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The U.S. attorney in Massachusetts, Michael Sullivan, left, and Associate Attorney General Robert McCallum announced the settlement yesterday.

## Pfizer will admit to criminal charges

### \$430 million fine levied for illegal marketing by drug company it bought

By DENISE LAVOIE  
Associated Press

BOSTON — Pfizer Inc. will plead guilty to criminal charges and pay \$430 million in fines to settle charges that a company it bought four years ago illegally promoted unapproved uses for a drug by flying doctors to lavish resorts and paying them hefty speaking fees to tout it.

The settlement with the world's largest pharmaceutical company over the company it bought, Warner-Lambert, includes a \$240 million criminal fine — the second-largest criminal fine ever imposed in a health-care-fraud prosecution, the Justice Department said yesterday.

Whistleblower David Franklin, the scientist who reported the marketing abuses to authorities, will receive \$26.6 million in the settlement.

"This is a standard industry practice," Franklin said in an interview. "Hopefully, real change will happen now, and this will be the start of something and not the end."

Under the agreement announced by federal prosecutors, Pfizer acknowledged spending thousands of dollars to promote unapproved uses for the anti-seizure drug Neurontin.

"This illegal and fraudulent promotion scheme corrupted the information process relied upon by doctors in their medical decision-making, thereby putting patients at risk," said the U.S. attorney in Massachusetts, Michael Sullivan, who joined senior Justice Department officials in Washington to announce the settlement.

Pfizer will plead guilty to violating the Food, Drug and Cosmetic Act. Besides the \$240 million criminal fine, the company will pay \$152 million in civil fines to be shared among state and federal Medicaid agencies. And \$38 million more would go to state consumer-protection agencies.

The company said the activity occurred years before it bought Warner-Lambert in 2000.

"Pfizer is committed to compliance with all health-care laws and FDA requirements and to high ethical standards in all aspects of its business practices," the company said in a statement.

The case began in 1996, when Franklin filed a whistleblower lawsuit against drug maker Parke-Davis and its parent company, Warner-Lambert, alleging it used an illegal marketing plan to drive up Neurontin sales in the 1990s.

The lawsuit alleged that, while Neurontin was approved only as an epilepsy drug, the company promoted it for relieving pain, headaches, bipolar disorder and other psychiatric illnesses.

While doctors can prescribe drugs for any use, the Food and Drug Cosmetic Act prohibits promotion of drugs for "off-label uses."

Last May, federal prosecutors in Boston filed a brief in support of Franklin's lawsuit, and have since been talking with Pfizer to recover money spent by the Medicaid program on Neurontin.

Franklin's lawsuit alleged the company's publicity plan included paying doctors to put their names on ghostwritten articles about Neurontin and to induce them to prescribe the drug for various uses by giving them tickets to sporting events, trips to golf resorts and speaking fees.

Neurontin's sales soared from \$97.5 million in 1995 to nearly \$2.7 billion in 2003.

"We believe we have exposed an illegal practice in the pharmaceutical industry that caused the Medicaid program to pay tens of millions of dollars for off-label prescriptions that were not eligible for reimbursement," said Franklin's attorney, Thomas Greene.

Franklin, 42, filed his lawsuit under the U.S. False Claims Act, which allows citizens to sue on behalf of the government and receive a portion of awards in cases where companies are defrauding the government.

In January, Pfizer took a charge against its fourth-quarter 2003 earnings totaling \$403 million after-tax over the Neurontin case.