

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 07-
 :
 v. : 21 U.S.C. §§ 846, 841(a)(1),
 : (b)(1)(C), and 853; and
 : 18 U.S.C. §§ 1956(h), (a)(1),
 : 2, and 982
 PHILIP EATOUGH and :
 BETTY OVER :
 : I N D I C T M E N T
 :

The Grand Jury in and for the District of New Jersey,
sitting in Newark, charges:

COUNT ONE

(Conspiracy to Distribute Controlled Substances)

1. At all times relevant to this Indictment unless
otherwise stated:

a. Methadone was a generic drug that contained
methadone hydrochloride, a Schedule II controlled substance.

b. Methadose was a brand name prescription drug
manufactured by Mallinckrodt Pharmaceuticals. Methadose
contained methadone hydrochloride, a Schedule II controlled
substance.

c. OxyContin was a brand name prescription drug
manufactured by Purdue Pharma, L.P. OxyContin contained
oxycodone, a Schedule II controlled substance.

d. Roxicodone was a brand name for a prescription

drug manufactured by Xanodyne Pharmaceuticals, Inc. Roxycodone contained oxycodone, a Schedule II controlled substance.

e. MS Contin was a brand name for a prescription drug manufactured by Purdue Pharma, L.P. MS Contin contained morphine sulfate, a Schedule II controlled substance.

f. Dilaudid was a brand name for a prescription drug manufactured by Abbott Laboratories. Dilaudid contained hydromorphone, a Schedule II controlled substance.

g. The substances described in paragraphs (a) through (f) above were all to be prescribed only when medically required and were to be taken only in a manner prescribed by a doctor for a particular patient.

h. Under the Controlled Substances Act, Title 21, United States Code, Section 841(a) et seq., and Title 21, Code of Federal Regulations, Section 1306.04, a prescription for a controlled substance was not legal or effective unless it was issued for a legitimate medical purpose by a practitioner acting in the usual course of professional practice.

i. Defendant PHILIP EATOUGH ("EATOUGH") was a physician licensed to practice medicine in the State of New Jersey who maintained a practice as a specialist in internal medicine in Middletown, New Jersey, and Keansburg, New Jersey. EATOUGH represented himself to be a specialist in chronic pain treatment and management.

j. Defendant BETTY OVER ("OVER") was the administrative assistant in EATOUGH's medical office in Keansburg, New Jersey. OVER was responsible for, among other things, scheduling patient appointments and handling patient ledgers and payments.

The Conspiracy

2. From in or around January 1, 2001 through on or about December 31, 2005, in the District of New Jersey and elsewhere, defendants

PHILIP EATOUGH

and

BETTY OVER

did knowingly and intentionally conspire and agree with each other and others to distribute, possess with intent to distribute and dispense mixtures and substances containing a detectable amount of methadone hydrochloride, oxycodone, morphine and hydromorphone, Schedule II controlled substances, without a legitimate medical purpose and outside the usual course of professional practice, contrary to Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), and Title 21, Code of Federal Regulations, Section 1306.04.

Object of the Conspiracy

3. It was the object of the conspiracy to unlawfully

prescribe excessive amounts of controlled substances in return for payments from patients.

Manner and Means of the Conspiracy

4. Among the means and methods employed by EATOUGH, OVER and their co-conspirators to carry out the conspiracy and effect its unlawful object were those set forth below.

5. In order to earn illicit profits from his medical practice, EATOUGH wrote and issued unlawful prescriptions to patients for drugs containing controlled substances without a legitimate medical purpose and outside the usual course of professional practice in exchange for a fee.

6. EATOUGH prescribed excessive amounts of controlled substances to certain of his patients (hereinafter the "Co-conspirator Patients") knowing that the Co-conspirator Patients would subsequently distribute these controlled substances to others. Specifically, the Co-conspirator Patients filled the unlawful prescriptions written by EATOUGH at various pharmacies, and thereafter distributed the controlled substances obtained from such pharmacies to other individuals in exchange for money. The Co-conspirator Patients used money obtained from re-distributing the controlled substances to pay for additional unlawful prescriptions from EATOUGH.

7. Contrary to accepted medical practice, EATOUGH also prescribed controlled substances to patients at the first

appointment without conducting a physical examination of such individuals to verify the claimed illness or condition, or after conducting only a limited physical examination, and without reviewing drug screen tests. In other instances, EATOUGH issued unlawful prescriptions for controlled substances to patients despite obvious indications that such patients were abusing, misusing, and distributing the controlled substances he prescribed. These indications included, but were not limited to, the following: track marks found on patients' arms (indicating intravenous injections), patients' self-reports of prior drug addiction, and frequent excuses by patients describing lost prescriptions.

8. EATOUGH continued to prescribe excessive amounts of controlled substances, knowing that such practice could result in overdoses, dependence, addiction, and, in some cases, death to patients.

9. As the administrative assistant in EATOUGH's Keansburg office, OVER scheduled patient appointments and processed payments from patients, including the Co-Conspirator Patients, with the knowledge and understanding that EATOUGH was prescribing controlled substances to patients without a legitimate medical purpose and outside the usual course of professional practice.

10. EATOUGH and the Co-conspirator Patients obtained substantial income and resources from their illegal distribution of controlled substances.

All in violation of Title 21, United States Code, Section
846.

COUNTS TWO THROUGH TEN

(Distribution of Controlled Substances)

1. Paragraphs 1 and 3 through 10 of Count One of this Indictment are hereby realleged and incorporated herein by reference.

2. On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant

PHILIP EATOUGH

did knowingly and intentionally distribute, possess with intent to distribute and dispense a mixture and substance containing a detectable amount of a Schedule II controlled substance, as listed below, without a legitimate medical purpose and outside the usual course of professional practice, each of which constitutes a separate count of this Indictment:

Count	Approximate Date of Distribution	Patient	Controlled Substance
Two	September 23, 2004	W.D.	Methadone Hydrochloride
Three	September 23, 2004	W.D.	Oxycodone, a/k/a "Roxicodone"
Four	December 30, 2004	B.R.	Oxycodone, a/k/a "Oxycontin"
Five	December 30, 2004	B.R.	Oxycodone, a/k/a "Roxicodone"
Six	July 21, 2003	M.C.	Morphine Sulfate, a/k/a "MS Contin"
Seven	July 21, 2003	M.C.	Morphine Sulfate, a/k/a "Kadian"

Eight	February 15, 2005	M.C.	Methadone Hydrochloride
Nine	February 15, 2005	M.C.	Oxycodone, a/k/a "Oxycontin"
Ten	February 15, 2005	M.C.	Hydromorphone, a/k/a "Dilaudid"

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), Title 18, United States Code, Section 2, and Title 21, Code of Federal Regulations, Section 1306.04.

COUNT ELEVEN

(Conspiracy to Commit Money Laundering)

1. Paragraphs 1 and 3 through 10 of Count One of this Indictment are hereby realleged and incorporated herein by reference.

2. From in or about January 2003 through in or about June 2005, in the District of New Jersey and elsewhere, defendants

PHILIP EATOUGH

and

BETTY OVER,

knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, and knowing that the transactions were designed in whole and in part to conceal and disguise the nature and the source of the proceeds of specified unlawful activity, did conspire and agree with each other and another to conduct financial transactions which in fact involved the proceeds of specified unlawful activity, specifically the transfer, delivery and other disposition of United States currency that was the proceeds of the distribution of narcotics, contrary to Title 18, United States Code, Section 1956(a)(1).

In violation of Title 18, United States Code, Section 1956(h).

FORFEITURE ALLEGATION

1. The allegations contained in Counts One through Eleven of this Indictment are realleged and incorporated herein by reference.

2. Pursuant to Title 18, United States Code, Section 982(a)(1), and Title 21, United States Code, Section 853, upon conviction of the offenses set forth in Counts One through Eleven of this Indictment, defendant EATOUGH shall forfeit to the United States all right, title, and interest in any and all property involved in the said offenses, and all property traceable to such property, including but not limited to: (a) approximately \$382,657 in United States currency involved in Count Eleven of this Indictment and the facilitating property and all property traceable thereto; and (b) all that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 141 Main Street, Keansburg, New Jersey.

3. Pursuant to Title 21, United States Code, Section 853, defendant EATOUGH shall forfeit to the United States substitute property, up to the value of the property described in paragraph 2 above, if, by any act or omission of defendant EATOUGH, the property described in paragraph 2 above or any portion thereof:

- a. cannot be located upon the exercise of due diligence,
- b. has been transferred to, 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 subdivided without difficulty.

Pursuant to Title 18, United States Code, Section 982, and Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
United States Attorney