

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

**UNITED STATES OF AMERICA**

**Plaintiff**

**v.**

- 1. BETH HANDY,**
- 2. ROBERT McFADDEN,**
- 3. ROBERT HATCH,**
- 4. BOAZ BENMOSHE,**  
**a.k.a. Ron Ben, Moshe**  
**Ben-Moshe, Moshe Ben Moshe, Boaz**  
**Ben Moshe**
- 5. OFER LUPOVITZ, a.k.a. Ofer Lupo**

**Defendants**

CRIMINAL NO. \_\_\_\_\_

**VIOLATIONS:**

18 U.S.C. § 2;  
18 U.S.C. § 371;  
18 U.S.C. §1001;  
18 U.S.C. §1349;  
18 U.S.C. §1343;  
18 U.S.C. §1956(h)

21 U.S.C. § 331(t);  
21 U.S.C. § 333(b)(1)(D);  
21 U.S.C. § 353(e)(2)(A)

**INDICTMENT**

**THE GRAND JURY CHARGES:**

**COUNT ONE**

**18 U.S.C. § 1349**

**(Conspiracy to Commit Wire Fraud)**

**A. GENERAL ALLEGATIONS**

At all times relevant to this indictment:

1. The United States Food and Drug Administration [hereinafter "FDA"] was the agency of the United States responsible for, among other things, regulating the wholesale distribution of prescription drugs.

2. Serostim was an injectable drug manufactured by Serono, Inc., and approved by the FDA for the treatment of AIDS-wasting syndrome in HIV-infected patients.

3. Serostim was a prescription drug that could be safely used only under the professional supervision of a licensed practitioner.

4. Co-conspirator THOMAS LAVERY ("Lavery ") was a wholesale distributor of Serostim operating out of Palm Springs, California. Lavery sometimes conducted business under the name of "Las Palmas Marketing Group." Neither Lavery nor Las Palmas Marketing Group were licensed to engage in wholesale distribution of prescription drugs in California.

5. Defendant BETH HANDY ("HANDY ") resided in Milford, New Hampshire and was licensed by the State of New Hampshire to engage in wholesale distribution of prescription drugs. Defendant HANDY conducted business from her residence under the name of "Alpine Pharma."

6. Defendant ROBERT McFADDEN ("McFADDEN ") was an attorney with offices located in Palm Springs, California. Defendant McFADDEN managed a client trust account for Lavery from those offices. Defendant McFADDEN acted as Lavery's partner in the wholesale distribution of Serostim. Defendant McFADDEN was not licensed in California to engage in wholesale distribution of prescription drugs.

7. Defendants ROBERT HATCH ("HATCH "), BOAZ BENMOSHE ("BENMOSHE "), and OFER LUPOVITZ ("LUPOVITZ ") operated from in or around Palm Springs, California, and obtained Serostim which they sold to Lavery and defendant McFADDEN. Defendants HATCH, BENMOSHE, and LUPOVITZ were not licensed in California to engage in wholesale distribution of prescription drugs.

8. J.M. Blanco, Inc. and Droguer a Javiness, both located in Puerto Rico, were wholesale distributors of prescription drugs.

9. J.M. Blanco, Inc. never sold any prescription drugs, including Serostim, to Droguer a Javiness.

10. Droguer a Javiness never bought or sold the prescription drug Serostim.

11. Medex Biopharm was a licensed wholesale distributor of prescription drugs based out of Memphis, Tennessee.

12. Medical Center Pharmaceuticals was a licensed wholesale distributor of prescription drugs based in San Diego, California.

### **B. WHOLESALE DISTRIBUTION OF PRESCRIPTION DRUGS IN THE UNITED STATES**

13. U.S. drug manufacturers, such as Serono, Inc., generally distribute their prescription drugs to pharmacies, hospitals, and customers through licensed wholesale distributors.

14. A prescription drug is frequently bought and sold by numerous licensed wholesale distributors before being purchased by a pharmacy, hospital, or consumer.

15. Some wholesale distributors obtain drugs from questionable, and often unlicensed, sources who sell drugs at prices significantly below the average wholesale price of the drug. Those sources may have purchased stolen or expired drugs, or drugs that were previously dispensed and resold by the patient for whom the drug was prescribed. The drugs are then reintroduced into the wholesale distribution chain.

16. To prevent prescription drug diversion and the distribution of stolen, counterfeit, or substandard drugs, Congress enacted the Prescription Drug Marketing Act ("PDMA"). Among other things, the PDMA requires wholesale distributors of prescription drugs to be licensed by the state(s) in which they operate. Pursuant to the PDMA, the FDA enacted minimum guidelines for state licensing of wholesale distributors of prescription drugs. These guidelines are designed to eliminate potential risks to the public health by protecting the integrity

of the drug distribution system. The guidelines require review of the applicant's criminal history and impose minimum standards for record retention, storage and handling of prescription drugs.

17. The PDMA also generally requires wholesale distributors of prescription drugs to provide to the recipient of the drugs a statement identifying each prior sale, purchase, or trade of the drug, including the date of each transaction and the names and addresses of all parties to the transaction. This statement is commonly referred to as a "pedigree. In the pharmaceutical industry, wholesale distributors use pedigrees to verify prior sales of the drugs as a means to prevent the distribution of drugs that are counterfeit, stolen, expired, obtained through fraud, or otherwise substandard.

18. Beginning in October 2002, Serono, Inc. implemented a "Secured Distribution Program" to manage the distribution of Serostim to patients. The program was intended to maintain the integrity of Serostim's distribution in the United States. Under the Program, Serono, Inc., shipped Serostim directly to contracted network pharmacies that served as the exclusive distributors of Serostim in the United States.

### **C. THE CONSPIRACY**

19. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

20. Beginning in or about November 2002 and ending in or about June 2004, in the District of New Hampshire and elsewhere,

**1. BETH HANDY, and**

**2. ROBERT McFADDEN**

the defendants herein, and others known and unknown to the Grand Jury, did knowingly and willfully combine, conspire, confederate, and agree to commit an offense against the United

States, to wit: to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property from others by means of false and fraudulent pretenses, representations, and promises, and, for the purpose of executing the scheme and artifice, knowingly transmitting and causing to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, and sounds in violation of Title 18, United States Code, Section 1343. All in violation of Title 18, United States Code, Section 1349.

**OBJECT OF THE CONSPIRACY**

21. It was the object of the conspiracy to purchase Serostim from unlicensed sources and illegally distribute the Serostim at the highest price possible.

**MANNER AND MEANS OF THE CONSPIRACY**

22. The following were among the manner and means used by the defendants to carry out the object of the conspiracy and to ensure its success:

23. That defendants BENMOSHE, HATCH and LUPOVITZ would illegally obtain Serostim for unlawful distribution.

24. That defendants BENMOSHE, HATCH and LUPOVITZ would illegally supply Lavery and defendant McFADDEN with large quantities of the Serostim generally on consignment for distribution, despite being unlicensed to engage in wholesale distribution of prescription drugs in California.

25. That defendant McFADDEN established, maintained and managed a client trust account at Washington Mutual Bank in Palm Springs, California for the purposes of receiving payments for the Serostim that members of the conspiracy illegally distributed, and also to pay members of the conspiracy for participating in the scheme.

26. That defendant HANDY would identify potential customers and arrange for the sale of the Serostim (obtained by Lavery and defendant McFADDEN) to licensed wholesale distributors of prescription drugs.

27. That after arranging each sale, defendant HANDY contacted Lavery, who would then ship the Serostim via Federal Express from Palm Springs, California to the customer. In order to conceal his involvement in handling and shipping the product, Lavery would use defendant HANDY's name and address and/or Alpine Pharma as the shipper on the shipping label, and would enclose a packing slip, prepared by defendant HANDY, bearing Alpine Pharma's name and address.

28. That Lavery would provide defendant HANDY with false information she used to falsify pedigrees that she prepared for the customers.

29. That defendant HANDY would prepare false pedigrees representing that the Serostim has been obtained from Droguer a Javiness, and that Droguer a Javiness purchased the Serostim from J.M. Blanco, Inc.

30. That HANDY would transmit the false pedigrees to the customers via facsimile, sometimes indicating that a pedigree was "standing" for all of her sales, meaning that the pedigree would remain the same for all of her Serostim shipments, and thereby avoiding having to always transmit a pedigree for each shipment of Serostim to that customer.

31. That initially, defendant HANDY would transmit via facsimile to the customers instructions to wire transfer the payment for the Serostim to her bank account d/b/a Alpine Pharma, at the Bank of New Hampshire.

32. That upon receipt of the payment for the Serostim, defendant HANDY would

wire transfer the funds, less her share of the profits, to the client trust account established and managed by defendant McFADDEN.

33. That subsequently, defendant HANDY instructed the customers to wire transfer their payment for the Serostim directly to the client trust account managed by defendant McFADDEN.

34. That defendant HANDY would prepare bogus purchase invoices for her own files and record keeping purposes, falsely indicating that Alpine Pharma had purchased the Serostim from Droguer a Javiness, but accurately identifying the recipients of the Serostim.

35. That defendant HANDY would provide defendant McFADDEN with copies of these false purchase invoices.

36. That upon receipt of the proceeds, defendant McFADDEN would prepare checks made out to "cash" from the client trust account funds, which would generally be endorsed and cashed by both Lavery and defendant McFADDEN.

37. That these monies would then be used to purchase official bank checks from Washington Mutual Bank to pay defendants BENMOSHE, HATCH and LUPOVITZ for supplying the Serostim, and defendant HANDY for her involvement in the scheme.

38. That Lavery would hand deliver the official bank checks to defendants BENMOSHE, HATCH AND LUPOVITZ in payment for the Serostim they had supplied.

39. That Lavery and defendant McFADDEN would retain a share of the profits as payment for their participation in the scheme.

40. In total, Lavery, and defendants McFADDEN and HANDY managed to obtain, by false means and representations, approximately \$962,985.00.

**OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY**

41. In furtherance of the conspiracy, and to effect the object and purpose thereof, Lavery, and defendants McFADDEN and HANDY committed and caused to be committed the following overt acts, among others, within the District of New Hampshire and elsewhere:

42. Between on or about November 11, 2002, and on or about June 10, 2004, Lavery and defendant McFADDEN obtained Serostim from unlicensed sources in California, including defendants HATCH, BENMOSHE, and LUPOVITZ.

43. Between on or about November 11, 2002, and on or about June 10, 2004, Lavery shipped Serostim by Federal Express from Palm Springs, California, to Medex BioPharm, Inc. in Memphis, Tennessee and to Medical Center Pharmaceuticals in San Diego, California.

44. Between on or about November 11, 2002, and on or about October 6, 2003, defendant HANDY transmitted via facsimile from Milford, New Hampshire to Medex BioPharm, Inc. in Memphis, Tennessee, and Medical Center Pharmaceuticals in San Diego, California, pedigrees that falsely represented that the Serostim was purchased from Droguer a Javiness and that Droguer a Javiness received the Serostim from J.M. Blanco, Inc.

45. Between on or about November 14, 2002, and on or about June 10, 2004, customers wired payments for the Serostim to defendant HANDY's bank account in New Hampshire or to the client trust account in Palm Springs in accordance with instructions that defendant HANDY provided on the sales invoices that she sent to the customers.

46. The facts of each of the separate offenses charged in Counts Two through Thirty-Two are alleged to be separate overt acts undertaken in furtherance of the conspiracy, as well as to accomplish the object of the conspiracy, and are incorporated herein by reference as if set forth as separate overt acts.

**COUNTS TWO THROUGH THIRTY-TWO**



**18 U.S.C. §§ 1343 and 2  
(Wire Fraud)**

47. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

48. On or about the dates set forth below, in the District of New Hampshire and elsewhere within the jurisdiction of this Court,

**1. BETH HANDY**

the defendant, herein, aiding and abetting Lavery and McFadden, having devised and intending to devise a scheme and artifice to defraud and to obtain monies and property from others by means of false and fraudulent pretenses, representations, and promises, did, for the purpose of executing said scheme and artifice, knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce, a writing, sign, signal, and sound as follows:

<b><u>COUNT</u></b>	<b><u>DATE</u></b>	<b><u>ITEM TRANSMITTED</u></b>
<b>TWO</b>	11/11/2002	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medical Center Pharmaceuticals in California.
<b>THREE</b>	1/14/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
<b>FOUR</b>	2/25/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
<b>FIVE</b>	3/6/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
<b>SIX</b>	5/16/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
<b>SEVEN</b>	6/2/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in

Memphis, Tennessee.

<b>EIGHT</b>	6/10/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medical Center Pharmaceuticals in California.
<b>NINE</b>	8/5/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
<b>TEN</b>	10/6/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
<b>ELEVEN</b>	11/14/2003	Wire transfer of \$21,875 from Medical Center Pharmaceutical's account at Union LA Bank in California to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medical Center Pharmaceuticals.
<b>TWELVE</b>	1/16/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>THIRTEEN</b>	1/22/2003	Wire transfer of \$106,250 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>FOURTEEN</b>	2/11/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>FIFTEEN</b>	2/27/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>SIXTEEN</b>	3/10/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.

<b>SEVENTEEN</b>	5/16/2003	Wire transfer of \$41,250 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>EIGHTEEN</b>	6/2/2003	Wire transfer of \$21,250 from Medical Center Pharmaceutical's account at Union LA Bank in California to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medical Center Pharmaceuticals.
<b>NINETEEN</b>	6/4/2003	Wire transfer of \$47,372 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, \$42,500 of which constituted payment for Serostim shipped to Medex BioPharm.
<b>TWENTY</b>	6/18/2003	Wire transfer of \$21,250 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-ONE</b>	7/15/2003	Wire transfer of \$37,000 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-TWO</b>	8/4/2003	Wire transfer of \$12,250 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-THREE</b>	8/19/2003	Wire transfer of \$27,750 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-FOUR</b>	9/17/2003	Wire transfer of \$21,875 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-FIVE</b>	9/18/2003	Wire transfer of \$65,625 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for

Serostim shipped to Medex BioPharm.

<b>TWENTY-SIX</b>	9/30/2003	Wire transfer of \$26,535 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-SEVEN</b>	10/7/2003	Wire transfer of \$91,500 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-EIGHT</b>	12/18/2003	Wire transfer of \$17,875 from Medex BioPharm's account at Trust One Bank in Tennessee to the client trust account in California, as payment for Serostim shipped to Medex BioPharm.
<b>TWENTY-NINE</b>	1/7/2004	Wire transfer of \$17,875 from Medex BioPharm's account at Trust One Bank in Tennessee to the client trust account in California, as payment for Serostim shipped to Medex BioPharm.
<b>THIRTY</b>	5/6/2004	Wire transfer of \$22,875 from Medex Medical's account at Trust Mark National Bank in Tennessee to the client trust account in California, as payment for Serostim shipped to Medex BioPharm.
<b>THIRTY-ONE</b>	6/8/2004	Wire transfer of \$15,555 from Medex Medical's account at Trust Mark National Bank in Tennessee to the client trust account in California, as payment for Serostim shipped to Medex BioPharm.
<b>THIRTY-TWO</b>	6/10/2004	Wire transfer of \$11,895 from Medex Medical's account at Trust Mark National Bank in Tennessee to the client trust account in California, as payment for Serostim shipped to Medex BioPharm.

All in violation of Title 18, United States Code, Sections 2 and 1343.

**COUNT THIRTY-THREE**

**18 U.S.C. § 1956(h)**

**(Conspiracy to Launder Monetary Instruments)**

49. Paragraphs 1 through 18 and 23 through 40 are realleged and incorporated herein

by reference.

50. Beginning in or about November 2002, and continuing until in or about June 2004, in the District of New Hampshire and elsewhere within the jurisdiction of this Court,

**1. BETH HANDY,**

**2. ROBERT McFADDEN,**

**3. ROBERT HATCH,**

**4. MOSHE BENMOSHE, a.k.a. Ron Ben, Boaz BENMOSHE, and**

**5. OFER LUPOVITZ, a.k.a. Ofer Lupo**

the defendants herein, knowingly, willfully, intentionally and unlawfully did conspire, confederate, and agree together with each other and with divers other persons to the Grand Jury known and unknown, to commit offenses against the United States, in violation to Title 18, United States Code, Section 1956, including:

To knowingly conduct or attempt to conduct financial transactions affecting interstate and foreign commerce knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, when the financial transactions in fact involved the proceeds of specified unlawful activity, to wit: wire fraud and conspiracy to commit wire fraud, in violation of Title 18, United States Code, Sections 1343 and 1349, with the intent to promote the carrying on of specified unlawful activity, contrary to the provisions of Title 18, United States Code, Section 1956(a)(1)(A)(i).

**MANNER AND MEANS OF THE CONSPIRACY**

51. The following were among the manner and means used by the defendants to carry out the objects of the conspiracy and to ensure its success:

52. Between November 2000 and June 2004, customers who purchased Serostim

from defendant HANDY paid for the Serostim by wiring funds either to defendant HANDY's bank account or to the client trust account managed by defendant McFADDEN, said funds constituting proceeds of wire fraud.

53 .On each occasion that the customers wired payment to defendant HANDY's bank account, defendant HANDY wired a portion of the funds to the client trust account managed by defendant McFADDEN.

54. Defendant McFADDEN prepared checks, made out to cash, payable from the proceeds deposited in the client trust account.

55. LAVERY and defendant McFADDEN used the checks made out by defendant McFADDEN to cash to purchase official bank checks that LAVERY used to pay the suppliers' of the Serostim, including defendants HATCH, BENMOSHE, and LUPOVITZ.

All in violation of Title 18, United States Code, Section 1956(h).

**COUNT THIRTY-FOUR**

**18 U.S.C. § 371 and 21 U.S.C. §§ 331(t), 333(b)(1)(D), and 353(e)(2)(A)  
(Conspiracy to Engage in Unlicensed Wholesale Distribution of Prescription Drugs)**

56. Paragraphs 1 through 18 are realleged and incorporated herein by reference.

57. Beginning in or about November 2002 through in or about June 2004, in the District of New Hampshire and elsewhere within the jurisdiction of this Court,

**1. BETH HANDY,**

**2. ROBERT McFADDEN,**

**3. ROBERT HATCH,**

**4. BOAZ BENMOSHE, a.k.a. Ron Ben, Moshe Ben-Moshe, and**

**5. OFER LUPOVITZ, a.k.a. Ofer Lupo**

the defendants herein, and others known and unknown to the Grand Jury did knowingly and

willfully combine, conspire, confederate, and agree to commit an offense against the United States, to wit: to knowingly engage in the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed by that state, in violation of Title 21, United States Code, Sections 331(t), 333(b)(1)(D), and 353(e)(2)(A) and Title 18, United States Code, Section 371.

### **OBJECT OF THE CONSPIRACY**

58. It was the object of the conspiracy to obtain Serostim from unlicensed sources and to sell the Serostim at the highest price possible.

### **MANNER AND MEANS**

59. The facts and conduct described in paragraphs 23 through 40 are incorporated by reference as if fully set forth herein and are among the manner and means used by the defendants to carry out the object of the conspiracy and ensure its success.

### **OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY**

60. In furtherance of the conspiracy, and to effect the object and purpose thereof, the defendants committed and caused to be committed the following overt acts, among others, within the District of New Hampshire and elsewhere.

61. Between in or about June 2002 and in or about June 2004, defendants HATCH, BENMOSHE, and LUPOVITZ, who were not licensed to engage in wholesale distribution of prescription drugs in California, provided Serostim to Lavery and defendant McFADDEN for further wholesale distribution.

62. On or about the dates listed below, defendant HANDY prepared misleading packing slips bearing Alpine Pharma's name and address and transmitted the packing slips via facsimile from Milford, New Hampshire, to defendant McFADDEN in Palm Springs, California,

for inclusion in the packages of Serostim to be shipped by Lavery.

<b>Dated faxed</b>	<b>Customer</b>	<b>Date Product Shipped</b>
1/14/2003	Medex BioPharm	1/15/2003
2/5/2003	Medex BioPharm	2/8/2003
2/25/2003	Medex BioPharm	2/25/2003
6/16/2003	Medex BioPharm	6/17/2003
5/3/2004	Medex BioPharm	5/3/2004
5/19/2004	Medex BioPharm	5/22/2004

63. On or about the dates listed below, Lavery shipped Serostim to customers via Federal Express from Palm Springs, California. Each package bore a shipping label completed by or at the direction of Lavery which falsely represented that the package was mailed by defendant HANDY from New Hampshire.

<b>Date Shipped from California</b>	<b>Quantity Shipped</b>	<b>Recipient</b>
1/15/2003	100 boxes	Medex BioPharm in Tennessee
1/20/2003	125 boxes	Medex BioPharm in Tennessee
2/8/2003	100 boxes	Medex BioPharm in Tennessee
2/25/2003	100 boxes	Medex BioPharm in Tennessee
3/6/2003	100 boxes	Medex BioPharm in Tennessee
5/15/2003	50 boxes	Medex BioPharm in Tennessee
5/29/2003	25 boxes	Medical Center Pharmaceuticals in California
9/27/2003	29 boxes	Medex BioPharm in Tennessee
12/11/2003	25 boxes	Medex BioPharm in Tennessee



12/31/2003	25 boxes	Medex BioPharm in Tennessee
2/4/2004	65 boxes	Medex BioPharm in Tennessee

**COUNTS THIRTY-FIVE THROUGH FORTY-FOUR**  
**18 U.S.C. §§ 2 and 1001**  
**(Material False Statements)**

64. The allegations set forth in paragraphs 1 through 18 of this indictment are re-  
alleged and incorporated by reference as if fully set forth herein.

65. On or about the dates set forth below, in the District of New Hampshire and  
elsewhere within the jurisdiction of this Court,

**1. BETH HANDY,**

the defendant herein, aiding and abetting Lavery in a matter within the jurisdiction of the FDA,  
an agency within the executive branch of the United States, knowingly and willfully made and  
used a false document that she knew contained materially false, fictitious, and fraudulent  
statements and entries, in that Lavery provided false information to defendant HANDY for its  
inclusion in the pedigrees that defendant HANDY sent from New Hampshire to customers who  
purchased the Serostim, with the intent of concealing the true source of the Serostim.

<b><u>Count</u></b>	<b><u>Pedigree Date</u></b>	<b><u>Date Sent</u></b>	<b><u>Recipient</u></b>
<b>THIRTY-FIVE</b>	11/11/2002	11/11/2002	Medical Center Pharmaceuticals
<b>THIRTY-SIX</b>	1/13/2003	1/14/2003	Medex Biopharm
<b>THIRTY-SEVEN</b>	2/12/2003	2/12/2003	Medex BioPharm
<b>THIRTY-EIGHT</b>	2/25/2003	2/25/2003	Medex BioPharm
<b>THIRTY-NINE</b>	2/25/2003	3/6/2003	Medex BioPharm
<b>FORTY</b>	undated	5/16/2003	Medex BioPharm

<b>FORTY-ONE</b>	5/29/2003	6/10/2003	Medical Center Pharmaceuticals
<b>FORTY-TWO</b>	undated	6/2/2003	Medex BioPharm
<b>FORTY-THREE</b>	undated	8/5/2003	Medex BioPharm
<b>FORTY-FOUR</b>	undated	10/6/2003	Medex BioPharm

Each count in violation of Title 18, United States Code, Sections 2 and 1001.

**NOTICE OF CRIMINAL FORFEITURE PURSUANT TO  
18 U.S.C. § 982(a)(1)  
(Money Laundering)**

1. Pursuant to Title 18, United States Code, Section 982(a)(1), a defendant who is convicted of the offense set forth in Count Thirty-Three shall forfeit to the United States the following property:

- a. All right, title, and interest in any and all property involved in each offense in violation of Title 18, United States Code, Section 1956, or conspiracy to commit such offense, for which the defendant is convicted, and all property traceable to such property, including the following: 1) all money or other property that was the subject of each transaction, transportation, transmission or transfer in violation of Section 1956; 2) property located at 23 Valhalla Drive, Milford, New Hampshire; 3) all commissions, fees and other property constituting proceeds obtained as a result of those violations; and 4) all property used in any manner or part to commit or to facilitate the commission of those violations.
- b. A sum of money equal to the total amount of money involved in each offense, or conspiracy to commit such offense, for which the defendant is convicted. The amount of the money judgment sought is \$716,610. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally

liable for the amount involved in such offense.

2. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), each defendant shall forfeit substitute property, up to the value of the amount described in paragraph 1, if, by any act or omission of the defendants, the property described in paragraph 1, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred, sold to or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty. Such substitute property shall include, but is not limited to, property located at 16 Lone Wolf Drive, North Woodstock, New Hampshire;

All in accordance with Title 18, United States Code, Section 982(a)(1), and Rule 32.2(a), Federal Rules of Criminal Procedure.

**NOTICE OF CRIMINAL FORFEITURE PURSUANT TO  
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)  
(Wire Fraud)**

Upon conviction of one or more of the offenses alleged in Counts One through Thirty-Two of this Indictment, defendants HANDY and McFADDEN shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) all property, real and personal, constituting or derived from proceeds obtained directly or indirectly as a result of the said violations, including but not limited to the following:

1. A sum of money equal to \$962,985.00 in United States currency, representing the amount of proceeds obtained as a result of the offenses, violations of Title 18, United States Code, Sections 1343, 1349, and 2, Wire Fraud and Conspiracy to Commit Wire Fraud;

If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above, included but not limited to:

(1) Property located at 16 Lone Wolf Drive, North Woodstock, New Hampshire;

All in accordance with Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c), and Rule 32.2(a), Federal Rules of Criminal Procedure.

Dated: November 29, 2006

**TRUE BILL**

/s/ Grand Jury Foreperson  
**Foreperson of the Grand Jury**

THOMAS P. COLANTUONO  
United States Attorney

/s/ Sarah E. Hawkins  
Sarah E. Hawkins  
Special Assistant United States Attorney

/s/ Mark A. Irish  
Mark A. Irish  
Assistant United States Attorney