

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Crim. No. 09-
	:	
	:	
	:	18 U.S.C. § 371
	:	
v.	:	
	:	Forfeiture Allegations
	:	18 U.S.C. § 981
	:	28 U.S.C. § 2461
	:	
DAVID TODD SCHWARTZ	:	<u>INFORMATION</u>

The defendant having waived in open court prosecution by indictment, the Acting United States Attorney for the District of New Jersey charges:

CONSPIRACY TO TRANSPORT STOLEN PROPERTY
(18 U.S.C. § 371)

1. At all times relevant to this Information:

a. Defendant DAVID TODD SCHWARTZ resided in Livingston, New Jersey, and was a sales representative for a medical equipment sales and services company located in East Meadow, New York.

b. J.S., a co-conspirator not named as a defendant herein, resided in Jersey City, New Jersey, and was employed by New York-Presbyterian Hospital in New York, New York ("NYPH"), as an Equipment Specialist.

c. J.F., a co-conspirator not named as a defendant herein, resided in Elizabeth, New Jersey, and was employed by NYPH as an Inventory Clerk.

d. The Food and Drug Administration ("FDA") was an agency within the United States Department of Health and Human Services. The FDA enforced provisions of the Food, Drug, and Cosmetic Act, as amended, Title 21, United States Code, Section 301 et seq., and its implementing regulations. The FDA was also responsible for regulating, among other things, the safety and proper use of medical equipment and devices within the United States, because of the potential for harm if used other than under the supervision of a practitioner licensed by law.

e. NYPH was a teaching hospital in New York City that delivered patient care through its medical centers, Columbia University Medical Center and the Weill Cornell Medical Center. NYPH purchased medical equipment and devices, such as surgical staples, dyonic blades and harmonic scalpels, from various manufacturers for use in delivering care to its patients.

The Conspiracy

2. From on or about October 9, 2006, through on or about August 29, 2008, in the District of New Jersey and elsewhere, defendant

DAVID TODD SCHWARTZ

did knowingly and intentionally conspire and agree with others, including co-conspirators J.S. and J.F., to commit an offense

against the United States, that is, to knowingly and willfully transport, transmit, transfer and cause to be transported, transmitted and transferred, in interstate commerce any goods, wares, and merchandise, of the value of \$5,000 or more, knowing such goods, wares, and merchandise to have been stolen, converted and taken by fraud, contrary to Title 18, United States Code, Section 2314.

The Object of the Conspiracy

3. The object of the conspiracy was for defendant DAVID TODD SCHWARTZ and his co-conspirators to steal medical devices from NYPH and sell them to third parties at discounted prices.

The Means and Methods of the Conspiracy

4. It was part of the conspiracy that co-conspirators J.S. and J.F., in the course of their activities as employees of NYPH, but without NYPH's knowledge or consent, would secure control and possession of approximately \$1.2 million in medical devices belonging to NYPH.

5. It was further part of the conspiracy that co-conspirators J.S. and J.F. would transfer the medical devices to defendant DAVID TODD SCHWARTZ.

6. It was further part of the conspiracy that defendant DAVID TODD SCHWARTZ would sell the stolen medical devices, often over the Internet, to third parties at discounted prices.

7. It was further part of the conspiracy that, after receiving payment for the stolen medical devices, defendant DAVID TODD SCHWARTZ would send the devices via the U.S. mail to the third party purchasers in various locations throughout the United States.

8. It was further part of the conspiracy that the proceeds of approximately \$330,000 from the sale of the stolen medical devices would be shared among the co-conspirators.

The Overt Acts of the Conspiracy

In furtherance of the conspiracy and to effect the unlawful object thereof, defendant DAVID TODD SCHWARTZ and his co-conspirators committed and caused to be committed the following overt acts in the District of New Jersey and elsewhere, among others:

9. On or before August 7, 2007, co-conspirator J.S., with the assistance of co-conspirator J.F., secured and took possession of surgical staples belonging to NYPH with a value of approximately \$6,600.

10. On or before August 7, 2007, co-conspirator J.S. met with defendant DAVID TODD SCHWARTZ in or around the vicinity of NYPH and transferred the stolen surgical staples to defendant DAVID TODD SCHWARTZ.

11. On or about August 7, 2007, defendant DAVID TODD SCHWARTZ negotiated via e-mail the financial terms of sale for these stolen surgical staples with a purchaser of medical devices.

12. On or about August 9, 2007, after the medical device purchaser transferred the agreed upon payment amount into a PayPal account controlled by defendant DAVID TODD SCHWARTZ, defendant DAVID TODD SCHWARTZ sent the stolen surgical staples via the U.S. mail from Livingston, New Jersey, to the medical device purchaser in Dublin, Ohio.

In violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATIONS

(18 U.S.C. § 981 and 28 U.S.C. § 2461)

1. As a result of the offense alleged in paragraphs 1 through 12 of this Information, defendant DAVID TODD SCHWARTZ shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(c) and 28 U.S.C. § 2461(c), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense, including but not limited to, a sum of money equal to approximately \$250,000 in United States currency, representing his share of the proceeds obtained as a result of the offense, and a sum of money equal to approximately \$1,203, representing additional proceeds obtained as a result of the offense and seized by agents of the FDA on or about August 29, 2008.

2. If any of the above-described property, as a result of any act of omission of the defendant:

- 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; or
- d. has been commingled with other property which cannot be divided without difficulty,

it is the intention of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1), to seek forfeiture of any other property of said defendant up to the value of the property described in paragraph 1 above.

RALPH J. MARRA, JR.
Acting United States Attorney