

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

05-60021

Case No. COHN

MAGISTRATE JUDGE

SNOW

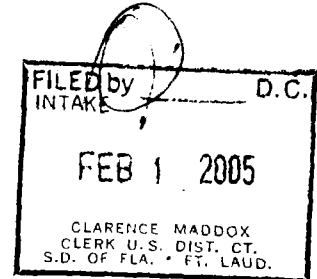
18 U.S.C. §371
21 U.S.C. §§331(a), 333(a)(2)
21 U.S.C. §§331(c), 333(a)(2)
18 U.S.C. §1341
18 U.S.C. §1343
18 U.S.C. §1346
18 U.S.C. §1623(a)

UNITED STATES OF AMERICA,

vs.

CHAD LIVDAHL,
ZARAH KARIM, a/k/a
"Anna Tessem," a/k/a "Sasha,"
BACH McCOMB,
TOXIN RESEARCH INTERNATIONAL, INC.,
POWDERZ, INC.,
Z-SPA, INC., and
THE COSMETIC PHARMACY, INC.,

Defendants.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At times material to this Indictment:

Regulatory Framework

1. The United States Food and Drug Administration (FDA) is the federal agency charged with the responsibility of protecting the health and safety of the American public by enforcing the Food, Drug and Cosmetic Act, Title 21, United States Code, Sections 301, et seq. ("FDCA"). One

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purpose of the FDCA is to ensure that drugs sold for consumption or administration to humans are safe, effective, and bear labeling containing only true and accurate information. The FDA's responsibilities under the FDCA include regulating the manufacture, labeling and distribution of all drugs and drug components shipped or received in interstate commerce.

2. Under the FDCA, "drug" means ". . . articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; . . . and . . . articles (other than food) intended to affect the structure or any function of the body of man or other animals" Title 21, United States Code, Section 321(g)(1). As it pertains to the definition of a "drug,"

The words intended uses . . . refer to the objective intent of the persons legally responsible for the labeling of drugs. The intent is determined by such persons' expressions or may be shown by the circumstances surrounding the distribution of the article. . . . It may be shown by the circumstances that the article is, with the knowledge of such persons or their representatives, offered and used for a purpose for which it is neither labeled nor advertised. The intended uses of an article may change after it has been introduced into interstate commerce by its manufacturer. . . . But if a manufacturer knows, or has knowledge of facts that would give him notice, that a drug introduced into interstate commerce by him is to be used for conditions, purposes, or uses other than the ones for which he offers it, he is required to provide adequate labeling for such a drug which accords with such other uses to which the article is to be put.

21 CFR 201.128.

3. A "biological product" is defined, in relevant part, by the Public Health Service Act, Title 42, United States Code, Section 262(i), as a ". . . toxin. . . . applicable to the prevention, treatment, or cure of a disease or condition of human beings." When a "biological product" under Title 42, United States Code, Section 262, also meets the definition of a "drug," as stated in paragraph 2 of this Indictment, the "biological product" is a type of "drug" under Title 21, United States Code,

Section 321(g).

4. The term “new drug” is defined by Title 21, United States Code, Section 321(p), as any drug not generally recognized as safe and effective among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs for use under the conditions prescribed, recommended or suggested in its labeling.

5. Pursuant to the FDCA, unless there is in effect with the FDA a new drug application ("NDA"), an abbreviated new drug application ("ANDA"), or a notice of claimed exemption for an investigational new drug ("IND"), a drug, including a biological product, is an unapproved new drug and cannot lawfully be entered into interstate commerce. 21 U.S.C. §§ 355(a); 331(d).

6. The FDCA defines the term “labeling” as all labels and other printed or graphic matter upon any article or any of its containers or wrappers, or accompanying such article. 21 U.S.C. § 321(m).

7. Title 21, United States Code, Section 352(f) provides that a drug shall be deemed to be “misbranded” “[u]nless its labeling bears (1) adequate directions for use . . . ,” among other defects.

8. Title 21, United States Code, Section 331(a) prohibits the introduction into interstate commerce of any drug that is misbranded.

9. Title 21, United States Code, Section 331(c) prohibits the receipt in interstate commerce of any drug that is misbranded and the delivery or proffered delivery thereof for pay or otherwise.

Botulinum Toxin Type A

10. The bacterium *Clostridium Botulinum* produces Botulinum Toxin Type A, a highly potent toxin.

11. When present in sufficient amounts in human beings, Botulinum Toxin Type A causes

botulism, a muscle-paralyzing condition in which Botulinum Toxin Type A binds to nerve endings at the point where nerves join muscles, preventing the nerves from signaling the muscles to contract. Severe botulism generally results in death, unless the patient receives proper care to ensure continued breathing. Recovery occurs only when the affected nerves grow new endings, a process that can extend over several months, although recovery time varies greatly from case to case.

Allergan Botox® and Botox® Cosmetic

12. Botulinum Toxin Type A constitutes a “biological product” under Title 42, United States Code, Section 262, and, thus, a “drug” under Title 21, United States Code, Section 321(g) when the labeler of the product intends it for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human beings, or to affect the structure or the function of the body of human beings.

13. On or about December 9, 1991, the Food and Drug Administration (“FDA”) approved Botox®, a drug derived from Botulinum Toxin Type A and manufactured by Allergan, Inc., of Irvine, California, for the treatment of certain medical conditions in human beings.

14. On or about April 12, 2002, the FDA approved a supplement to Allergan’s Botox® license application for the treatment of glabellar lines, commonly referred to as forehead wrinkles. Under this FDA approval, Allergan’s Botulinum Toxin Type A product was marketed and labeled for the supplemental usage as Botox® Cosmetic.

15. Allergan’s Botox® and Botox® Cosmetic constitute the only “drugs” containing Botulinum Toxin Type A approved by the FDA for use in human beings.

List Biological Laboratories, Inc.

16. List Biological Laboratories, Inc. (“List”), a California corporation, was located in Campbell, California. List’s website, located at www.listlabs.com, stated that List sold bacterial

toxins for research purposes.

17. Among the toxins List sold, List offered Botulinum Toxin Type A in vials containing 10,000 nanograms of the toxin.

Powderz, Inc.

18. On or about June 12, 2001, defendant **POWDERZ, INC.**, was incorporated in Arizona. Defendant **POWDERZ, INC.**, maintained its principal place of business at 3280 E. Hemisphere Loop, Tucson, Arizona.

19. Defendant **CHAD LIVDAHL** was the president of **POWDERZ, INC.**, and defendant **ZAHRA KARIM** was the registered agent for the corporation.

20. Defendant **POWDERZ, INC.**, purported to be a repackager, wholesaler, and distributor of bulk pharmaceutical-grade nutritional products and drugs, and a provider of instruction and support to licensed healthcare practitioners and pharmacies.

21. Defendant **POWDERZ, INC.**, maintained a website at www.powderz.com, which could be accessed by any person operating any computer in the world that was connected to the Internet.

22. From time to time defendants **CHAD LIVDAHL** and **ZAHRA KARIM**, through defendant **POWDERZ, INC.**, offered “workshops” where they offered instruction on various cosmetic products and procedures.

Toxin Research International, Inc.

23. On or about May 12, 2003, defendant **TOXIN RESEARCH INTERNATIONAL, INC.** (“**TRI**”), was incorporated in Arizona. Defendant **TRI** maintained its principal place of business at 3280 E. Hemisphere Loop, Tucson, Arizona.

24. Defendant **TRI**’s articles of incorporation identified defendants **CHAD LIVDAHL** and

ZAHRA KARIM as the corporation's initial board of directors, and described defendant **TRI**'s business as "[t]oxin distribution & research."

25. Defendant **TRI** sold only special-order Botulinum Toxin Type A that defendants **CHAD LIVDAHL**, **ZAHRA KARIM**, and **POWDERZ, INC.**, obtained from List in or about May 2003.

26. Defendant **TRI** maintained a website at www.toxinresearch.com, which could be accessed by any person operating any computer in the world that was connected to the Internet.

27. Defendant **TRI** offered its Botulinum Toxin Type A for sale over its Internet website.

The Cosmetic Pharmacy, Inc.

28. On or about June 8, 2004, defendant **THE COSMETIC PHARMACY, INC.**, was incorporated in Arizona, with its principal place of business at 3280 E. Hemisphere Loop, Tucson, Arizona.

29. Defendant **CHAD LIVDAHL** served as the agent of record for defendant **THE COSMETIC PHARMACY, INC.**

30. Defendant **THE COSMETIC PHARMACY, INC.**, maintained a website at www.thecosmeticpharmacy.com, which could be accessed by any person operating any computer in the world that was connected to the Internet.

31. Defendants **CHAD LIVDAHL** and **ZAHRA KARIM**, through defendant **THE COSMETIC PHARMACY, INC.**, offered "workshops" where they offered instruction on various cosmetic products and procedures.

Z-Spa, Inc.

32. On or about February 13, 2004, defendant **Z-SPA, INC.**, was incorporated in Arizona, with its principal place of business listed as 3208 E. Hemisphere Loop, Suite 116-E, Tucson,

Arizona.

33. Defendant **CHAD LIVDAHL** served as the statutory agent for defendant **Z-SPA, INC.**

34. Defendant **Z-SPA, INC.**, maintained a website at www.z-spa.net, which could be accessed by any person operating any computer in the world that was connected to the Internet.

35. Defendant **Z-SPA, INC.**'s website stated that it offered "the most advanced Anti-aging, Laser and Cosmetic skin care treatments . . . ," including "Botox®."

Advanced Integrated Medical Center

36. On or about September 8, 2003, Advanced Integrated Medical Centers, Inc. ("AIMC"), was incorporated in Florida, with its principal offices located at 1655 East Oakland Park Boulevard, Fort Lauderdale, Florida.

37. Advanced Integrated Medical Center held itself out as a medical facility.

38. Defendant **BACH McCOMB** worked as an osteopathic doctor at AIMC.

39. In or about April 2003, the State of Florida suspended defendant **BACH McCOMB**'s license to practice medicine in Florida.

40. On or about November 26, 2004, four individuals, including defendant **BACH McCOMB**, were admitted to hospitals exhibiting symptoms of severe botulism, which the four individuals developed after purportedly receiving "Botox" injections at AIMC.

41. Beginning on or about November 30, 2004, the national media publicized the predicament of the four individuals who contracted severe botulism after visiting AIMC, speculating that they may have been injected with something other than Allergan's Botox®.

COUNT 1
(Conspiracy: 18 U.S.C. 371)

42. Paragraphs 1 through 41 of the General Allegations section are realleged and incorporated as though fully set forth herein.

43. From on or about January 26, 2003, and continuing through on or about January 11, 2005, at Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendants,

**CHAD LIVDAHL,
ZARAH KARIM, a/k/a
“Anna Tessem,” a/k/a “Sasha,”
BACH McCOMB,
TOXIN RESEARCH INTERNATIONAL, INC.,
POWDERZ, INC.,
Z-SPA, INC., and
THE COSMETIC PHARMACY, INC.,**

did knowingly and willfully combine, conspire, confederate, and agree with each other and with others known and unknown to the Grand Jury, to defraud the United States and to commit certain other offenses against the United States, namely:

a. to knowingly and willfully devise a scheme and artifice to defraud and deprive others of the intangible right of honest services, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice to transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Sections 1343 and 1346;

b. to knowingly and willfully devise a scheme and artifice to defraud and deprive others of the intangible right of honest services, and to obtain money and property by means of

materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, and attempting to do so, to cause to be delivered by the United States Postal Service and by commercial interstate carrier, according to the directions thereon, certain matters and things, in violation of Title 18, United States Code, Sections 1341 and 1346;

c. to knowingly and with intent to defraud and mislead, introduce and deliver for introduction into interstate commerce and cause to be introduced and delivered for introduction into interstate commerce, a drug within the meaning of Title 21, United States Code, Section 321(g)(1), that was misbranded, in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2); and

d. to knowingly and with the intent to defraud and mislead, receive in interstate commerce, a drug within the meaning of Title 21, United States Code, Section 321(g)(1), and deliver such drug for pay and otherwise, in violation of Title 21, United States Code, Sections 331(c) and 333(a)(2).

OBJECT OF THE CONSPIRACY

44. It was the purpose and object of the conspiracy for the defendants to enrich themselves unjustly by marketing and selling to health care providers for use in human patients Botulinum Toxin Type A that was not approved by the FDA for use in human beings and was not labeled for use in human beings, as a cheap alternative to Allergan's Botox® Cosmetic, without the administering health care providers advising their patients that the TRI Botulinum Toxin Type A was not Allergan's Botox® Cosmetic and was not approved by the FDA for use in human beings.

MANNER AND MEANS

The manner and means by which the defendants sought to accomplish the object of the conspiracy included the following:

45. Defendants **CHAD LIVDAHL** and **POWDERZ, INC.**, contracted with List to create and obtain a product containing Botulinum Toxin Type A in a formulation that defendants designed and specially ordered in an attempt to mimic Allergan's Botox® Cosmetic ("Mimic Botox").

46. Defendants **CHAD LIVDAHL, ZAHRA KARIM, TRI, and POWDERZ, INC.**, obtained approximately 3,081 vials of Mimic Botox from List.

47. Defendants **CHAD LIVDAHL, ZAHRA KARIM, POWDERZ, INC., and TRI**, caused the vials of Mimic Botox to be labeled, "For Research Purposes Only[:] Not for Human Use" in an attempt to avoid FDA detection and regulation.

48. Despite the labeling of the Mimic Botox vials as "For Research Purposes Only[:] Not for Human Use," defendants **CHAD LIVDAHL, ZAHRA KARIM, POWDERZ, INC., and THE COSMETIC PHARMACY, INC.**, held workshops at which they and others, including defendant **BACH McCOMB**, promoted defendant **TRI**'s Botulinum Toxin Type A for use on human beings.

49. Defendants **CHAD LIVDAHL, ZAHRA KARIM, POWDERZ, INC., and TRI** caused instructional materials provided with the vials of Mimic Botox to include reconstitution, storage, and vial usage information and instructions that were potentially dangerous when the product was used on human beings, and to lack entirely information concerning potential adverse effects on human beings, contraindications for use, antitoxin availability, clinical studies, safe injection techniques, and other such important usage information.

50. Defendants **CHAD LIVDAHL, ZAHRA KARIM, POWDERZ, INC., THE COSMETIC PHARMACY, INC., and TRI** caused advertising material for **TRI**'s Mimic Botox and **POWDERZ, INC.**'s and **THE COSMETIC PHARMACY, INC.**'s seminars, where defendant **TRI**'s Mimic Botox was to be promoted for use on human beings, to be sent by facsimile and mail

to practicing physicians such as plastic surgeons, dermatologists, ophthalmologists, otolaryngologists, and others throughout the United States.

51. Defendants **CHAD LIVDAHL, ZAHRA KARIM, TRI, POWDERZ, INC.,** and **THE COSMETIC PHARMACY, INC.,** sent **TRI's** Mimic Botox by commercial carrier to more than 200 practicing physicians throughout the United States and collected in excess of approximately \$1,500,000.00 in profits in so doing.

52. Defendants **CHAD LIVDAHL, ZAHRA KARIM,** and **BACH McCOMB** caused health care providers to use defendant **TRI's** Mimic Botox on their human patients, without the health care providers advising the human patients that the Mimic Botox was not Allergan's Botox® or Botox® Cosmetic and without the health care providers advising the human patients that the Mimic Botox was not approved by the FDA for use on humans.

53. Defendants **CHAD LIVDAHL, ZAHRA KARIM,** and **TRI** refused to provide refunds and accept returns of **TRI's** Mimic Botox from health care providers who, upon receipt of **TRI's** Mimic Botox, realized that the product had not been FDA-approved, declined to use **TRI's** Mimic Botox on their patients, and indicated to **TRI** that they had no use for the Mimic Botox, instead encouraging such health care providers to find a use for **TRI's** Mimic Botox.

54. Defendants **CHAD LIVDAHL, ZAHRA KARIM,** and **Z-SPA, INC.,** advertised on their Internet website "Botox®" treatments, although Allergan never sold Botox® or Botox® Cosmetic to defendants.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in Broward, Palm Beach, and Miami-Dade Counties, in the Southern

District of Florida, and elsewhere, by at least one co-conspirator:

55. On or about January 26, 2003, defendants **CHAD LIVDAHL** and **POWDERZ, INC.**, submitted a general order form to List for List to provide defendants with Botulinum Toxin Type A.

56. On or about March 4, 2003, defendant **CHAD LIVDAHL**, through **POWDERZ, INC.**, special-ordered from List approximately 3,000 vials of Botulinum Toxin Type A, which were each to contain five nanograms of Botulinum Toxin Type A, along with lactose, albumin, and sodium chloride.

57. On or about March 18, 2003, defendant **BACH McCOMB** sent an e-mail from Florida to defendant **CHAD LIVDAHL** in Arizona, advising **CHAD LIVDAHL** that **BACH McCOMB** would be delighted to participate in providing hands-on training in "BoTox and Restylane" at the July 2003 **POWDERZ, INC.**, workshop.

58. On or about March 19, 2003, defendants **CHAD LIVDAHL** and **POWDERZ, INC.**, caused **CHAD LIVDAHL** to send an e-mail from Arizona to defendant **BACH McCOMB**, offering **BACH McCOMB** \$100 per person to co-host the **POWDERZ, INC.**, workshop on July 20, 2003.

59. On or about May 9, 2003, defendants **CHAD LIVDAHL** and **POWDERZ, INC.**, sent an e-mail to List agreeing to purchase an additional eighty-five vials of the special-order Botulinum Toxin Type A for \$9.67 each.

60. On or about May 14, 2003, defendants **CHAD LIVDAHL**, **ZAHRA KARIM**, **POWDERZ, INC.**, and **TRI** caused List to send defendants **CHAD LIVDAHL** and **POWDERZ, INC.**, by commercial carrier approximately 3,081 vials of the special-order Botulinum Toxin Type A for approximately \$29,822.28.

61. On or about July 15, 2003, defendant **CHAD LIVDAHL**, sent an e-mail from Arizona to defendant **BACH McCOMB**, requesting the name, address, and telephone number of the nurse attending the July 20, 2003, **POWDERZ, INC.**, workshop with **McCOMB**, for purposes of preparing name badges.

62. From on or about July 19, 2003, through on or about July 20, 2003, defendants **CHAD LIVDAHL, ZAHRA KARIM, BACH McCOMB, POWDERZ, INC.**, and **TRI** caused health care providers from around the United States to attend a workshop in Scottsdale, Arizona, where defendants promoted Mimic Botox.

63. On or about October 23, 2003, defendants **ZAHRA KARIM, CHAD LIVDAHL, POWDERZ, INC.**, and **TRI** caused an e-mail to be sent from **ZAHRA KARIM** to R.V. in which **ZAHRA KARIM** advised R.V. that “[t]here is a company called TRI that carries a stabilized Botulinum toxin type A: www.toxinresearch.com[.] This is a very effective product!”

64. On or about January 6, 2004, defendants **ZAHRA KARIM** and **CHAD LIVDAHL** caused **ZAHRA KARIM** to send an e-mail to “Judy” offering “Judy” one-on-one instruction in various techniques, including “botulinum,” and to sign the e-mail using the false name “Anna Tessem.”

65. On or about August 11, 2004, defendants **CHAD LIVDAHL** and **ZAHRA KARIM** caused **CHAD LIVDAHL** to send an e-mail to K.L. in which **CHAD LIVDAHL** advised K.L. that K.L.’s friend could contact “Zahra directly . . . [**ZAHRA KARIM**] can do Botox and/or any dermal filler.”

66. On or about September 18, 2004, defendants **CHAD LIVDAHL, ZAHRA KARIM, TRI**, and **THE COSMETIC PHARMACY, INC.**, caused a workshop to be held in Scottsdale,

Arizona, where Botulinum Toxin Type A was discussed.

67. On or about October 6, 2004, defendants **CHAD LIVDAHL** and **ZAHRA KARIM** falsely advised an FDA consumer safety officer inspecting **TRI** and **POWDERZ, INC.**, that **TRI** sold its Mimic Botox to research institutions and licensed physicians conducting research only.

68. On or about October 6, 2004, defendant **CHAD LIVDAHL** declined to comply with the request of the FDA consumer safety officer inspecting **TRI** and **POWDERZ, INC.**, to provide records of **TRI**'s sales of its Mimic Botox, claiming that such information was "confidential."

69. On or about October 20, 2004, defendant **ZAHRA KARIM** advised the FDA consumer safety officer inspecting **TRI** and **POWDERZ, INC.**, that everything that she and defendant **CHAD LIVDAHL** had told the FDA consumer safety officer was true, including, among other statements, that defendants sold **TRI**'s Mimic Botox to research institutions and licensed physicians conducting research only.

70. From on or about November 30, 2004, through on or about December 2, 2004, following the onset of national media stories regarding the four individuals who contracted severe botulism after receiving injections at AIMC, defendant **CHAD LIVDAHL** caused approximately \$82,000.00 to be withdrawn by check from **TRI**'s Bank of America bank account in nine checks made payable to three different companies, all in denominations under \$10,000.00, and all ultimately deposited into a single bank account in the name of another individual.

71. On or about December 1, 2004, defendants **CHAD LIVDAHL**, **ZAHRA KARIM**, and **TRI** caused computer records reflecting the sales of **TRI**'s Mimic Botox to be deleted from **TRI**'s computer.

72. On or about December 3, 2004, defendant **CHAD LIVDAHL** instructed his employee

to place a fake entry into **TRI**'s Quickbooks records showing that 800 vials of **TRI**'s Mimic Botox had become unusable.

73. On or about December 3, 2004, defendants **CHAD LIVDAHL** and **ZAHRA KARIM** caused paper records reflecting sales of **TRI**'s Mimic Botox to be removed from the offices of **TRI**, **POWDERZ, INC.**, **THE COSMETIC PHARMACY**, and **Z-SPA, INC.**

74. On or about December 4, 2004, while the FDA was executing a search warrant on **TRI**, defendant **CHAD LIVDAHL** caused \$312,000.00 to be removed from **TRI**'s Bank of America bank account for the purchase of two cashier's checks: one for \$12,000.00, and one for \$300,000.00.

75. On or about December 22, 2004, defendants **CHAD LIVDAHL**, **ZAHRA KARIM**, and **TRI** caused a notice to be faxed to health care providers, stating that **TRI** was and always had "cooperated to its fullest extent with the FDA and its investigation[.]" and offering recipients a free vial of **TRI**'s Mimic Botox if the recipients advised **TRI** in writing that events in Florida had affected their research "in a negative manner."

76. On or about December 23, 2004, defendant **CHAD LIVDAHL** sent an e-mail to an employee instructing the employee to "[r]emove the 25 quantity order and 50 quantity order" from **TRI**'s website and instead to replace this language with a statement that "[v]olume [d]iscounts apply[;] contact us for details."

77. On or about January 11, 2005, defendant **ZAHRA KARIM** offered an employee \$500 to provide a statement to an attorney for defendants **ZAHRA KARIM**, **CHAD LIVDAHL**, **POWDERZ, INC.**, **TRI**, **THE COSMETIC PHARMACY, INC.**, and **Z-SPA, INC.**, after defendant **CHAD LIVDAHL** had on or about January 3, 2005, suggested to the same employee in an e-mail what her answers should be to the attorney's questions regarding **TRI**.

78. The allegations contained in Counts 2-47 of this Indictment are incorporated by reference as overt acts.

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

COUNTS 2-10
(Wire Fraud: 18 U.S.C. 1343, 1346, and 2)

79. Paragraphs 1 through 41 of the General Allegations and paragraphs 45 through 77 of Count 1 are incorporated by reference as though realleged in their entirety herein.

SCHEME AND ARTIFICE

80. It was the object of the scheme and artifice for the defendants to enrich themselves unjustly by marketing and selling to health care providers for use in human patients Botulinum Toxin Type A that was not approved by the FDA for use in human beings and was not labeled for use in human beings, as a cheap alternative to Allergan's Botox® Cosmetic, without the administering health care providers advising their human patients that the Mimic Botox was not Allergan's Botox® Cosmetic and was not approved by the FDA for use in human beings.

USE OF THE WIRES

81. On or about the dates listed below, at Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendants, listed below as to each count, did knowingly and willfully devise a scheme and artifice to defraud and deprive others of the intangible right of honest services, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing and attempting to execute such scheme and artifice, did knowingly transmit and cause to be transmitted in interstate commerce by means of wire communications, certain writings, signs, signals and sounds, as more

specifically described below:

COUNT	DATE	DEFENDANT	DESCRIPTION OF WIRE COMMUNICATION
2	9/29/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	E-mail from McCOMB in Florida to LIVDAHL and KARIM in Arizona, requesting that LIVDAHL and KARIM send McCOMB two vials of TRI 's Mimic Botox to help offset McCOMB 's expenses in attending the July 2003 POWDERZ, INC. , workshop.
3	10/1/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	E-mail from LIVDAHL in Arizona to McCOMB in Florida, stating that LIVDAHL should be able to send TRI 's Mimic Botox to McCOMB by Thursday.
4	10/2/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	E-mail from LIVDAHL in Arizona to McCOMB in Florida, stating that "we" decided to send the TRI Mimic Botox to McCOMB on Monday instead of Thursday.
5	10/3/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	E-mail from McCOMB in Florida to LIVDAHL in Arizona, stating that McCOMB would be at the same address on Tuesday for purposes of receiving the shipment of TRI 's Mimic Botox.
6	10/6/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	E-mail from LIVDAHL in Arizona to McCOMB in Florida, requesting that McCOMB resend his delivery address.
7	10/03- 12/23/04	LIVDAHL KARIM POWDERZ, INC.	Communication over POWDERZ, INC. 's website offering information on workshops where TRI 's Mimic Botox was discussed.
8	10/03- 12/23/04	LIVDAHL KARIM TRI	Communication over TRI 's website offering information and order forms for TRI 's Mimic Botox.

9	10/04- 12/23/04	LIVDAHL KARIM THE COSMETIC PHARMACY, INC.	Communication over THE COSMETIC PHARMACY, INC. 's website offering information on workshops where TRI 's Mimic Botox was discussed.
10	11/04- 12/23/04	LIVDAHL KARIM Z-SPA, INC.	Communication over Z-SPA, INC. 's website offering Botox® treatments when defendants had no access to Botox® and instead had access to TRI 's Mimic Botox only.

All in violation of Title 18, United States Code, Sections 1343, 1346, and 2.

COUNTS 11-44
(Mail Fraud: 18 U.S.C. 1341, 1346, and 2)

82. Paragraphs 1-41 of the General Allegations and paragraphs 45 through 77 of Count 1 are incorporated by reference as though realleged in their entirety herein.

SCHEME AND ARTIFICE

83. It was the object of the scheme and artifice for the defendants to enrich themselves unjustly by marketing and selling to health care providers for use in human patients Botulinum Toxin Type A that was not approved by the FDA for use in human beings and was not labeled for use in human beings, as a cheap alternative to Allergan's Botox® Cosmetic, without the administering health care providers advising their human patients that the Mimic Botox was not Allergan's Botox® Cosmetic and was not approved by the FDA for use in human beings.

USE OF THE MAIL

84. On or about the dates listed below, at Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendants, listed below as to each count, did knowingly and willfully devise a scheme and artifice to defraud and deprive others of the intangible right of honest services, and for obtaining money and property by means of materially false and

fraudulent pretenses, representations, and promises, and, for the purpose of executing and attempting to execute such scheme and artifice, did knowingly cause to be delivered by private and commercial interstate carrier, according to the directions thereon, certain mail matters and things, as more specifically described below:

COUNT	DATE	DEFENDANT	DESCRIPTION OF MAIL MATTER
11	8/4/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.D., in North Miami, Florida
12	8/18/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to C.A., in Miami, Florida
13	10/11/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to BACH McCOMB, D.O., Ph.D. , in Fort Lauderdale, Florida
14	11/13/03	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.D., in North Miami, Florida
15	12/9/03	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to J.G., in North Miami Beach, Florida
16	12/17/03	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to W.M., in Miami Beach, Florida

17	1/8/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.D., in North Miami, Florida
18	1/26/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to M.F., in Palm Beach Gardens, Florida
19	2/5/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to W.M., in Miami Beach, Florida
20	2/10/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to A.Ci., in Boca Raton, Florida
21	2/19/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to M.F., in Palm Beach Gardens, Florida
22	2/23/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.D., in North Miami, Florida
23	3/9/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to A.S., in Pompano Beach, Florida
24	3/11/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to AIMC, in Fort Lauderdale, Florida

25	3/24/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.B., in Wellington, Florida
26	3/31/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.D., in North Miami, Florida
27	4/13/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to A.Ci., in Boca Raton, Florida
28	4/19/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to AIMC, in Fort Lauderdale, Florida
29	4/27/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.B., in Wellington, Florida
30	5/10/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.B., in Wellington, Florida
31	5/17/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to A.Ci., in Boca Raton, Florida
32	6/17/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to R.K., in Fort Lauderdale, Florida

33	6/21/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to A.F.B., in Miami Beach, Florida
34	6/21/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to W.M., in Miami Beach, Florida
35	7/22/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to B.Y., in Coral Springs, Florida
36	7/27/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to H.B. in Wellington, Florida
37	8/27/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to AIMC, in Fort Lauderdale, Florida
38	9/20/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to W.M., in Miami Beach, Florida
39	10/4/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to A.Ci., in Boca Raton, Florida
40	10/5/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to B.Y., in Coral Springs, Florida

41	10/5/04	LIVDAHL KARIM McCOMB POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to AIMC, in Fort Lauderdale, Florida
42	10/26/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to B.Y., in Coral Springs, Florida
43	10/27/04	LIVDAHL KARIM POWDERZ, INC. TRI	Two vials of TRI 's Mimic Botox from TRI in Tucson, Arizona, to D.W., in Hollywood, Florida
44	11/10/04	LIVDAHL KARIM POWDERZ, INC. TRI	One vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, to B.Y., in Coral Springs, Florida

All in violation of Title 18, United States Code, Sections 1341, 1346, and 2.

COUNTS 45-46

(Misbranding: 21 U.S.C. 331(c); 333(a)(2) and 18 U.S.C. §2)

85. The allegations contained in paragraphs 1-41 of the General Allegations and 45 through 77 of Count 1 are incorporated by reference as though set forth fully herein.

86. On or about the dates indicated below, in Broward County, in the Southern District of Florida, and elsewhere, the defendants,

**CHAD LIVDAHL,
ZAHRA KARIM, a/k/a "Anna Tessum," a/k/a "Sasha,"
BACH McCOMB,
POWDERZ, INC.,
and TOXIN RESEARCH INTERNATIONAL, INC.,**

knowingly and with intent to defraud and mislead, did cause to be received in interstate commerce Botulinum Toxin Type A, a drug within the meaning of Title 21, United States Code, Section

321(g)(1), while such drug was misbranded as defined in Title 21, United States Code, Section 352(f)(1), and thereafter did cause the delivery of such misbranded drug for pay and otherwise, as set forth in the individual counts below:

COUNT	DATE	RECEIPT AND DELIVERY
45	8/27/04	Receipt by AIMC in Fort Lauderdale, Florida, of one vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, and subsequent delivery to AIMC patients of Mimic Botox through injections.
46	10/5/04	Receipt by AIMC in Fort Lauderdale, Florida, of one vial of TRI 's Mimic Botox from TRI in Tucson, Arizona, and subsequent delivery to AIMC patients of Mimic Botox through injections.

All in violation of Title 21, United States Code, Sections 331(c) and 333(a)(2), and Title 18, United States Code, Section 2.

COUNT 47
(Perjury: 18 U.S.C. 1623(a))

87. The allegations contained in paragraphs 1 through 41 and 45 through 77 are incorporated by reference as though realleged herein in their entirety.

88. On or about January 10, 2005, in Broward County, in the Southern District of Florida, and elsewhere, the defendant,

CHAD LIVDAHL,

did knowingly and willfully under oath, in a proceeding before a court of the United States, that is, a preliminary injunction hearing in the case United States v. Chad Livdahl, et al., Case No. 04-61717-CIV-COHN (S.D. Fla.), held before the Honorable James I. Cohn, a United States District Judge for the United States District Court for the Southern District of Florida, make false material declarations, any one of which would be a violation, to wit: (1) defendant **CHAD LIVDAHL**

testified that he never knowingly sold **TRI's** Mimic Botox knowing that it was going to be used on human, when, in truth and in fact, as the defendant then and there well knew, he had sold multiple vials of **TRI's** Mimic Botox knowing that it was going to be used on humans; (2) defendant **CHAD LIVDAHL** testified that he never sold **TRI's** Mimic Botox to anybody whom **CHAD LIVDAHL** suspected was going to use **TRI's** Mimic Botox on humans, when, in truth and in fact, as the defendant then and there well knew, he had sold multiple vials of **TRI's** Mimic Botox suspecting that the product would be used on humans; (3) defendant **CHAD LIVDAHL** testified that he never sold **TRI's** Mimic Botox for human use at seminars, when, in truth and in fact, as the defendant then and there well knew, he had sold **TRI's** Mimic Botox for human use at seminars; (4) defendant **CHAD LIVDAHL** testified that he did not know of anyone offering **TRI's** Mimic Botox for sale at seminars arranged by **POWDERZ, INC.**, when, in truth and in fact, as the defendant then and there well knew, he had caused **TRI's** Mimic Botox to be offered for sale at seminars arranged by **POWDERZ, INC.**; (5) defendant **CHAD LIVDAHL** testified that he did not offer a discount on **TRI's** Mimic Botox to people who attended the July 2003 **POWDERZ, INC.**, workshop, when, in truth and in fact, as the defendant then and there well knew, he had offered a discount on **TRI's** Mimic Botox to people who attended the July 2003 **POWDERZ, INC.**, workshop.

All in violation of Title 18, United States Code, Section 1623(a).

COUNT 48
(Mail Fraud: 18 U.S.C. 1341, 1346, and 2)

89. Paragraphs 1 through 41 of the General Allegations are incorporated by reference as though realleged in their entirety herein.

SCHEME AND ARTIFICE

90. It was the object of the scheme and artifice for defendant **BACH McCOMB** to enrich himself unjustly and to defraud his patients by advising patients that he was providing them with Botox® treatments, when, in truth and in fact, defendant **BACH McCOMB** was not providing the patients with Botox® injections but instead was injecting them with List's Botulinum Toxin Type A, which had not been approved by the FDA for use in humans.

USE OF THE MAIL

91. On or about November 23, 2005, at Broward County, in the Southern District of Florida, and elsewhere, the defendant,

BACH McCOMB,

did knowingly and willfully devise a scheme and artifice to defraud and to deprive others of the intangible right of honest services, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing and attempting to execute such scheme, did knowingly cause to be delivered by private and commercial interstate carrier, according to the directions thereon, certain mail matters and things, to wit, one vial of List's Botulinum Toxin Type A, sent from List in California to Fort Lauderdale, Florida, in violation of Title 18, United States Code, Sections 1341, 1346, and 2.

FORFEITURE

92. The allegations contained in Counts 1 through 44 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

93. The defendants,

**CHAD LIVDAHL,
ZARAH KARIM, a/k/a
“Anna Tessem,” a/k/a “Sasha,”
TOXIN RESEARCH INTERNATIONAL, INC.,
POWDERZ, INC.,
Z-SPA, INC., and
THE COSMETIC PHARMACY, INC.,**

upon conviction of violating Title 18, United States Code, Sections 1341 and 1343, and conspiracy to violate Title 18, United States Code, Sections 1341 and 1343, as alleged in Counts 1-44 above, shall forfeit to the United States any property constituting, and derived from, proceeds defendants,

**CHAD LIVDAHL,
ZARAH KARIM, a/k/a
“Anna Tessem,” a/k/a “Sasha,”
TOXIN RESEARCH INTERNATIONAL, INC.,
POWDERZ, INC.,
Z-SPA, INC., and
THE COSMETIC PHARMACY, INC.,**

obtained directly and indirectly, as the result of such violation, to wit, the sum of \$1,500,000.00, all in accordance with Title 18, United States Code, Section 982.

94. If any of the forfeitable property described in paragraph 93 of this Indictment, as a result of any act or omission of the defendants:

1. cannot be located upon the exercise of due diligence;
2. has been transferred, or sold to, or deposited with a third party;
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 18, United States Code, 982, and Title 21, United States Code, Section 853, to seek the forfeiture of any other property of defendant up to the value of the above-described forfeitable property.


In accordance with Title 18, United States Code, Section 982, and Title 21, United States Code, Section 853.

A TRUE BILL


FOREPERSON


MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY


GEORGE KARAVETSOS
ASSISTANT UNITED STATES ATTORNEY

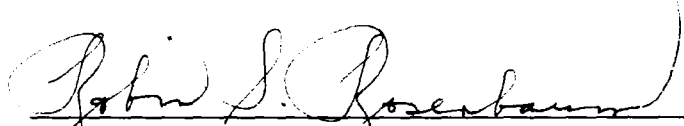

ROBIN S. ROSENBAUM
ASSISTANT UNITED STATES ATTORNEY

RECOMMENDED BOND SHEET

BACH McCOMB

Defendant

\$100,000 Corporate Surety Bond is recommended.



ROBIN S. ROSENBAUM
ASSISTANT UNITED STATES ATTORNEY
500 EAST BROWARD BOULEVARD, 7TH FL
FORT LAUDERDALE, FLORIDA 33394
FLORIDA BAR NO. 908223
TELEPHONE: (954) 356-7255

Address of Defendant:

Agent:

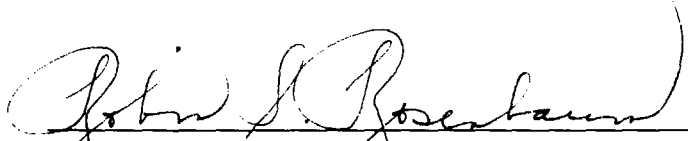
HSS S/A Susan Leeds (954) 476-5446

RECOMMENDED BOND SHEET

CHAD LIVDAHL

Defendant

Pre-trial Detention is recommended.

A handwritten signature in black ink, appearing to read "Robin S. Rosenbaum", is written over a horizontal line.

ROBIN S. ROSENBAUM
ASSISTANT UNITED STATES ATTORNEY
500 EAST BROWARD BOULEVARD, 7TH FL
FORT LAUDERDALE, FLORIDA 33394
FLORIDA BAR NO. 908223
TELEPHONE: (954) 356-7255

Address of Defendant:

Agent:

HSS S/A Susan Leeds (954) 476-5446

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

Defendant's Name: CHAD LIVDAHL No.: _____

Count # 1:

Conspiracy to Defraud the United States; in violation of 18:371

*Max Penalty: Five years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #2-10:

Wire Fraud; in violation of 18:1343, 1346 and 2

*Max Penalty: Twenty years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #11-44:

Mail Fraud; in violation of 18:1341, 1346 and 2

*Max Penalty: Twenty years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #45-46:

Misbranding; in violation of 21:331(c); 333(a)(2) and 18:2

*Max Penalty: Three years' imprisonment, \$250,000 fine, and one year supervised release

Count #47:

Perjury; in violation of 18:1623(a)

*Max Penalty: Five years' imprisonment, \$250,000 fine, and three years' supervised release

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

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.**

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

Defendant's Name: ZARAH KARIM, a/k/a "Anna Tessem," a/k/a "Sasha" No.: _____

Count # 1:

Conspiracy to Defraud the United States; in violation of 18:371

*Max Penalty: Five years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #2-10:

Wire Fraud; in violation of 18:1343, 1346 and 2

*Max Penalty: Twenty years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #11-44:

Mail Fraud; in violation of 18:1341, 1346 and 2

*Max Penalty: Twenty years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #45-46:

Misbranding; in violation of 21:331(c); 333(a)(2) and 18:2

*Max Penalty: Three years' imprisonment, \$250,000 fine, and one year supervised release

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

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.**

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

Defendant's Name: BACH McCOMB No.: _____

Count # 1:

Conspiracy to Defraud the United States; in violation of 18:371

*Max Penalty: Five years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #2-6:

Wire Fraud; in violation of 18:1343, 1346 and 2

*Max Penalty: Twenty years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #11-14; 17; 20; 22; 24; 26-28; 31; 37; 39; & 41:

Mail Fraud; in violation of 18:1341, 1346 and 2

*Max Penalty: Twenty years' imprisonment, \$250,000 fine, and three years' supervised release

Counts #45-46:

Misbranding; in violation of 21:331(c), 333(a)(2) and 18:2

*Max Penalty: Three years' imprisonment, \$250,000 fine, and one year supervised release

Count #48:

Mail Fraud, in violation of 18:1341, 1346 and 18:2

*Max Penalty: Twenty years' imprisonment, \$250,000 fine, and three years' supervised release

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

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.**

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

Defendant's Name: TOXIN RESEARCH INTERNATIONAL, INC. No.: _____

Count # 1:

Conspiracy to Defraud the United States; in violation of 18:371

*Max Penalty: \$250,000 fine

Counts #2-6; & 8:

Wire Fraud; in violation of 18:1343, 1346 and 2

*Max Penalty: \$250,000 fine

Counts #11-44:

Mail Fraud; in violation of 18:1341, 1346 and 2

*Max Penalty: \$250,000 fine

Counts #45-46:

Misbranding; in violation of 21:331(c); 333(a)(2) and 18:2

*Max Penalty: \$250,000 fine

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

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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.**

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

Defendant's Name: POWDERZ, INC. No.: _____

Count # 1:

Conspiracy to Defraud the United States; in violation of 18:371

*Max Penalty: \$250,000 fine

Counts #2-7:

Wire Fraud; in violation of 18:1343, 1346 and 2

*Max Penalty: \$250,000 fine

Counts #11-44:

Mail Fraud; in violation of 18:1341, 1346 and 2

*Max Penalty: \$250,000 fine

Counts #45-46:

Misbranding; in violation of 21:331(c); 333(a)(2) and 18:2

*Max Penalty: \$250,000 fine

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

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*Max Penalty: _____

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.**

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

Defendant's Name: Z-SPA, INC. No.: _____

Count # 1:

Conspiracy to Defraud the United States; in violation of 18:371

*Max Penalty: \$250,000 fine

Counts #10:

Wire Fraud; in violation of 18:1343, 1346 and 2

*Max Penalty: \$250,000 fine

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

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.**

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

Defendant's Name: THE COSMETIC PHARMACY, INC. No.: _____

Count # 1:

Conspiracy to Defraud the United States; in violation of 18:371

*Max Penalty: \$250,000 fine

Counts #9:

Wire Fraud; in violation of 18:1343, 1346 and 2

*Max Penalty: \$250,000 fine

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

Count # :

*Max Penalty: _____

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.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

05-60021

UNITED STATES OF AMERICA

CASE NO. _____

CR-COHN

vs.
CHAD LIVDAHL, et al

CERTIFICATE OF TRIAL ATTORNEY

Superseding Case Information:

MAGISTRATE JUDGE

Court Division: (Select One)

New Defendant(s)

Yes SNOW No _____

Number of New Defendants _____

Total number of counts _____

X Miami Key West
 FTL WPB FTP

I do hereby certify that:

- 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.
- 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.

- Interpreter: (Yes or No) No
List language and/or dialect _____

- This case will take 15 days for the parties to try.

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

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

- 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. _____

Related Miscellaneous numbers: 04-61717-CIV-COHN

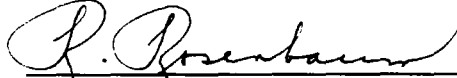
Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

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

- Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? _____ Yes X No
- 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
- 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
- Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? _____ Yes X No

ROBIN S. ROSENBAUM
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 908223