

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 11-20385-CR-MARTINEZ/MCALILEY(s)

18 U.S.C. § 371

18 U.S.C. § 981

UNITED STATES OF AMERICA

v.

ANDREW J. STREMPER,

Defendant.

_____ /

SUPERSEDING INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Superseding Information:

Safeguards for Prescription Drugs in the United States

1. Federal and state laws and regulations provided safeguards for prescription drugs sold to persons in the United States.
2. Under the Federal Food, Drug, and Cosmetic Act (“FDCA”), 21 U.S.C. § 301 et seq.:
 - a. a “drug” included articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans, and articles intended to affect the structure or function of the bodies of humans;
 - b. “prescription drugs” included drugs intended for use in humans, which due to their toxicity and other potential harmful effects, were not considered safe for use

except under the supervision of a practitioner licensed by law to administer such drugs;

c. “counterfeit drugs” included drugs which, or the container or labeling of which, without authorization, bore the trademark, trade name, or other identifying mark, or any likeness thereof, of a drug manufacturer other than the manufacturer who in fact manufactured such drugs;

d. “misbranded drugs” included drugs with labeling that was false or misleading; and

e. “labeling” included all labels and other written, printed, or graphic matter upon any article or any of its containers or wrappers, or accompanying such article.

3. The United States Food and Drug Administration (“FDA”) was a federal agency within the United States Department of Health and Human Services (“HHS”).

4. The FDA was responsible for ensuring, among other things, that prescription drugs intended for humans were safe and effective for their intended use and that the labeling of such drugs bore true and accurate information. Thus, the FDA regulated the approval, manufacturing, distribution, and importation of prescription drugs.

5. The FDA approval of prescription drugs was, among other things, based on clinical evidence regarding safety and effectiveness in humans.

6. The FDA required that the manufacturing of drugs be done in accordance with “Current Good Manufacturing Practice” regulations (“cGMPs”). The cGMPs imposed requirements to assure the identity, strength, quality and purity of drugs.

7. The FDA also oversaw compliance with the Prescription Drug Marketing Act of 1987 (“PDMA”). The PDMA provided safeguards to prevent the introduction of substandard, ineffective, misbranded, diverted, or counterfeit drugs into the United States drug supply chain.

8. Under the PDMA, interstate wholesalers of prescription drugs were required to be licensed by the state from which the wholesaler distributed the drugs.

9. Drugs traveling outside the legal channels provided by the PDMA were referred to as diverted drugs.

10. Under state laws, pharmacists and pharmacies were required to be licensed by the states where they provided prescription drugs to individuals.

11. Under state laws, health professionals were required to be licensed by the states where they prescribed drugs to individuals.

The Defendant

12. **ANDREW J. STREMPER** was a Canadian citizen. **STREMPER** was a pharmacist licensed by the Canadian province of Manitoba.

Mediplan Health Consulting, Inc. and RxNorth.com

13. **ANDREW J. STREMPER** was the founder, owner, and President of Mediplan Health Consulting, Inc., a company based in the province of Manitoba, Canada. Mediplan also operated under the name RxNorth.com (“RxNorth”).

14. RxNorth was an internet, mail and telephone order pharmacy, through which **ANDREW J. STREMPER** and others marketed and sold prescription drugs to residents of the United States.

FDA Warning

15. On or about October 31, 2001, the FDA sent a letter to **ANDREW J. STREMPER** regarding the prescription drugs he was selling to individuals in the United States through his web sites including www.rxnorth.com.

16. Among other things, the FDA advised **ANDREW J. STREMPER** through the October 31, 2001, letter that his prescription drug sales would be illegal in the United States if the drugs were not FDA approved. The FDA explained that the FDA approves drugs based on evidence that they are safe and effective, while the quality of drugs from foreign sources could not be assured. The FDA advised **STREMPER** that he was required to ensure that all the products he was marketing were in compliance with United States laws.

Personal Touch Pharmacy

17. Personal Touch Pharmacy (“Personal Touch”) was the trade name used by a pharmacist who was licensed by the Grand Bahama Port Authority to operate a pharmacy in the Bahamas and to import and export prescription drugs. From in or around January 2005, to on or about June 9, 2006, **ANDREW J. STREMPER** and others operated a facility in Freeport, in the Bahamas, using the name and license of Personal Touch, to dispense prescription drugs purchased from RxNorth.

CONSPIRACY TO COMMIT MAIL FRAUD
(18 U.S.C. § 371)

From at least in or around January 2005, the exact date being unknown to the United States Attorney, and continuing until at least on or about June 9, 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ANDREW J. STREMPER,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate, agree with others known and unknown to the United States Attorney, to commit any offense against the United States, that is, to knowingly and with intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that they were false and fraudulent when made, and for the purpose of executing such scheme and artifice, to knowingly cause to be delivered certain mail matter by the United States Postal Service and by private and commercial interstate carrier, according to the directions thereon, in violation of Title 18, United States Code, Section 1341.

PURPOSE OF THE CONSPIRACY

18. It was the purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by selling prescription drugs to individuals in the United States, falsely representing that RxNorth was selling safe prescription drugs in compliance with the rules of regulatory authorities in Canada, the United Kingdom, or the United States, when in fact, the defendant and his co-conspirators obtained the prescription drugs from various other countries without properly ensuring the safety or authenticity of the drugs, and the prescription drugs were not sold to individuals in the United States in accordance with the rules of regulatory authorities in Canada, the United Kingdom, or the United States.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendant and his co-conspirators sought to accomplish the object and purpose of the conspiracy included, among others, the following:

19. **ANDREW J. STREMPER** and others operated RxNorth as an internet, mail, and telephone order pharmacy based in Manitoba, Canada.

20. **ANDREW J. STREMPER** and others caused the marketing, sale, and mailing of prescription drugs to residents of the United States.

21. **ANDREW J. STREMPER** and others operated a facility in Freeport, in the Bahamas, using the name and license of Personal Touch.

22. **ANDREW J. STREMPER** and others purchased prescription drugs from foreign countries, in part using a broker in Marietta, Georgia, who made no assurances: that the drugs were authentic or procured from legal channels; that the drugs were safe or manufactured according to cGMP regulations assuring the drugs' identity, strength, quality, and purity; or that the drugs were approved by regulatory agencies in Canada, the United Kingdom, or the United States.

23. **ANDREW J. STREMPER** and others caused prescription drugs obtained from foreign countries through brokers to be shipped to the facility in the Bahamas.

24. **ANDREW J. STREMPER** and others caused prescription orders made through RxNorth to be filled at the facility in the Bahamas, with labels on the vials and drug cartons stating they had been filled by RxNorth in Canada.

25. **ANDREW J. STREMPER** and others caused prescription drugs to be packaged in envelopes addressed to individual customers in the United States with the return address of RxNorth in Canada.

26. **ANDREW J. STREMPER** and others caused the individual customer packages to be shipped in bulk from the Bahamas to the United Kingdom and the Netherlands Antilles, from where the individual customer packages were mailed to customers in the United States, including

individuals in the Southern District of Florida. Some of the customer packages contained misbranded and counterfeit drugs.

27. **ANDREW J. STREMPER** and others marketed the prescription drugs using the RxNorth.com web site as well as other web sites affiliated with **STREMPER** and RxNorth.

28. **ANDREW J. STREMPER** and others caused marketing brochures to be mailed to individuals in the United States, including individuals in the Southern District of Florida.

29. **ANDREW J. STREMPER** and others made false and misleading statements on RxNorth's web site and in its brochures to induce individuals to purchase prescription drugs from RxNorth.

30. From in or around January 2005 to in or around October 2005 RxNorth's web site falsely stated that RxNorth was selling drugs from Canada which were manufactured under Canada's strict standards, when in fact RxNorth was purchasing a large amount of its drugs from other foreign countries without assurances that they met Canada's standards.

31. From in or around November 2005 to in or around June 2006, RxNorth's web site and brochures falsely stated:

- a. that RxNorth was selling prescription drugs within the rules and regulations of regulatory agencies, including Canadian and United Kingdom authorities, and the FDA, when in fact RxNorth was purchasing drugs from foreign countries through brokers without any assurances that the drugs were approved by authorities in Canada, England, or the United States, and when in fact some of the drugs RxNorth had caused to be mailed to customers in the United States violated FDA regulations because they were counterfeit, misbranded, and not FDA approved; and

- b. that RxNorth was using the “best equipped” laboratory to rigorously test its prescription drugs for safety and authenticity, when in fact the laboratory was ill-equipped to adequately and competently test the drugs sold by RxNorth.

OVERT ACTS

In furtherance of the conspiracy and to achieve the purpose and object thereof, the defendant and his co-conspirators committed and caused to be committed in the Southern District of Florida and elsewhere, at least one of the following overt acts, among others:

1. On or about June 6, 2006, **ANDREW J. STREMPER** and others caused to be delivered at Miami International Airport a shipment coming from the Bahamas and addressed to the United Kingdom, assigned FedEx Express tracking number 8398208001330425, which consisted of 6 boxes containing over 400 envelopes with prescription drugs, including misbranded and counterfeit drugs, addressed to individuals in the Southern District of Florida and elsewhere in the United States.
2. On or about June 7, 2006, **ANDREW J. STREMPER** and others caused to be delivered at Miami International Airport a shipment coming from the Bahamas and addressed to the Netherlands Antilles, assigned FedEx Express tracking number 8398208001550425, which consisted of 6 boxes containing over 400 envelopes with prescription drugs, including misbranded and counterfeit drugs, addressed to individuals in the Southern District of Florida and elsewhere in the United States.

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

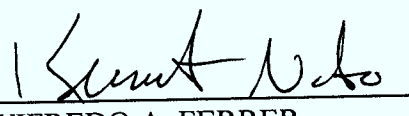
FORFEITURE
(18 U.S.C. § 981)

1. The allegations contained in this Superseding Information are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant has an interest.

2. Upon conviction of the offense alleged, defendant **ANDREW J. STREMPLE** shall forfeit to the United States any property, real or personal, which constitutes, or is derived from, proceeds traceable to such violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

3. The property which is subject to forfeiture includes, but is not limited to, the sum of \$300,000 in United States currency, which sum represents proceeds obtained, directly or indirectly, by the defendant as a result of the commission of the charged offense.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by Title 28, United States Code, Section 2461(c), and the procedures set forth in Title 21, United States Code, Section 853.



WIFREDO A. FERRER
UNITED STATES ATTORNEY



ANA MARIA MARTINEZ
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. 11-20385-CR-MARTINEZ(s)

vs.

CERTIFICATE OF TRIAL ATTORNEY*

ANDREW J. STREMLER,
Defendant.

Superseding Case Information:

Court Division: (Select One)

New Defendant(s) Yes _____ No X
Number of New Defendants _____
Total number of counts 1

X Miami _____ Key West
_____ FTL _____ WPB _____ FTP

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 0 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 <u>X</u>	Petty	_____
II	6 to 10 days _____	Minor	_____
III	11 to 20 days _____	Misdem.	_____
IV	21 to 60 days _____	Felony	<u>X</u>
V	61 days and over _____		

6. Has this case been previously filed in this District Court? (Yes or No) Yes
 If yes: Judge: Martinez Case No. 11-20385-CR
 (Attach copy of dispositive order)
 Has a complaint been filed in this matter? (Yes or No) No
 If yes: Magistrate Case No. _____
 Related Miscellaneous numbers: _____
 Defendant(s) in federal custody as of 6/13/2012
 Defendant(s) in state custody as of _____
 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 Northern Region of the U.S. Attorney's Office prior to October 14, 2003? _____ Yes X No
8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? X Yes _____ No



 ANA MARIA MARTINEZ
 ASSISTANT UNITED STATES ATTORNEY
 Florida Bar No. 0735167

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Andrew J. Strempler Case No: 11-20385-CR-Martinez(s)

Count #: 1

18 U.S.C. § 371

Conspiracy to Commit Mail Fraud

***Max Penalty:** 5 years' imprisonment

Count #:

***Max Penalty:**

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.**