

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

UNITED STATES OF AMERICA	:	CRIMINAL NO: _____
v.	:	DATE FILED: _____
ERIC C. OPITZ a/k/a "Guru"	:	VIOLATIONS:
	:	18 U.S.C. § 1347 (health care fraud - 10 counts)
	:	18 U.S.C. § 1341 (mail fraud - 3 counts)
	:	21 U.S.C. § 333(e) (distribution of human growth hormone - 4 counts)
	:	21 U.S.C. § 841 (distribution of controlled substances - 3 counts)
		Notice of forfeiture

INDICTMENT

COUNTS ONE THROUGH TEN

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

A. Human Growth Hormone

1. The United States Food and Drug Administration ("FDA") was the federal agency charged with the responsibility for protecting the health and safety of the American public by enforcing the Food, Drug, and Cosmetic Act ("FDCA"). FDA's responsibilities under the FDCA included regulating the manufacture, labeling, and distribution of all drugs and drug components shipped or received in interstate commerce.

2. The FDCA prohibited the knowing distribution of, or possession with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition, where such had been authorized by the Secretary of Health and Human Services ("Secretary") and was pursuant to the order of a physician.

3. FDA-approved human growth hormone could legally be prescribed for a limited number of conditions authorized by the Secretary including: a) pituitary dwarfism, a hormonal deficiency causing short stature in children; b) long-term treatment of growth failure due to lack of exogenous growth hormone secretion; c) long-term treatment of short-stature associated with Turner's Syndrome; d) adult short bowel syndrome; e) adult deficiency due to pituitary tumors or their treatment; and f) muscle-wasting disease associated with HIV/AIDs.

4. The Secretary had not authorized the use of human growth hormone for anti-aging, body building, or for enhancing athletic performance. Physicians could not legally prescribe human growth hormone for these purposes.

5. Genotropin® was a human growth hormone approved by the FDA. Genotropin® was dispensed in single kits containing a 5 mg cartridge for injection. The FDA-recommended dosage of Genotropin® was approximately .2 mg per day.

B. The Medicare Program

6. Medicare was a federally-funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

7. Medicare programs covering different types of benefits were separated into different program "parts." Part D of Medicare subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. Medicare Part D was established by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and went into effect on January

1, 2006.

8. Medicare Part D provided subsidized prescription drug insurance coverage to qualifying Medicare beneficiaries. Drugs covered by Medicare Part D included only those medications that were prescribed for a medically accepted indication and that were medically necessary for the Medicare beneficiary. Medicare Part D covered human growth hormone for those beneficiaries for whom the drug was medically necessary and to whom the drug had been prescribed by a physician for an approved use.

9. In order to receive Part D benefits, a beneficiary enrolled in a Medicare prescription drug plan. Medicare prescription drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan “sponsors.” A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

10. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors through a combination of enrollee premiums and reimbursement. Prescription drug plan sponsors, in turn, paid prescription drug providers, such as retail and institutional pharmacies, to provide pharmacy services to Medicare prescription drug plan enrollees.

11. Highmark, Inc., among others, was a Medicare prescription drug plan sponsor.

12. Medicare and Medicare prescription drug plan sponsors were “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b).

13. From in or around September 2010, defendant ERIC C. OPITZ, a/k/a “Guru,” was a Medicare beneficiary. Defendant OPITZ enrolled in Part D and received

prescription drug benefits through Medicare. For Part D benefits, defendant OPITZ enrolled in a prescription drug plan with Highmark, Inc. On his Medicare enrollment forms, defendant OPITZ listed his residential address on 602 Passaic Avenue, Phillipsburg, New Jersey, 08865.

14. Upon his enrollment in Medicare, defendant ERIC C. OPITZ agreed to abide by Medicare's rules and regulations.

C. The Defendant

15. Defendant ERIC C. OPITZ was a self-described physical trainer and body building consultant. Defendant OPITZ was known as the "Guru" within a particular athletic community in the Allentown, Pennsylvania area. Defendant OPITZ was not a licensed physician and did not have medical training or hold any medical certifications or license.

16. In or around September 2010, defendant ERIC C. OPITZ was prescribed human growth hormone for the treatment of pituitary dwarfism and testicular hypofunction. Pituitary dwarfism was a condition found in children with the non-production of human growth hormone. Children with this condition failed to grow, and did not reach five feet in height by adulthood. Defendant OPITZ was 6' 3" tall and weighed approximately 450 lbs.

17. Defendant ERIC C. OPITZ was initially prescribed 2.5 mg per day of human growth hormone. In or around September 2011, his dosage was increased to 5 mg per day. From in or around September 2013 through in or around June 2014, defendant OPITZ was prescribed 8 mg per day of human growth hormone, which was about 40 times the FDA-recommended dosing level.

18. Defendant ERIC C. OPITZ regularly received a 30-day supply of human growth hormone from Walgreen's Specialty Pharmacy ("WSP"). WSP delivered the drugs to his residence at Passaic Avenue, Phillipsburg, New Jersey, 08865. Since in or around January

2011, WSP exclusively dispensed Genotropin® to defendant OPITZ. From in or around September 2010 through in or around December 2010, defendant OPITZ had used another brand of the human growth hormone called Norditropin®.

19. WSP submitted claims to Highmark, Inc., a Medicare-approved prescription drug plan sponsor, for human growth hormone that it had dispensed to defendant ERIC C. OPITZ.

20. From in or about January 2011 through in or about June 2014, Medicare paid approximately \$535,518 for defendant ERIC C. OPITZ's Genotropin®.

THE SCHEME TO DEFRAUD

21. From at least in or about July 2012 to in or about June 2014, in the Eastern District of Pennsylvania, the District of New Jersey, and elsewhere, defendant

ERIC C. OPITZ
a/k/a "Guru,"

knowingly and willfully executed, and attempted to execute, a scheme or artifice to defraud health care benefit programs affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare and Highmark, Inc., and to obtain by false means and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, health care benefit programs, in connection with the delivery of or payment for health care benefits, items, and services.

MANNER AND MEANS

It was part of the scheme that:

22. Defendant ERIC C. OPITZ used his Medicare prescription drug benefits to obtain Genotropin®.

23. By falsely claiming that his sole source of income was \$950 per month in Social Security benefits, defendant ERIC C. OPITZ qualified as a low-income beneficiary and obtained Genotropin® completely free of charge.

24. Even though defendant OPITZ knew that the Genotropin® prescribed to him was meant to be used by him and no other person, defendant OPITZ nonetheless sold his prescribed Genotropin® to body builders and others for unapproved uses.

25. Defendant ERIC C. OPITZ sold his prescribed Genotropin® by advertising on the internet site Craigslist.org (“Craigslist”). Defendant OPITZ marketed the drugs to body builders and athletes for performance enhancement. Defendant OPITZ advertised the following:

DO NOT WAIT, A LOT IN STOCK FROM PHARMACY BUT IT MOVES FAST,GET BIGGER AND STRONGER, LEANER AND HARDER, BURN THE FAT OFF TAKE DOWN THE BELLY, HUMAN GROWTH HORMONE, REAL STUFF, GENOTROPIN MADE BY PFIZER. CONTACT EMAIL OR TEXT 908 574 9562, GREAT DEALS TONIGHT.

26. Buyers from across the United States contacted defendant ERIC C. OPITZ by text, email or phone to place an order. Defendant OPITZ typically charged buyers approximately \$450 for each kit of Genotropin®. Some buyers paid defendant OPITZ as much as approximately \$600 per kit. Defendant OPITZ offered anabolic steroids to customers for an additional fee.

27. Defendant ERIC C. OPITZ touted the high quality of the human growth hormone that he offered for sale. Defendant OPITZ assured buyers that his product was “pharmaceutical grade.” Defendant OPITZ told buyers that he obtained the drugs by

prescription from a pharmacy. Defendant OPITZ said that he did not use any of the human growth hormone that was prescribed to him because he was “cured.”

28. Defendant ERIC C. OPITZ typically directed buyers to send him money for the drugs by wire transfer, usually through services such as Western Union and MoneyGram. After he received their payment, defendant OPITZ sent the drugs to buyers.

29. Defendant ERIC C. OPITZ sold human growth hormone without inquiring whether the buyer had a valid prescription for the drug, and without any information about the buyer’s medical condition.

30. On or about October 2, 2013, defendant ERIC C. OPITZ sold one box of Genotropin® to an undercover law enforcement agent (“UCA”). The UCA contacted defendant OPITZ through the phone number that he advertised on Craigslist. Defendant OPITZ charged the UCA \$425 for one box of Genotropin®. The Genotropin® sold to the UCA was from lot number Z07756.

31. On or about December 26, 2013, defendant ERIC C. OPITZ sold one box of Genotropin® and anabolic steroids to the same UCA. Defendant OPITZ charged \$472 for one box of Genotropin® and 14 pills containing anabolic steroids. The Genotropin® sold was from lot number Z05294.

32. On or about April 18, 2014, defendant ERIC C. OPITZ sold one box of Genotropin® and two types of anabolic steroids to the same UCA for \$900. The Genotropin® sold was from lot A05229.

33. Defendant ERIC C. OPITZ had obtained Genotropin® from lots Z07756; Z05294; and A05229 from WSP, which submitted claims for the drugs to, and was paid by, Highmark, Inc., a Medicare-approved prescription drug plan sponsor.

34. In or around May 2014, defendant ERIC C. OPITZ agreed to sell 60 kits of Genotropin® to another UCA for \$10,000. Defendant OPITZ and the UCA agreed to meet in Allentown, Pennsylvania at Gold's Gym on or about June 3, 2014 to complete the transaction. Defendant OPITZ arrived at the location, but left quickly without completing the transaction. Defendant OPITZ told the UCA that he saw "cops" around the area.

35. From in or around July 2012 through in or around June 2014, defendant ERIC C. OPITZ sold Genotropin® to, among others, persons known to the grand jury and identified here by their initials: E.C.; F.K.; I.F.; A.D.; M.P; and G.G.

36. From in or around July 2012 through in or around June 2014, in the Eastern District of Pennsylvania, the District of New Jersey, and elsewhere, defendant

**ERIC C. OPITZ,
a/k/a "Guru,"**

in connection with the delivery of and payment for health care benefits, items and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Highmark, Inc., and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of said health care benefit programs, in that the defendant caused the submission of claims to Medicare, through Walgreen Specialty Pharmacy and Highmark, Inc., that falsely and fraudulently sought reimbursement for the human growth hormone Genotropin®, which the defendant obtained under false pretenses, and sold illegally to individuals for whom the drug was not medically necessary and to whom the drug had not been prescribed by a physician for an

approved use, on or about the dates below, in the approximate amounts listed below (each claim constituting a separate count of this indictment):

Count	Approximate Date of Claim	Approximate Amount of Claim	Health Care Benefit Program
1	July 16, 2012	\$ 11,552	Medicare Part D
2	August 2, 2012	\$ 11,552	Medicare Part D
3	December 27, 2012	\$ 13,382	Medicare Part D
4	June 12, 2013	\$ 14,555	Medicare Part D
5	September 5, 2013	\$ 15,283	Medicare Part D
6	December 9, 2013	\$ 20,337	Medicare Part D
7	February 24, 2014	\$ 21,173	Medicare Part D
8	April 8, 2014	\$ 21,173	Medicare Part D
9	April 28, 2014	\$ 21,173	Medicare Part D
10	May 20, 2014	\$ 21,173	Medicare Part D

All in violation of Title 18, United States Code, Section 1347.

COUNTS ELEVEN THROUGH THIRTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 35 of Counts One through Ten are incorporated here.
2. From at least in or about July 2012 to in or about June 2014, in the Eastern District of Pennsylvania and elsewhere, the defendant, ERIC C. OPITZ, with the intent to defraud, devised the above-described scheme and artifice to defraud and obtain money by materially false and fraudulent pretenses, representations and promises.
3. On or about the dates listed below, in the Eastern District of Pennsylvania, the District of New Jersey, and elsewhere, defendant

**ERIC C. OPITZ
a/k/a "Guru,"**

for the purpose of executing the scheme described above, and attempting to do so, knowingly placed in an authorized depository for mail, to be sent and delivered by the United States Postal Service to an address within the Eastern District of Pennsylvania, the following matter: human growth hormone Genotropin® and anabolic steroids, which are Schedule III controlled substances, each mailing constituting a separate count of this indictment:

Count	Approximate Date of Mailing
11	October 2, 2013
12	December 27, 2013
13	April 14, 2014

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

COUNTS FOURTEEN THROUGH SEVENTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 35 of Counts One through Ten are incorporated here.
2. On or about each of the dates listed below in Philadelphia, in the Eastern

District of Pennsylvania, the District of New Jersey, and elsewhere, defendant

ERIC C. OPITZ
a/k/a "Guru,"

knowingly distributed and possessed with the intent to distribute human growth hormone, for any use in humans other than for the treatment of a disease and other recognized medical condition, where such use has been authorized by the Secretary of Health and Human Services under 21 U.S.C. § 355 and pursuant to the order of a physician:

Count	Approximate Date
14	October 7, 2013
15	December 26, 2013
16	April 16, 2014
17	June 3, 2014

All in violation of Title 21, United States Code, Section 333(e).

COUNTS EIGHTEEN THROUGH TWENTY

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. The Controlled Substances Act (“CSA”) governed the manufacture, distribution, and dispensation of controlled substances in the United States.
2. Various prescription drugs were scheduled substances under the CSA. The CSA scheduled controlled substances according to their potential for abuse or dependence, their accepted medical use, and their accepted safety for use under medical supervision. 21 U.S.C. § 812(b). There were five schedules of controlled substances: Schedules I, II, III, IV and V.
3. Schedule III drugs had a lower potential for abuse than Schedule II drugs, but abuse of Schedule III drugs could lead to moderate or low physical dependence and high psychological dependence. 21 U.S.C. § 812(b)(3).
4. Anabolic steroids, such as stanozolol and oxymetholone, were Schedule III controlled substances.
5. Title 21, United States Code, Section 841(a)(1), provided 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.”
6. On or about each of the dates listed below, in the Eastern District of Pennsylvania, the District of New Jersey, and elsewhere, defendant

**ERIC C. OPITZ
a/k/a “Guru,”**

knowingly and intentionally distributed a mixture and substance containing a detectable amount of anabolic steroid, a Schedule III controlled substance (each distribution constituting a separate count of this indictment):

Count	Approximate Date	Schedule III Drug
18	December 27, 2013	Oxymetholone
19	April 14, 2014	Oxymetholone
20	April 14, 2014	Stanozolol

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

(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 333(e)(1) and 841(a)(1) set forth in this indictment, defendant

**ERIC C. OPITZ
a/k/a "Guru,"**

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.

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