

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 19-20674-CR-GAYLES

UNITED STATES OF AMERICA

vs.

LAZARO ROBERTO HERNANDEZ,

Defendant.

FACTUAL PROFFER

The United States of America and the defendant, Lazaro Roberto Hernandez (“Hernandez”) hereby stipulate and agree to the following facts, which support the defendant’s pleas of guilty to Count 2, charging him with conspiracy to traffic in altered and misbranded drugs, and Count 3, money laundering conspiracy, as charged in the Fourth Superseding Indictment. The defendant stipulates that the United States could prove these facts beyond a reasonable doubt at trial.

1. During the time period of 2013 through 2019, Hernandez was in the business of selling diverted pharmaceuticals. The business of diverted pharmaceuticals involves the illegal purchase and sale of prescription pharmaceuticals, primarily drugs for treatment of HIV, cancer, and psychiatric illnesses. The medicines are acquired through health care fraud or bought from patients to whom they are prescribed but who forgo their use and instead choose to sell them. The diverted drugs are then aggregated, cleaned, packaged, and resold, with fraudulent documentation purporting them to have been supplied directly from manufacturers or from legitimate

pharmaceutical wholesalers. The scheme includes the creation of false “pedigrees,” which are documents that are legally required to show the origin and all sales and transfers of prescription pharmaceuticals.

2. Hernandez’s principal customer was co-defendant Stephen Costa. Costa received the diverted medicines and arranged for their deliveries, in quantity, to co-conspirators Mohammad Salemi, Frank Alvarez, and others associated with them. These deliveries occurred on a regular ongoing basis for the duration of the charged conspiracy. Those conspirators packaged the drugs and shipped them to other customers, accompanied by fraudulent pedigrees. The diverted drugs were sent from various locations in South Florida by an interstate carrier.

3. In late summer of 2016, Costa had to report to prison to begin serving a sentence for a previous conviction involving similar offense conduct. Before Costa surrendered, Hernandez met with him at Costa’s home. There Costa introduced Hernandez to Frank Alvarez. Costa explained that Alvarez would be continuing the business of selling diverted pharmaceuticals, and Hernandez should supply him in the same way he had been supplying Costa.

4. Hernandez agreed to do so, and continued the ongoing business by supplying Alvarez. Hernandez knew that Mohammad Salemi was acting as the sales broker for Alvarez and Kadir Diaz, arranging their sales of the diverted drugs to Joshua Joles. Joles was the manager of LLC Wholesale Supply LLC, (“LLC”), a pharmaceutical wholesaler based in Tempe, Arizona. Joles sold most of the products he received to retail pharmacies.

5. During this time period, co-defendant Eladio Vega worked with Hernandez in the diverted drug business. In January 2017, they learned of a social gathering that Salemi had organized at the One Hotel in Miami Beach involving the participants in the diverted drug scheme.

Vega attended the gathering on behalf of Hernandez. Vega met with Joles aside from the other people. He then told Joles that his "Godfather," referring to Hernandez, could supply him with the same type of drugs that he had been getting from Alvarez and Salemi. He would include the fraudulent pedigrees. Vega indicated that the price would be 17% below wholesale acquisition cost. Wholesale acquisition cost is the pharmaceutical industry's standard for the lowest wholesale price the drugs were sold for. Legitimate drugs could not be sold for 17% below that cost.

6. Joles agreed to do business with Vega and Hernandez. By dealing with them directly, Alvarez and Salemi were cut out as middle-men, increasing the profit margins available to Hernandez and Joles. Hernandez then began supplying diverted drugs to Joles through shell companies, including Care Pro and Eastern Distributors. These companies were listed as the sellers on the pedigrees, and payments were made to the companies' bank accounts by wire transfers from LLC's accounts.

7. Because Joles had such a large market, in addition to buying diverted drugs from the contacts he established through Vega and Hernandez, he also continued to buy them from Salemi and Alvarez, who were also supplied by Hernandez. One of Salemi's associates, Kadir Diaz, had taken over one of the pharmaceutical wholesalers originally acquired by Salemi and Costa. In September 2018, Vega met with Diaz and Joles and arranged for Joles to buy diverted drugs directly from Diaz, instead of through Salemi. The drugs Diaz purchased were also supplied by Hernandez.

8. In May 2018, Hernandez met in person with Joles at a Las Vegas hotel. They discussed the business they had been doing, and Hernandez said he wanted to make sure that Joles

was satisfied with the way things were going. He told Joles to contact Vega if he needed anything.

9. Joles was directed to wire transfer his payments for the drugs through the various shell companies that had been set up through arrangements by Hernandez. Straw owners were signed up as the supposed owners of the companies, but all money movement was controlled by Hernandez or his associates. Money was moved through a series of bank accounts held by the shell corporations, and divided into ever-smaller portions. After several such transfers, the money could be withdrawn in cash without the withdrawals appearing suspicious. The cash was needed to buy additional diverted drugs from the original suppliers, and the rest was obtained by Hernandez and his associates as the profits from their scheme.. The use of straw owners and shell companies also served to disguise the identities of the persons who owned or controlled the money which was the proceeds of the scheme.

10. Hernandez often took large quantities of cash obtained from his sales of diverted drugs to casinos in South Florida, and gambled with the money. Returns from the gambling were identified as "gambling winnings," which obscured the actual origin of the money.



LAZARO ROBERTO HERNANDEZ
DEFENDANT



FRANK H. TAMEN
ASSISTANT U.S. ATTORNEY



MICHAEL DAVIS
DEFENSE COUNSEL

12-21-22

DATE