

Sealed

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. **11-20385**

18 U.S.C. § 1349  
18 U.S.C. § 1341  
18 U.S.C. § 2  
18 U.S.C. § 981

**CR-MARTINEZ**

/ McALILEY

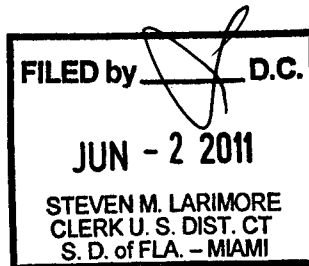
UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDREW J. STREMPER,

Defendant.



**INDICTMENT**

The Grand Jury charges that:

**GENERAL ALLEGATIONS**

At all times relevant to this Indictment:

**Safeguards for prescription drugs in the United States**

1. There were federal and state laws and regulations that provided safeguards for prescription drugs sold to persons in the United States.

2. Under the United States Food Drug and Cosmetic Act ("FDCA"), 21 U.S.C. §§ 301 et seq.:

a. a "drug" included articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans, and articles intended to affect the structure or function of the bodies of humans;

b. “prescription drugs” included drugs intended for use in humans, which due to their toxicity and other potential harmful effects, were not considered safe for use except under the supervision of a practitioner licensed by law to administer such drugs;

c. “counterfeit drugs” included drugs which, or the container or labeling of which, without authorization, bore the trademark, trade name, or other identifying mark, or any likeness thereof, of a drug manufacturer other than the manufacturer who in fact manufactured such drugs;

d. “misbranded drugs” included drugs with labeling that was false or misleading; and

e. “labeling” included all labels and other written, printed, or graphic matter upon any article or any of its containers or wrappers, or accompanying such article.

3. The United States Food and Drug Administration (“FDA”) was a federal agency within the United States Department of Health and Human Services (“HHS”).

4. The FDA was responsible for ensuring, among other things, that prescription drugs intended for humans were safe and effective for their intended use and that the labeling of such drugs bore true and accurate information. Thus, the FDA regulated the approval, manufacturing, distribution, and importation of prescription drugs.

5. The FDA approval of prescription drugs was, among other things, based on clinical evidence regarding safety and effectiveness in humans.

6. The FDA required that the manufacturing of drugs be done in accordance with “Current Good Manufacturing Practice” regulations (“cGMPs”). The cGMPs imposed requirements to assure the identity, strength, quality and purity of drugs.

7. The FDA also oversaw compliance with the Prescription Drug Marketing Act of 1987 (“PDMA”). The PDMA provided safeguards to prevent the introduction of substandard, ineffective, misbranded, diverted, or counterfeit drugs into the United States drug supply chain.

8. Under the PDMA, interstate wholesalers of prescription drugs were required to be licensed by the state from which the wholesaler distributed the drugs.

9. Drugs traveling outside the legal channels provided by the PDMA were referred to as diverted drugs.

10. Under state laws, pharmacists and pharmacies were required to be licensed by the states where they provided prescription drugs to individuals.

11. Under state laws, health professionals were required to be licensed by the states where they prescribed drugs to individuals.

### **The Defendant**

12. **ANDREW J. STREMLER** was a Canadian citizen. **STREMLER** was a pharmacist licensed by the Canadian province of Manitoba.

### **Mediplan Health Consulting, Inc. and RxNorth.com**

13. **ANDREW J. STREMLER** was the founder, owner and President of Mediplan Health Consulting, Inc., a company based in the province of Manitoba, Canada. Mediplan also operated under the name RxNorth.com (“RxNorth”).

14. RxNorth was an internet, mail and telephone order pharmacy, through which **ANDREW J. STREMPER** and others marketed and sold prescription drugs to residents of the United States.

**FDA warning**

15. On or about October 31, 2001, the FDA sent a letter to **ANDREW J. STREMPER** regarding the prescription drugs he was selling to individuals in the United States through his web sites including [www.rxnorth.com](http://www.rxnorth.com).

16. Among other things, the FDA advised **ANDREW J. STREMPER** through the October 31, 2001 letter that his prescription drug sales would be illegal in the United States if the drugs were not FDA approved. The FDA explained that the FDA approves drugs based on evidence that they are safe and effective, while the quality of drugs from foreign sources could not be assured. The FDA advised **STREMPER** that he was required to ensure that all the products he was marketing were in compliance with United States laws.

**Personal Touch Pharmacy**

17. Personal Touch Pharmacy ("Personal Touch") was the trade name used by a pharmacist who was licensed by the Grand Bahama Port Authority to operate a pharmacy in the Bahamas and to import and export prescription drugs. From in or around January 2005 to on or about June 9, 2006, **ANDREW J. STREMPER** and others operated a facility in Freeport, in the Bahamas, using the name and license of Personal Touch, to dispense prescription drugs purchased from RxNorth.

**COUNT 1**  
**Conspiracy to Commit Mail Fraud and Wire Fraud**  
**(18 U.S.C. § 1349)**

1. Paragraphs 1 through 17 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth here.

2. From at least in or around January 2005, the exact date being unknown to the Grand Jury, and continuing until at least on or about June 9, 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**ANDREW J. STREMLER,**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, agree with others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

- a. to knowingly and with intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations and promises, knowing that they were false and fraudulent when made, and for the purpose of executing such scheme and artifice, to knowingly cause to be delivered certain mail matter by the United States Postal Service and by private and commercial interstate carrier, according to the directions thereon, in violation of Title 18, United States Code, Section 1341;
- b. to knowingly and with intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations and promises, knowing that they were false and fraudulent when made, and for the purpose of executing such scheme and

artifice, to knowingly cause to be transmitted wire communications in interstate and foreign commerce, in violation of Title 18, United States Code, Section 1343.

**PURPOSE OF THE CONSPIRACY**

3. It was the purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by selling prescription drugs to individuals in the United States, falsely representing that RxNorth was selling safe prescription drugs in compliance with the rules of regulatory authorities in Canada, the United Kingdom and/or the United States, when in fact, the defendant and his co-conspirators obtained the prescription drugs from various other countries without properly ensuring the safety or authenticity of the drugs, and the prescription drugs were not sold to individuals in the United States in accordance with the rules of regulatory authorities in Canada, the United Kingdom or the United States.

**MANNER AND MEANS OF THE CONSPIRACY**

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects of the conspiracy included, among others, the following:

4. **ANDREW J. STREMPER** and others operated RxNorth as an internet, mail and telephone order pharmacy based in Manitoba, Canada.

5. **ANDREW J. STREMPER** and others caused the marketing, sale, and mailing of prescription drugs to residents of the United States.

6. **ANDREW J. STREMPER** and others operated a facility in Freeport, in the Bahamas, using the name and license of Personal Touch.

7. **ANDREW J. STREMPER** and others purchased prescription drugs from foreign countries, in part using a broker in Marietta, Georgia, who made no assurances regarding the safety

or authenticity of the prescription drugs, nor did the broker make assurances that the drugs were approved by regulatory agencies in Canada, the United Kingdom, or the United States.

8. **ANDREW J. STREMPER** and others caused prescription drugs from foreign countries to be shipped to the facility in the Bahamas.

9. **ANDREW J. STREMPER** and others caused prescription orders made through RxNorth to be filled at the facility in the Bahamas, with labels on the vials and drug cartons stating they had been filled by RxNorth in Canada.

10. **ANDREW J. STREMPER** and others caused prescription drugs to be packaged in envelopes addressed to individual customers in the United States with the return address of RxNorth in Canada.

11. **ANDREW J. STREMPER** and others caused the individual customer packages to be shipped in bulk from the Bahamas to the United Kingdom and the Netherlands Antilles, from where the individual customer packages were mailed to customers in the United States, including individuals in the Southern District of Florida. Some of the customer packages contained misbranded and counterfeit drugs.

12. **ANDREW J. STREMPER** and others caused funds to be sent via wire transfer to the United States, including wires sent to: a drug broker in Marietta, Georgia; a laboratory in Frankfurt, Illinois; a shipping coordinator in Ebensburg, Pennsylvania; and a shipping supplies company in Sunrise, Florida.

13. **ANDREW J. STREMPER** and others marketed the prescription drugs using the RxNorth.com web site as well as other web sites affiliated with **STREMPER** and RxNorth.

14. **ANDREW J. STREMPER** and others caused marketing brochures to be mailed to individuals in the United States, including individuals in the Southern District of Florida.

15. **ANDREW J. STREMPER** and others made false and misleading statements on RxNorth's web site and in its brochures to induce individuals to purchase prescription drugs from RxNorth.

16. From in or around January 2005 to in or around October 2005 RxNorth's web site falsely stated that RxNorth was selling drugs from Canada which were manufactured under Canada's strict standards, when in fact RxNorth was purchasing a large amount of its drugs from other foreign countries without assurances that they met Canada's standards.

17. From in or around November 2005 to in or around June of 2006 RxNorth's web site and brochures falsely stated:

a. that RxNorth was selling prescription drugs within the rules and regulations of regulatory agencies, including Canadian and British authorities, and the FDA, when in fact RxNorth was purchasing drugs from foreign countries without any proper assurances that they were approved by authorities in Canada, England or the United States, and when in fact some of the drugs RxNorth had caused to be mailed to customers in the United States violated FDA regulations because they were counterfeit, misbranded and not FDA approved; and

b. that RxNorth was using the "best equipped" laboratory to rigorously test its prescription drugs for safety and authenticity, when in fact the laboratory had only one piece of equipment capable of limited testing.

All in violation of Title 18, United States Code, Section 1349.



**COUNTS 2-3**  
**Mail Fraud**  
**(18 U.S.C. § 1341)**

1. Paragraphs 1 through 17 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth here.

2. From at least in or around January 2005, the exact date being unknown to the Grand Jury, and continuing until at least on or about June 9, 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**ANDREW J. STREMPER,**

did knowingly and with intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations and promises, knowing that they were false and fraudulent when made, and for the purpose of executing such scheme and artifice and attempting to do so, did knowingly cause to be delivered certain mail matter by private and commercial interstate carrier, according to the directions thereon.

**PURPOSE OF THE SCHEME AND ARTIFICE**

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself by selling prescription drugs to individuals in the United States, falsely representing that RxNorth was selling safe prescription drugs in compliance with the rules of regulatory authorities in Canada, the United Kingdom and/or the United States, when in fact, the defendant obtained the prescription drugs from various other countries without properly ensuring the safety or authenticity of the drugs, and the prescription drugs were not sold to individuals in the United States in

accordance with the rules of regulatory authorities in Canada, the United Kingdom or the United States.

**THE SCHEME AND ARTIFICE**

4. Paragraphs 4 through 17 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth here to describe the scheme and artifice.

**ACTS IN EXECUTION OR ATTEMPTED EXECUTION  
OF THE SCHEME AND ARTIFICE**

5. On or about the dates listed below as to each count, **ANDREW J. STREMLER**, having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, for the purpose of executing such scheme and artifice, did knowingly and with intent to defraud cause to be delivered certain mail matter by private and commercial interstate carrier, according to the directions thereon:

<b>Count</b>	<b>Approximate Date of Mailing</b>	<b>Description of Item Mailed</b>
2	June 6, 2006	Shipment from Freeport, Bahamas, assigned FedEx Express tracking number 8398208001330425, and consisting of 6 boxes containing envelopes with prescription drugs, including counterfeit drugs, addressed to individuals in the Southern District of Florida and elsewhere in the United States.
3	June 7, 2006	Shipment from Freeport, Bahamas, assigned FedEx Express tracking number 8398208001550425, and consisting of 6 boxes containing envelopes with prescription drugs, including counterfeit drugs, addressed to individuals in the Southern District of Florida and elsewhere in the United States.

In violation of Title 18, United States Code, Sections 1341 and 2.

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

1. The allegations contained in the General Allegations section and in Counts 1 through 3 of this Indictment are realleged and incorporated by reference as though fully set forth here for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant may have an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1341 or 1349, as alleged in Counts 1 through 3 of this Indictment, defendant **ANDREW J. STREMPER** shall forfeit to the United States any property, real or personal, which constitutes, or is derived from, proceeds traceable to such violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

3. The property which is subject to forfeiture includes, but is not limited to, the sum of \$95,000,000 in United States currency, which sum represents the proceeds obtained, directly or indirectly, by the defendant as a result of the commission of the violations alleged in Counts 1 through 3 of this Indictment.

4. If any of the property described above, as a result of any act or 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;
- d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

A TRUE BILL

~~FOR~~PERSON



WIFREDO A. FERRER  
UNITED STATES ATTORNEY



ANA MARIA MARTINEZ  
ASSISTANT UNITED STATES ATTORNEY