

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

**UNITED STATES OF AMERICA** : **CRIMINAL NO.** \_\_\_\_\_  
**v.** : **DATE FILED:** \_\_\_\_\_  
**MIMI TRIEU** : **VIOLATIONS:**  
**a/k/a “Hale”** : **18 U.S.C. § 1341 (mail fraud – 11 counts)**  
: **18 U.S.C. § 371 (conspiracy to smuggle**  
: **goods into the United States - 1**  
: **count)**  
: **21 U.S.C. § 841 (possession with intent to**  
: **distribute controlled substances - 6**  
: **counts)**  
: **Notice of forfeiture**

**INDICTMENT**

**COUNTS ONE THROUGH ELEVEN**

**(Mail Fraud)**

**THE GRAND JURY CHARGES THAT:**

**Introduction**

At all times material to this indictment:

1. The United States Food and Drug Administration (“FDA”) was 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 were safe and effective for their intended uses, and that labeling for drugs contained true and accurate information. The FDA carried out these responsibilities through enforcement of the Federal Food, Drug and Cosmetic Act (“FFDCA”) and regulations promulgated pursuant to that statute.

2. The FDCA defined “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. It was illegal under federal law to import drugs into the United States, or to sell any drug which had not been approved by the FDA for use in the United States.

4. The Drug Enforcement Administration (“DEA”) was the federal agency which regulated the distribution of certain prescription medications which contain controlled substances. Controlled substances could not be possessed without a valid prescription, nor could they be prescribed or distributed without proper certification from DEA.

5. Sibutramine was a Schedule IV controlled substance, which could not lawfully be distributed or dispensed without proper authorization and licensing from DEA. Also, any pills or capsules containing Sibutramine required approval by the FDA before being made available for use in the United States.

6. The FDA determined that certain unapproved products purported to assist in weight loss (“diet drugs”) imported from China were being illegally imported into and sold in the United States. These diet drugs contained Sibutramine, which caused significant side effects in some individuals, including nausea, vomiting, elevated blood pressure, heart attacks and strokes. Many of these diet drugs, which were usually sold as capsules, also contained rimonabant (a drug not approved for use in the United States or Europe), phenytoin (an anti-seizure medication), and phenolphthalein (a solution used in chemical experiments and a suspected cancer causing agent). It was unlawful to import these diet drugs into the United

States and distribute them in the United States because they contained a controlled substance, were not approved by the FDA, and were distributed without prescriptions or DEA authorization.

7. United States Customs and Border Protection (“CBP”) and Bureau of Immigration and Customs Enforcement (“ICE”), both within the United States Department of Homeland Security (“ICE”), enforced the laws which regulate the entry of goods into the United States, including the importation of goods of any type without the proper customs declaration and payment of any applicable import fees, known as “duty” and the unlawful importation of products such as controlled substances and drugs that have not been approved by the FDA.

8. Beginning in or about December, 2008, the FDA posted warnings on its website regarding illegal weight loss drugs, which included a list of the ingredients identified in paragraph 6 above. In addition, the FDA and CBP sent letters or had inspectors visit some known importers and distributors of diet drugs on its warning list, informing these importers and distributors that the diet drugs contained unapproved new drugs and/or controlled substances and were a health hazard, and that the importation and distribution of these products was illegal.

9. Hong Kong Beauty International (“Hong Kong Beauty”) was a company located at 5520 Whitaker Avenue, Suite E, Philadelphia, PA 19124, and which used the website [www.hkbtint.com](http://www.hkbtint.com). Hong Kong Beauty was an importer and distributor of herbal supplements, skin and beauty products and diet drugs, including several diet drugs listed as being illegal and dangerous on the FDA website and in correspondence from the FDA.

10. Defendant MIMI TRIEU was the owner of Hong Kong Beauty, and also used the name “Hale” while conducting business on behalf of Hong Kong Beauty.

11. In addition to the Hong Kong Beauty office at 5520 Whitaker Avenue, Suite E, defendant MIMI TRIEU also received packages of illegal diet drugs and other products at her husband's business, at a rented storage facility, and at properties she rented or owned.

12. In or about December, 2008, defendant MIMI TRIEU learned from the FDA website, and from correspondence to her from the FDA and CBP, that the importation and sale of several brands of the diet drugs she was selling was illegal because these drugs: (1) contained the controlled substance Sibutramine, and also contained other harmful ingredients; and (2) had not been approved for sale in the United States by the FDA.

### **THE SCHEME**

13. From at least in or about December 2008 through at least in or about May, 2009, in the Eastern District of Pennsylvania and elsewhere, defendant

### **MIMI TRIEU**

devised and intended to devise a scheme to defraud customers of Hong Kong Beauty who purchased diet drugs, and to obtain money and property by means of knowingly false and fraudulent pretenses, representations and promises, causing losses to those victims of approximately \$245,000.

### **MANNER AND MEANS**

It was part of the scheme that:

14. From in or about December, 2008 through at least May, 2009, defendant MIMI TRIEU, after learning that diet drugs she was importing and selling could not legally be sold in the United States because they contained Sibutramine, a controlled substance, and other dangerous ingredients, and because these drugs had not been approved by the FDA:

- a. Imported more than four million capsules of diet drugs into the United States from China;
- b. Together with persons in China who are presently unknown to the grand jury, continued to smuggle illegal diet drugs into the United States in packages containing U.S. Customs declarations which falsely stated the contents and the value of the illegal diet drugs.
- c. Together with persons in China who are presently unknown to the grand jury, in order to minimize the risk of loss from the detection and seizure of illegal drugs by ICE and FDA officials, caused packages of illegal diet pills from China to be addressed to various addresses under defendant TRIEU's control, including the Hong Kong Beauty address, the business address of defendant TRIEU's husband, and at the addresses of a storage facility and other properties that defendant TRIEU owned or rented.
- d. Sold the diet pills to businesses and consumers throughout the United States, knowing that the packaging of the illegal diet drugs listed natural products, but not Sibutramine and other dangerous substances, as ingredients.
- e. Sold approximately 1,750,000 capsules of illegal diet drugs, valued at approximately \$245,000, to customers without ever disclosing to them (i) that the diet drugs contained the controlled substance Sibutramine and other dangerous substances, (ii) were illegal to sell in the United States because they were not approved by the FDA, and (iii) were illegal to sell or possess in the United States without a valid prescription from a physician.
- f. Falsely informed a customer who called Hong Kong Beauty to inquire about the FDA warnings that the warnings on the FDA website were not true.

g. Falsely told some customers that the drugs were all natural and that the drugs were manufactured in Japan.

15. On or about each of the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, defendant

**MIMI TRIEU**

for the purpose of executing the scheme described above, and attempting to do so, knowingly caused to be delivered by the United States Postal Service, according to the directions thereon, packages mailed from China containing illegal diet drugs.

| <u>COUNT</u> | <u>APPROXIMATE DATE</u> | <u>ADDRESS</u>  |
|--------------|-------------------------|---|
| 1            | May 4, 2009             | 777 Mayfair St. Unit #2101<br>Philadelphia, PA 19124  |
| 2            | May 4, 2009             | 777 Mayfair St., Unit #2101<br>Philadelphia, PA 19124 |
| 3            | May 6, 2009             | 777 Mayfair St., Unit #2101<br>Philadelphia, PA 19124 |
| 4            | May 6, 2009             | 777 Mayfair St., Unit #2101<br>Philadelphia, PA 19124 |
| 5            | May 8, 2009             | 1216 Brighton St.<br>Philadelphia, PA                 |
| 6            | May 9, 2009             | 1216 Brighton St.<br>Philadelphia, PA                 |
| 7            | May 9, 2009             | 1216 Brighton St.<br>Philadelphia, PA                 |
| 8            | May 11, 2009            | 1216 Brighton St.<br>Philadelphia, PA                 |
| 9            | May 12, 2009            | 777 Mayfair St., Unit #2101<br>Philadelphia, PA 19124 |

|    |              |   |
|----|--------------|---|
| 10 | May 12, 2009 | 1216 Brighton St.<br>Philadelphia, PA                 |
| 11 | May 12, 2009 | 777 Mayfair St., Unit #2101<br>Philadelphia, PA 19124 |

All in violation of Title 18, United States Code, Section 1341.

**COUNT TWELVE**

**(Conspiracy to Unlawfully Smuggle Goods into the United States)**

**THE GRAND JURY FURTHER CHARGES THAT:**

At all times material to this indictment:

1. The allegations of paragraphs 1 through 12 of Counts One through Eleven are incorporated here.

2. In or about August 2008, a shipment of diet drugs from China, which had been ordered by defendant MIMI TRIEU and which was addressed to defendant TRIEU's husband's business in Philadelphia, was seized by CBP and the FDA.

**THE CONSPIRACY**

3. From at least in or about October, 2008 through on or about April 11, 2010, in the Eastern District of Pennsylvania and elsewhere, defendant

**MIMI TRIEU**

conspired and agreed, together with others who are presently unknown to the grand jury, to fraudulently and knowingly import and bring into the United States merchandise contrary to law, that is, diet drugs, and to receive and buy such diet drugs knowing that they were brought into the United States contrary to law, that is, the importation of controlled substances from China into the United States in violation of Title 21, United States Code, Section 952(a), and the importation of unapproved new drugs in violation of Title 21, United States Code, Sections 331(d), (t) and 355, in violation of Title 18, United States Code, Section 545.

## MANNER AND MEANS

It was part of the conspiracy that:

4. Defendant MIMI TRIEU arranged with persons in China who are presently unknown to the grand jury to ship illegal diet drugs from China to defendant TRIEU in the United States.

5. Defendant MIMI TRIEU and persons in China who are presently unknown to the grand jury used multiple addresses in order to make it more difficult for CBP to identify packages of illegal diet drugs intended for defendant TRIEU.

6. Defendant MIMI TRIEU and persons in China who are presently unknown to the grand jury caused packages of illegal diet drugs to be sent to defendant TRIEU in the United States with U.S. Customs declarations that falsely stated that the products were “gifts,” “health product gifts,” and promotional “gifts,” in order to conceal the fact that the packages contained merchandise from China and were not gifts, and to make it more difficult for CBP officials to discover that the boxes contained illegal diet drugs.

7. Defendant MIMI TRIEU and persons in China who are presently unknown to the grand jury caused packages of illegal diet drugs sent to defendant TRIEU to falsely declare the value of the illegal diet drugs in order to make it more difficult for CBP officials to discover that the boxes contained illegal diet drugs and to avoid payment of the full customs duty on the packages.

## OVERT ACTS

In furtherance of the conspiracy, defendant MIMI TRIEU, and others who are presently unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania, and elsewhere:

1. In or about October, 2008, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of illegal diet drugs, valued at approximately \$720, addressed to "HALE" at 5520 Whitaker Street, #E, Philadelphia, PA 19124, to be received for importation into the United States with a U.S. Customs declaration that stated the package contained a "Health Products Gift," with a declared value of \$50.

2. In or about October, 2008, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of illegal diet drugs, valued at approximately \$1,455, addressed to "MIMI" at 5520 Whitaker Street, #E, Philadelphia, PA 19124, to be received for importation in the United States with a U.S. Customs declaration that the package contained a "Gift," with a declared value of \$50.

3. On or about May 4, 2009, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of illegal diet drugs, valued at approximately \$1,500, to be received for importation in the United States with a U.S. Customs declaration that the package contained a "Promotional Gift," with a declared value of \$31.90.

4. On or about May 11, 2009, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of

illegal diet drugs, valued at approximately \$475, addressed to “Janson,” 1216 Brighton St., Philadelphia, PA, to be received for importation into the United States, bearing a U.S. Customs declaration that the package contained a “Gift,” with a declared value of \$97.

5. On or about May 12, 2009, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of illegal diet drugs, valued at approximately \$1,500, addressed to “Mimi,” 777 Mayfair St., Unit 2101, to be received for importation into the United States bearing a U.S. Customs declaration that the package contained a “Gift,” with a declared value of \$97.

6. On or about March 31, 2010, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of illegal diet drugs, valued at approximately \$720, addressed to “JSBT”, 6526 Castor Avenue, Philadelphia, PA 10149, to be received for importation into the United States, bearing a U.S. Customs declaration that the package contained a “Gift,” with a declared value of \$50.

7. On or about March 31, 2010, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of illegal diet drugs, valued at approximately \$720, addressed to “Emily”, 777 Mayfair Street, Unit 2618, Philadelphia, PA 19124, to be received for importation into the United States, bearing a U.S. Customs declaration that the package contained a “Gift,” with a declared value of \$45.

8. In or about March 31, 2010, at Philadelphia, defendant MIMI TRIEU and a person or persons in China who are presently unknown to the grand jury, caused a package of illegal diet drugs, valued at approximately \$720, addressed to “Emily”, 777 Mayfair Street, Unit

2618, Philadelphia, PA 19124, to be received for importation into the United States, bearing a U.S. Customs declaration that the package contained a "Gift," with a declared value of \$50.

All in violation of Title 18, United States Code, Section 371.

**COUNTS THIRTEEN THROUGH EIGHTEEN**

**(Possession with Intent to Distribute a Controlled Substance)**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1 through 12 and 14 of Counts One through Eleven are incorporated here.

2. On or about each of the following dates, in the Eastern District of Pennsylvania, defendant

**MIMI TRIEU**

knowingly possessed with intent to distribute a mixture or substance containing a detectable amount of Sibutramine, a Schedule IV controlled substance, each possession constituting a separate count:

| <b><u>COUNT</u></b> | <b><u>APPROXIMATE DATE</u></b> | <b><u>APPROXIMATE NUMBER OF CAPSULES</u></b> |
|---------------------|--------------------------------|--|
| 13                  | December, 2008                 | 31,740                                       |
| 14                  | January, 2009                  | 588,910                                      |
| 15                  | February, 2009                 | 1,432,708                                    |
| 16                  | March, 2009                    | 1,106,276                                    |
| 17                  | April, 2009                    | 865,948                                      |
| 18                  | May, 2009                      | 151,270                                      |

All in violation of Title 21, United States Code, Section 841(a)(1) and

(b)(1)(E)(2).

**NOTICE OF FORFEITURE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 21, United States Code, Sections 841(a)(1) set forth in counts three through eight of this indictment, defendant

**MIMI TRIEU**

shall forfeit to the United States of America:

a. any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses, including, all computers seized on or about May 7, 2009, in Philadelphia, Pennsylvania.

b. any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses, including, but not limited to, the sum of \$500,000.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

- 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;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 21, United States Code, Section 853.

**A TRUE BILL:**



**MICHAEL L. LEVY**  
**UNITED STATES ATTORNEY**

**GRAND JURY FOREPERSON**