

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

UNITED STATES OF AMERICA	:	CRIMINAL NO: 11-_____
v.	:	DATE FILED: March 23, 2011
RICHARD MINICOZZI, M.D.	:	VIOLATIONS:
JOAN ISRAEL	:	21 U.S.C. § 846 (conspiracy to distribute controlled substances – 1 count)
	:	21 U.S.C. § 841 (distribution of controlled substances – 18 counts)
	:	Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

BACKGROUND

1. Defendant RICHARD MINICOZZI, M.D. was a physician licensed by the Commonwealth of Pennsylvania and held Pennsylvania medical license number MD-042528E, and DEA registration number BM1626083. Defendant MINICOZZI practiced out of an office located at 731 Morris Street, Philadelphia, Pennsylvania.

2. Defendant JOAN ISRAEL was employed by defendant RICHARD MINICOZZI as an office assistant and worked at defendant MINICOZZI's office located at 731 Morris Street, Philadelphia, Pennsylvania.

3. The Controlled Substances Act governs the manufacture, distribution, and dispensing of controlled substances in the United States. Under the Controlled Substances Act,

there are five schedules of controlled substances – Schedules I, II, III, IV, and V. Controlled substances are scheduled into these levels based upon their potential for abuse, among other things. For example, abuse of Schedule II controlled substances may lead to severe psychological or physical dependence. Abuse of Schedule III controlled substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of Schedule IV controlled substances may lead to more limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

4. Oxycodone is a narcotic analgesic that is similar to morphine and is classified as a Schedule II controlled substance. It is often used in combination pain relief drugs such as Percocet. Percocet is manufactured by numerous pharmaceutical companies under the following brand names: Endocet, Roxicet, Roxilox and Tylox. Percocet is used to treat moderate to moderately severe pain, and contains two drugs, acetaminophen and oxycodone. Percocet contains a narcotic and even if taken only in prescribed amounts, can cause physical and psychological dependence when taken for a long time.

5. Hydrocodone is the generic name for an addictive prescription painkiller that is classified as a Schedule II controlled substance. However, it is classified as a Schedule III controlled substance when dispensed in amounts of not more than 15 milligrams per dosage unit when combined with other ingredients in recognized therapeutic amounts. Hydrocodone is normally prescribed for acute, severe pain. Accordingly, hydrocodone is usually prescribed for only a modest number of pills to be taken over a short period of time. Brand names for common Schedule III controlled substances containing hydrocodone include Vicodin and Lorcet.

6. Alprazolam, more commonly referred to by one of its brand names, Xanax, is the generic name for an addictive prescription sedative and anti-anxiety agent that is classified as a Schedule IV controlled substance.

7. Title 21, United States Code, Section 841(a) (1), provides that “[e]xcept as authorized by this subchapter, it shall be unlawful for any person to knowingly or intentionally ... manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense, a controlled substance.”

8. Title 21, United States Code, Section 802(10), provides that the term “dispense” means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for delivery.

9. Title 21, United States Code, Section 821, provides that “[t]he Attorney General [of the United States] is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled substances.”

10. The Attorney General of the United States has exercised his rulemaking authority regarding the dispensing of controlled substances through the promulgation of 21 Code of Federal Regulations § 1306.04, governing the issuance of prescriptions, which provides, among other things, that a prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. Moreover, an order purporting to be a prescription issued not in the usual

course of professional treatment is not a prescription within the meaning and intent of section 309 of the Act [21 U.S.C. § 829] and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the law relating to controlled substances.

11. The Pennsylvania Code of Professional and Vocational Standards, Title 49, Chapter 16.92, defines the authority of physicians licensed by the Commonwealth of Pennsylvania to prescribe or dispense controlled substances. Chapter 16.92 provides in pertinent part:

(a) A person licensed to practice medicine and surgery in this Commonwealth or otherwise licensed or regulated by the Board, when prescribing, administering or dispensing controlled substances, shall carry out, or cause to be carried out, the following minimum standards:

(1) Initial medical history and physical examination.... [B]efore commencing treatment that involves prescribing, administering or dispensing a controlled substance, an initial medical history shall be taken and an initial examination shall be conducted unless emergency circumstances justify otherwise. Alternatively, medical history and physical examination information recorded by another health care provider may be considered if the medical history was taken and the physical examination was conducted within the immediately preceding thirty days. The physical examination shall include an evaluation of the heart, lungs, blood pressure and body functions that relate to the patient's specific complaint.

(2) Reevaluations. Among the factors to be considered in determining the number and the frequency of follow-up evaluations that should be recommended to the patient are the condition diagnosed, the controlled substance involved, expected results and possible side effects. For chronic conditions, periodic follow-up evaluations shall be recommended to monitor the effectiveness of the controlled substance in achieving the intended results.

(3) Patient counseling. Appropriate counseling shall be given to the patient regarding the condition diagnosed and the controlled substance prescribed, administered or dispensed. Unless the patient is in an inpatient care setting, the patient shall be specifically

counseled about dosage levels, instructions for use, frequency and duration of use and possible side effects.

(4) **Medical Records.** [C]ertain information shall be recorded in the patient's medical record on each occasion when a controlled substance is prescribed, administered or dispensed. This information shall include the name of the controlled substance, its strength, the quantity and the date it was prescribed, administered or dispensed to a patient. The medical record shall also include a specification of the symptoms observed and reported, the diagnosis of the condition for which the controlled substance is being given and the directions given to the patient for the use of the controlled substance. If the same controlled substance continues to be prescribed, administered or dispensed, the medical record shall reflect changes in the symptoms observed and reported, in the diagnosis of the condition for which the controlled substance is being given and in the directions given to the patient.

12. Accordingly, as a medical doctor, defendant RICHARD MINICOZZI was authorized to dispense to patients Schedules II, III, IV and V controlled substances and to prescribe medicine to patients, including controlled substances, for legitimate medical purposes and in the usual course of professional practice.

13. In actuality, defendant RICHARD MINICOZZI, with the assistance of defendant JOAN ISRAEL, ran a "pill mill" out of defendant MINICOZZI's office, at which so-called "patients" could for a fee obtain controlled substances and prescriptions for controlled substances without there being any medical necessity for these controlled substances.

THE CONSPIRACY

14. From at least in or about January, 2005, until in or about September, 2010, in Philadelphia, in the Eastern District of Pennsylvania, defendants

**RICHARD MINICOZZI, M.D. and
JOAN ISRAEL**

conspired and agreed together to commit the following offenses against the United States:

a. to knowingly and intentionally distribute and dispense, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C);

b. to knowingly and intentionally distribute and dispense, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of hydrocodone, a Schedule III controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(E); and

c. to knowingly and intentionally distribute and dispense, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of alprazolam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(E).

MANNER AND MEANS

It was part of the conspiracy that:

15. Defendant RICHARD MINICOZZI sold controlled substances, including Schedule III and Schedule IV controlled substances, and prescriptions for Schedule II controlled substances from his office at 731 Morris Street in Philadelphia, to cash-paying customers outside the usual course of professional practice and for no legitimate medical purpose.

16. Defendant RICHARD MINICOZZI purchased the controlled substances directly from a number of pharmaceutical supply companies. The controlled substances were shipped to his office and packaged by defendant MINICOZZI into small boxes for resale to his customers.

17. The customers of defendant RICHARD MINICOZZI normally received no physical examination or any other medical care or treatment from defendant MINICOZZI before purchasing controlled substances and prescriptions for controlled substances. Indeed, defendant MINICOZZI's customers were only charged for the pills and prescriptions that they obtained from defendant MINICOZZI and were not usually charged for office visits.

18. Defendant JOAN ISRAEL assisted defendant RICHARD MINICOZZI in operating his pill mill operation. Among other things, defendant ISRAEL screened defendant MINICOZZI's customers, helped to determine how often these customers could make purchases, and kept records of the controlled substances and prescriptions sold by defendant MINICOZZI.

19. Both defendants RICHARD MINICOZZI and JOAN ISRAEL falsified "medical" records to make it look as though defendant MINICOZZI's customers received physical examinations and medical treatment from defendant MINICOZZI when in fact they had not.

20. Defendants RICHARD MINICOZZI and JOAN ISRAEL allowed customers to purchase so-called prescriptions under multiple names and then created and maintained false "medical" files under these multiple identities. Often, the names provided were for individuals who were never patients of defendant MINICOZZI or who were not patients at the time the prescriptions were written.

21. After purchasing prescriptions in one or more names from defendant RICHARD MINICOZZI, the customers went to pharmacies in Philadelphia to fill the prescriptions.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its objects, defendants RICHARD MINICOZZI, M.D. and JOAN ISRAEL committed the following overt acts, among others, in the Eastern District of Pennsylvania:

22. On or about the dates listed below, in Philadelphia, defendant RICHARD MINICOZZI knowingly and intentionally distributed and dispensed, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, to Regina Mort, charged separately, by selling Mort prescriptions for Percocet in the names of the individuals listed below, which individuals are known to the grand jury:

"Patient"	Date of Prescription	Quantity in 5 mg Tablets
S.F.	January 7, 2005	90
P.K.	October 24, 2005	90
J.W.	March 31, 2006	90
K.K.	May 15, 2006	90
S.F.	October 16, 2006	90
P.K.	January 8, 2007	90
D.H.	October 29, 2007	90
D.H.	January 17, 2008	90
J.W.	May 29, 2008	90
K.K.	December 29, 2008	90
S.F.	July 10, 2009	90

"Patient"	Date of Prescription	Quantity in 5 mg Tablets
P.K.	October 23, 2009	90

23. On or about the dates listed in paragraph 22 above, defendants RICHARD MINICOZZI and JOAN ISRAEL made false entries in purported "medical" files in the names of the individuals listed above, which individuals are known to the grand jury, to make it look as if the individuals had been examined and treated by defendant MINICOZZI when in fact the individuals, some of whom were never patients of defendant MINICOZZI, had not been examined or treated by defendant MINICOZZI on the dates indicated.

24. On or about the dates listed below, in Philadelphia, defendant RICHARD MINICOZZI knowingly and intentionally distributed and dispensed, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of alprazolam, a Schedule IV controlled substance, by selling Xanax to a person known to the grand jury (Person #1) as follows:

Date	Quantity in Pills
July 27, 2006	90
September 7, 2006	300
December 7, 2006	120
April 12, 2007	120
May 10, 2007	150

25. On or about November 17, 2008, in Philadelphia, defendant MINICOZZI knowingly and intentionally distributed and dispensed, outside the usual course of professional

practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of hydrocodone, a Schedule III controlled substance, by selling Vicodin (60 pills) to an undercover officer of the Philadelphia Police Department, known to the grand jury.

26. On or about the dates listed below, in Philadelphia, defendant RICHARD MINICOZZI knowingly and intentionally distributed and dispensed, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of hydrocodone, a Schedule III controlled substance, by selling Vicodin to a person known to the grand jury (Person #2) as follows:

Date	Quantity in Pills
June 18, 2010	60
June 28, 2010	120

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

COUNTS TWO THROUGH ELEVEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 13 and 22 through 23 of Count One are incorporated here.
2. On or about each of the dates listed below, in Philadelphia, in the Eastern District of Pennsylvania, defendant

RICHARD MINICOZZI, M.D.

knowingly and intentionally distributed and dispensed, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance (each distribution constituting a separate count of this indictment):

Count	Date
2	March 31, 2006
3	May 15, 2006
4	October 16, 2006
5	January 8, 2007
6	October 29, 2007
7	January 17, 2008
8	May 29, 2008
9	December 29, 2008
10	July 10, 2009
11	October 23, 2009

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

COUNTS TWELVE THROUGH SIXTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 13 and 24 of Count One are incorporated here.
2. On or about each of the dates listed below, in Philadelphia, in the Eastern

District of Pennsylvania, defendant

RICHARD MINICOZZI, M.D.

knowingly and intentionally distributed and dispensed, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of alprazolam, a Schedule IV controlled substance (each distribution constituting a separate count of this indictment):

Count	Date
12	July 27, 2006
13	September 7, 2006
14	December 7, 2006
15	April 12, 2007
16	May 10, 2007

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

COUNTS SEVENTEEN THROUGH NINETEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 13 and 25 through 26 of Count One are incorporated here.
2. On or about each of the dates listed below, in Philadelphia, in the Eastern District of Pennsylvania, defendant

RICHARD MINICOZZI, M.D.

knowingly and intentionally distributed and dispensed, outside the usual course of professional practice and for no legitimate medical purpose, a mixture and substance containing a detectable amount of hydrocodone, a Schedule III controlled substance (each distribution constituting a separate count of this indictment):

Count	Date
17	November 17, 2008
18	June 18, 2010
19	June 28, 2010

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

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 21, United States Code, Sections 846 and 841(a)(1) set forth in this indictment, defendant

RICHARD MINICOZZI, M.D.

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;

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses, including, but not limited to:

i. All funds seized from Fidelity Brokerage Services, LLC/National Financial Services Account Number xxx-xx1954 (approximately \$215,982) titled to Richard John Minicozzi and Teresa Calderon;

ii. All funds seized from Wachovia Bank Account Number xxxxxxxxxxx8756 (approximately \$152) titled to Richard J. Minicozzi, M.D., Inc., and Maria Calderon;

iii. All funds seized from Wachovia Bank Account Number xxxxxxxxxxx9720 (approximately \$7,354) titled to Richard J. Minicozzi and Maria Calderon;

iv. Approximately \$780 in United States currency seized from 731 Morris Street, Philadelphia, Pennsylvania; and

v. Approximately \$14,785 in United States currency seized from the defendant's residence in Elkins Park, Pennsylvania.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant(s):

- (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 defendant(s) up to the value of the property subject to forfeiture.

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

A TRUE BILL:

GRAND JURY FOREPERSON


ZANE DAVID MEMEGER
UNITED STATES ATTORNEY