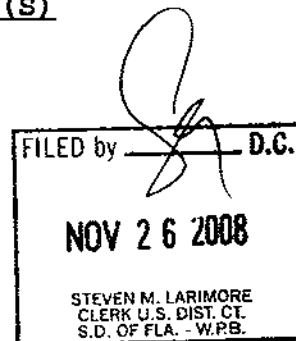


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 07-80138-CR-MARRA/VITUNAC(S)(S)

18 U.S.C. § 371
21 U.S.C. § 331
21 U.S.C. § 333(a)
21 U.S.C. § 343(a)(1)



UNITED STATES OF AMERICA,

Plaintiff,

-versus -

GEORGE FORGIONE,

Defendant.

_____ /

SUPERSEDING INFORMATION

The UNITED STATES ATTORNEY charges that:

BACKGROUND ALLEGATIONS

At all times relevant and material to this Information:

1. Defendant GEORGE FORGIONE operated "The Lipoban Clinic" which sold a purported weight loss product in capsule form called "LipoBan™ Dietary Supplement" (hereafter "LipoBan"). According to the ingredient panel on the bottle's label, LipoBan contains "500 mg of pure and natural LipoSan Ultra™ Chitosan and mineral extract derived from shellfish." Chitosan is a derivative of the crushed shells of shellfish. LipoBan's recommended use is "[a]s a dietary supplement, take 2 capsules with a glass of water with lunch and dinner."

2. A co-conspirator, Frank Sarcona, utilized an internet account to conduct the operation of The Lipoban Clinic. Co-conspirator FRANK SARCONA utilized the screen name Beachwatcher1@msn.com. When utilizing this account he often used the false name, Dave Johnson.

3. Over time, The Lipoban Clinic maintained different offices. It's offices were located at 1515 North Federal Highway, Boca Raton, Florida, an executive suite office; 22610 SW 66th Avenue, Boca Raton, Florida 33428, the residence of defendant GEORGE FORGIONE; and 6720 E. Rogers Circle, Boca Raton, Florida 33487.

4. In July 1999, in the case of the Federal Trade Commission v. SlimAmerica, Inc. et. al., United States District Court Judge Wilkie D. Ferguson ordered Frank Sarcona to post a performance bond prior to engaging, directly or indirectly, in any business related to weight loss products or services. This bond, in favor of the Federal Trade Commission (hereafter "FTC"), was to be used to compensate any person who was injured as a result of any deceptive practice, misrepresentation or violation of the Court's order. No such bond was ever posted.

5. Defendant GEORGE FORGIONE utilized several corporate entities to market LipoBan. One of the entities was the Lipoban Clinic, Inc., which was incorporated in March 2000. Defendant

GEORGE FORGIONE was the Incorporator, Resident Agent, President and Chairman of the Board of Directors of The Lipoban Clinic, Inc. The Lipoban Clinic, Inc. was voluntarily dissolved in December 2000. Defendant GEORGE FORGIONE was an authorized signatory on the Lipoban Clinic checking accounts at Bank of America, including account #0034-4026-0290.

6. National Pharmaceuticals, Inc., was incorporated in September 2000. In November 2000, National Pharmaceuticals, Inc. filed an "Application for Registration of Fictitious Name" to do business as "The Lipoban Clinic." That application was signed by defendant GEORGE FORGIONE, Vice President of National Pharmaceuticals, Inc. In July 2001, an employee of "The Lipoban Clinic," was named as secretary and director of National Pharmaceuticals, Inc. On July 16, 2002, National Pharmaceuticals, Inc., changed its name to 1515 Investment Holdings, Inc., located at 1515 North Federal Highway, Boca Raton, Florida. On July 19, 2002, National Pharmaceuticals, Inc. canceled its use of the fictitious name "The Lipoban Clinic."

7. On July 17, 2002, Lipoban (Bahamas) LTD Corporation, which had been incorporated in June 2002 in Nassau, Bahamas, filed an application to transact business in Florida. Its stated purpose was the sale of non-prescription dietary and vitamin supplements. On July 19, 2002, Lipoban (Bahamas) LTD Corporation

filed applications to register "The Lipoban Clinic," and "National Pharmaceuticals, Inc." as fictitious names, each with addresses at 1515 North Federal Highway, Suite 300, Boca Raton, Florida 33432.

COUNT ONE

**CONSPIRACY TO COMMIT MAIL FRAUD,
WIRE FRAUD, MONEY LAUNDERING and CRIMINAL CONTEMPT**

8. The background allegations section of this Information is re-alleged and incorporated by reference as though fully set forth herein.

9. From in or about January 2000, through in or about October, 2004, the exact dates being unknown, in the Southern District of Florida and elsewhere, the defendant,

GEORGE FORGIONE,

did knowingly and willfully combine, conspire, confederate and agree with persons known and unknown, to commit certain offenses against the United States, that is:

a. mail fraud, in violation of Title 18, United States Code, Section 1341;

b. wire fraud, in violation of Title 18, United States Code, Section 1343;

c. money laundering, in violation of Title 18, United States Code, Section 1956 (a) (1) (A) (i);

d. criminal contempt of court, in violation of Title 18, United States Code, Section 401(3).

PURPOSE AND OBJECT OF THE CONSPIRACY

10. It was the purpose and object of the conspiracy for the conspirators to unlawfully enrich themselves by making false and fraudulent representations and promises to people in order to induce them to purchase LipoBan and to use the funds thereby obtained to promote the scheme. It was a further purpose and object of the conspiracy for the conspirators to disobey the lawful Orders of the United States District Court for the Southern District of Florida.

MANNER AND MEANS OF EXECUTING THE SCHEME

11. The manner and means by which the conspirators sought to accomplish the objects of the conspiracy included, among others, the following:

12. The defendant GEORGE FORGIONE, aided by co-conspirator Frank Sarcona, nationally advertised LipoBan through mass mailings, newspaper advertising and the internet.

13. The defendant GEORGE FORGIONE, aided by co-conspirator Frank Sarcona, obtained mailing lists to identify potential customers throughout the country to advance the scheme's marketing campaign. The conspirators then sent and caused to be sent a promotional package to potential customers by First-Class

U.S. Mail that consisted of several documents, including: (1) a two-page letter that claimed to be from "Joseph Maya, M.D.," (hereinafter, the "Maya letter"); (2) a "LipoBan™ Order Form," which contained on its reverse side a "LipoBan™ Test Participation Survey"; (3) newspaper-like advertisements bearing, among other things, pictures and testimonials of individuals who allegedly used and lost substantial weight through the use of LipoBan; (4) a purported business card that identifies "Joseph Maya, M.D." (hereafter "Dr. Maya") as the "Medical Director" and "George J. Forgione" as the "Clinical Director;" and (5) a return envelope pre-addressed to "The Lipoban Clinic Inc." and to the attention of "Dr's. Maya and Forgione."

14. The marketing campaign of defendant GEORGE FORGIONE, and co-conspirator Frank Sarcona, identified the entity through which the defendant sold LipoBan as "The Lipoban Clinic, Inc." Co-conspirator Sarcona, aided by defendant Forgione, engaged in activity on behalf of "The Lipoban Clinic, Inc.," utilizing the name "Dave Johnson." Furthermore, this activity was designed to conceal from the FTC and the United States District Court that co-conspirator Frank Sarcona was engaged in a weight loss business without having posted the performance bond as required by the July 1999 order of the United States District Court.

15. This marketing campaign endeavored to create the false and fraudulent pretense that the "The Lipoban Clinic, Inc." was a healthcare clinic involved in medical clinical studies and the treatment of obesity. To promote this false and fraudulent pretense, the defendant placed the caduceus (the commonly-known medical insignia consisting of a winged staff with two coiled snakes) on the outside envelope of the promotional package mailed to potential customers, the Maya letter, the business card, and the return envelope. The conspirators falsely identified Dr. Maya in the Maya letter and on the business card as their "Medical Director" and the program medical director, and identified "Dr. George J. Forgione" as the "Clinical Director." In reality, the addresses used for the Clinic alternated among a mail box drop, an office in an executive suite, the home of defendant GEORGE FORGIONE, and an office in an industrial area. None of the locations were set up for the interview, diagnosis, study, or treatment of any medical condition.

16. The conspirators falsely represented at times on their company's website, that they had a team of researchers. Similarly, the conspirators represented in advertisements and promotional material that "The Lipoban Clinic, Inc." had "a trained staff of weight loss and nutrition professionals" on hand for free consultation to "assure" that the purchasers of the

LipoBan product achieved the weight loss goal. In reality, the employees of Lipoban were primarily telephone customer service representatives hired to process orders and perform clerical work. None of the employees were trained weight loss and nutrition professionals, or medical personnel.

17. The defendant represented to consumers that "Dr. Joseph Maya's" business address, in connection with the Lipoban Clinic, was located in Florida. In reality, Dr. Maya was not licensed to practice medicine in the United States. Rather, Dr. Maya was licensed to practice medicine in Mexico and his professional offices were located in Mexico City, Mexico. Moreover, the defendant identified Dr. Maya in the advertisements and promotional package as "Joseph Maya, M.D.," when in fact Dr. Maya's true and complete name was Jose Maya Behar.

18. The defendant falsely represented in the Maya letter that Dr. Maya and his associates were collecting data in a nationwide test to determine the effectiveness of LipoBan at home without medical supervision. In reality, no such nationwide test was being conducted.

19. The defendant falsely led the "participants" to believe that they were contacted in a unique and limited request, in that the letter, bearing a first class stamp, was addressed to the individual victim with the purported identifier "Test Subject

731-_____" (which was followed by a series of numbers and/or letters.) In reality, virtually all participants were #731 and the numbers following the initial #731 were merely codes used by the defendant to track the response to the mass mailing solicitations and advertisements.

20. In the Maya letter and in newspaper-like ads, the conspirators falsely represented that LipoBan had been clinically proven to cause people to lose weight without diet or exercise. They also falsely asserted that by taking their product weight loss would occur rapidly, without any change in daily exercise and despite metabolism problems.

21. The defendant represented in the Maya letter and other promotional materials that two doctors, other than Dr. Maya, had endorsed LipoBan. In reality, the referenced doctors never evaluated LipoBan, but instead endorsed the use of generic chitosan as a weight loss tool only so long as it was taken in conjunction with eating a sensible diet and exercising regularly.

22. The defendant represented in the Maya letter and other promotional materials that LipoBan was "now" available without a prescription. The defendant omitted the fact that a prescription had never been required, nor would it ever be required, to obtain the LipoBan product or its ingredients.

23. The defendant represented to consumers that the company would pay \$50 for the consumer to participate in a "test survey." Consumers who participated in the "test survey" were required to purchase the LipoBan used for the "survey." Consumers were then sent what purported to be a "TEST SURVEY" booklet. The booklet's questions included daily physical measurements and weight of the consumer, whether they used LipoBan and experienced any adverse effects, and whether they exercised. This survey was to be completed for thirty consecutive days. Completed survey booklets returned to Lipoban were examined solely by the clerical staff. The booklets were maintained for approximately 90-days and then discarded. No research survey statistics were compiled from the booklets.

24. To receive the promised \$50 participant fee, consumers were required to fulfill several requirements that were not disclosed to the consumers when they were solicited to participate in the survey. The defendant insisted on the fulfillment of these requirements in order to discourage consumers from requesting and obtaining the promised participant fee.

25. Consumers who sought a promised refund of the purchase price faced numerous hurdles that were designed by the defendant to delay and discourage refunds. For example, consumers were

regularly told that they had not returned the bottles and were required to provide proof that they had been returned. Also, consumers who paid by credit card were denied a refund until they provided credit card statements as proof of payment. Consumers were falsely told this was necessary because their credit card information was not maintained. In reality, the credit card information was maintained in the Lipoban Clinic computer system.

26. The Lipoban Clinic, Inc. maintained a bank account at Bank of America, a bank whose deposits were at all times insured by the Federal Deposit Insurance Corporation. The defendant caused the account to be used to receive funds from the fraudulent sale of LipoBan and for the payment of expenses to promote the fraudulent sale of LipoBan.

27. Between May 2000 and October 2004, the conspirators caused tens of thousands of consumers to purchase over \$10,000,000.00 of LipoBan based on these materially false representations and omissions of material facts.

OVERT ACTS

28. In furtherance of the conspiracy and to achieve the objects thereof, at least one of the co-conspirators committed or caused to be committed, in the Southern District of Florida, and elsewhere, at least one of the following overt acts, among others:

a. On or about January 9, 2000, co-conspirator Frank Sarcona caused Dr. Jose Maya, in Mexico, to e-mail him Maya's contact information.

b. On or about March 21, 2000, defendant GEORGE FORGIONE established a mail drop by signing a United States Postal Service "Application for Delivery of Mail Through Agent" on behalf of "The Lipoban Clinic, Inc."

c. On or about May 6, 2000, defendant GEORGE FORGIONE signed an agreement with "Joseph Maya, M.D.", of Mexico.

d. On or about and between June 1, 2000 and September, 2007, the exact date being unknown, co-conspirator Frank Sarcona signed a "Consulting Agreement" with The Lipoban Clinic Inc. which included in section "2(d)" a discussion of an adverse determination against him in connection with the Federal Trade Commission and the requirement for the posting of a \$5 million performance bond or an order of the Court altering the bond requirement.

e. On or about October 11, 2000, defendant GEORGE FORGIONE, identifying himself as incorporator, president, and chairman of the board of directors; signed Articles of Dissolution for "The Lipoban Clinic, Inc."

f. On or about October 11, 2000, defendant GEORGE FORGIONE, identifying himself as vice president of National

Pharmaceuticals, Inc., signed an application to register "The Lipoban Clinic," at 1515 North Federal Highway, suite 300, Boca Raton, Florida as a "fictitious name" owned by National Pharmaceuticals, Inc.

g. On or about December 8, 2000, co-conspirator Frank Sarcona telephoned Wilke Resources, Inc. stating that he was working with the Lipoban Clinic, which was selling 5,000 to 10,000 bottles per month of a chitosan product, and requested complete information about LipoSan Ultra with a view towards switching to that product.

h. On or about December 12, 2000, co-conspirator Frank Sarcona in the guise of Dave Johnson, called Wilke Resources, Inc., advising that the Lipoban Clinic would be ordering LipoSan Ultra.

i. On or about December 21, 2000, a co-conspirator, in the guise of Dave Johnson, called Wilke Resources, Inc., and introduced Wilke Resources, Inc. to defendant GEORGE FORGIONE, presenting him as the owner of the Lipoban Clinic.

j. On or about December 24, 2000, defendant GEORGE FORGIONE signed a business questionnaire for the Better Business Bureau identifying himself as president of the Lipoban Clinic and falsely identifying "Joseph Maya, M.D." as "51% shareholder."

k. On or about March 27, 2001, defendant GEORGE FORGIONE responded to an inquiry from the Florida Department of Agriculture and Consumer Services regarding a consumer complaint and falsely identified "Joseph Maya, M.D." as the owner of The Lipoban Clinic, Inc.

l. On or about December 27, 2001, co-conspirator Frank Sarcona in the guise of Dave Johnson, e-mailed Sunshine Communications Services in connection with the monitoring and tracking of customer responses to LipoBan advertisements.

m. On or about May 10, 2002, defendant GEORGE FORGIONE signed a five year lease, on behalf of National Pharmaceuticals, Inc., for Bay #22 at 6720 East Rogers Circle, Boca Raton, Florida 33487 to be used as "...office, storage and distribution of Vitamins and for no other purposes or uses whatsoever..."

n. On or about May 16, 2002, co-conspirator Frank Sarcona in the guise of Dave Johnson, on behalf of the Lipoban Clinic Inc. entered into an agreement with Electronic Marketing Services, Inc. to market LipoBan through the internet.

o. On or about May 30, 2002, co-conspirator Frank Sarcona in the guise of Dave Johnson, discussed the encapsulation of LipoSan Ultra for the Lipoban Clinic with Wilke Resources, Inc.

p. On or about May 30, 2002, the defendant caused Wilke Resources, Inc. to e-mail "Dave Johnson" at the Lipoban Clinic

and identify two Florida companies that could encapsulate LipoSan Ultra for them.

q. On or about and between August 30, 2002 and September 20, 2002, co-conspirator Frank Sarcona in the guise of Dave Johnson, placed and caused to be placed LipoBan advertisements in various print media including the Arizona Republic, the Philadelphia Inquirer, the Billings Gazette, the Winston-Salem Journal, and the Naples News.

r. On or about September 5, 2002, the defendant caused a wire transfer to be sent from the 1776 Foundation Bank of America account #0034-4353-7690, in the amount of \$85,000.00, to The Private Trust Corp., Att: Lipoban Ltd., in Nassau Bahamas.

s. On or about September 20, 2002, the defendant obtained the "Beauty Visions Worldwide" mailing list in order to mail LipoBan solicitations to consumers whose names appeared on the list.

t. On or about and between September 27, 2002 and October 7, 2002, the defendant caused check #2710 from The Lipoban Clinic Inc., Bank of America account #0034-4026-0290, in the amount of \$51,093.73, to be issued to Novus Print Media as payment for Lipoban advertising.

u. On or about November 20, 2002, the defendant issued a

National Pharmaceuticals Inc. check #1216, drawn on a Bank One account #1006565970, to purchase a Bank One official check #197649697 in the amount of \$145,000.00 payable to Lipoban Ltd.

v. On or about January 27, 2003, the defendant obtained the "Psychic Predictions Silver Chart" mailing list in order to mail LipoBan solicitations to female consumers whose names appeared on the list.

w. On or about March 24, 2003, co-conspirator Frank Sarcona in the guise of Dave Johnson, placed and caused to be placed a LipoBan advertisement in the Fort Lauderdale Sun Sentinel.

x. On or about and between September 16, 2003 and September 29, 2003, the defendant obtained the "Canyon Astrology" mailing list in order to mail LipoBan solicitations to female consumers whose names appeared on the list.

y. On or about July 7, 2004, co-conspirator Frank Sarcona e-mailed an employee of Lipoban Clinic, directing payment to Novus Print Media.

z. On or about and between April 20, 2004 and April 21, 2004, the defendant caused an electronic funds transfer from The Lipoban Clinic Inc., Bank of America account #0034-4026-0290, in the amount of \$97,746.48 to pay an American Express bill.

aa. On or about August 30, 2004, co-conspirator Frank Sarcona utilizing the identity of Dave Johnson, e-mailed a

message to the account representative at Novus Print Media discussing the "...Lipoban Test Ads (News America)" and directed it to be expanded to a circulation of 2.5 million.

bb. On or about October 1, 2004, co-conspirator Frank Sarcona utilizing the identity of Dave Johnson, e-mailed a message to the account representative at Novus Print Media stating that Lipoban Clinic check #5305, in the amount of \$18,307.60, would be mailed to Novus Print Media.

cc. On or about October 4, 2004, the defendant caused mail to be sent to a person in New Mexico, addressed to "Test Subject No. 731LG-M523," including a letter from Dr. Maya, Dr. Maya's business card, and other advertising pieces.

dd. On or about October 7, 2004, the defendant caused mail to be sent to a person in Iowa, addressed to "Test Subject No. 731-1012," including a letter from Dr. Maya, Dr. Maya's business card, and other advertising pieces which stated *inter alia* that the product "absorbs and binds" fat so that it would "allow people to lose their excess weight and inches without torturous dieting or exercising," and that the customer could experience the loss of "15,25,35 ... even 50 or more unwanted pounds gone without dieting as you eat the foods you love!"

All in violation of Title 18, United States Code, Section 371.

MISBRANDING OF FOOD BACKGROUND ALLEGATIONS

At all times relevant and material to this Information:

29. The Food and Drug Administration (hereafter "FDA") is an agency of the United States Department of Health and Human Services. It is responsible for the protection of the health and safety of the American public by enforcing the provisions of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§301 et seq. (the "FDCA"), to ensure, among other things, that food products, including dietary supplements, are safe and bear truthful and non-misleading labeling.

30. Pursuant to 21 U.S.C. § 331(a), the FDCA prohibits the introduction, delivery for introduction, and causing the introduction or delivery for introduction into interstate commerce of a food that is misbranded.

31. Pursuant to 21 U.S.C. § 321(f), a food is defined to include articles used for food or drink for man, and articles used for components of any such article. Pursuant to 21 U.S.C. §321(ff), a dietary supplement is deemed to be a food within the meaning of the FDCA.

32. Pursuant to 21 U.S.C. § 343(a)(1), a food is deemed to be misbranded under the FDCA if its labeling is false or misleading in any particular.

33. Pursuant to 21 U.S.C. § 321(n) and 21 C.F.R. §1.21, the labeling of a food shall be deemed to be misleading if it fails to reveal facts that are:

1. Material in light of other representations made or suggested by statement, word, design, device, or any combination thereof; or
2. Material with respect to consequences which may result from use of the article under: (i) The conditions prescribed in such labeling...

COUNT TWO

INTRODUCTION OF A MISBRANDED FOOD

34. The allegations of paragraphs 1-7, 12-27, and 29-33 are re-alleged and incorporated by reference as though fully set forth herein.

35. On or about February 17, 2004, at Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

GEORGE FORGIONE,

did with the intent to defraud or mislead, introduce, deliver for introduction, and cause the introduction and delivery for introduction into interstate commerce from Florida to Georgia the dietary supplement LipoBan™, a food within the meaning of 21 U.S.C. § 321(f), which was misbranded within the meaning of 21 U.S.C. § 343(a)(1) in that it bore labeling that was false and

misleading in one or more particulars, including the representations that: LipoBan™ allows you to lose all of your excess weight and inches without torturous dieting or changing what you eat; LipoBan™ was now available without a prescription, or words to that effect; LipoBan™ was clinically proven to allow people to lose their excess weight and inches without torturous dieting or exercising; in recent clinical studies 335 people lost a great deal of weight by simply adding the LipoBan™ ingredient to their normal meals; in yet another clinical study participants lost an average of 8 percent of their entire body weight in just 4 weeks; one well known and respected medical doctor wrote, "The Fat Absorber (LipoBan™) works beautifully" and "[m]y patients report losing weight without the hardship of rigorous diet regimens or excessive exercise;" a prominent medical doctor with over 40 years of experience practicing medicine "has never seen anything that can produce results like (LipoBan™) the Fat Absorber."

All in violation of Title 21, United States Code §§331(a), 343(a)(1), and 333(a)(2); and Title 18, United States Code, Section 2.

CRIMINAL FORFEITURE

MAIL AND WIRE FRAUD FORFEITURE ALLEGATION

1. The allegations of Count One of this Information are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeitures to the United States of America pursuant to the provisions of Title 28 United States Code Section 2461 and Title 18 United States Code Section 981(a)(1)(C) and the procedures outlined at Title 21 United States Code Section 853.

2. As a result of the offenses, alleged in Count One, defendant George Forgione shall forfeit to the United States all property, real and personal, constituting proceeds obtained from the afore stated offenses and all property traceable to such property, including but not limited to the following property:

a. \$10,000,000.00 in United States currency and all interest and proceeds traceable thereto, in that such sum in aggregate is property which was proceeds of the afore stated offenses in violation of Title 18, United States Code Sections 371, 1341 and 1343.

b. Real property as follows:

(1) The real property commonly known as 22610 S.W. 66TH AVENUE, BOCA RATON, FLORIDA and is legally described as:

Lot 24, Block 8, Sandalfoot Cove Section 2 according to the Plat thereof, as recorded in Plat Book 29, Page 15, Public Records of Palm Beach County.

(2) The real property commonly known as 10763 Buttonwood Lake Drive, Boca Raton, Florida, and is legally described as:

Lot 28, Block 1 of BOCA CHASE TRACT 4, according to the Plat thereof, as recorded in Plat Book 70, Page 144, of the Public Records of Palm Beach County, Florida.

MONEY LAUNDERING FORFEITURE ALLEGATIONS

1. The allegations of Count One of this Information are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeitures to the United States of America pursuant to the provisions of Title 18, United States Code, Section 982.

2. As a result of the offenses, alleged in Count One defendant George Forgione shall forfeit to the United States all property, real and personal, involved in the afore stated offenses and all property traceable to such property, as to which property the said are jointly and severally liable, including, but not limited to:

a. \$10,000,000.00 in United States currency and all interest and proceeds traceable thereto, in that such sum in aggregate is property which was involved in the afore stated

offenses or is traceable to such property, in violation of Title 18, United States Code, Sections 1956 and 1957.

b. Real property listed below:

The real property commonly known as 10763 Buttonwood Lake Drive, Boca Raton, Florida, and is legally described as: Lot 28, Block 1 of BOCA CHASE TRACT 4, according to the Plat thereof, as recorded in Plat Book 70, Page 144, of the Public Records of Palm Beach County, Florida.

SUBSTITUTED ASSETS

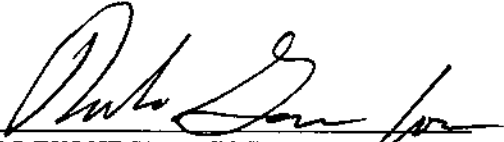
If the property described above as being subject to forfeiture, as a result of any act or omission of the defendant,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

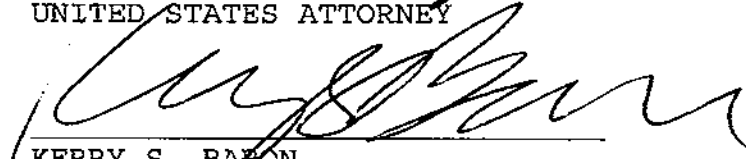
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

All pursuant to Title 28 United States Code, Section 2461, Title 18 United States Code, Sections 981(a)(1)(C), 982(a)(1),

and Title 21 United States Code, Section 853.



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



KERRY S. BARON
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. 07-80138-CR-MARRA/VITUNAC(S)(S)

vs.

GEORGE FORGIONE,

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

Court Division: (Select One)

___ Miami ___ Key West
___ FTL X WPB ___ FTP

New Defendant(s) Yes ___ No X
Number of New Defendants ___
Total number of counts 2

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No

List language and/or dialect

4. This case will take 5 days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I 0 to 5 days x Petty _____
II 6 to 10 days _____ Minor _____
III 11 to 20 days _____ Misdem. _____
IV 21 to 60 days _____ Felony X
V 61 days and over _____

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:
Judge: _____ Case No. _____

(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No

If yes:
Magistrate Case No. N/A

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of N/A

Rule 20 from the _____ District of _____


Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? ___ Yes X No

8. Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? ___ Yes X No
If yes, was it pending in the Central Region? ___ Yes ___ No

9. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? ___ Yes X No

10. Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003 ? ___ Yes X No


KERRY S. BARON,
ASSISTANT UNITED STATES ATTORNEY
Admin. No. A5500073

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: GEORGE FORGIONE

Case No: 07-80138-CR-MARRA/VITUNAC(S)(S)

Count #: 1

Conspiracy

18 U.S.C. § 371

*** Max. Penalty:** 5 Years' Imprisonment, \$250,000 Fine

Count #: 2

Misbranded Food

21 U.S.C. §§ 331, 333, 343

***Max. Penalty:** 3 Years' Imprisonment, \$250,000 Fine

Count #:

***Max. Penalty:**

Count #:

***Max. Penalty:**

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**