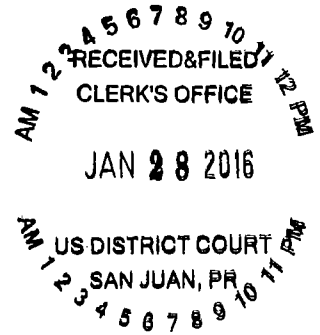


IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO



UNITED STATES OF AMERICA,  
Plaintiff

12-922 (PG)

v.

**SUPERSEDING INDICTMENT**

[1] MARTIN THUNA,  
(Counts 1 to 58, 60, and 61)  
[2] WAYNE THUNA,  
(Counts 1 to 10, 28, and 29)  
[4] EUGENE SHIRLEY,  
(Counts 1 to 46)  
[9] DIMITRY ASHBEL, a/k/a "David",  
(Counts 28 to 46)  
[24] DROGUERIA DE LA VILLA, INC.,  
(Counts 1 to 58, 60, and 61)  
[26] DROGUERIA VILLA, INC.,  
(Counts 1 to 58, 60, and 61)  
[27] TIGRAN KHACHERYAN,  
(Count 62)  
[28] EDVIN OVASAPYAN,  
(Count 63),  
[29] FMC DISTRIBUTORS, INC., and  
(Counts 9, 10, 28, and 29)  
[30] FMC SPECIALTY CARE, INC.  
(Counts 9, 10, 28, and 29)

**VIOLATIONS:**

**Conspiracy**  
18 U.S.C. § 1349  
18 U.S.C. § 371

**Mail Fraud**  
18 U.S.C. § 1341

**False Statements**  
18 U.S.C. § 1001

**Unlicensed Wholesale Distribution**  
21 U.S.C. § 331(t)  
21 U.S.C. § 333(a)(2)  
21 U.S.C. § 353(e)(2)(A)

**Money Laundering Conspiracy**  
18 U.S.C. § 1957

Defendants.

SIXTY THREE COUNTS AND  
FORFEITURE ALLEGATIONS

**THE GRAND JURY CHARGES:**

At all times relevant to this Indictment:

**INTRODUCTORY ALLEGATIONS**

1. The wholesale distribution of prescription drugs in the United States is subject to regulation. Regulating the wholesale market ensures that drugs dispensed to patients are authentic (i.e., not counterfeit), properly labeled, have been handled and maintained according to

industry standards and United States Food and Drug Administration (FDA) requirements, that they have been in the possession of state-licensed entities, and have a verifiable chain of custody, also known as a pedigree. Congress enacted the Prescription Drug Marketing Act in 1987 to combat a practice known as prescription drug diversion.

2. The FDA is an agency within the U.S. Department of Health and Human Services responsible for protecting the public health by assuring the safety, effectiveness, and security of human drugs.

**COUNT 1 (California Pharmaceutical Specialists Wholesale, Inc/CPS/Infinite/Global)**  
**Conspiracy - Mail & Wire Fraud**  
**18 U.S.C. §1349**

3. Beginning on or about January 2007 and continuing through about January 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[1] MARTIN THUNA,**  
**[2] WAYNE THUNA,**  
**[4] EUGENE SHIRLEY,**  
**[24] DROGUERIA DE LA VILLA, and**  
**[26] DROGUERIA VILLA,**

defendants herein, combined, conspired, confederated, and agreed with each other and with others known and unknown to the Grand Jury to:

a. Use private and commercial interstate carriers for the purpose of executing a scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1341; and

b. Use interstate wires in furtherance of a scheme to defraud, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1343.

### OBJECT OF THE CONSPIRACY

4. The object of the conspiracy was to use mails and wires to execute a scheme in which diverted prescription drugs were: (a) obtained by California Whole Specialists, Inc. (California Wholesale), CPS Wholesale, Inc. (CPS), Infinite Health Wholesale, Inc. (Infinite), Global Health Advocates, Inc. (Global), in the diversion market; (b) sold to, and fraudulently reintroduced into the wholesale market through, **[24] DROGUERIA DE LA VILLA, INC. (DDLV)** and **[26] DROGUERIA VILLA, INC. (DROGUERIA VILLA)**; and (c) sold under false pretenses to pharmacies and end users.

### MANNER AND MEANS OF THE CONSPIRACY

5. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among others, the following:

a. **[24] DDLV** and **[26] DROGUERIA VILLA**, through **[1] MARTIN THUNA** and/or **[4] EUGENE SHIRLEY**, established and maintained business relationships with various co-conspirators known and unknown to the Grand Jury to obtain diverted prescription drugs at discount prices from suppliers in the Los Angeles, California area who: (i) were not properly licensed as wholesale distributors in California; and (ii) provided pedigrees that falsely stated that the prescription drugs were obtained from legitimate sources.

b. At all times during this conspiracy **[2] WAYNE THUNA**, served as the Chief Operation Officer/Executive Vice President, and Regulatory Compliance Department Vice President for **[24] DDLV**.

c. The diverted prescription drugs were shipped by California wholesale, CPS, Infinite, and/or Global using the mails and commercial carriers from California to **[24]**

**DDLV** in Puerto Rico, and would then be fraudulently re-introduced into the retail and/or wholesale market by [24] **DDLV**, sometimes through [26] **DROGUERIA VILLA**.

d. [24] **DDLV** and/or [26] **DROGUERIA VILLA**, through [1] **MARTIN THUNA**, [2] **WAYNE THUNA**, and/or [4] **EUGENE SHIRLEY**, would use the mails, faxes, and wires to communicate with co-conspirators in California.

#### **OVERT ACTS**

6. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. From on or about December 9, 2008 through December 23, 2008, [24] **DDLV** received 3 shipments (totaling 13 boxes) of prescription drugs from CPS, two of the shipments listing the Nashua, New Hampshire address on its invoices, and one listing the Los Angeles, California address. Regardless of the invoice address or the location of the license, all three shipments originated from a Federal Express facility in Los Angeles, California. All of the invoices associated with these shipments were faxed from Prestige Auto, located in Los Angeles, California, a company owned by a person identified as M.R.

b. On or about December 24, 2008, [1] **MARTIN THUNA**, initiated a wire transfer from [29] **FMC DISTRIBUTORS, INC (FMC DISTRIBUTORS)**, Citibank account number ending in 7567, located in Las Vegas, Nevada, to CPS, and eventually deposited in Union Bank account number ending in 9487, belonging to Infinite Wholesale, located in Los Angeles, California, in the amount of \$150,000.00, as an advance on CPS invoice 1387.

c. Between January 9, 2009 and March 10, 2010, Infinite shipped approximately 414

boxes containing diverted prescription drugs to [24] DDLV, with each shipment originating from various Federal Express facilities in Los Angeles, California. Contrary to the representations stated in the accompanying pedigrees, none of the prescription drugs were acquired from McKesson.

d. Between February 8, 2010 and January 25, 2011, Global Health Advocates shipped approximately 245 boxes containing diverted prescription drugs to [24] DDLV, with each shipment originating at one of numerous Federal Express facilities in Los Angeles, California. The accompanying pedigrees falsely stated that Global Health Advocates had acquired these drugs from McKesson.

e. The shipments described in Counts 3 through 8 which follow are further alleged and incorporated herein by reference as overt acts in furtherance of this conspiracy.

All in violation of 18 U.S.C. § 1349.

**Count 2 (California Wholesale/CPS/Infinite/Global)**  
**Conspiracy - False Statements and Unlicensed Wholesale Distribution**  
**18 U.S.C. § 371**

7. From in or around January 2007 through in or around January 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

[1] MARTIN THUNA,  
[2] WAYNE THUNA,  
[4] EUGENE SHIRLEY,  
[24] DROGUERIA DE LA VILLA, and  
[26] DROGUERIA VILLA,

defendants herein, with the intent to further the conspiracy's unlawful objects, did willfully and knowingly combine, conspire, confederate, and agree with each other and others, known and unknown to the Grand Jury, to:

a. To violate Title 18, United States Code, Section 1001, by knowingly and willfully making and using a false document, knowing such document to contain materially false, fictitious, and fraudulent statements and entries, in a matter within the jurisdiction of the FDA, an agency within the executive branch of the United States; and

b. To violate Title 21, United States Code, Sections 331(t), 353(e)(2)(A), and 333(b)(1)(D) by knowingly engaging, and causing others to engage, in the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed in that state.

#### **OBJECT OF THE CONSPIRACY**

8. It was the object of the conspiracy to purchase, and to cause others to purchase, diverted prescription drugs from unlicensed sources in California and elsewhere, and for California Wholesale, CPS, Infinite and Global to distribute those drugs to [24] DDLV without being licensed in the state in which they operated, and/or to falsify pedigrees associated with those prescription drugs.

#### **MANNER AND MEANS OF THE CONSPIRACY**

9. The manner and means described Count 1 of this indictment is incorporated by reference and re-alleged herein as the manner and means of the conspiracy described in this count.

#### **OVERT ACTS**

10. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. On or about March 13, 2008, with its California license set to expire in December

2008, CPS obtained a license in the State of New Hampshire with an address in Nashua, New Hampshire, despite CPS continuing to do business with ship prescription drugs from California to [24] DDLV in Puerto Rico.

b. On or about December 19, 2008, CPS informed the New Hampshire Board of Pharmacy and [24] DDLV that it had changed its name to Infinite Wholesale, effective October 24, 2008.

c. In or around February 2010, Infinite ceased to operate and Global Health Advocates assumed the business operations of Infinite. Although Global Health Advocates was licensed as a wholesale distributor only in Pennsylvania, it continued to operate and ship prescription drugs exclusively from the Los Angeles, California area.

d. On or about February 23, 2010, a copy of Global Health Advocates' Pennsylvania license was faxed to [24] DDLV from Sunset Auto Crafters, a company owned by M.R.

e. The overt acts described in Count 1 of this indictment are incorporated by reference and re-alleged as overt acts in the conspiracy described in this count.

f. The shipments described in Counts 3 through 8 which follow are further alleged and incorporated herein by reference as overt acts in furtherance of this conspiracy.

All in violation of 18 U.S.C. § 371.

**Counts 3 through 8 (California Wholesale/CPS/Infinite/Global)**

**Mail fraud**

**18 U.S.C. § 1341**

11. On or about the dates set forth below, each date constituting a separate count of the Indictment, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

[1] MARTIN THUNA,  
[2] WAYNE THUNA,  
[4] EUGENE SHIRLEY,  
[24] DROGUERIA DE LA VILLA, and

**[26] DROGUERIA VILLA,**

defendants herein, along with other individuals known and unknown to the Grand Jury, aiding and abetting one another, having devised a scheme and artifice to defraud, and to obtain money and property by means of materially false pretenses and representations, did, for the purpose of executing and attempting to execute such scheme and artifice, cause to be deposited with, and to be sent by, private and commercial interstate carriers, and knowingly caused to be delivered by such carriers according to the direction thereon, the following drug shipments to [24] DDLV:

<b>COUNT</b>	<b>APPROX. DATE OF MAILING</b>	<b>INVOICE NUMBER</b>	<b>SUPPLIER</b>	<b>AUTHORIZED DISTRIBUTOR FALSELY LISTED ON THE PEDIGREE</b>	<b>AMOUNT (\$)</b>
3	12/22/08	1388	CPS	McKesson	274,236.06
4	06/18/09	1416	Infinite	McKesson	476,241.15
5	06/18/09	1416b	Infinite	McKesson	123,621.19
6	04/12/10	1460	Global	McKesson	1,137,605.80
7	06/03/10	1468	Global	McKesson	1,101,383.09
8	10/20/10	1481	Global	McKesson	1,857,901.75

Each count constituting a separate and distinct violation of 18 U.S.C. § 1341.

**Count 9 (RTL Health Source Corp. (RTL))**  
**Conspiracy - Mail and Wire Fraud**  
**18 U.S.C. § 1349**

12. Beginning on or about July 2007 and continuing through about May 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this court,

**[1] MARTIN THUNA,**  
**[2] WAYNE THUNA,**  
**[4] EUGENE SHIRLEY,**  
**[24] DDLV,**  
**[26] DROGUERIA VILLA,**



**[29] FMC DISTRIBUTORS, and  
[30] FMC SPECIALTY,**

the defendants herein, combined, conspired, confederated, and agreed with each other and with others known and unknown to the Grand Jury to:

a. Use private and commercial interstate carriers for the purpose of executing a scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1341; and

b. Use interstate wires in furtherance of a scheme to defraud, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1343.

**OBJECT OF THE CONSPIRACY**

13. The object of the conspiracy was to use mails and wires to execute a scheme in which diverted prescription drugs were: (a) obtained by RTL Health Source Corp. (RTL) in the diversion market from and through various sources; (b) sold to, and fraudulently reintroduced into the wholesale market through, **[24] DDLV** and **[26] DROGUERIA VILLA**; and (c) ultimately sold under false pretenses to pharmacies and end users.

**MANNER AND MEANS OF THE CONSPIRACY**

14. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among others, the following:

a. **[24] DDLV, [26] DROGUERIA VILLA, [29] FMC DISTRIBUTORS, INC. (FMC DISTRIBUTORS), and [30] FMC SPECIALTY CARE, INC. (FMC SPECIALTY),** through **[1] MARTIN THUNA, [2] WAYNE THUNA, and/or [4] EUGENE SHIRLEY,** established and maintained business relationships with various co-conspirators known and

unknown to the Grand Jury to obtain diverted prescription drugs at discount prices from suppliers in the Los Angeles, California area who: (i) were not properly licensed as wholesale distributors in California; and (ii) provided pedigrees that falsely stated that the prescription drugs were obtained from legitimate sources.

b. The diverted prescription drugs were shipped by RTL using the mails and commercial carriers from California to [24] **DDLV** in Puerto Rico, and would then be fraudulently re-introduced into the retail and wholesale market by [24] **DDLV**, and [26] **DROGUERIA VILLA**.

c. From on or around August 2007 through on or around May 2011, [24] **DDLV** and other companies controlled by [1] **MARTIN THUNA** purchased approximately \$90,975,933 in prescription drugs from RTL. Payments to RTL were made from [24] **DDLV**, [26] **DROGUERIA VILLA**, [29] **FMC DISTRIBUTORS**, and [30] **FMC SPECIALTY** accounts through wire transfers and checks.

#### **OVERT ACTS**

15. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. On or about August 2, 2007, [1] **MARTIN THUNA** initiated a wire transfer from [6] **DDLV**'s Citibank account ending in 7657 to RTL's Citizens bank account in the amount \$226,716.86, for payment of RTL Invoice #300.

b. On or about April 13, 2011, the warehouse manager of [24] **DDLV** emailed D. D., owner of RTL, a purchase order for prescription drugs, which indicated that certain drugs

should be invoiced to [24] DDLV and other drugs should be invoiced to [29] FMC DISTRIBUTORS.

c. On or about March 10, 2011, [1] MARTIN THUNA drafted a check from [29] FMC DISTRIBUTORS BBVA account ending in 6501 to RTL in the amount \$444,787.52, for payment of diverted prescription drugs;

d. The shipments described in Counts 11 through 17, which follow, are further alleged and incorporated herein by reference as overt acts in furtherance of this conspiracy.

All in violation of 18 U.S.C. § 1349.

**Count 10 (RTL)**  
**Conspiracy - False Statements and Unlicensed Wholesale Distribution**  
**18 U.S.C. § 371**

16. From in or around July 2007 through in or around May 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

[1] MARTIN THUNA,  
[2] WAYNE THUNA,  
[4] EUGENE SHIRLEY,  
[24] DDLV,  
[26] DROGUERIA VILLA,  
[29] FMC DISTRIBUTORS, and  
[30] FMC SPECIALTY,

defendants herein, with the intent to further the conspiracy's unlawful objects, did willfully and knowingly combine, conspire, confederate, and agree with each other and others, known and unknown to the Grand Jury, to:

a. To violate Title 18, United States Code, Section 1001, by knowingly and willfully making and using a false document, knowing such document to contain materially false, fictitious, and fraudulent statements and entries, in a matter within the jurisdiction of the FDA, an agency within the executive branch of the United States; and

b. To violate Title 21, United States Code, Sections 331(t), 353(e)(2)(A), and 333(b)(1)(D) by knowingly engaging, and causing others to engage, in the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed in that state.

#### **OBJECT OF THE CONSPIRACY**

17. It was the object of the conspiracy to purchase, and to cause others to purchase, diverted prescription drugs from unlicensed sources in California and elsewhere, and for RTL to distribute those drugs to [24] **DDLV** without being licensed in the state in which it operated, and/or to falsify pedigrees associated with those prescription drugs.

#### **MANNER AND MEANS OF THE CONSPIRACY**

18. The manner and means described in Count 9 of this Indictment is incorporated by reference and re-alleged herein as the manner and means of the conspiracy described in this count.

#### **OVERT ACTS**

19. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. On or about March 10, 2006, D. D., owner of RTL, obtained a wholesale prescription drug license in the state of Hawaii, despite operating RTL and doing business from the state of California.

b. On or about July 20, 2007, after being introduced to [4] **EUGENE SHIRLEY**, D. D. faxed a copy of RTL's Hawaii license to [24] **DDLV**.

c. The overt acts described in Count 9 of this Indictment are incorporated by reference and re-alleged as additional overt acts in the conspiracy described in this count.

d. The shipments described in Counts 11 through 17, which follow, are further alleged and incorporated herein by reference as overt acts in furtherance of this conspiracy.

All in violation of 18 U.S.C. § 371.

**Counts 11 through 17 (RTL)**  
**Mail fraud**  
**18 U.S.C. § 1341**

20. On or about the dates set forth below, each date constituting a separate count of the Indictment, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[1] MARTIN THUNA,**  
**[4] EUGENE SHIRLEY,**  
**[24] DDLV,**  
**[26] DROGUERIA VILLA,**

defendants herein, along with others known and unknown to the Grand Jury, aiding and abetting one another, having devised a scheme and artifice to defraud, and to obtain money and property by means of materially false pretenses and representations, did, for the purpose of executing and attempting to execute such scheme and artifice, cause to be deposited with, and to be sent by, private and commercial interstate carriers, and knowingly caused to be delivered by such carriers according to the direction thereon, the following drug shipments to [24] DDLV:

<b>COUNT</b>	<b>APPROX. DATE OF MAILING</b>	<b>INVOICE NUMBER</b>	<b>SUPPLIER</b>	<b>AUTHORIZED DISTRIBUTOR FALSELY LISTED ON PEDIGREE</b>	<b>AMOUNT (\$)</b>
<b>11</b>	12/11/08	432	RTL	H.D. Smith	\$385,093.76
<b>12</b>	05/04/09	717	RTL	H.D. Smith	\$912,780.45
<b>13</b>	10/22/09	741	RTL	H.D. Smith	\$630,977.97
<b>14</b>	01/11/10	3302	RTL	H.D. Smith	\$660,824.12
<b>15</b>	04/07/10	3309	RTL	H.D. Smith	\$2,604,081.30
<b>16</b>	05/19/10	3314	RTL	H.D. Smith	\$325,336.12
<b>17</b>	06/08/10	3317	RTL	H.D. Smith	\$1,614,442.18

Each count constituting a separate and distinct violation of 18 U.S.C. § 1341.

**Count 18 (“EMED California” (EMED))**  
**Conspiracy - Mail and Wire Fraud**  
**18 U.S.C. § 1349**

21. Beginning in or about January 2007 and continuing through on or around July 2009, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[1] MARTIN THUNA,**  
**[4] EUGENE SHIRLEY,**  
**[24] DDLV, and**  
**[26] DROGUERIA VILLA,**

defendants herein, combined, conspired, confederated, and agreed with each other and others known and unknown to the Grand Jury to:

a. Use private and commercial interstate carriers for the purpose of executing a scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1341; and

b. Use interstate wires in furtherance of a scheme to defraud, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1343.

**OBJECT OF THE CONSPIRACY**

22. The object of the conspiracy was to use mails and wires to execute a scheme in where diverted prescription drugs were: (a) obtained by EMED Medical Products, Inc., (hereinafter “EMED California” or EMED) in the diversion market; (b) sold to, and fraudulently reintroduced into the wholesale market through, **[24] DDLV** and **[26] DROGUERIA VILLA**; and (c) sold under false pretenses to pharmacies and end users.

### MANNER AND MEANS OF THE CONSPIRACY

23. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among others, the following:

a. [24] **DDLV** and [26] **DROGUERIA VILLA**, through [1] **MARTIN THUNA** and/or [4] **EUGENE SHIRLEY**, established and maintained business relationships with various co-conspirators known and unknown to the Grand Jury to obtain diverted prescription drugs at discount prices from suppliers in the Los Angeles, California area who: (i) were not properly licensed as wholesale distributors in California; and (ii) provided pedigrees that falsely stated that the prescription drugs were obtained from legitimate sources.

b. The diverted prescription drugs were shipped by EMED Medical Products, Inc. (“EMED California” or EMED) using the mails and commercial carriers from California to [24] **DDLV** in Puerto Rico, and would then be fraudulently re-introduced into the retail and wholesale market by [24] **DDLV** and [26] **DROGUERIA VILLA**.

c. [1] **MARTIN THUNA** paid for prescription drugs obtained from EMED via cash, checks, and/or wire transfers from [24] **DDLV**'s accounts to various bank accounts in California and Missouri.

### OVERT ACTS

24. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. On or about April 7, 2009, [1] **MARTIN THUNA** caused a wire transfer to be executed in the amount of \$188,023.29 from [24] **DDLV** Citibank account number ending in

7657 to Saehan Bank account number ending in 7264 belonging to EMED Trading Corp., in California, in payment for invoices provided by EMED.

b. The shipments alleged in Counts 20 through 27, which follow, are further alleged and incorporated herein by reference as overt acts in furtherance of this conspiracy.

All in violation of 18 U.S.C. § 1349.

**Count 19 (EMED)**  
**Conspiracy - False Statements and Unlicensed Wholesale Distribution**  
**18 U.S.C. § 371**

25. Beginning on or about January 2007 and continuing through on or around July 2009, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

[1] MARTIN THUNA,  
[4] EUGENE SHIRLEY,  
[24] DDLV, and  
[26] DROGUERIA VILLA,

defendants herein, combined, conspired, confederated, and agreed with each other and others known and unknown to the Grand Jury to:

a. To violate Title 18, United States Code, Section 1001 by knowingly and willfully making and using a false document, knowing such document to contain materially false, fictitious, and fraudulent statements and entries, in a matter within the jurisdiction of the FDA, an agency within the executive branch of the United States; and

b. To violate Title 21, United States Code, Sections 331(t), 353(e)(2)(A), and 333(b)(1)(D), by knowingly engaging, and causing others to engage, in the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed in that state.



### **OBJECT OF THE CONSPIRACY**

26. It was the object of the conspiracy to purchase, and to cause others to purchase, diverted prescription drugs from unlicensed sources in California and elsewhere, and for EMED California to distribute those drugs to [24] **DDLV** without being licensed in the state in which it operated, and/or to falsify pedigrees associated with those prescription drugs.

### **MANNER AND MEANS OF THE CONSPIRACY**

27. The manner and means described in Count 18 of this indictment is incorporated by reference and re-alleged herein as the manner and means of the conspiracy described in this count.

### **OVERT ACTS**

28. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. On or about February 21, 2007, I. C. incorporated EMED Medical Products, Inc., in the State of California, for the purpose of opening a bank account and doing business in California, while intending to use the actual EMED's wholesale pharmaceutical license in Missouri.

b. On or around February 2007, [4] **EUGENE SHIRLEY** provided I. C. with a pedigree template and instructions on how to fill them out, including how to list the names of the authorized distributors and purported date that the prescription drugs were purchased.

c. The overt acts described Count 18 of this indictment are incorporated by reference and re-alleged as overt acts in the conspiracy described in this count.

d. The shipments alleged in Counts 20 through 27 which follow are further alleged and incorporated herein by reference as overt acts in furtherance of the conspiracy alleged in this Count.

All in violation of 18 U.S.C. § 371.

**Counts 20 through 27 (EMED)**

**Mail fraud  
18 U.S.C. § 1341**

29. On or about the dates set forth below, each date constituting a separate count of the Indictment, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[1] MARTIN THUNA,  
[4] EUGENE SHIRLEY,  
[4] DROGUERIA DE LA VILLA, and  
[5] DROGUERIA VILLA,**

defendants herein, along with others known and unknown to the grand jury, aiding and abetting one another, having devised a scheme and artifice to defraud, and to obtain money and property by means of materially false pretenses and representations, did, for the purpose of executing and attempting to execute such scheme and artifice, cause to be deposited with, and to be sent by, private and commercial interstate carriers, and knowingly caused to be delivered by such carriers according to the direction thereon, the following drug shipments to [24] DDLV:

<b>COUNT</b>	<b>APPROX. DATE OF MAILING</b>	<b>INVOICE NUMBER</b>	<b>SUPPLIER</b>	<b>AUTHORIZED DISTRIBUTOR FALSELY LISTED ON THE PEDIGREE</b>	<b>AMOUNT (\$)</b>
<b>20</b>	12/17/07	FMC0678	EMED	Cardinal Health	\$23,153.24
<b>21</b>	02/19/08	FMC0727	EMED	"McKessen"	\$77,246.55
<b>22</b>	03/29/08	FMC0766	EMED	"McKessen"	\$63,346.63
<b>23</b>	04/17/08	FMC0783	EMED	AmerisourceBergen	\$97,582.31
<b>24</b>	05/19/08	FMC0796	EMED	"McKessen"	\$107,049.95
<b>25</b>	07/22/08	FMC0840	EMED	"McKessen"	\$78,398.33
<b>26</b>	11/17/08	FMC0870	EMED	"McKessen"	\$91,810.41

27	03/24/09	FMC0881	EMED	"McKessen"	\$99,670.51
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Each count constituting a separate and distinct violation of 18 U.S.C. § 1341.

**Count 28 (BowxRX, Inc. and Oahu RX, Inc.)**  
**Conspiracy - Mail and Wire Fraud**  
**18 U.S.C. § 1349**

30. Beginning on or around August 2009 and continuing through on or around March 2011, in the District of Puerto Ricó and elsewhere within the jurisdiction of this Court,

[1] MARTIN THUNA,  
[2] WAYNE THUNA,  
[4] EUGENE SHIRLEY,  
[9] DIMITRY ASHBEL,  
[24] DDLV, and  
[26] DROGUERIA VILLA,  
[29] FMC DISTRIBUTORS, and  
[30] FMC SPECIALTY,

defendants herein, combined, conspired, confederated, and agreed with each other and with others known and unknown to the Grand Jury to:

a. Use private and commercial interstate carriers for the purpose of executing a scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1341; and

b. Use interstate wires in furtherance of a scheme to defraud, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1343.

**OBJECT OF THE CONSPIRACY**

31. The object of the conspiracy was to use mails and wires to execute a scheme in which diverted prescription drugs were: (a) obtained by BowxRx, Inc. (Bowx) and Oahu RX, Inc. (Oahu) in the diversion market; (b) sold to, and fraudulently reintroduced into the wholesale

market through, [24] **DDLV** and [26] **DROGUERIA VILLA**; and (c) sold under false pretenses to pharmacies and end users.

#### **MANNER AND MEANS OF THE CONSPIRACY**

32. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among others, the following:

a. [24] **DDLV** and [26] **DROGUERIA VILLA**, through [1] **MARTIN THUNA** and/or [4] **EUGENE SHIRLEY**, established and maintained business relationships with various co-conspirators known and unknown to the Grand Jury to obtain diverted prescription drugs at discount prices from suppliers in the Los Angeles, California area who: (i) were not properly licensed as wholesale distributors in California; and (ii) provided pedigrees that falsely stated that the prescription drugs were obtained from legitimate sources.

b. The diverted prescription drugs were shipped by BowxRx and/or Oahu Rx using the mails and commercial carriers from California to [24] **DDLV** in Puerto Rico and a related company in Tempe, Arizona, and would then be fraudulently re-introduced into the retail and wholesale market by [24] **DDLV** and [26] **DROGUERIA VILLA**.

c. [1] **MARTIN THUNA** paid for prescription drugs obtained from BowxRx and/or Oahu via checks and/or wire transfers to California bank accounts.

#### **OVERT ACTS**

33. In furtherance of the conspiracy and to accomplish its object, at least one of the coconspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. The shipments alleged in Counts 30 through 46 which follow are further alleged and incorporated herein by reference as overt acts in furtherance of this conspiracy.

b. During the period of time from December 11, 2010 through March 11, 2011, [24] **DDLV** and [26] **DROGUERIA VILLA** mailed Oahu Rx approximately \$3,662,183.08 in checks for payment of the diverted prescription drugs purchased by [24] **DDLV**.

All in violation of 18 U.S.C. § 1349.

**Count 29 (Bowx/Oahu)**  
**Conspiracy - False Statements and Unlicensed Wholesale Distribution**  
**18 U.S.C. § 371**

Beginning on or around August 2009 and continuing through on or around March 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

[1] **MARTIN THUNA,**  
[2] **WAYNE THUNA,**  
[4] **EUGENE SHIRLEY,**  
[24] **DDLV,** and  
[26] **DROGUERIA VILLA,**  
[29] **FMC DISTRIBUTORS,** and  
[30] **FMC SPECIALTY,**

defendants herein, combined, conspired, confederated, and agreed with each other and others known and unknown to the Grand Jury to:

a. To violate Title 18, United States Code, Section 1001 by knowingly and willfully making and using a false document, knowing such document to contain materially false, fictitious, and fraudulent statements and entries, in a matter within the jurisdiction of the FDA, an agency within the executive branch of the United States; and

b. To violate Title 21 United States Code, Sections 331(t), 353(e)(2)(A), and 333(b)(1)(D) by knowingly engaging, and causing others to engage, in the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed in that state.

### **OBJECT OF THE CONSPIRACY**

34. It was the object of the conspiracy to purchase, and to cause others to purchase, diverted prescription drugs from unlicensed sources in California and elsewhere, and for BowxRx and Oahu Rx to distribute those drugs to [24] DDLV without being licensed in the state in which they operated, and/or to falsify pedigrees associated with those prescription drugs.

### **MANNER AND MEANS OF THE CONSPIRACY**

35. The manner and means described in Count 28 of this Indictment is incorporated by reference and re-alleged herein as the manner and means of the conspiracy described in this count.

### **OVERT ACTS**

36. In furtherance of the conspiracy and to accomplish its object, at least one of the coconspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. On September 22, 2009, BowxRx obtained a prescription drugs wholesale license from the New Hampshire Board of Pharmacy.

b. On or about December 29, 2009, Oahu Rx, Inc. obtained a pharmaceutical wholesale license from the State of Hawaii Board of Pharmacy, listing the address as 777 S. Hotel, Unit B, Honolulu, Hawaii.

c. The overt acts described in Count 28 of this Indictment are incorporated by reference and re-alleged as the overt acts in the conspiracy described in this count.

d. The shipments described in Counts 30 through 46, which follow, are further alleged as overt acts in furtherance of the conspiracy.

All in violation of 18 U.S.C. § 371.

**Counts 30 through 46 (BowX/Oahu)****Mail fraud  
18 U.S.C. § 1341**

37. On or about the dates set forth below, each date constituting a separate count of the Indictment, in the District of Puerto Rico and elsewhere,

**[1] MARTIN THUNA,  
[4] EUGENE SHIRLEY,  
[24] DDLV, and  
[26] DROGUERIA VILLA,  
[29] FMC DISTRIBUTORS, and  
[30] FMC SPECIALTY,**

defendants herein, along with others known and unknown to the grand jury, aiding and abetting one another, having devised a scheme and artifice to defraud, and to obtain money and property by means of materially false pretenses and representations, did, for the purpose of executing and attempting to execute such scheme and artifice, cause to be deposited with, and to be sent by, private and commercial interstate carriers, and knowingly caused to be delivered by such carriers according to the direction thereon, the following drug shipments to **[24] DDLV**:

<b>COUNT</b>	<b>APROX. DATE OF MAILING</b>	<b>INVOICE NUMBER</b>	<b>SUPPLIER</b>	<b>AUTHORIZED DISTRIBUTOR FALSELY LISTED ON THE PEDIGREE</b>	<b>AMOUNT (\$)</b>
<b>30</b>	12/17/09	R113	BowxRx	AmerisourceBergen	\$281,820.66
<b>31</b>	01/25/10	R116	BowxRx	AmerisourceBergen	\$263,064.34
<b>32</b>	02/01/10	R119	BowxRx	AmerisourceBergen	\$140,520.09
<b>33</b>	02/15/10	R122	BowxRx	AmerisourceBergen	\$189,707.34
<b>34</b>	03/04/10	R129	BowxRx	AmerisourceBergen	\$364,809.27
<b>35</b>	02/11/10	R123	BowxRx	AmerisourceBergen	\$250,103.97
<b>36</b>	03/11/10	R132	BowxRx	AmerisourceBergen	\$272,560.41
<b>37</b>	03/08/10	R130	BowxRx	AmerisourceBergen	\$260,832.31
<b>38</b>	10/18/10	R258	BowxRx	AmerisourceBergen	\$133,595.53
<b>39</b>	03/02/10	R128	BowxRx	AmerisourceBergen	\$96,223.01
<b>40</b>	11/29/10	S1006	Oahu Rx	AmerisourceBergen	\$82,218.70
<b>41</b>	01/06/11	L1040	Oahu Rx	AmerisourceBergen	\$9,698.18
<b>42</b>	01/17/11	L1041	Oahu Rx	AmerisourceBergen	\$61,730.97

43	01/17/11	L1043	Oahu Rx	AmerisourceBergen	\$202,887.46
44	12/27/10	S1012	Oahu Rx	AmerisourceBergen	\$85,664.46
45	01/10/11	S1016	Oahu Rx	AmerisourceBergen	\$208,920.50
46	01/10/11	S1017	Oahu Rx	AmerisourceBergen	\$110,457.67

Each count constituting a separate and distinct violation of 18 U.S.C. § 1341.

**Count 47 (Columbus Wholesale, Inc. (Columbus)/Arbudol Corp. (Arbudol)/Cimax Corp. (Cimax))**  
**Conspiracy - Mail and Wire Fraud**  
**18 U.S.C. § 1349**

40. Beginning on or about March 2007 and continuing through about January 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

[1] MARTIN THUNA,  
[24] DDLV, and  
[26] DROGUERIA VILLA,

defendants herein, combined, conspired, confederated, and agreed with each other and with others known and unknown to the Grand Jury to:

a. Use private and commercial interstate carriers for the purpose of executing a scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1341; and

b. Use interstate wires in furtherance of a scheme to defraud, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1343.

**OBJECT OF THE CONSPIRACY**

41. The object of the conspiracy was to use mails and wires to execute a scheme in which diverted prescription drugs were: (a) obtained by Columbus Wholesale, Inc (Columbus), Arbudol Corp. (Arbudol), and Cimax Corp. (Cimax) in the diversion market; (b) sold to, and



fraudulently reintroduced into the wholesale market through, [24] **DDLV** and [26] **DROGUERIA VILLA**; and (c) sold under false pretenses to pharmacies and end users.

#### **MANNER AND MEANS OF THE CONSPIRACY**

40. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among others, the following:

a. [24] **DDLV** and [26] **DROGUERIA VILLA**, through [1] **MARTIN THUNA**, established and maintained business relationships with various co-conspirators known and unknown to the Grand Jury to obtain diverted prescription drugs at discount prices from suppliers in the New York, New York area who: (i) were not properly licensed as wholesale distributors in New York; and (ii) provided pedigrees that falsely stated that the prescription drugs were obtained from legitimate sources.

b. The diverted prescription drugs were shipped by Arbudol, Columbus, and Cimax using the mails and commercial carriers from New York to [24] **DDLV** in Puerto Rico, and would then be fraudulently re-introduced into the retail and wholesale market by [24] **DDLV**, sometimes through [26] **DROGUERIA VILLA**.

c. [1] **MARTIN THUNA** paid for prescription drugs obtained from Columbus, Arbudol, and Cimax via checks and/or wire transfers from [24] **DDLV** accounts to New York bank accounts.

#### **OVERT ACTS**

41. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. The shipments described in Counts 49 through 58, which follow, are further alleged as overt acts in furtherance of the conspiracy.

b. On or about November 11, 2010, [1] **MARTIN THUNA** instructed the warehouse manager of [24] **DDLV** to use a previous Arbudol pedigree for a shipment of the prescription drug Kaletra. Not only did the pedigree not correspond to the shipment, but neither Arbudol nor Cimax had purchased the Kaletra from AmerisourceBergen, as stated in the pedigree.

All in violation of 18 U.S.C. § 1349.

**Count 48 (Columbus/Arbudol/Cimax)**  
**Conspiracy - False Statements and Unlicensed Wholesale Distribution**  
**18 U.S.C. § 371**

42. Beginning on or about January 2007 and continuing through about January 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this court,

**[1] MARTIN THUNA,**  
**[24] DROGUERIA DE LA VILLA, and**  
**[26] DROGUERIA VILLA,**

defendants herein, combined, conspired, confederated, and agreed with each other and others known and unknown to the Grand Jury to:

a. To violate Title 18, United States Code, Sections 1001, by knowingly and willfully making and using a false document, knowing such document to contain materially false, fictitious, and fraudulent statements and entries, in a matter within the jurisdiction of the FDA, an agency within the executive branch of the United States; and

b. To violate Title 21, United States Code, Sections 331(t), 353(e)(2)(A), and 333(b)(1)(D) by knowingly engaging, and causing others to engage, in the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed in that state.

### **OBJECT OF THE CONSPIRACY**

43. It was the object of the conspiracy to purchase, and to cause others to purchase, diverted prescription drugs from unlicensed sources in New York and elsewhere, and for Columbus, Arbudol, and Cimax to distribute those drugs to [24] DDLV without being licensed in the state in which they operated, and/or to falsify pedigrees associated with those prescription drugs.

### **MANNER AND MEANS OF THE CONSPIRACY**

44. The manner and means described in Count 47 of this indictment is incorporated by reference and re-alleged herein as the manner and means of the conspiracy described in this count.

### **OVERT ACTS**

45. In furtherance of the conspiracy and to accomplish its object, at least one of the coconspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. On or about January 28, 2009, [1] MARTIN THUNA sent a fax to the warehouse manager of [24] DDLV with the information for Arbudol, the company set to replace Columbus, including Arbudol's Pennsylvania wholesale license.

b. The overt acts described in Count 47 of this indictment are incorporated by reference and re-alleged as overt acts in the conspiracy described in this count.

c. The shipments described in Counts 49 through 58 which follow are further alleged as overt acts in furtherance of the conspiracy.

All in violation of 18 U.S.C. § 371.

**Counts 49 through 58 (Columbus/Arbudol/Cimax)****Mail fraud  
18 U.S.C. § 1341**

46. On or about the dates set forth below, each date constituting a separate count of the Indictment, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[1] MARTIN THUNA,  
[4] DROGUERIA DE LA VILLA, and  
[5] DROGUERIA VILLA,**

defendants herein, along with others known and unknown to the grand jury, aiding and abetting one another, having devised a scheme and artifice to defraud, and to obtain money and property by means of materially false pretenses and representations, did, for the purpose of executing and attempting to execute such scheme and artifice, cause to be deposited with, and to be sent by, private and commercial interstate carriers, and knowingly caused to be delivered by such carriers according to the direction thereon, the following drug shipments to **[24] DDLV:**

<b>COUNT</b>	<b>APPROX. DATE OF MAILING</b>	<b>INVOICE NUMBER</b>	<b>SUPPLIER</b>	<b>AUTHORIZED DISTRIBUTOR FALSELY LISTED ON THE PEDIGREE</b>	<b>AMOUNT (\$)</b>
<b>49</b>	10/07/08	5250	Columbus Wholesale	AmerisourceBergen	\$239,827.77
<b>50</b>	10/07/08	5261	Columbus Wholesale	AmerisourceBergen	\$309,457.29
<b>51</b>	12/29/08	5830	Columbus Wholesale	AmerisourceBergen	\$291,241.69
<b>52</b>	09/09/09	8545	Arbudol Corp.	AmerisourceBergen	\$170,681.22
<b>53</b>	09/09/09	8546	Arbudol Corp.	AmerisourceBergen	\$168,037.07
<b>54</b>	11/03/09	8661	Arbudol Corp.	AmerisourceBergen	\$119,425.57
<b>55</b>	11/17/09	8680	Arbudol Corp.	AmerisourceBergen	\$277,021.44
<b>56</b>	09/16/10	2001	Cimax	AmerisourceBergen	\$420,200.96

57	11/03/10	2258	Cimax	AmerisourceBergen	\$371,452.42
58	12/07/10	2303	Cimax	AmerisourceBergen	\$385,520.74

Each count constituting a separate and distinct violation of 18 U.S.C. § 1341.

**Count 59 Intentionally left Blank**

**Count 60**

**Money laundering conspiracy (Columbus/Arbudol/Cimax)  
18 U.S.C. § 1957**

47. The allegations set forth in Counts 47 through 58 of this Indictment are incorporated by reference as if fully re-alleged herein.

48. The Grand Jury further charges that, beginning in or around January 2007, and continuing up to and including on or around January 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[1] MARTIN THUNA,  
[24] DDLV, and  
[26] DROGUERIA VILLA,**

defendants herein, and others known and unknown to the grand jury, did knowingly combine, conspire, and agree with each other and with other persons known and unknown to the Grand Jury to commit offenses against the United States in violation of Title 18, United States Code, Sections 1957, to wit:

a. to knowingly engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, that is, mail fraud, wire fraud, and conspiracy to commit the same, in violation of Title 18, United States Code, Sections 1341, 1343, and 1349, in violation of Title 18, United States Code, Section 1957.

**Count 61**  
**Money laundering conspiracy (California Wholesale/CPS/Infinite/Global)**  
**18 U.S.C. § 1957**

49. The allegations set forth in Counts 1 through 8 of this Indictment are incorporated by reference as if fully re-alleged herein.

50. The Grand Jury further charges that, beginning in or around January 2007, and continuing up to and including on or around January 2011, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

[1] MARTIN THUNA,  
[24] DDLV, and  
[26] DROGUERIA VILLA,

defendants herein, and others known and unknown to the grand jury, did knowingly combine, conspire, and agree with each other and with other persons known and unknown to the Grand Jury to commit offenses against the United States in violation of Title 18, United States Code, Sections 1957, to wit:

a. to knowingly engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, that is, mail fraud, wire fraud, and conspiracy to commit the same, in violation of Title 18, United States Code, Sections 1341 and 1343, in violation of Title 18, United States Code, Section 1957.

**Count 62**  
**Conspiracy - Unlicensed Wholesale Distribution**  
**18 U.S.C. § 371**

51. From in or around January 2007 through December 2012, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[27] TIGRAN KHACHERYAN,**

the defendant herein, combined, conspired, confederated, and agreed with others known and unknown to the grand jury to violate Title 21, United States Code, Sections 331(t), 353(e)(2)(A), and 333(b)(1)(D) by knowingly engaging in, and causing others to engage, the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed in that state, in violation of Title 18, United States Code, Section 371.

**OBJECT OF THE CONSPIRACY**

52. It was the object of the conspiracy to obtain and distribute, and to cause others to purchase and further distribute, diverted prescription drugs without a prescription drug wholesale distributor license in California, the State from which the prescription drugs were distributed.

**MANNER AND MEANS OF THE CONSPIRACY**

53. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among others, the following:

a. **[27] TIGRAN KHACHERYAN** obtained diverted prescription drugs from sources unknown to the Grand Jury in the Los Angeles, California area, and sold those prescription drugs to E.R., L.R., and M.R. without a wholesale prescription drug distributor license in California.

b. E.R., L.R., and M.R. would further distribute and sell these diverted prescription drugs from California to other wholesale distributors and/or retail pharmacies without a valid wholesale prescription drug distributor license in California.

**OVERT ACTS**

54. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. From on or about January 2007 through on or about December 2012, E.R., L.R. and M.R. regularly received diverted prescription drugs from [27] **TIGRAN KHACHERYAN** at various locations in the Los Angeles, California area.

b. From on or about January 2007 through on or about December 2012, co-conspirators E.R., L.R., and M.R. further distributed those prescriptions drugs to other wholesale distributors and/or retail pharmacies.

All in violation of 18 U.S.C. § 371.

**Count 63**  
**Conspiracy - Unlicensed Wholesale Distribution**  
**18 U.S.C. § 371**

55. From in or around January 2007 through December 2012, in the District of Puerto Rico and elsewhere within the jurisdiction of this Court,

**[28] EDVIN OVASAPYAN,**

the defendant herein, combined, conspired, confederated, and agreed with others known and unknown to the grand jury to violate Title 21, United States Code, Sections 331(t), 353(e)(2)(A), and 333(b)(1)(D) by knowingly engaging in, and causing others to engage, the wholesale



distribution in interstate commerce of prescription drugs in a state without being licensed in that state, in violation of Title 18, United States Code, Section 371.

#### **OBJECT OF THE CONSPIRACY**

56. It was the object of the conspiracy to obtain and distribute, and to cause others to purchase and further distribute, diverted prescription drugs without a prescription drug wholesale distributor license in California, the State from which the prescription drugs were distributed.

#### **MANNER AND MEANS OF THE CONSPIRACY**

57. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among others, the following:

a. **[28] EDVIN OVASAPYAN** obtained diverted prescription drugs from sources unknown to the Grand Jury in the Los Angeles, California area, and sold those prescription drugs to co-conspirators E.R., L.R., and M.R. without a wholesale prescription drug distributor license in California.

b. Co-conspirators E.R., L.R., and M.R. would further distribute and sell these diverted prescription drugs from California to other wholesale distributors and/or retail pharmacies without a valid wholesale prescription drug distributor license in California.

#### **OVERT ACTS**

58. In furtherance of the conspiracy and to accomplish its object, at least one of the co-conspirators committed and caused to be committed, in the District of Puerto Rico, and elsewhere, at least one of the following overt acts, among others:

a. From on or about January 2007 through on or about December 2012, E.R., L.R. and M.R. regularly received diverted prescription drugs from **[28] EDVIN OVASAPYAN** at various locations in the Los Angeles, California area.

b. From on or about January 2007 through on or about December 2012, co-conspirators E.R., L.R., and M.R. further distributed those prescriptions drugs to other wholesale distributors and/or retail pharmacies.

All in violation of 18 U.S.C. § 371.

### **FORFEITURE ALLEGATIONS**

1. The allegations contained in Counts 1 through 58, and 60 through 63 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(A) and (C), Title 28, United States Code, Section 2461(c); and Title 18, United States Code, Section 982(a)(1), (4) and (7).

2. Upon conviction of the offenses in violation of Title 18, United States Code, Section 1341 and conspiracy to violate Sections 1341 and 1343, the same set forth in 1, 3 through 9, 11 through 18, 20 through 28, 30 through 47, 49 through 58, 62, and 63 of this Indictment, the defendants shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense(s).

3. Upon conviction of the offenses in violation of Title 18, United States Code, Section 1957 set forth in Counts 60 and 61 of this Indictment, the defendants shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(A) and Title 28, United States Code, Section 2461(c), and Title 18 United States Code, Section 982(a)(1) any property, real or personal involved in a transaction or attempted transaction in violation of Title 18, United States Code, Section 1957.

4. Upon conviction of a conspiracy to violate Title 21, United States Code, Section 331, in violation of Title 18, United States Code, Section 371, alleged in Counts 2, 10, 19, 29, and 48 of this Indictment, pursuant to Title 18, United States Code, Sections 982(a)(7) and 24(a)(2), the defendants shall forfeit to the United States of America any property, real or personal, which constitutes or is derived from proceeds traceable to any portion of the offenses that began on or after March 23, 2010.

5. The property to be forfeited includes, but is not limited to, the following:

a. MONEY JUDGMENT: 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, but not less than \$649,854,151.00. 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;

b. Funds seized in the following accounts:

- i. Banco Popular Account #395-028440, Drogueria De La Villa, Inc.
- ii. Banco Popular Account #395-028431, FMC Distributors, Inc.
- iii. Citizens Bank of Blount County Account # 62057, Drogueria Villa, Inc.
- iv. Citibank Account # 500231857, Flar Medicine, Inc.
- v. Citibank Account #500235650, FMC Distributors, Inc.
- vi. Citibank Account #500235643, FMC Distributors, Inc.
- vii. Citibank Account #500227657, FMC Distributors, Inc. dba Drogueria De La Villa
- viii. Citibank Account #500239330, FMC Distributors, Inc. dba Drogueria De La Villa
- ix. Citibank Account #500231717, FMC Specialty Care, Inc.
- x. Citibank Account #151751567, Martin Thuna/Sonia Thuna
- xi. Citibank Account #500231782, Martin Thuna/Sonia Thuna
- xii. Citibank Account #202882445 T.P. Investments, Inc.
- xiii. Citibank Account #202640694, Rayco International LTD

c. Real and personal property constituting proceeds of the offenses set forth above:

- i. 9809 Glenrock Drive, Las Vegas, Nevada

- ii. 2735 Desert Troon St, Las Vegas, NV4145 Wagon Trail Ave Las Vegas, NV
- iii. 9988 Keifer Valley Las Vegas, NV
- iv. 10639 Colter Bay Las Vegas, NV
- v. 10024 Bonterra Ave Las Vegas, NV
- vi. 2109 Bachelor Court Las Vegas, NV
- vii. 7720 Van Noord Ave Los Angeles, CA

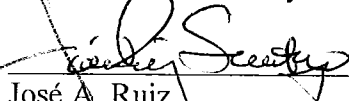
6. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), Title 28, United States Code, Section 2461(c), each defendant shall forfeit substitute property, up to the value of the amount described in paragraph 5 if, by any act or omission of the defendant, the property described in paragraphs 5, 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; it is the intention of the United States, pursuant to Title 18, United States Code, Sections 982(b) to seek forfeiture of any other property of the defendants up to the value of the forfeitable property, as follows:

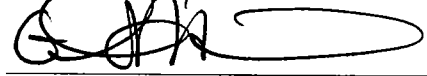
- a. FMC Complex, El Tuque Industrial Park, Road 591, Lot 13, Ponce, PR
- b. 13149 Ratner St., North Hollywood, CA
- c. 13027 Strathern St., North Hollywood, CA
- d. 18203 Coastline Dr. #4, Malibu, CA
- e. 303 Palmview Court, Kissimee, FL

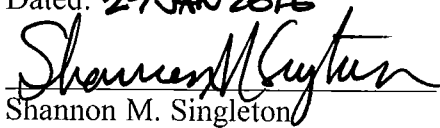
All pursuant to Title 18, United States Code, Sections 981, 982; Title 21, United States Code, Section 853 (p); 28, United States Code, 2641(c); and Rule 32.2(a), Federal Rules of Criminal Procedure.

TDIE DII I

**ROSA EMILIA RODRÍGUEZ-VÉLEZ**  
United States Attorney

  
\_\_\_\_\_  
José A. Ruiz  
Chief, Criminal Division  
Dated: 1/27/16

  
\_\_\_\_\_  
G.A. Massuco-LaTaif  
Assistant United States Attorney  
Dated: 27 JAN 2016

  
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Shannon M. Singleton  
FDA Office of Chief Counsel  
Special Assistant, United States Attorney  
Dated: 1/27/16