902.



GLOBE STAFF PHOTO/BILL GREENE

Workers at Acambis Inc. in Canton. The firm says it has gotten smallpox vaccine orders from 13 countries, but says that isn't enough to keep its factory prepared in case it needs to boost production quickly.

Vaccine makers seek funds to stay ready

They ask government for help to keep plants primed in case of bioterror attacks

By Ross Kerber
GLOBE STAFF

Drug manufacturer Acambis Inc. has delivered 182.5 million doses of smallpox vaccine to a federal stockpile, enough for every American who might need one.

But Acambis has requested \$30 million from the federal government to keep its Canton factory ready to produce additional doses, citing the uncertain shelf life of the vaccine and potential overseas demand for it in an emergency.

"Even if you have a stockpile of 200,000 bullets, if you go to war, suddenly you would need more bullets. This is the same idea," said Gordon Cameron, chief executive of Acam-

bis, a British company whose US headquarters are in Cambridge.

Since 2000 the company has filled vaccine orders worth \$480 million, but its production line is now idle. Planners at the US Department of Health and Human Services say they won't make a decision on the request for more funding until this summer.

Large pharmaceutical companies have shied away from the vaccine business because the potential for profit is uncertain. That has provided room for specialized players like Acambis, BioPort Corp. of Michigan, which makes an anthrax vaccine, and BioPort's California rival, VaxGen Inc. While smaller companies are interested in vaccine development, their financial resources are limited. BioPort and VaxGen also have sought federal funds to keep their production facilities for vaccines on standby.

The concept is known as "warm base." Some biodefense analysts and drug industry executives say it is crucial to the nation's safety. "You can't just, at the flip of a switch, turn some plant into making any kind of vaccine," said Brad Smith, a fellow at the University of Pittsburgh's Center for

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Milestones in Acambis Inc.'s development of its smallpox vaccine

March 2003	September 2003	April 2004	January 2005	Present
Phase 1 study shows effectiveness in 99 of 100 subjects.	Completion of two phase 2 trials announced.	Phase 3 trials halted after inflamed heart muscles are detected in some subjects. The inflammation is also found in patients given traditional smallpox vaccine. Regulators eventually allow the trials to continue.	Acambis receives "fast track" designation from the Food and Drug Administration.	Acambis plans to seek final approval from the FDA this year.

SOURCE: Acambis Inc.

Merck told sellers to avoid talk of Vioxx heart risks

Lawmakers blast drug maker's tactics; firm replaces CEO

By Diedra Henderson
GLOBE STAFF

WASHINGTON — Merck & Co. trained an army of employees visiting doctors' offices to avoid discussing negative studies about Vioxx despite mounting evidence that the arthritis painkiller caused heart attacks and strokes, according to company documents released yesterday at a congressional hearing.

The hearing came the same day that embattled Merck chief executive Raymond Gilmartin was replaced by Richard Clark, a company veteran.

Members of the House Committee on Government Reform yesterday blasted the drug maker for willfully misleading doctors even after a Food and Drug Administration advisory committee asked it to alert physicians to Vioxx's heart risks.

A Merck representative testified that its 3,000-person sales staff simply conveyed the drug's known risks, as outlined on the Vioxx label.

The Senate has held scores of hearings on Vioxx and drug safety since Sept. 30, when Merck pulled Vioxx from the market after a study showed it increased the risk of heart attacks and strokes when taken at high doses for at least 18 months. It remains uncertain what may come of House investigative work that uncovered 20,000 pages of training doc-

uments and memoranda circulated among the company's senior executives.

According to those internal documents, the company focused on details such as how long its representatives shook hands with doctors and whether they maintained eye contact. But the overarching goal was to increase the number of prescriptions for Vioxx, which arrived on the market after Celebrex, another painkiller.

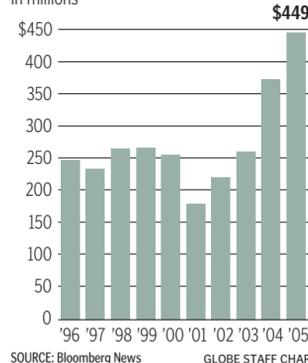
US Representative Elijah Cummings, a Maryland Democrat, said the panel also should hold a hearing with Pfizer Inc., manufacturer of Celebrex, the only painkiller in the same class as Vioxx that is still on the market. Pfizer last month pulled its other cox-2 inhibiting painkiller, Bextra, under pressure from the FDA. Such drugs work by selectively blocking the cox-2 enzyme that is associated with pain and inflammation.

Solid evidence of heart problems caused by Vioxx began to crop up as early as March 2000. The drug's label was not updated to reflect the risk until April 2002.

According to company documents, representatives known as "detailers" were told by superiors to sidestep questions about heart risks. If a doctor expressed concern, they were told to produce a pamphlet written by the Merck marketing department that said Vioxx was eight times safer for hearts than similar painkillers. The pamphlet did not include details from the Merck study that showed a fivefold increase in heart attack and stroke risk with Vioxx

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Gillette Co.

First-quarter revenue
In billionsFirst-quarter net income
In millions

SOURCE: Bloomberg News

GLOBE STAFF CHART

A strong quarter

Gillette reports a 19 percent gain in first-quarter profit, spurring critics of its planned takeover by Procter & Gamble who claim the Boston firm is robust enough to stay independent. C2

Probe of Fidelity looks at stock tips

US also said to check drug allegations as gift inquiry widens

By Andrew Caffrey
GLOBE STAFF

Federal investigators are looking into whether some traders at Fidelity Investments and brokers that handled the mutual fund company's business bartered tips about privileged stock information, and also whether the Fidelity traders were given drugs as a reward for directing business to the brokers, according to attorneys involved in the case.

US Attorney Michael J. Sullivan in Boston has empaneled a grand jury to investigate rogue activity involving Fidelity's powerful stock-trading desk, and has issued subpoenas to numerous traders and brokers to testify, these lawyers said.

The Justice Department inquiry, which includes field agents from the Federal Bureau of Investigation, is trying to determine whether any crimes were committed among a group of traders and brokers who mixed business and partying, including trips to the Super Bowl and fancy golf courses, and lavish dinners with expensive wines.

A spokeswoman for Sullivan, Samantha Martin, declined to comment.

The federal criminal investigation joins a separate inquiry by the US Securities and Exchange Commission into whether the Fidelity traders steered the fund company's prodigious trading business to those brokers who offered the extravagant entertainment and gifts, and not necessarily the best prices.

Fidelity spokeswoman Anne Crow-
FIDELITY, Page C4

Maker of Acela aims for quicker brake fix

Bombardier studies redesigning discs

By Keith Reed
GLOBE STAFF

The maker of Amtrak's Acela Express trains is considering a new type of brake disc to replace the ones that cracked last month, forcing all 20 trains out of service.

Bombardier Inc. is examining whether a new disc design could be produced, tested, and approved by regulators more quickly than waiting for replacements for the old ones, said Helene Gagnon, a spokeswoman for the company. Her comments revealed new details about the process Amtrak and Acela's manufacturers are undertaking as they scramble to figure out what went wrong with the flagship train's brakes, how to fix them, and the quickest way to restore the only high-speed rail service in the United States.

That process includes several companies and government agencies on two continents. Montreal-based Bombardier is coordinating efforts to determine what caused the brakes to crack and to find the best solution. Among the possibilities is waiting for replacement discs identical to the cracked ones, or even ordering new ones of a different design Gagnon said.

"We're not just waiting for the root cause analysis," she said. "To put the trains back in service, we're looking for alternatives."

Amtrak and Bombardier have said they want to have Acela running again by summer, when Bombardier is expected to get a shipment of replacement brakes for the trains. About 300 of the 1,440 brake discs on Acela trains were found to have cracks in their spokes after inspections last month.

A shipment is expected in June, Gagnon said.
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