

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

SEALED INDICTMENT

- v. - :

13 Cr.

PAUL WISEBERG, :

ROBERT KALABA, :

GERALD WISEBERG, :

STEPHANIE TOMASINI, :

LANA WISEBERG, :

EMMANUEL ANTONIO, :

DANIEL PODELL, :

HOWARD HIRSH, and :

LAWRENCE ZASLOW, :

Defendants. :

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COUNT ONE
(Narcotics Conspiracy)

The Grand Jury charges:

THE PHARMACY MAIL ORDER SCHEME

1. From at least in or about November 2011, up to and including in or about October 2013, PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, LANA WISEBERG, EMMANUEL ANTONIO, DANIEL PODELL, HOWARD HIRSH, and LAWRENCE ZASLOW, the defendants, and others known and unknown, combined and conspired to engage in a scheme to sell, distribute, and dispense massive quantities of Schedule II controlled substances, including highly addictive pain killers such as oxycodone, hydromorphone, and morphine sulfate, knowing that the prescriptions were issued outside the scope of

professional practice and not for a legitimate medical purpose.

2. The conspiracy was led by two individuals, PAUL WISEBERG and ROBERT KALABA, the defendants, neither of whom were medical professionals. WISEBERG and KALABA purchased and operated pharmacies (the "Pharmacies") in New York and New Jersey, which they used to order bulk quantities of pain killers and then distribute those pain killers at significantly marked up prices to individuals, most of whom were in Florida, who had no medical need for the drugs. To mask their connection to the Pharmacies, WISEBERG and KALABA purchased the pharmacies through relatives and/or co-conspirators, including LANA WISEBERG, the defendant. LANA WISEBERG also, however, assisted PAUL WISEBERG and KALABA in the operation of the scheme.

3. To effectuate the principal goal of the narcotics conspiracy, to sell large quantities of controlled substances for a profit, PAUL WISEBERG and ROBERT KALABA, the defendants, combined and conspired with several individuals who played a variety of roles in furtherance of the narcotics conspiracy.

4. PAUL WISEBERG and ROBERT KALABA, the defendants, are not registered with the Drug Enforcement Agency ("DEA"), and as such could not themselves obtain oxycodone and other controlled substances from distributors. As such, WISEBERG and KALABA relied on EMMANUEL ANTONIO and DANIEL PODELL, the defendants, to obtain

hundreds of thousands of oxycodone pills, and other controlled substances, from distributors. PODELL, a licensed pharmacist, signed the necessary forms and ANTONIO interacted with the distributors to arrange for the shipments of bulk quantities of pain killers to the Pharmacies.

5. Another essential part of the scheme was the recruitment of pain clinics (the "Pain Clinics") in Florida that had patients who were willing to pay substantially marked up prices for oxycodone, and other pain killers, since they had no legitimate medical basis to otherwise acquire the drugs. STEPHANIE TOMASINI and GERALD WISEBERG, the defendants, were responsible for recruiting, and interacting with, certain of the Pain Clinics in Florida.

6. Patients at some of the Pain Clinics in Florida were given specific instructions as to how patients should submit, and pay for, their prescriptions of pain killers with the Pharmacies.

7. For instance, patients at one of the Florida Pain Clinics were provided with written instructions (the "Instructions") requiring them to submit all prescriptions by mail order form and not to call or visit one of the Pharmacies. Additionally, to hide the fact that the Pharmacies existed almost exclusively for the purpose of selling pain killers, the Instructions informed patients that they must include a non-controlled substance prescription in addition to their prescription for a pain killer. Doing so helped

to ensure that if the prescription history of the Pharmacies were ever reviewed, a record of non-controlled substances being issued by the Pharmacies, and not just painkillers, would exist. Finally, the Instructions specifically stated that patients were not to use Medicaid or any other insurance in connection with the prescriptions mailed to one of the Pharmacies.

8. In addition, Pain Clinics provided prescriptions in bulk, approximately once a week, to Direct Management, an entity wholly owned by PAUL WISEBERG, the defendant, in Florida. From Direct Management the prescriptions were sent to be filled at the Pharmacies in New York and New Jersey.

9. Before the prescriptions, sent via mail from Florida, arrived at the Pharmacies, it was common for certain of the Pain Clinics to advise STEPHANIE TOMASINI, the defendant, of the pain killers sought in those prescriptions. TOMASINI would, in turn, send the prescription information via facsimile, including the patient's name, the prescribed substance, strength, and quantity to one of the Pharmacies, to give advanced notice of which prescriptions needed to be filled so as to expedite the filling of the prescriptions.

10. Another essential component of the scheme was finding licensed pharmacists who were willing to fill the extremely high numbers of prescriptions for oxycodone and other pain killers

regularly submitted to the Pharmacies. To that end, PAUL WISEBERG and ROBERT KALABA, the defendants, hired licensed pharmacists DANIEL PODELL, HOWARD HIRSH, and LAWRENCE ZASLOW, the defendants. PODELL, HIRSH, and ZASLOW, acting at the direction of KALABA and WISEBERG, filled prescriptions for hundreds of thousands of pills of highly addictive pain killers, knowing that the prescriptions were issued outside the usual course of professional practice and not for a legitimate medical purpose.

11. After filling the prescriptions, the Pharmacies would send the prescription drugs to the customer, typically in Florida and usually by commercial mail carrier. In several instances, prescription drugs were mailed to addresses different from that set forth in the prescription. Further, prescriptions for multiple people were also sometimes sent to the same address.

12. On average, PAUL WISEBERG and ROBERT KALABA, the defendants, would charge from approximately \$6 to \$9 per pill of oxycodone. Thus, a 28-day prescription for oxycodone, which could contain approximately 158 pills, could cost a patient between \$948 and \$1,400. The same prescription at a retail pharmacy would typically cost less than \$200.

13. The Pharmacies purchased by PAUL WISEBERG and ROBERT KALABA, the defendants, dramatically increased the sale of prescription pills compared to the Pharmacies' sales under prior

ownership. For example, before KALABA and WISEBERG's purchase of one of the Pharmacies, that pharmacy distributed approximately 18,300 pills of oxycodone between October 2010 and October 2011. After PAUL WISEBERG and ROBERT KALABA purchased that pharmacy in November 2011, the pharmacy ordered approximately 448,700 oxycodone pills between January 2012 and October 2013.

STATUTORY ALLEGATIONS

14. From at least in or about November 2011, up to and including in or about October 2013, in the Southern District of New York and elsewhere, PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, LANA WISEBERG, EMMANUEL ANTONIO, DANIEL PODELL, HOWARD HIRSH, and LAWRENCE ZASLOW, the defendants, and others known and unknown, intentionally and knowingly combined, conspired, confederated, and agreed together and with each other to violate the narcotics laws of the United States.

15. It was a part and an object of the conspiracy that PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, LANA WISEBERG, EMMANUEL ANTONIO, DANIEL PODELL, HOWARD HIRSH, and LAWRENCE ZASLOW, the defendants, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

16. The controlled substances involved in the offense were (i)

oxycodone, (ii) hydromorphone, and (iii) morphine sulfate, all in violation of Title 21, United States Code, Section 841(b)(1)(C).

(Title 21, United States Code, Section 846.)

COUNT TWO

(Conspiracy to Commit Money Laundering Conspiracy)

The Grand Jury further charges:

17. The allegations set forth in paragraphs 1 through 16 are incorporated by reference as if set forth fully herein.

18. At all times relevant to this Indictment, PAUL WISEBERG and ROBERT KALABA, the defendants, through the Pharmacies, opened and controlled various bank accounts, including bank accounts at two different commercial banks for the purpose of depositing proceeds from the illegal distribution of pharmaceutical controlled substances, primarily oxycodone, through the pharmacy mail order scheme described herein. Between November 2011 and July 2013 alone, WISEBERG and KALABA deposited or caused to be deposited approximately \$1.9 million into bank accounts held in the name of one of the Pharmacies.

19. PAUL WISEBERG and ROBERT KALABA, the defendants, used proceeds of the narcotics conspiracy to promote and expand their operations by, among other things, purchasing additional prescription drugs from distributors that supplied the pharmaceutically controlled substances that were being illegally

distributed by the defendants, as well as paying other members of the conspiracy, including STEPHANIE TOMASINI and EMMANUEL ANTONIO, the defendants.

20. STEPHANIE TOMASINI, the defendant, used bank accounts in the names of various businesses to receive payments in connection with the narcotics conspiracy and to pay other members of the conspiracy their share of the proceeds of the crime.

21. PAUL WISEBERG and ROBERT KALABA, the defendants, also transferred the proceeds of the narcotics conspiracy to various shell entities controlled by them, and other co-defendants, such as Direct Management and Metrosource, Inc. (both controlled by PAUL WISEBERG); ESAM Management, Inc. (controlled by EMMANUEL ANTONIO, the defendant); and Sun Park Pharmacy, a/k/a Sun Park Professional Systems (controlled by ROBERT KALABA). These entities had no legitimate business purpose other than to conceal the fact that the funds were obtained from unlawful activity. Certain of these shell entities were then used to pay other co-conspirators, including GERALD WISEBERG, the defendant.

STATUTORY ALLEGATIONS

22. From at least in or about November 2011, up to and including in or about October 2013, in the Southern District of New York and elsewhere, PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, and EMMANUEL ANTONIO, the defendants, and others known and

unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Section 1956(a)(1)(A)(i) and (a)(1)(B)(i).

23. It was a part and an object of the conspiracy that PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, and EMMANUEL ANTONIO, the defendants, and others known and unknown, knowing that the property involved in a financial transaction represented the proceeds of some form of unlawful activity, would and did conduct and attempt to conduct a financial transaction, which in fact involved the proceeds of specified unlawful activity, to wit, the narcotics conspiracy alleged in Count One, with the intent to promote the carrying on of that specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i).

24. It was a further part and an object of the conspiracy that PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, and EMMANUEL ANTONIO, the defendants, and others known and unknown, knowing that the property involved in a financial transaction represented the proceeds of some form of unlawful activity, would and did conduct and attempt to conduct a financial transaction, which in fact involved the proceeds of specified unlawful activity, to wit, the narcotics conspiracy alleged in Count One, knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of these

proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

(Title 18, United States Code, Section 1956(h).)

FORFEITURE ALLEGATIONS
(Narcotics Conspiracy)

25. As a result of committing the controlled substance offense alleged in Count One of this Indictment, PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, LANA WISEBERG, EMMANUEL ANTONIO, DANIEL PODELL, HOWARD HIRSH, and LAWRENCE ZASLOW, the defendants, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the said violations and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the said violations.

(Title 21, United States Code, Sections 841(a)(1), 846, and 853.)

(Money Laundering Conspiracy)

26. As a result of committing the money laundering offense charged in Count Two of this Indictment, PAUL WISEBERG, ROBERT KALABA, GERALD WISEBERG, STEPHANIE TOMASINI, and EMMANUEL ANTONIO, the defendants, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(1), all property, real and personal, involved in said

offenses and all property traceable to such property.

(Title 18, United States Code, Section 982(a)(1).)

(Substitute Asset Provision)

27. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

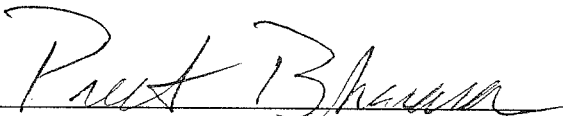
c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to 18 U.S.C. § 981, 21 U.S.C. § 853(p), and 28 U.S.C. § 2461, to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981 and 982; Title 21, United States Code, Section 853; Title 28, United States Code, Section 2461.)

FOREPERSON


PREET BHARARA
United States Attorney

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(21 U.S.C. §§ 841, 846;
18 U.S.C. § 1956(h).)

PREET BHARARA
United States Attorney.

 foreperson.
