



January 11, 2012

Scott M. Fishman, MD  
University of California, Davis  
Sacramento, California

Via email to [smfishman@ucdavis.edu](mailto:smfishman@ucdavis.edu)

Dear Dr. Fishman,

Thank you for your letter of January 9 and for taking the time to write and share your concerns about our December 23 article.

We have considered your letter carefully and in detail.

As a result of that review, we are taking a number of steps. First, we are removing the shaded highlighting from the response you offered in advance of the article. We had intended the highlighting to help readers focus on your key points, but have removed it in light of your quite different interpretation of its effect. Second, we have added a third link from the story to your response, so that each point of reaction in the story from you now links directly to the response. (We note, by the way, that all of these links appear in blue on most browsers until they have been clicked on, and thereafter appear in gray. This is standard in web publishing.) Third, we are adding a parenthetical note to the story indicating that the video produced by Cephalon in which you appeared has been removed from "When Good Medicines Become Bad Drugs" site since our story was published.

Beyond that, however, we must share with you that we do not believe there is anything in the story we published to correct or retract. We note especially that you have not challenged the accuracy of any of the facts in the story as published.

Specifically, in addition, we would note a number of what we consider important points:

- With respect to CME, we note that there is no question that you have participated in such events recently knowing about drug company sponsorship of your event. One example would be the June 2010 panel you and Dr. Fine sat on for ManagePainCME.org sponsored by King Pharmaceuticals. (We note, by the way, that you disclosed, for this panel, payments from Cephalon, Elan, Endo, Janssen, Eli Lilly, Merck, Pfizer and Purdue.)
- With respect to your JAMA letter, we note that it was headed "Incomplete Financial Disclosures..." and that your letter itself makes clear that you wrote it at the request of JAMA's editors and that your original letter "has been corrected." The Editor's Note accompanying your letter indicates that your letter was "required" by JAMA as an "additional declaration of potential conflict of interest."
- With respect to the "When Good Medicines Become Bad Drugs" video referenced above, Cephalon has advised us that you were informed in advance that the video "was being produced by Cephalon." The site, where, again, you remain listed as a featured speaker, says it is "brought to you by Cephalon."
- The article noted your statement that you "stopped taking money from drug companies in recent years." Your January 9 letter says you "eliminated relationships with pharmaceutical companies more than five years ago." But your statement provided to us in advance of publication says that you were paid for a lecture funded by Pfizer in 2008. We note also that a UC Davis Health System CME home study course, updated June

21, 2011, lists you as having "financial interest or affiliation" with Cephalon, Endo, Jeanssen [sic], Eli Lilly, Merck, Pfizer and Purdue.

- With respect to the 2010 Seattle Times op-ed you, Dr. Fine and another physician signed (and to which our story linked), one salient point seems to us its assertion that Dr. Fine's American Academy of Pain Medicine and your own American Pain Foundation are "professional organizations with perspective to make objective and fair-minded evaluations." That declaration seems hard to square with your own statement to us that "the only way for APF to do its work is through outside funding and most of it comes from industry." The funding of these organizations was, we note, not disclosed in conjunction with the Seattle Times article.
- With respect to the photo of you and the Surgeon General, our caption indicates it was taken after you both "participated in an expert panel in March 2011." We do not read your letter to be challenging the accuracy of this statement.

Dr. Fishman, we take very seriously ProPublica's commitment to fairness, which you quote from. We believe that this article scrupulously meets that standard, that it doesn't engage in innuendo, and that, on the contrary, it is strictly factual. It surely addresses a topic of major public interest. We stand ready to discuss the article further with you, including in person, if you would like.

Sincerely,



Paul E. Steiger  
Editor-in-Chief



Stephen Engelberg  
Managing Editor