

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Honorable Susan D. Wigenton  
: :  
v. : Criminal No. 11-080  
: :  
VINCENT HSIA, : 21 U.S.C. §§ 841, 846  
RYAN OTSKEY, : 18 U.S.C. § 2  
IVAN LUGO, : 26 U.S.C. § 7206(1)  
CHERYLE SUTTER, a/k/a "Sissy," :  
KEITH THOMPSON, :  
GARY CROSS, and :  
ANGELO CIFELLI :

SUPERSEDING INDICTMENT

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

COUNT 1  
(Conspiracy to Distribute Oxycodone)

From at least on or about October 4, 2007, through on  
or about April 2, 2010, in Middlesex County, in the District of  
New Jersey and elsewhere, defendants

VINCENT HSIA,  
RYAN OTSKEY,  
IVAN LUGO,  
CHERYLE SUTTER, a/k/a "Sissy,"  
KEITH THOMPSON,  
GARY CROSS, and  
ANGELO CIFELLI

did knowingly and intentionally conspire with each other and  
others to distribute and to possess with intent to distribute  
oxycodone, a Schedule II controlled substance, contrary to Title  
21, United States Code, Sections 841(a)(1) and (b)(1)(C).

In violation of Title 21, United States Code, Section  
846.

COUNTS 2-7  
(Possession with Intent to Distribute Oxycodone)

On or about the dates specified below, in Middlesex County, in the District of New Jersey and elsewhere, defendant

VINCENT HSIA

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance:

COUNT	DATE	DOCTOR	FICTITIOUS PATIENT	PRESCRIPTION NUMBER
2	1/14/10	Ballaro	Lore	1214385
3	1/14/10	Ballaro	DiMarco	1214387
4	1/14/10	Ballaro	Smith	1214388
5	1/21/10	Livingston	Williams	1214782
6	1/28/10	Livingston	Fusatola	1215145
7	1/28/10	Livingston	Billis	1215146

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

COUNTS 8-12

(Possession with Intent to Distribute Oxycodone)

On or about the dates specified below, in Middlesex County, in the District of New Jersey and elsewhere, defendant

RYAN OTSKEY

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance:

COUNT	DATE	DOCTOR	FICTITIOUS PATIENT	PRESCRIPTION NUMBER
8	5/13/09	Perdomo	Calabria	1200886
9	5/14/09	Delagente	Angelo	1200956
10	9/2/09	Perdomo	Drum	1206996
11	9/3/09	Orland	Giaimo	1207066
12	9/24/09	Orland	Prima	1207986

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

COUNT 13

(Possession with Intent to Distribute Oxycodone)

On or about November 27, 2009, in Essex County, in the District of New Jersey and elsewhere, defendant

RYAN OTSKEY

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance.

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

COUNTS 14-16

(Possession with Intent to Distribute Oxycodone)

On or about the dates specified below, in Middlesex County, in the District of New Jersey and elsewhere, defendant

IVAN LUGO

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance:

COUNT	DATE	DOCTOR	FICTITIOUS PATIENT	PRESCRIPTION NUMBER
14	7/10/09	Mehta	Lugo	1204294
15	9/16/09	Stitik	Lugo	1207606
16	12/11/09	Thani	Lugo	1212434

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

COUNTS 17-18

(Possession with Intent to Distribute Oxycodone)

On or about the dates specified below, in Middlesex County, in the District of New Jersey and elsewhere, defendant

CHERYLE SUTTER, a/k/a "Sissy,"

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance:

COUNT	DATE	DOCTOR	FICTITIOUS PATIENT	PRESCRIPTION NUMBER
17	4/24/09	Cholankeril	Velez	1199972
18	5/13/09	Cholankeril	Sutter	1200895

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

COUNTS 19-20

(Possession with Intent to Distribute Oxycodone)

On or about the dates specified below, in Middlesex County, in the District of New Jersey and elsewhere, defendant

KEITH THOMPSON

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance:

COUNT	DATE	DOCTOR	FICTITIOUS PATIENT	PRESCRIPTION NUMBER
19	3/24/10	Collin	Cooke	1218355
20	3/25/10	Collin	Black	1218442

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

COUNT 21

(Possession with Intent to Distribute Oxycodone)

On or about October 6, 2009, in Essex County, in the District of New Jersey and elsewhere, defendant

GARY CROSS

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance.

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

COUNT 22

(Possession with Intent to Distribute Oxycodone)

On or about November 12, 2009, in Essex County, in the District of New Jersey and elsewhere, defendant

ANGELO CIFELLI

did knowingly and intentionally distribute and possess with intent to distribute oxycodone, a Schedule II controlled substance.

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

COUNTS 23-26  
(Subscribing False Tax Returns)

At all times relevant to this Superseding Indictment, defendant Vincent Hsia, a resident of Middlesex County, New Jersey, was the owner of Lincoln Pharmacy Network, Inc., ("Lincoln Pharmacy"), an S-corporation duly organized and existing under the laws of the State of New Jersey, with a principal place of business at 52 Lincoln Highway, Edison, New Jersey, where he served as the registered pharmacist-in-charge.

1. On or about September 22, 2009, defendant Hsia signed, filed, and caused to be filed with the Internal Revenue Service a 2008 Form 1120S United States Income Tax Return for an S-Corporation on behalf of Lincoln Pharmacy. The foregoing tax return was signed by defendant Hsia as President of Lincoln Pharmacy and contained a written declaration that it was signed under the penalties of perjury. That return stated that Lincoln Pharmacy's gross receipts for the tax year 2008 were \$4,675,926.

2. On or about March 9, 2010, defendant Hsia signed, filed, and caused to be filed with the Internal Revenue Service a 2009 Form 1120S United States Income Tax Return for an S-Corporation on behalf of Lincoln Pharmacy. The foregoing tax return was signed by defendant Hsia as President of Lincoln Pharmacy and contained a written declaration that it was signed under the penalties of perjury. That return stated that Lincoln Pharmacy's gross receipts for the tax year 2009 were \$5,352,269.

3. The 2008 Form 1120S return was not true and correct as to every material matter in that defendant Hsia intentionally failed to include approximately \$636,253 in additional gross receipts received by Lincoln Pharmacy. The 2009 Form 1120S return was not true and correct as to every material matter in that defendant Hsia intentionally failed to include approximately \$597,376 in additional gross receipts received by Lincoln Pharmacy.

4. On or about October 9, 2009, defendant Hsia signed, filed, and caused to be filed with the Internal Revenue Service a 2008 Form 1040 United States Individual Income Tax Return on his own behalf. The foregoing tax return was signed by defendant Hsia and contained a written declaration that it was signed under the penalties of perjury. That return stated that defendant Hsia's taxable income for the calendar year 2008 was \$129,655.

5. On or about June 20, 2011, defendant Hsia signed, filed, and caused to be filed with the Internal Revenue Service a 2009 Form 1040 United States Individual Income Tax Return on his own behalf. The foregoing tax return was signed by defendant Hsia and contained a written declaration that it was signed under the penalties of perjury. That return stated that defendant Hsia's taxable income for the calendar year 2009 was \$148,820.

6. The 2008 Form 1040 return was not true and correct as to every material matter in that defendant Hsia intentionally

failed to include approximately \$636,253 in taxable income he received from his ownership of Lincoln Pharmacy in 2008. The 2009 Form 1040 return was not true and correct as to every material matter in that defendant Hsia intentionally failed to include approximately \$567,507 in taxable income he received from his ownership of Lincoln Pharmacy in 2009.

7. On or about the dates specified below, in Middlesex County, in the District of New Jersey and elsewhere, defendant

VINCENT HSIA

knowingly and willfully did make and subscribe the below Forms 1120S United States Income Tax Returns for an S-Corporation on behalf of Lincoln Pharmacy, and Forms 1040 United States Individual Income Tax Returns, as described above, which he did not believe to be true and correct as to every material matter, as described above:

COUNT	FILING DATE	TAX FORM
23	9/22/09	2008 Form 1120S United States Income Tax Return for an S-Corporation
24	3/9/10	2009 Form 1120S United States Income Tax Return for an S-Corporation
25	10/9/09	2008 Form 1040 United States Individual Income Tax Return
26	6/20/2011	2009 Form 1040 United States Individual Income Tax Return

In violation of Title 26, United States Code, Section 7206(1).

FORFEITURE ALLEGATIONS (Defendant Hsia)

1. The allegations contained in Count 1 of this Indictment is hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 21, United States Code, Section 853.

2. Pursuant to Title 21, United States Code, Section 853, upon conviction of an offense in violation of Title 21, United States Code, Section 846, the defendant, Vincent Hsia, shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense. The property to be forfeited includes, but is not limited to, the following:

(a) \$111,751.85 in United States currency;

(b) \$103,200.00 in United States currency in Safe Deposit Box #0759523600362, Wachovia Bank;

(c) \$43,123.92 in funds from TD Bank, account number 7856733345;

(d) \$18,838.41 in funds from Investors Savings Bank, account number 2999-01088;

(e) \$161,145.73 in funds from Citibank, account number 759387458; and

(f) \$171,085.63 in funds from assorted Wachovia Bank accounts.

3. If any of the property described above, as a result of any act or omission of the defendant:

(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,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

FORFEITURE ALLEGATIONS (Defendant Thompson)

1. The allegations contained in Count 1 of this Indictment is hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 21, United States Code, Section 853.

2. Pursuant to Title 21, United States Code, Section 853, upon conviction of an offense in violation of Title 21, United States Code, Section 846, the defendant, Keith Thompson, shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense. The property to be forfeited includes, but is not limited to, \$60,552.00 in United States currency.

3. If any of the property described above, as a result of any act or omission of the defendant:

(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,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

FORFEITURE ALLEGATIONS (Defendant Cross)

1. The allegations contained in Count 1 of this Indictment is hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 21, United States Code, Section 853.

2. Pursuant to Title 21, United States Code, Sections 853 (a) (1) and (2), upon conviction of an offense in violation of Title 21, United States Code, Section 846, the defendant, Gary Cross, shall forfeit to the United States of America any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense; and any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation. The property to be forfeited consists of, but is not limited to, one black 2007 Acura RDX, VIN: 5J8TB18557A011899.

3. If any of the property described above, as a result of any act or omission of the defendant:

(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, the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL

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FOREPERSON

  
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PAUL J. FISHMAN  
United States Attorney

CASE NUMBER: 11-080 (SDW)

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United States District Court  
District of New Jersey

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UNITED STATES OF AMERICA

v.

VINCENT HSIA, RYAN OTSKEY,  
IVAN LUGO, CHERYLE SUTTER,  
a/k/a "Sissy," KEITH THOMPSON  
GARY CROSS, and ANGELO CIFELLI

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SUPERSEDING INDICTMENT

FOR

21 U.S.C. §§ 841, 846

18 U.S.C. § 2

26 U.S.C. § 7206(1)

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A True Bill,

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Foreperson

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**PAUL J. FISHMAN**

*U. S. ATTORNEY*

*NEWARK, NEW JERSEY*

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ANTHONY J. MAHAJAN

*ASSISTANT U. S. ATTORNEY*

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