

NEWS RELEASE



OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA

San Diego, California

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For Immediate Release

INTERNET PHARMACY OPERATOR SENTENCED TO TWO YEARS IN PRISON

NEWS RELEASE SUMMARY - September 12, 2013

United States Attorney Laura E. Duffy announced today that Martin Paul Bean III of Boca Raton, Florida, was sentenced by the Hon. William Q. Hayes to serve 24 months in custody for his role in a scheme to sell unapproved foreign oncology drugs to doctors in the United States. Bean had pled guilty to conspiracy to commit a number of federal offenses, including wire fraud, mail fraud, selling unapproved drugs, selling misbranded drugs, and importing merchandise contrary to law. Bean was further ordered to forfeit the Jaguar XJ he purchased with the proceeds of the scheme, and to pay restitution of \$19,270 to one of the victims of his scheme.

In pleading guilty, Bean admitted that between February 24, 2005, and October 30, 2011, he operated a business (GlobalRx Store) from his residence in Florida, and unlawfully sold over \$7 million of prescription oncology drugs to doctors throughout the United States. Bean ordered unapproved drugs from foreign sources, including sources in Turkey, India and Pakistan, and sold them to doctors within the United States at substantially discounted prices. Among the misbranded and unapproved drugs sold by Bean were versions of drugs marketed in the United States as Gemzar®, Taxotere®, Eloxatin®, Zometa® and Kytril®.

Bean ordered the unapproved drugs from foreign sources, and directed them to be shipped in bulk to a location in San Diego, California, where a co-conspirator would repackage and ship individual orders to specific doctors throughout the country. Accompanying the shipments to doctors would be invoices from a California wholesale pharmacy (Oberlin Medical Supply) which helped create the false and misleading appearance that the drugs were approved for use in the United States. Bean and his co-conspirators also operated a call center in Winnipeg, Canada, using toll free numbers, where orders from doctors in the United States for oncology drugs were accepted by telephone, facsimile and electronic mail.

According to court papers filed in connection with today's sentencing hearing, the investigation began in early 2010, when the Medicines & Healthcare Regulatory Agency ("MHRA," the equivalent of the FDA in the United Kingdom) advised the FDA that they had intercepted a shipment of an unapproved form of Gemzar sent from a company in Pakistan to Oberlin Medical Supply in San Diego. Gemzar is a prescription oncology drug produced by the pharmaceutical company Eli Lilly. The only FDA-approved manufacturing site for Gemzar to be sold in the United States at that time was in Indianapolis, Indiana. Gemzar is labeled and packaged in Japan, Mexico and Brazil for exclusive use in those countries, and Gemzar is also manufactured in France for all other international markets.

After further investigation, federal agents visited the business location of Oberlin and discovered numerous boxes of oncology drugs, including Eloxatin, Taxotere and Zoldria (a generic form of Zometa not approved for use in the United States), in addition to the Gemzar. The boxes bore labeling indicating that the products had been manufactured outside of the United States, and certain boxes had labels in languages other than English. None of the drugs bore the wording "Rx only," as required by U.S. law. In addition, there were boxes of Abraxane, manufactured in Illinois, which bore a stamp which said, "Imported and Marketed by Biocon Limited, Bangalore, India."

After the visit from federal agents, Oberlin Medical Supply processed no further orders on behalf of Global Rx. The lack of shipments and payments prompted Bean to contact Oberlin repeatedly, during which the owner of Oberlin (Maher Idriss) advised Bean that the sale of the imported prescription pharmaceuticals in the United States was not lawful. Idriss went so far as to forward to Bean an email from the FDA which stated that "the Food, Drug and Cosmetic Act does not permit you to import pharmaceutical drugs manufactured in a foreign country which are not intended for the U.S. market."

In spite of these warnings, Bean continued to press Idriss to return the remaining inventory of unapproved oncology drugs and pay Oberlin's outstanding balances. On May 25, 2011, Bean arrived at Oberlin and picked up 12 boxes containing the inventory of imported pharmaceuticals. Bean then drove the contraband to a hotel in the Mission Valley area, where he was later seen loading the boxes into a vehicle driven by another man.

The individual was later approached by federal agents, and surrendered to them the boxes of unapproved pharmaceuticals and a check for \$300 he had received from Bean. Bean later called that individual and offered him another \$2,500 to deliver some of the pharmaceuticals to doctors in and around Fremont, California. Although Bean acknowledged that one of the drugs (Zoldria) was not approved for use in the United States (a fact he had verified on the FDA's website), he nonetheless requested that the drug be delivered to several doctors in California.

After the end of their association with Oberlin, Bean and his co-conspirators renamed their company "My Rx Store," and sent promotional material to doctors in the same format as Global Rx, offering the same unapproved drugs as Global Rx, and using the same toll-free number. Bean personally received over \$865,000 from the scheme.

"This defendant blithely put the public's health at risk so he could line his own pockets," said Derek Benner, special agent in charge for Homeland Security Investigations San Diego. "This sentence should serve as a stern reminder about the potential consequences facing those who deal in imposter drugs with no regard for the dangers they pose to patients and consumers. HSI will continue to work with its law enforcement partners here and abroad to prevent the distribution of counterfeit and misbranded pharmaceuticals."

The prosecution of Bean is related to United States v. Maher Idriss, Criminal Case No. 12cr1775-WQH, in which Idriss pleaded guilty to conspiring to import merchandise contrary to law. At the time of his plea, Idriss admitted that between 2006 and 2011, he conspired with the owners and operators of Global Rx Store to import and distribute medication (primarily oncology drugs) not intended for sale in the United States. Idriss acknowledged that the owners of Global ordered the foreign oncology drugs intended for sale in countries such as Turkey, Pakistan, India and the United Kingdom and arranged for them to be shipped directly from the foreign source to Oberlin. Idriss admitted that

he received the foreign oncology drugs, stored them and later shipped them out to doctors within the United States, as directed by the owners of Global. After receiving payment from the ordering doctors, Idriss wire transferred payments to the source of the drugs abroad and to an account in Canada controlled by Bean and his co-conspirators. Idriss is scheduled to be sentenced before District Judge Hayes on October 21, 2013 at 9:00 a.m.

The Food, Drug & Cosmetic Act ("FDCA") is intended to assure, among other things, that all drugs manufactured and distributed within the United States are safely manufactured, made from appropriate ingredients, and properly labeled. To enforce this law, the FDA regulates the manufacture, processing, labeling, and distribution of all drugs shipped and received in interstate commerce, including the wholesale distribution of prescription drugs. Under the FDCA, anyone manufacturing, preparing, compounding, or processing prescription drugs for sale and use in the United States must annually register with the FDA as a drug establishment, and provide a list to the FDA of the drugs which they manufacture for commercial distribution, and a copy of all labeling. This registration requirement applies equally to drug establishments located outside of the United States that import their drugs into the United States. Under the FDCA, a drug is deemed misbranded if it was manufactured at any domestic or foreign establishment and that drug was not annually listed with the FDA by the establishment as one of the drugs which was manufactured for commercial distribution in the United States at that location.

Under the FDCA, no person may offer for sale in the United States any drug not approved by the FDA. The approval process addresses the chemical composition of the drug, the drug's safety and effectiveness, and elements of the drug's distribution, such as the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the drug, as well as the labeling to be used for the drug. The approval process is specific to each manufacturer and each product and its labeling. Drugs manufactured outside the United States which are not intended for use in the United States do not go through this approval process and are considered unapproved drugs.

Any prescription drug that does not bear the label "Rx only" is deemed to be misbranded. Moreover, all wording required by the FDCA to appear on drug labels and labeling sold in the continental U.S. must be in the English language. If a drug is manufactured in the United States and exported to other countries, is unlawful for anyone other than the original manufacturer to bring that same drug back into the United States.

DEFENDANT

Case Number: 12cr3734-WQH

Martin Paul Bean, III

SUMMARY OF CHARGES

Count 1 - Conspiracy, in violation of Title 18, United States Code, Section 371. Maximum Penalty: 5 years in custody and/or \$250,000 fine.

INVESTIGATING AGENCY

Food and Drug Administration, Office of Criminal Investigations; Department of Homeland Security, Immigration and Customs Enforcement; Federal Bureau of Investigation; Postal Inspection Service