

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA : **CRIMINAL NO.** _____
v. : **DATE FILED:** **June 23, 2011**
ANTONIO A. JIMENEZ, : **VIOLATION: 18 U.S.C. §2320(a)(1)**
a/k/a “Victor M. Feliciano-Torres,” : **(trafficking in counterfeit goods - 1 count)**
a/k/a “Pablo Quezada,” : **Notice of forfeiture**
a/k/a “Antonio Alfonso Jimenez Capellan,” :
a/k/a “Antonio Jimenez,” :
a/k/a “Antonio Jiminez,” :
a/k/a “Obelio Feliciano,” :
a/k/a “Obelio Feliciano Torres” :

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. The United States Food and Drug Administration (FDA) is the federal agency within the United States Department of Health and Human Services charged with the responsibility of ensuring that drugs sold in the United States are safe and effective for their intended uses, and that labeling for drugs contains true and accurate information. The FDA carries out these responsibilities through enforcement of the Federal Food, Drug and Cosmetic Act (FFDCA) and regulations promulgated pursuant to that statute.

2. The FFDCA defines “drug” to include articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, and articles (other than food) intended to affect the structure or any function of the human body.

3. The FDCA defines a counterfeit drug as one which, “or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer...other than the person or persons who in fact manufactured, process, packed, or distributed such drug and which thereby falsely purports or is represented to be the product of such other drug manufacturer...”

4. The Department of Homeland Security, United States Immigration and Customs Enforcement, Homeland Security Investigations (HSI), is the federal agency charged with investigating criminal activity relating to immigration and customs violations, including the enforcement of laws prohibiting the importation of illegal merchandise, and the protection of intellectual property rights through enforcement of patent, trademark, and copyright laws.

5. HSI is responsible for the investigation of the illegal importation of goods bearing “counterfeit marks.” A “counterfeit mark” is defined as a “spurious mark used in connection with trafficking that is identical to or indistinguishable from a registered trademark and the use of which is likely to confuse, cause mistake or deceive.”

6. Viagra®, a registered trademark of Pfizer, Inc. (Pfizer), is a prescription drug manufactured by Pfizer, and used for the treatment of erectile dysfunction. Viagra® tablets manufactured by Pfizer bear distinctive identifying marks, imprints and other identifying characteristics, imprinted on every tablet. These marks and characteristics were in use and were registered for Viagra® on the principal register of the United States Patent and Trademark Office.

7. Cialis®, a registered trademark of the Eli Lilly Company (Lilly), is a prescription drug manufactured by Lilly, and used for the treatment of erectile dysfunction. Cialis® tablets manufactured by Lilly bear distinctive identifying marks, imprints and other

identifying characteristics, imprinted on every tablet. These marks and characteristics were in use and were registered on the principal register of the United States Patent and Trademark Office.

8. On or about May 23, 2011, in the Eastern District of Pennsylvania,
defendant

**ANTONIO A. JIMENEZ,
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a/k/a "Antonio Jimenez,"
a/k/a "Antonio Jiminez,"
a/k/a "Obelio Feliciano,"
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intentionally trafficked and attempted to traffic in goods, specifically 3,346 tablets purporting to be Cialis®, and 1,164 tablets purporting to be Viagra®, all of which were counterfeit, and knowingly used on and in connection with such goods counterfeit marks, that is spurious marks identical to and substantially indistinguishable from the shape and imprints found on genuine medication, which marks were in use and registered for those products by those companies on the principal register of the United States Patent and Trademark Office, the use of which counterfeit marks were likely to cause confusion, to cause mistake, and to deceive.

In violation of Title 18, United States Code, Section 2320(a)(1).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violation of Title 18, United States Code, Section 2320(a)(1) set forth in this information, defendant

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shall forfeit to the United States of America any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses, and any property used or intended to be used, in any manner of part, to commit or to facilitate the commission of, such offenses including, but not limited to 3,346 counterfeit "Cialis" tablets, and 1,164 "Viagra" tablets.

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

- a. cannot be located upon the exercise of due diligence;
- b. Has been transferred to, sold to, or deposited with a third party;
- c. Has been placed beyond the jurisdiction of this 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 intention of the United States, pursuant to 18 U.S.C. § 2323(b)(1), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 2320(b), Title 18 United States Code, Section 2323 and Title 21, United States Code, Section 853.

A TRUE BILL:

FOREPERSON



ZANE DAVID MEMEGER
UNITED STATES ATTORNEY