

1534

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

RAMESH BUCHIRAJAM AKKELA
a/k/a Ramesh Bhai

Criminal No. 15-163

(18 U.S.C. §§ 2, 371, 1341, and
1956(a)(2)(A); 21 U.S.C. § 963)

INDICTMENT

The grand jury charges:

INTRODUCTION

At all times material to this Indictment:

1. The Controlled Substance Drug Device and Cosmetic Act (CSDD&CA) prohibited the importation into the United States of controlled substances, including Schedule IV narcotics and nonnarcotics. 21 U.S.C. § 952(a) and (b).

2. Carisoprodol ("Soma") was a Schedule IV nonnarcotic drug. Tramadol Hydrochloride ("Tramadol") was a narcotic pain relief drug which was non-controlled until August 18, 2014, when it was included in Schedule IV.

3. Under the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. § 301 et seq., the term "drug" included any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or an article (other than food) intended to affect the structure or

function of the body of man or other animals. 21 U.S.C. § 321(g)(1).

4. The introduction or delivery for introduction into interstate commerce of any misbranded drug was prohibited. 21 U.S.C. § 331(a). "Misbranding" encompassed dispensing without a valid prescription a drug intended for use by man which, because of its toxicity or potential for harmful effect, was not safe for use except under supervision of a licensed practitioner or where its FDA-approved application limited it to prescription use. 21 U.S.C. § 353(b)(1). A drug was also misbranded where its labeling was false or misleading in any particular, 21 U.S.C. § 352(a); where its labeling did not bear adequate directions for use, 21 U.S.C. § 352(f)(1); or where the drug was manufactured, prepared, propagated, compounded or processed in an establishment not registered with the Secretary of Health and Human Services, 21 U.S.C. § 352(o). The introduction or delivery for introduction into interstate commerce of a misbranded drug with intent to defraud or mislead was a felony. 21 U.S.C. § 333(a)(2).

5. Tadalafil ("Cialis") and Sildenafil Citrate ("Viagra") were non-controlled substance erectile dysfunction prescription drugs.

6. Due to their toxicity or potential for harmful effect, none of the above-mentioned drugs could be dispensed for

use without a prescription from a licensed medical practitioner. Moreover, 21 U.S.C. § 829(e) prohibited the Internet distribution of controlled substances which were prescription drugs under the FDCA without a valid prescription. And 21 U.S.C. § 829(b) prohibited the dispensation without a prescription (unless directly dispensed by a licensed practitioner to the ultimate user) of Schedule IV controlled substances which were FDCA prescription drugs.

7. Vivin International ("Vivin") was located in India, and maintained Internet websites www.vivinpharma.com, www.vivininternational.com and www.vivin-international.com to advertise drugs for sale. Vivin engaged in the distribution of misbranded drugs, including the above-mentioned controlled substances and erectile dysfunction drugs, by exporting them from India into the United States, either directly to domestic "re-shippers" or indirectly through other Internet-based off-shore drug distributors, for distribution to consumers, all without prescriptions, in violation of the CSDD&CA and FDCA.

8. RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, resided in India and coordinated Vivin's drug distribution. In doing so, AKKELA used email accounts vivin.international@gmail.com, kellypharmacy@gmail.com, kcmarketinginc@gmail.com and kevin.inc009@yahoo.com to conduct business with re-shippers and others.

9. CDR Marketing Services ("CDR") was located in Costa Rica, and maintained Internet websites www.cdrpharmacy.com and www.drpharmashop.com to advertise drugs for sale. CDR engaged in the sale of misbranded drugs by importing them from Indian suppliers, including RAMESH BUCHIRAJAM AKKELA. D.F.S., a/k/a "Tom Pelling", resided in Costa Rica and, on behalf of CDR, facilitated the distribution of misbranded drugs from India to U.S. consumers.

10. N.R. resided in the Western District of Pennsylvania and worked as a CDR re-shipper from June 2012 until November 2013, and thereafter as a re-shipper for RAMESH BUCHIRAJAM AKKELA until late February of 2014. In both capacities, N.R. received wholesale quantities of misbranded prescription drugs from India at various post office boxes in the Pittsburgh area and, after repackaging the drugs into retail quantities, mailed them to domestic consumers who had ordered them.

11. M.M.P., a/k/a "G. Flores" and "G. Fiallo", was a Houston, Texas based re-shipper who also received wholesale quantities of misbranded prescription drugs from India, and who took over for N.R. when the latter stopped working for CDR in November of 2013.

THE SCHEME AND ARTIFICE

12. From in and around July of 2013, and continuing thereafter to in and around April of 2015, in the Western District of Pennsylvania and elsewhere, the defendant, RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, and others known and unknown, did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, which scheme and artifice was in sum and substance as follows:

13. It was a part of the scheme and artifice that the Vivin network for domestic distribution of imported misbranded prescription drugs was structured to avoid detection by law enforcement authorities by the:

a. shipment of wholesale quantities of the prescription drugs into the United States, packaged in numerous smaller quantity containers, in order to avoid Customs officials' scrutiny of such international shipments;

b. use of a number of post office boxes in the same geographic area by a single re-shipper, to avoid suspicion by Customs and Post Office authorities;

c. false Customs declarations on imported drug packages, indicating that the parcels had "no commercial value";

d. false descriptions of drug package contents, such as "sample for trade";

e. creation of the appearance that the drugs sold originated within the U.S. (due to establishment of a reshipment network within the U.S.);

f. use of false names by participants, such as Ramesh Bhai by RAMESH BUCHIRAJAM AKKELA, "Tom Pelling" by D.F.S., and "G. Flores" and "G. Fiallo" by M.M.P.;

g. change in shipping procedure, in February 2014, to reduce Customs' seizures of misbranded drugs shipped from India, whereby RAMESH BUCHIRAJAM AKKELA began to send such drugs to N.R. from a U.S. source in Jamaica, NY; and

h. change in shipping, in August 2014, also to reduce Customs' seizure of misbranded drugs shipped from India, whereby RAMESH BUCHIRAJAM AKKELA commenced indirect shipments of such drugs to the U.S. via Singapore, which parcels bore the contents description "Personal Pharmaceuticals" and the declared value "5.00 dollars."

14. It was further a part of the scheme and artifice that, in lieu of transferring funds from India to compensate N.R. for his reshipping services, RAMESH BUCHIRAJAM AKKELA directed overseas customers to send bank wire transfers to N.R. During the period from 10/5/13 to 1/27/14, RAMESH BUCHIRAJAM AKKELA caused \$41,000.00 to be transferred from the United Arab

Emirates and United Kingdom to N.R. in Pittsburgh, Pennsylvania, in payment for his reshipment of more than 3,300 Vivin drug orders.

15. It was further a part of the scheme and artifice that, in order to facilitate distribution of misbranded drugs to U.S. consumers, RAMESH BUCHIRAJAM AKKELA maintained the following re-shipper inventories:

a. In possession of N.R. as of 2/25/14:

Tramadol	120,460 pills
Soma	56,430 pills
Sildenafil Citrate	113,350 pills
Tadalafil	<u>12,240 pills</u>
	302,480 total pills

b. Shipped to M.M.P. during the period from 10/28/14 to 1/8/15:

Tramadol	149,000 pills
Soma	<u>13,800 pills</u>
	162,800 total pills

(Reshippers did not receive all of the inventory AKKELA sent since, during the period from 7/24/13 to 7/30/14, Customs officials seized 71 shipments containing approximately 84,100 Tramadol and 55,800 Soma pills destined for N.R. and M.M.P.)

THE MAILINGS

16. On or about the following dates, in the Western District of Pennsylvania and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, and attempting to do so, the defendant, RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, and others known and unknown, did knowingly cause to be delivered in Pittsburgh, PA the following parcels, each addressed from the following senders to N.R. via commercial interstate carrier UPS (at Counts 1 through 7) and to W.L. Pharmacy via U.S. mail (at Counts 8 through 10), which contained the drugs labeled as follows:

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>DRUG/DESCRIPTION</u>
1	2/24/14	Frank 3475485911 Pharm Source Inc. 16115 Rockaway Blvd. Jamaica, NY 11434	327 boxes (each containing 10 blister packs of 10-total 36,100 tablets) labeled "Blueberry-100, 100 mg. Sildenafil Citrate tablets"
2	2/24/14	Frank 3475485911 Pharm Source Inc. 16115 Rockaway Blvd. Jamaica, NY 11434	335 boxes (each containing 10 blister packs of 10-total 33,500 tablets) labeled "OL-Tram 50 mg. Tramadol tablets"

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>DRUG/DESCRIPTION</u>
3	2/24/14	Frank 3475485911 Pharm Source Inc. 16115 Rockaway Blvd. Jamaica, NY 11434	264 boxes (each containing 10 blister packs of 10-total 26,400 tablets) labeled "Blueberry-100 100 mg. Sildenafil Citrate tablets"; and 50 boxes (each containing 10 blister packs of 10-total 5,000 tablets) labeled "Malegra-100, 100 mg. Sildenafil Citrate tablets"
4	2/24/14	Frank 3475485911 Pharm Source Inc. 16115 Rockaway Blvd. Jamaica, NY 11434	217 boxes (each containing 10 blister packs of 10-total-21,700 capsules) labeled "OL-Tram, 50 mg. Tramadol capsules"; 67 boxes (each containing 10 blister packs of 10-total 6,700 capsules) labeled "OL-Tram, 50 mg. Tramadol capsules"; and 19 boxes (each containing 10 blister packs of 10-total 1,900 tablets) labeled "Pain-O-Soma, 350 mg. Carisoprodol tablets"
5	2/24/14	Frank 3475485911 Pharm Source Inc. 16115 Rockaway Blvd. Jamaica, NY 11434	312 boxes (each containing 10 blister packs of 10-total 31,200 tablets) labeled "Blueberry-100, 100 mg. Sildenafil Citrate tablets"

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>DRUG/DESCRIPTION</u>
6	2/24/14	Frank 3475485911 Pharm Source Inc. 16115 Rockaway Blvd. Jamaica, NY 11434	360 boxes (each containing 10 blister packs of 10-total 36,000 tablets) labeled "Pain-O-Soma, 350 mg. Carisoprodol tablets"
7	2/24/14	Frank 3475485911 Pharm Source Inc. 16115 Rockaway Blvd. Jamaica, NY 11434	830 boxes (each containing 10-total 8,300 capsules) labeled "MA-PA Tramadol, 37.5 mg. Tramadol capsules"; and 268 blister packs (each containing 10-total 2,680 capsules) labeled "MA-PA, 37.7 mg. Tramadol capsules"
8	3/29/15	MR/DA/N-1515/2014, BPC Chakala MIDC, Mumbai-400 093	100 blister packs (each containing 10 white pills) labeled "OL-Tramadol 100 mg. Tramadol Hydrochloride"; and 100 blister packs (each containing 10 white pills) labeled "Pain-O-Soma Carisoprodol Tablets, 350 mg."
9	4/3/15	MR/DA/N-1515/2014, BPC Chakala MIDC, Mumbai-400 093 and Vivin International, Basement Cross Apts., Off. P.P. Road, Andheri (East), Mumbai 400069	3 blister packs (each containing 10 round white pills) labeled "Tramatas SR Tramadol HCl sustained release tablets 100 mg."; and 3 blister packs (each containing 10 round white pills) labeled "Marksoma Carisoprodol Tablets IP 350 mg."

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>DRUG/DESCRIPTION</u>
10	4/27/15	MR/DA/N-1515/2014, BPC Chakala MIDC, Mumbai-400 093 and Vivin International, Basement Cross Apts., Off. P.P. Road, Andheri (East), Mumbai 400069	2 blister packs (each containing 10 diamond- shaped tablets) labeled "Blue Force - 100 Sildenafil Citrate tablets, 100 mg."; 2 blister packs (each containing 10 tear- shaped tablets) labeled "TadaForce 20 Tadalafil 100 mg."; and 10 blister packs (each containing 10 round white tablets) labeled "OL-Tram Tablets 50 mg. Tramadol Hydrochloride"

All in violation of Title 18, United States Code,
Section 1341.

COUNT ELEVEN

The grand jury further charges:

17. Paragraphs 1 through 15 (pertaining to Counts 1 through 10) are incorporated as if fully set forth herein.

THE CONSPIRACY

18. Commencing in and around July of 2013, and continuing to in and around April of 2015, in the Western District of Pennsylvania and elsewhere the defendant, RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, did willfully and knowingly conspire, combine, confederate and agree with other conspirators known and unknown to the grand jury to commit offenses against the United States, that is:

a. the introduction into interstate commerce, with intent to defraud and mislead, of the drugs Carisoprodol, Tramadol Hydrochloride, Tadalafil and Sildenafil Citrate, which were misbranded in that their labeling was false and misleading, the labeling lacked adequate directions for use and that they were dispensed without a valid prescription from a licensed medical practitioner, in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2); and

b. the fraudulent and knowing importation into the United States of merchandise contrary to law, knowing the same to have been imported contrary to law, that is, the introduction and delivery for introduction into interstate

commerce of the misbranded drugs Carisoprodol, Tramadol Hydrochloride, Tadalafil and Sildenafil Citrate, contrary to Title 21, United States Code, Sections 331(a) and 333(a), in violation of Title 18, United States Code, Section 545.

19. In order to effect the objects and purposes of said conspiracy, RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, and others known and unknown, did commit, among others, the following overt acts in the Western District of Pennsylvania and elsewhere:

OVERT ACTS

20. The said conspirators did do and cause to be done the overt acts set forth in paragraph 16 of this Indictment, on the dates, at the places and in the manner set forth therein, all of which are incorporated herein by reference as separate overt acts.

All in violation of Title 18, United States Code, Section 371.

COUNT TWELVE

The grand jury further charges:

21. Paragraphs 1 through 16 (pertaining to Counts 1 through 10) are incorporated as if fully set forth herein.

22. From in and around July of 2013, and continuing thereafter to in and around April of 2015, in the countries of India and Singapore and in the Southern District of Texas and Western District of Pennsylvania and elsewhere, the defendant, RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, did knowingly and intentionally combine, conspire, confederate and agree with other co-conspirators known and unknown to the grand jury, to commit the following offenses against the United States: To intentionally and knowingly import into the United States Schedule IV controlled substances, that is the nonnarcotic Carisoprodol and (after August 18, 2014) the narcotic Tramadol Hydrochloride, intending and knowing that such controlled substances would be unlawfully imported into the United States, in violation of Title 21, United States Code, Sections 952(a) and (b), 960(a)(1) and (b)(6) and 841(b)(2).

In violation of Title 21, United States Code, Section 963.

COUNT THIRTEEN

The grand jury further charges:

23. Paragraphs 1 through 16 (pertaining to Counts 1 through 10) are incorporated as if fully set forth herein.

24. From on or about October 5, 2013, and continuing thereafter to on or about January 27, 2014, in the Western District of Pennsylvania and elsewhere, the defendant, RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, and others known and unknown, did transmit and transfer monetary instruments and funds to a place in the United States from and through a place outside the United States, with the intent to promote the carrying on of specified unlawful activity, that is, defendant caused \$41,000 in wire transfer payments for reshipment of misbranded drugs to be transferred from the United Arab Emirates and United Kingdom to the Bank of America account(s) of N.R. in Pittsburgh, Pennsylvania, all for the purpose of promoting the scheme and artifice to defraud, in violation of Title 18, United States Code, Section 1341.

In violation of Title 18, United States Code, Sections 1956(a)(2)(A) and 2.

COUNT FOURTEEN

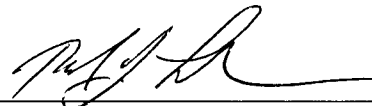
The grand jury further charges:

25. Paragraphs 1 through 16 (pertaining to Counts 1 through 10) are incorporated as if fully set forth herein.

26. On or about March 17, 2015, in the Western District of Pennsylvania and elsewhere, the defendant, RAMESH BUCHIRAJAM AKKELA, a/k/a Ramesh Bhai, and others known and unknown, did transmit and transfer a monetary instrument and funds from a place in the United States to and through a place outside the United States, with the intent to promote the carrying on of specified unlawful activity, that is, defendant caused \$780.00 in payment for drug orders (set forth in Counts 8 through 10 of this Indictment) to be transferred by wire via Western Union from Pittsburgh, PA to Buchirajam Akkela in India, all for the purpose of promoting the scheme and artifice to defraud, in violation of Title 18, United States Code, Section 1341.

In violation of Title 18, United States Code, Sections 1956(a)(2)(A) and 2.

A True Bill,



FOREPERSON



DAVID J. HICKTON
United States Attorney
PA ID No. 34524