

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

**UNITED STATES OF AMERICA** : **CRIMINAL NO. 11-\_\_\_\_\_**

**v.** : **DATE FILED: May 17, 2011**

**JACQUES DUPLESSIS** : **VIOLATIONS:**

: **18 U.S. C. § 1341 (mail fraud – 2 counts)**

: **18 U.S.C. § 2320 (trafficking in counterfeit goods – 1 count)**

: **18 U.S.C. § 542 (entry of goods by false statements – 1 count)**

: **18 U.S.C. § 1001 (false statements – 1 count)**

: **Notice of Forfeiture**

**INDICTMENT**

**COUNTS ONE AND TWO**

(Mail Fraud)

**THE GRAND JURY CHARGES THAT:**

**BACKGROUND**

At all times material to this indictment:

1. Defendant Jacques Duplessis was the president and sole shareholder of both AMERICA’S PREMIER SUPPLIER CORP. (APSC) and ROYAL GLOBAL WHOLESALE CORP. (RGW). APSC and RGW were Florida corporations, incorporated by DUPLESSIS on or about April 8, 2005.

2. Diabetes is a serious health condition affecting more than twenty million Americans. Health complications from diabetes can include heart attack, stroke, kidney failure, and blindness.

3. Individuals with diabetes can delay or avoid serious health complications by maintaining their blood glucose level within a narrow range. Diabetic test strips are medical devices regulated by the Food and Drug Administration designed to allow individuals with diabetes to monitor their blood glucose level. Based on the results of the test strip reading, a diabetic will adjust food, exercise, or medication in an effort to maintain a normal glucose level.

4. LifeScan, Inc. (LifeScan), a subsidiary of Johnson & Johnson (J&J), is the distributor of One Touch blood glucose test strips. Lifescan and J&J have registered federal trademarks for diabetic test strips including Lifescan, OneTouch, OneTouch Basic, and OneTouch Ultra.

5. Defendant JACQUES DUPLESSIS sold diabetic test strips to wholesalers that sold the test strips to pharmacies for purchase by diabetic consumers.

6. Defendant JACQUES DUPLESSIS purchased diabetic test strips from outside the United States through the corporate name RGW, imported them through the corporate name APSC, and sold them in the United States using the corporate name RGW.

### **THE SCHEME**

7. From in or about August 2006 to on or about October 2, 2006, defendant

### **JACQUES DUPLESSIS**

devised and intended to devise a scheme to defraud customers of his business and ultimate purchasers of diabetic test strips, and to obtain money and property from such customers and purchasers of diabetic test strips, by means of false and fraudulent pretenses, representations and promises.

8. It was the object of the scheme to defraud described in paragraph 7 above for defendant JACQUES DUPLESSIS to sell counterfeit LifeScan One Touch diabetic test strips to wholesale customers throughout the United States and Canada, who, in turn, sold those counterfeit products to purchasers in pharmacies and other stores throughout the United States, including the Eastern District of Pennsylvania.

#### **MANNER AND MEANS**

It was part of the scheme that:

9. On or about August 22, 2006, defendant JACQUES DUPLESSIS arranged for the importation into the United States of 1,000 boxes of diabetic test strips from Chemifarm International, Ltd (Chemifarm), a company based in England, by submitting a false United States Customs declaration to the freight forwarding company. In the customs declaration, defendant JACQUES DUPLESSIS, signing as President of APSC, falsely claimed that the diabetic test strips that he was importing were products being returned by a customer. In order to explain the return, defendant JACQUES DUPLESSIS claimed "Vendor got better price" as the "Reason for Return." By falsely declaring the test strips to be American products that were being returned, defendants JACQUES DUPLESSIS and APSC evaded an inspection by the Food and Drug Administration. These test strips were purportedly LifeScan OneTouch test strips. The boxes containing the test strips appeared to be authentic and had LifeScan's logo and markings and mimicked the size, shape and color of the authentic LifeScan OneTouch boxes. However, in truth, they were counterfeit.

10. In or about September 2006, defendant JACQUES DUPLESSIS purchased 5,000 boxes of diabetic test strips from Halson Pharmaceutical International Corporation, Ltd.

(Halsen), a company located in China. These test strips were purportedly LifeScan OneTouch Ultra test strips. The boxes containing the test strips appeared to be authentic and had LifeScan's logo and markings and mimicked the size, shape and color of the authentic LifeScan OneTouch boxes. However, in truth, they were counterfeit.

11. Although defendant JACQUES DUPLESSIS obtained these products from Halsen, a Chinese company with whom he had never dealt before, he repeatedly represented to his customers that he was dealing directly with LifeScan to obtain the diabetic test strips he sold.

12. On or about August 23, 2006, in an e-mail communication, defendant JACQUES DUPLESSIS told a Canadian customer who was questioning the status of an order it had placed for genuine LifeScan products, in a communication by wire transmission over the Internet, that "I had a message left for me from Lifescan, it appears it will be the end of the month before they can get any stock to me . . ."

13. On or about September 22, 2006, defendant JACQUES DUPLESSIS told the same customer in an email communication that "Lifescan just contacted us and next week I could be able to get 3584 OneTouch . . . ."

14. Later the same day, defendant JACQUES DUPLESSIS told the same customer in an email communication that his failure to deliver "one touch blood glucose test strips" was not his fault. Defendant DUPLESSIS repeatedly blamed "Lifescan" for the failure to deliver the product. Defendant DUPLESSIS stated:

Lifescan did not produce and deliver to us as promise for 3 months.. this is not exactly our fault here. We want to do as much business as we can also but we depends on them as you well know. The street is short these and we do not increase value and offer it but to you first, we are trying our

best, but you also have to understand that miff they do not deliver as promis(Lifescan) there is nothing we can do. . they are much bigger than we are and if we push too hard they will cut us off. [spelling and punctuation in original].

15. The 5,000 boxes of diabetic test strips imported from Halson Pharmaceuticals, as well as the 1,000 boxes of diabetic test strips imported on August 22, 2006 from Chemifarm, were counterfeit.

16. Nevertheless, defendant JACQUES DUPLESSIS sold these counterfeit test strips to six different wholesalers, knowing and intending that those wholesalers would further distribute the products to retail customers throughout the United States and Canada. Defendant JACQUES DUPLESSIS cause these products to be shipped to the wholesaler by United Parcel Service, a commercial interstate carrier.

17. These wholesalers then sold the counterfeit products to customers, including retail pharmacies. One wholesaler, MDI, received the counterfeit products by United Parcel Service in its East Brunswick, NJ, facility. MDI then shipped the products by United Parcel Service to multiple retail pharmacies. These retail pharmacies included a pharmacy with the initials P.P. in Philadelphia, Pennsylvania, and a pharmacy with the initials W.P. in Allentown, Pennsylvania, within the Eastern District of Pennsylvania.

18. On or about the following dates, in the Eastern District of Pennsylvania, the Southern District of Florida and elsewhere, defendant

**JACQUES DUPLESSIS**

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by United Parcel Service, a commercial interstate carrier, according to the directions thereon, the items described below::

COUNT	DATE	DESCRIPTION
1	9/8/2006	shipment of counterfeit "LifeScan" diabetic test strips from wholesaler in East Brunswick, NJ to WP, a retail Pharmacy, in Allentown, PA
2	9/11/2006	shipment of counterfeit "LifeScan" diabetic test strips from wholesaler in East Brunswick, NJ to PP, a retail Pharmacy, in Philadelphia, PA

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

**COUNT THREE**

(Trafficking in Counterfeit Goods)

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1-17 of Counts One and Two are incorporated here.
2. From on or about August 22, 2006 to on or about October 2, 2006, in the Eastern District of Pennsylvania and elsewhere, defendant

**JACQUES DUPLESSIS**

intentionally trafficked in and attempted to traffic in goods, specifically 5,740 boxes of diabetic test strips purporting to be LifeScan products, 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 LifeScan One Touch products, which marks were in use and were registered for those products 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).

**COUNT FOUR**

(Entry of Goods by False Statements)

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1-17 of Counts One and Two are incorporated here.
2. On or about August 22, 2006, in the Eastern District of Pennsylvania and elsewhere, defendant

**JACQUES DUPLESSIS**

willfully and knowingly did enter and introduce, and attempt to enter and introduce, into the commerce of the United States, imported merchandise, specifically 1,000 boxes of diabetic test strips by means of a false and fraudulent declaration which falsely and fraudulently stated that the package to which it was annexed contained American products which were being returned because the vendor received a better price, whereas, in truth and fact, as defendant well knew, the said package contained goods that were being imported for re-sale in the United States.

In violation of Title 18, United States Code, Section 542.



**COUNT FIVE**

(False Statements)

**THE GRAND JURY FURTHER CHARGES THAT:**

1. The allegations of paragraphs 1-17 of Counts One and Two are incorporated here.
2. On or about August 22, 2006, in the Eastern District of Pennsylvania and elsewhere, defendant

**JACQUES DUPLESSIS**

in a matter within the jurisdiction of the United States Department of Homeland Security, an agency of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations in that defendant JACQUES DUPLESSIS falsely claimed that the diabetic test strips that he was importing from the United Kingdom were returned goods, which had been rejected because “vendor found better overseas price,” in a "Declaration for Free Entry of Returned American Products,” Form 3311, and caused the document to be submitted to United States Customs and Border Protection, when, as the defendant knew, the products were not returned goods, but were, in fact, goods that the defendant was purchasing overseas for sale in the United States of America.

In violation of Title 18, United States Code, Section 1001.

**NOTICE OF FORFEITURE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 18, United States Code, Sections 1341 and 2320 set forth in this indictment, defendant

**JACQUES DUPLESSIS**

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, including, but not limited to the sum of \$287,000.

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 21 U.S.C. § 853(p), 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, Sections 981(a)(1)(C) and 2323, Title 28  
United States Code, Section 2461, and Title 21, United States Code, Section 853.

**A TRUE BILL:**

**\_\_\_\_\_  
GRAND JURY FOREPERSON**

**\_\_\_\_\_  
ZANE DAVID MEMEGER  
United States Attorney**