

Online Pharmacy Prosecutions ¹						
Defendant	Role	Charges	Convictions	Sentence	Basis of Sentence	Individual Characteristics, Circumstances of the Offense
2:2000cr00109 (M.D. AL.); Norfolk Men's Clinic; Viagra, Celebrex, Propecia, Claritin-D; 1998-2000						
Source: PACER; Indictment; information provided by counsel						
Anton Puzstai	Owner/operator	28 counts: Conspiracy to violate FD&C Act; Mail Fraud; dispensing misbranded drugs without a valid prescription; operation of an unregistered pharmacy; unlawful wholesale distribution of prescription drugs; Conspiracy to Commit Money Laundering; Forfeiture	Jury convicted of conspiracy to violate FD&C Act; Mail Fraud; Dispensing misbranded drugs; operation of unregistered drug facility; conspiracy to commit money laundering. Convictions vacated based on violation of Sixth Amendment confrontation rights by presenting witnesses' testimony by	188 months; convictions vacated on appeal; pled to one conspiracy count, sentence of 60 months	20 2S1.1 +8 2S1.1(b)(2)(I) for \$6-10 million +4 role +2 use of a minor (17-yr-old. son) +2 obstruction (trial perjury) = 36 = 188-235 months	Represented by Defender No allegations of death or SBI.

¹ This chart does not contain every case in which an online pharmacy was prosecuted, nor does it contain comprehensive information regarding every defendant listed. Guideline calculations and individual circumstances were obtained for only some defendants, because of time constraints and/or inability to reach counsel for information not available on PACER or in reported cases. The cases are in order roughly by date of Indictment or Information.

			two-way video teleconference. <i>US v. Yates</i> , 438 F.3d 1307 (11 th Cir. 2006).			
Anita Yates	Owner/operator	Same as Pusztai	Same as Pusztai	78 months; convictions vacated on appeal; pled to one conspiracy count, sentence of 49 months	20 2S1.1 +8 2S1.1(b)(2)(I) for \$6-10 million = 28 = 78-97 months	
Roger Eiland	Doctor	Conspiracy to violate FD&C Act; dispensing misbranded drugs without a valid prescription; obstruction	Not Guilty			
Yvan Degomme	??	unlawful wholesale distribution of prescription drugs; obstruction	Pled to Information charging misdemeanor dispensing misbranded drugs without a valid prescription;	1 year probation, 100 hrs community service	Plea Agreement	

			original counts dismissed by govt			
2001-cr-00142 (W.D. Okl.); NationPharmacy.com, and Fuchs' Main Street Pharmacy; Schedule III hydrocodone Source: US v. Fuchs, 467 F.3d 889 (5th Cir. 2006); PACER; AFPD						
Ricky Joe Nelson	Doctor	21 USC 846; 18 USC 1956; forfeiture	Jury convicted of 21 USC 846; 18 USC 1956; forfeiture	51 months	TOL 24, don't have exact guideline calculations but got +2 special skill, and no acceptance b/c went to trial; conduct predated SOC (b)(6)	Represented by FDO. Great surgeon; rescuer after Oklahoma City bombing, in the rubble giving surgical aid to trapped victims. Paid \$40-70 per prescription for a total of \$175,000; \$660,000 forfeiture order No allegations of death or SBI Lost license.
Jerry Shokrallah Shadid	Pharmacist	21 USC 841, 846	21 USC 841, 846	3 years probation	Plea agreement; cooperated	
2002-cr-00369 (N.D. Tex.); Friendly Pharmacy/ Main Street Pharmacy; Schedule III hydrocodone, Schedule IV Alprazolam Source: US v. Fuchs, 467 F.3d 889 (5th Cir. 2006); US v. Fuchs, 2005 WL 440429 (N. D. Tex. Feb. 23, 2005); PACER; information and documents from counsel for some of the defendants.						
Clayton Fuchs	Owner/Operator	21 USC 841, 846, 848; 18 USC 1956, 1957; forfeiture	21 USC 841, 848; 18 USC 1956, 1957; forfeiture	240 months	CCE mandatory minimum; exact guideline calculations unknown	\$2 mil civil damages to parents of Ryan Haight Made millions.
Stephen Thompson	Doctor; recruited and managed others	21 USC 846; 18 USC 1956, 1957; forfeiture	21 USC 846; 18 USC 1956; forfeiture	12 months + 1 day	Plea Agreement; 5K1.1 departure; first to cooperate & star witness	Initially resisted but Fuchs told him another web-based pharmacy was continuing to dispense controlled substances even after a government

					exact guideline calculations unknown	investigation, and he relented. Paid \$40-100 per prescription, total of \$1,151,300. Lost license
Robert Ogle	Doctor	21 USC 846; 18 USC 1956, 1957; forfeiture	21 USC 846; 18 USC 1956, 1957; forfeiture	24 months	Plea Agreement; 5K1.1 departure; exact guideline calculations unknown; govt did not seek upward departure for death resulting; conduct predated SOC (b)(6).	Ryan Haight's parents found a bottle for hydrocodone prescribed by Dr. Ogle after his accidental death, but he had ingested numerous drugs before his death. The government did not seek upward departure based on the death. The judge also agreed not to consider this factor in sentencing given the tenuous connection. \$2 mil civil damages to parents of Ryan Haight Made \$265,985. Late 50s. Lost license.
Kenneth Speak	Doctor	21 USC 846; 18 USC 1956, 1957; forfeiture	Pled to 21 USC 846; other counts dismissed on govt motion	4 years probation	10 BOL +3 special skill -2 acceptance Departure to Zone A; Govt filed motion for 1-point 5K1.1 departure;	77 years old. Caretaker for wife with multiple debilitating strokes. For a period of 5 weeks, authorized refills of prescriptions written by doctors who had actually seen the patients; believed legal; 33,400 units

					Govt took no position on defense motion for departure based on age and caretaker for wife. Conduct predated SOC (b)(6)	Schedule IV; was paid \$3100. Forfeited license
Eugene Gonzales	Fuchs' stepfather, shipping clerk in charge of quality control and packaging for UPS pick-up, nominally owned one online pharmacy of which Fuchs was true owner	One count conspiracy to commit money laundering, 18 USC 1956(a), 1957; forfeiture	Jury found guilty of conspiracy to commit money laundering, 18 USC 1956(a), 1957; forfeit all money and real property	30 months	Sentenced under 2S1.1 Some combination of safety valve, mitigating role adjustment, and/or downward departure. Conduct predated SOC (b)(6).	Fuchs and Thompson told him it was legal. No training in medicine or pharmacy. Three heart attacks in the previous year, recent hernia surgery, diabetic, high blood pressure, kidney infections, migraine headaches, arthritis Clinically depressed Convicted on a deliberate ignorance instruction.
Waldrick Lemons	Pharmacist	21 USC 846	Jury found guilty of 21 USC 846	5 years probation, including 6 months home confinement and 200 hours community	Exact guideline calculation unknown. PSR held accountable for entire quantity in conspiracy (4	Involved for only 6 months w/Friendly Pharmacy, declined to go to Fuchs' second venture, Main Street Pharmacy. Hundreds of letters from church, community, family.

				service; <u>terminated 2 years early, unopposed by govt</u>	million units, capped at 40,000), but Lemons involved with fewer than 40,000 units. Counsel argued aberrant conduct in law-abiding life, extreme disparity in culpability between Lemons and other defendants besides Speak. Conduct predated SOC (b)(6).	Was paid salary of \$60,000 + small severance pay. Lost license.
2003-530 (E.D.Va.); 364,272 units Schedule III, 6.9 million units Schedule IV; primarily diet pills, some Ambien; 1998-2003; \$125 million in sales Source: US v. Thompson, 191 Fed. Appx. 185 (4th Cir. 2006); PACER; AFPD						
Vineet Chhabra	Owner/operator; “primary leader of the conspiracy”	<u>78 counts:</u> 21 USC 846; 21 USC 848 (CCE); 40 counts 21 USC 841; 18 USC 1956(h) conspiracy; 20 counts 18 USC 1956; 15 counts 18 USC 1957	Pled to 21 USC 846	33 months	11(c)(1)(C) plea agreement; \$16 million money judgment	Attorney gave opinion it was lawful. 2 deaths linked to scheme.
Daniel Thompson	Doctor; somewhat like an	<u>6 counts:</u> 21 USC 846;	Jury convicted of 21 USC 846	37 months	Court reduced TOL of 25 in PSR to	Unemployed and qualified for appointed counsel, but refused and

	owner/ operator role for part of the time	5 counts 21 USC 841; forfeiture	and two counts 21 USC 841; acquitted or deadlocked on three 841 counts		TOL 21 by lowering drug quantity and giving acceptance. Do not have exact guideline calculations.	went to trial pro se. Attorney gave opinion it was lawful. In 2000, pled guilty in Ohio state court to violating 1999 Ohio regs requiring physical exam. Surrendered license and stopped all prescribing. Lived in South Dakota, missed hearings because lacked funds. No allegations of death or SBI re Dr. Thompson.
Sabina Faruqui	Chhabra's wife; owner/operator	<u>44 counts:</u> 21 USC 846; 42 counts 21 USC 841; 21 USC 1956(h) conspiracy; forfeiture	Pled to 21 USC 846	12 months probation	11(c)(1)(C) plea agreement	
James Trovato	Management role short of Owner/operator	<u>9 counts:</u> 21 USC 846; 8 counts 21 USC 841; forfeiture	Pled to 21 USC 846	30 months	Guideline sentence; downward departure denied	CJA counsel Alcohol issues? No other info.
Daniel Varelli	Pharmacist	<u>9 counts:</u> 21 USC 846; 8counts 21 USC 841; forfeiture	Pled to 21 USC 846	30 months	Guideline sentence; safety valve and downward departure denied	No info.
Laurence Cockerille	Doctor	<u>5 counts:</u>	Pled to 21	2 years	Only units	Represented by FDO.

		21 USC 846; 4 counts 21 USC 841; forfeiture	USC 846	probation	prescribed were within scope of agreement under 1B1.3; 20 +2 for special skill -3 for acceptance; downward departures under 5K1.1, 5H1.4, 5H1.6, 5K2.0; determined unable to pay any monetary penalty.	72 years old; retired from 34-year practice in rural Ohio when destroyed by HMOs; disabled wife; own health problems; in bankruptcy. Was told legal when recruited. Easily led in financial matters. No understanding of computers or internet. "Willful blindness" plea. From April to December 2000, authorized 6872 prescriptions: 34,000 units Schedule III, 388,000 units Schedule IV. No death or side effects from drugs prescribed by Dr. Cockerille. Surrendered license.
Arturo Portales	Doctor	<u>15 counts:</u> 21 USC 846; 14 counts 21 USC 841; forfeiture	Pled to 21 USC 846	12 months and 1 day	5K1.1 downward departure	No info.
Russell Johnson	Doctor	<u>9 counts:</u> 21 USC 846; 8 counts 21 USC 841; forfeiture	Pled to 21 USC 846	2 years probation w/6 months home confinement	Downward departure requested by defense	mental health issues
Sunil Sethi	Chhabra's uncle; owned a pharmacy and co-	<u>70 counts:</u> 21 USC 846; 33 counts 21	Dismissed by govt, acquitted or deadlocked			No info.

	owned a website	USC 841; 18 USC 1956(h) conspiracy; 20 counts 18 USC 1956; 15 counts 18 USC 1957; forfeiture				
William Thompson	Doctor	<u>11 counts:</u> 21 USC 846; 10 counts 21 USC 841; forfeiture	Acquitted or deadlocked			Replaced brother Daniel Thompson when he stopped prescribing.
2003CR578 (E.D. VA); related to Chhabra case						
Source: PACER						
Luke John Coukos	Pharmacist	Waived indictment.	Pled to Information charging 18 USC 371 conspiracy to introduce misbranded drugs	Sentence of 60 months, \$140,000 fine reduced to 8 months, \$120,000 fine on government motion	guideline calculations unknown.	No info.
Marvin J. Brown	Doctor	Waived indictment.	Pled to Information charging 21 USC 846	3 years probation	Deft's Motion for downward departure pursuant to USSG 5H1.1 and 5H1.4 granted w/o objection. Guideline calculations unknown.	No info.

2:2005cr00193 (E.D. Pa.); Bansal Organization; Schedule II (codeine, morphine), III (codeine combination drugs, ketamine), IV (depressants) Source: PACER, Indictment, Government's Sentencing Memorandum, Judgment						
Akhil Bansal	Physician licensed in India, not US; head of organization in US	Charged in all 44 counts in the Indictment plus forfeiture	Jury found guilty of 18 counts: 21 USC 848, 21 USC 846, 21 USC 963, 2 counts 18 USC 371 conspiracy to introduce misbranded drugs, 18 USC 1956(h), 5 counts 1956(a)(2), 3 counts 18 USC 1956(a)(1), 5 counts 18 USC 1957, forfeiture of \$8 million	30 years, \$250,000 fine, \$8 million forfeiture	TOL 42 = 360-life Based on government's description of PSR, Bansal's sentence was driven by the CCE count (level 38) and he got +2 for computer mass marketing under 2D1.1(b)(6) +2 for conviction under 1956 under 2S1.1(b)(2)(B) +2 for sophisticated money laundering under 2S1.1(b)(3)	Organization imported and distributed 570,780 units Schedule II, 1,652,385 units Schedule III, 7,267,472 units Schedule IV, 1,786,516 units non-controlled prescription drugs, and some number of kilos of powdered ketamine, which were sold over the Internet; proceeds of \$8 million
17 other defendants; have not looked at their status						
2005-cr-00282 (D. Minn.); Online Payment Solutions; XPress Pharmacy Direct; multiple web site addresses; Schedule III hydrocodone, Schedule IV Xanax, Ambien Source: DEA website (listing Dr. Mach); PACER; Griep's sentencing memo; information provided by attorneys						
Christopher Smith	Owner/Operator	21 USC 841, 846, 848; 21 USC 331(a), 333(a)(2), 353(b)(1); 18	Jury found guilty of 21 USC 841, 848; 21 USC 331(a),	30 years	TOL 42: <u>Group 1</u> : Controlled Substances (21 USC 841(a)(1) and	Alleged 72,000 prescriptions, 2 million units. Allegation of death raised at sentencing.

		USC 1956 & 1957; 18 USC 1343; forfeiture	333(a)(2), 353(b)(1); 18 USC 1956; forfeiture		<p>(b)(1)(D))</p> <p>20 (2D1.1) +2 firearm +2 computer mass marketing ((b)(5)) + 4 Leader + 2 Obstruction = 30</p> <p><u>Group 2:</u> Misbranded Drugs (21 USC 331(a) and 333(a)(2))</p> <p>6 (2N2.1, cross reference to 2B1.1) + 22 loss \$24 mil + 2 mass mktg + 2 Violating prior orders (b)(8)(C) +2 Relocating to other jurisdiction and/or sophisticated means + 2 Risk of death and possession of firearm (b)(12) + 4 Leader + 2 Obstruction = 42</p> <p><u>Group 3: Money Laundering</u></p>	
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					<p>24 (2S1.1) + 2 (1956 conv) + 4 Leader + 2 Obstruction = 32</p> <p><u>Group 4: CCE</u> 38 + 2 Obstruction) = 40</p> <p>Criminal History Category I</p>	
Philip Mach	Doctor	21 USC 846; forfeiture	21 USC 846; forfeiture	15 months	Govt requested 12-18 months based on 5K1.1; guideline calculations unknown.	<p>Pled to 1-count Information with Plea Agreement, cooperation.</p> <p>Financial trouble from divorce; manic depressive.</p> <p>49 years old.</p> <p>Lost license, forfeited all money he had (\$75,000); now lives with father, works as health club trainer.</p> <p>No allegations of death or SBI re Dr.Mach.</p>
Darrell Griep	Telemarketing sales agent; "promoted" to recruit pharmacies near	21 USC 841, 846; 21 USC 331(a), 333(a)(2), 353(b)(1);	Pled guilty pursuant to govt's offer on eve of closing arguments;	3 years probation	20 (2D1.1) +2 computer mass marketing ((b)(5)) -2 safety valve -4 minimal role	<p>Represented by CJA counsel</p> <p>High school education, trained only in sales.</p>

	the end, which was also a sales job and not a management job.	forfeiture. Govt threatened to charge with Mail Fraud and obtain a guideline sentence of 108-135 months.	pled to 21 USC 841, 846		-3 <u>acceptance</u> 13 = 12-18 months Govt agreed not to appeal if judge imposed probation.	Married with children. Earned less than \$25,000 in commissions. Less culpable than some not even threatened with arrest. Assured by Smith (who was convicted), Adkins and Lieberman (who were acquitted) and supervisors (who knew it was illegal but were not indicted) that it was legal. Bolstered by the fact the prescriptions were issued by licensed doctor and filled by licensed pharmacists. Eventually, pharmacists faxed him a DEA “warning” indicating it was not legal; he sought clarification from Smith and Adkins who assured him it was legal; worked 2-3 more weeks. Pled on a “head in the sand” theory.
Lieberman	Accountant	21 USC 841, 846; 21 USC 331(a), 333(a)(2), 353(b)(1); 18 USC 1956 & 1957; forfeiture	Not guilty			

Adkins	Lawyer	21 USC 841, 846; 21 USC 331(a), 333(a)(2), 353(b)(1); forfeiture	Not guilty			
9:2005cr80196 (S.D. Fla.); Pharmacon; Schedule III and IV						
Source: DEA website; PACER; Information; Judgment; Govt Motion for 5K1.1 Departure						
Carlos Barrera	Doctor	Information (originating in N.D. Iowa) charged 21 USC 846, 18 USC 1956(h), forfeiture	Pled to Information	3 years probation with 6 months home detention, \$10,000 fine, forfeited \$10,897	Sentence based on govt motion for 5K1.1 departure; guideline calculations unknown	August-October 2003, authorized 23,520 units Schedule III, 8,370 units Schedule IV No allegations of death or SBI. 57 years old Lost license
2:2005cr01009 (N.D. Iowa); Pharmacon; Schedule III and IV						
Source: DEA website; PACER; Information; Judgment; Sentencing Memoranda; Motion to Terminate Probation						
Magaly Bethencourt	Doctor	Information charged 21 USC 846, forfeiture	Pled to Information	2 years probation, with 6 months home detention, forfeit \$7710. Probation terminated 6 months early.	Agreed total offense level of 12 (10-16 months); govt requested 5K1.1 of 10%; defense counsel moved for a greater departure under 5K1.1 and to impose a sentence in Zone A based on 3553(a) considerations. Court granted	October 15-November 5, 2003, authorized 6060 units Schedule III, unspecified number units Schedule IV Unsolicited, a lawyer told her it was of dubious legality; resigned same day. Pled guilty at first court appearance and paid forfeiture before it was ordered. Gave truthful information and testified before grand jury.

					<p>motions.</p> <p>License initially suspended based solely on guilty plea, then suspended indefinitely based on inability to pay \$10,000 fine immediately, then revoked.</p> <p>Working as volunteer at a hospital and mental health facility.</p> <p>56 years old</p> <p>No allegations of death or SBI.</p>	
<p>2:2005cr01022, 01023 (N.D. Iowa); Pharmacon; Schedule III and IV Source: DEA website; PACER; Information; Judgment; Sentencing Memoranda; information provided by defense counsel</p>						
<p>Apryl Mamzette McNeil</p> <p>Absylom Kwabena Nyamekye</p>	<p>Doctor</p> <p>Doctor</p>	<p>Information charged 21 USC 846, 18 USC 1956(h), forfeiture</p> <p>same</p>	<p>Pled to Information</p> <p>Same</p>	<p>20 months, forfeit \$26,000</p> <p>20 months, forfeit \$36,000</p>	<p>TOL 19 (not apparent why not 17)</p> <p>Conduct preceded (b)(6) SOC;</p> <p>Government did not request upward departure for quantity under 2D1.1 note 16.</p> <p>Granted 35% departure under 5K1.1.</p> <p>Denied joint motion for downward</p>	<p>November 2003-May 2004: McNeil: 220,090 units Schedule III, 15,510 units Schedule IV Nyameke: 357,330 units Schedule III, 17,250 units Schedule IV</p> <p>General practitioners, married couple aged 44 and 39.</p> <p>Both disadvantaged upbringings.</p> <p>Devoted medical practice in Harlem to treating underprivileged, AIDS patients, orphans, foster children and abusers of alcohol and drugs.</p> <p>After 9/11, per request of Foundation for Science and Education, created and ran a facility for treatment of</p>

					<p>departure based on extraordinary community service, and defense request to serve sentences at different times in order to care for two infants.</p>	<p>firemen, police officers, ambulance workers, construction workers, EMS workers and sanitation workers exposed to toxins, carcinogens other hazardous materials with medical, psychiatric and social problems. Worked for next to nothing. Compendium of thanks and testimonials submitted at sentencing.</p> <p>Funding stopped; responded to ad from internet based medical service offering to pay physicians to review medical records.</p> <p>Owner/operator told them would be prescribing based on records review for patients in remote locations.</p> <p>Two infant children.</p> <p>No allegations of death or SBI.</p> <p>Lost licenses.</p>
<p>2:2006cr01006 (N.D. Iowa); Pharmacon; Schedule III and IV Source: DEA website; PACER; Information; Judgment; documents provided by CJA counsel</p>						
Mario Diaz	Doctor	Information charged 18 USC 846, 18 USC 1956(h); forfeiture	Pled to Information charging 18 USC 846, 18 USC 1956(h); forfeiture	30 months	TOL 17 (2D1.1: 20 -2 safety valve +2 special skill = 20/2S1.1: 18 + 2 under (b)(2)(B) = 20/20-3 acceptance = 17)	<p>CJA counsel</p> <p>53,125 units Schedule III, 17,890 units Schedule IV.</p> <p>Dangerously high blood pressure which required slow down, online</p>

					Conduct ended October 2003 before (b)(6) SOC added.	<p>pharmacy allowed work from home at less stressful pace.</p> <p>Told by the owner/operator it was legal.</p> <p>No allegations of death or SBI.</p> <p>55 years old</p> <p>Lost license</p>
6:2006CR00058 (M.D. Fla.); Schedule III hydrocodone						
Source: DEA website; PACER; Information; Judgment; Sentencing Memorandum						
Jean C. Dominique	Doctor	Information charged 21 USC 846, forfeiture	Pled to Information charging 21 USC 846, forfeiture	5 years probation, 300 hours community service, forfeit \$380,507	Guideline calculation unknown; Conduct ended October 2003 before (b)(6) SOC added; multiple mitigating circumstances, see next column	<p>Major depressive illness.</p> <p>Background of poverty and abuse in Haiti.</p> <p>Wife died of cancer Feb. 2003.</p> <p>Previously a Catholic priest.</p> <p>Served elderly and indigent residents of local housing authority.</p> <p>Cooperation but no 5K1.1.</p> <p>Prescribed based on questionnaire and subsequent telephone interview and medical records he required from patients.</p> <p>Less than 40,000 units prescribed.</p>

						<p>After the conduct to which Dr. Dominique pled, a state regulation required in-person evaluation for the first time; state officials previously indicated it was not required.</p> <p>Polygraph established he was told by the organizers the conduct was legal.</p> <p>Pled based on “culpable negligence.”</p> <p>59 years old</p> <p>Surrendered license.</p> <p>No allegations of death or SBI.</p>
<p>2:2006cr01007 (N.D. Iowa); Schedule III and IV Source: DEA website; PACER; Information; Judgment; Defendant’s 1-page Sentencing Memorandum</p>						
Juan Oscar Gonzalez	Doctor	Information charged 21 USC 846, 18 USC 1956(h); forfeiture	Pled to Information	2 years probation, forfeit \$17,500	5K1.1 departure; guideline calculation 10-16 months; conduct ended in November 2003 before (b)(6) SOC added	6870 units Schedule III, 31,890 units Schedule IV 50 years old Lost license No allegations of death or SBI.
<p>2:2006cr01032 (N.D. Iowa); Pharmacon; Schedule III and IV – pain killers, diet pills, sleeping pills; conduct ended Feb. 2005 Source: DEA website; PACER; Information; Judgment; Sentencing Memorandum; Appellate Brief; <i>United States v. Hanny</i>, 509 F.3d 916 (8th Cir. 2007); defense counsel</p>						
Thomas Hanny	Doctor	Charged by Information with 21 USC	Pled to Information	33 months, reduced to 23 months	TOL 19 (20 -2 safety valve + 2 for 2D1.1(b)(6) +2	130,320 units Schedule III, 12,360 units Schedule IV

		846, 18 USC 1957, forfeiture		based on Rule 35	<p>special skill/20 + 1 2S1.1(b)(2)(A) -3 acceptance); 10% 5K1.1 motion granted, sentenced at top of range</p> <p><u>Application of (b)(6) computer mass marketing SOC upheld in <i>United States v. Hanny</i>, 509 F.3d 916 (8th Cir. 2007).</u></p> <p>Govt did not seek upward departure for number of units; court gave notice it was considering it but did not, likely because of countervailing mitigating circumstances.</p>	<p>68 years old.</p> <p>As a medical student in Hungary, operated an ambulance service for the injured in 1956 Soviet invasion; escaped to Canada 6 months later; immigrated to the US in 1978 and became a citizen in 1993.</p> <p>Respected vascular surgeon in Connecticut 1980-2003, often treated uninsured and underinsured without pay.</p> <p>Son died age 26 in auto accident, daughter, four grandchildren.</p> <p>Earned \$50,000 in 2003, forced to close practice October 2003 b/c 74% increase in cost of malpractice insurance. Underwent bankruptcy stemming from failed 1980s business investments. Did not own a home or other assets. At times could not afford rent. Debt of \$60-70,000. After searching for work for a year, found online pharmacy when searching for work on the Internet.</p> <p>Organizer told him it was legal. Connecticut issued legislation requiring in person exam after the conduct.</p>
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						<p>For one company, authorized 2400 prescriptions for which he received \$14,600; after that company ceased operations, prescribed for another company, earned \$ 42,700.</p> <p>Rejected 25% of prescriptions, a high rate. For most patients, had telephone interview and got medical records.</p> <p>Pled based on “reckless disregard.”</p> <p>No allegations of death or SBI.</p>
<p>2:2006cr01033 (N.D. Iowa); Pharmacon; Schedule III and IV, diet pills and sleeping pills; conduct ended August 2004 Source: DEA website; Pacer; Information; Judgment; Govt Motion for Upward Departure; Defendant’s Sentencing Memorandum</p>						
Michael Millette	Doctor	<p>First Information (originating in Florida): 21 USC 846; forfeiture</p> <p>Second Information: 21 USC 846, 18 USC 1956(h); forfeiture</p>	Pled to both Informations	41 months, forfeit \$1.6 million	<p>TOL 17 (like Diaz); 5K1.1 motion granted; <u>upward departure under 2D1.1 note 16 granted</u>; combined upward and downward departures ended at level 22.</p> <p>Conduct predated (b)(6) SOL.</p>	<p>July 2002-August 2004, authorized 62 million units Schedule III, 5 million units Schedule IV</p> <p>Organizers assured him that their attorneys had advised that it was legal. He spoke to his own attorney who advised that there were no specific rules against it and it was a gray area.</p> <p>Prescribed primarily diet pills, not addictive in his experience, and not pain medication he believed had abuse potential.</p> <p>Wife had debilitating depression and</p>

						<p>anxiety; three children, one with bipolar disorder and bulimia, another with Crohns Disease.</p> <p>46 years old.</p> <p>Lost license.</p> <p>No allegations of death or SBI.</p>
<p>2:2006cr01011 (N.D. Iowa); Pharmacon; Schedule III and IV Source: DEA website; PACER; Information; Judgment; Sentencing Memoranda; information provided by defense counsel</p>						
Edward T. Schwab	Doctor	Information charged 21 USC 846, 18 USC 1957, forfeiture	Pled to Information	22 months, forfeit \$500,246	<p>Granted govt motion for 2-month 5K1.1 departure.</p> <p>TOL 17 (20 -2 safety valve +2 special skill = 20/18 + 1 under 2S1.1(b)(2)(A) = 19/20- 3 acceptance = 17)</p> <p>Conduct predated (b)(6) SOC.</p> <p>Govt did not seek upward departure for quantity under Note 16.</p>	<p>October 2002-August 2003, authorized 316,440 Schedule III, 755,460 Schedule IV.</p> <p>72-year-old retired Air Force doctor.</p> <p>Recruited by owner/operator who told him it was legal.</p> <p>Lost license.</p> <p>No allegations of death or SBI.</p>
<p>2007cr60245 (S.D. Fla.); Schedule III and IV diet and sleeping pills Source: DEA website; PACER; Information; Judgment; documents provided by AFPD</p>						
David M. Baron	Doctor	Charged by	Pled to	25 months	20 + 2 for special	Represented by FDO.

		Information with 21 USC 846, forfeiture	Information		skill -2 for safety valve - 3 for acceptance of responsibility = 17 = 24-30 months; conduct predated (b)(6) SOC; defense motions for minor role and variance denied; govt did not seek upward departure under note 16 for quantity.	<p>61-year-old respected neurosurgeon; practice devoted to serving the indigent until could not afford malpractice insurance, then became involved in online pharmacy; heart attack and severely anemic; wiped out financially and unemployable; living with 82-year-old mother.</p> <p>From December 2003-May 2004, authorized 500,000 diet pills and sleeping pills</p> <p>No allegations of death or SBI.</p> <p>Was told no federal or state law prohibited online prescribing.</p> <p>Was paid \$4 for each prescription.</p> <p>Attempted to cooperate but too late?; <i>see</i> Bezonsky.</p> <p>Lost license.</p>
06cr1400 (S.D. Cal.) & 06cr2592 (S.D. Cal.) which originated in 2:06cr394 (E.D. Pa); RX Medical One Inc, Affpower Inc., GRGBGlobal; Schedule III & IV diet pills and sleeping pills						
Source: PACER, Indictments, Plea Agreement, Cooperation Agreement						
Michael Bezonsky	Owner/Operator of several online pharmacies; kingpin	Charged in ED Pa with 21 USC 846, 26 counts 21 USC 841, 26	Plea Agreement to RICO Conspiracy, 21 USC 846, 18	Guideline calculation unknown; Govt agrees to	Plea and Cooperation Agreement	Cooperating against underlings. Sentencing delayed until after outcome of <i>Heredia</i> .

		counts misbranding, 18 USC 1956(a)(1), transferred to SD Cal; Charged in SD Cal with Conspiracy to Commit Mail Fraud, Mail Fraud, Wire Fraud, Conspiracy to Commit Money Laundering, Money Laundering; Forfeiture	USC 1956, forfeiture of \$13 million plus	recommend a favorably calculated TOL of 27 (70-87 months) in exchange for cooperation and may move for 5K1.1 departure; defendant free to argue for variance		
3:06-cr-01460 (S.D. Cal.); Affpower Inc. and others; Schedule III & IV diet pills and sleeping pills						
Source: PACER, Information, information from counsel in Affpower case						
David Glass	Owner/Operator	Charged by Information with 18 USC 371; 19 USC 1956(h); forfeiture	Pled to Information	Guideline calculation unknown; not sentenced yet	Plea and Cooperation Agreement	Testified against <i>Heredia</i> defendants before grand jury; will testify at their trial. Recruited all marketers and continued to assure them all was legal even on a wiretap
2007cr2016 (S.D. Cal.); Affpower Inc.; primarily Schedule IV diet pills and depressants, some Schedule III diet pills; alleged conduct August 2004 – June 2006 and \$126 million revenue						
Source: PACER, Indictment, AFPD						
Heredia	Manager and	RICO, RICO		Rough		No allegations of injury or death.

	Administrator (subordinate to Bezonsky and possibly Glass)	conspiracy, 21 USC 846, 75 counts 21 USC 841, Conspiracy to Commit Wire Fraud, 93 Wire Fraud counts, Conspiracy to Commit Mail Fraud, 63 Mail Fraud counts, Conspiracy to Launder Money, Conspiracy to Dispense Misbranded Drugs, 75 Counts Misbranded Drugs, Forfeiture		estimate of guideline calculation: 324-405 months		
Harrington, Wurtzel, Covino	Recruited and/or managed pharmacies or doctors	Same as Heredia but not named in every 21 USC 841, Mail Fraud or Wire Fraud count		Rough estimate of guideline calculation: 292-365 months		
Lovin, Aronson	Pharmacists	Same as		??		

		Heredia but not named in the RICO counts or every 21 USC 841, Mail Fraud or Wire Fraud count				
Prasad, Shah, Morris	Doctors	Same as Heredia but not named in the Money Laundering count or every 21 USC 841, Mail Fraud or Wire Fraud count		??		
Fisher, Koch, Bidwell, Chung, Light, Tyler, Bragansa, Ricoarango	Internet Marketers	Same as Heredia but not named in every 21 USC 841, Mail Fraud or Wire Fraud count	Trial set for February 2009; Plea offer is one count 21 USC 846, one count money laundering 18 USC 1956(a)(1)	Plea offer is 24 under 2S1.1 – 2 for role – 3 for acceptance = TOL 19 = 30-37 months + forfeiture	Two have pled to this deal, none sentenced; the rest set for trial.	Developed websites and directed web traffic to doctors; worked on commission; were told internet pharmacy was legal and constantly informed that licensed doctors were issuing prescriptions which were filled by licensed pharmacists.
Jacobson	Credit Card Processor	Same as Heredia but not named in every 21 USC 841, Mail		??		

		Fraud or Wire Fraud count				
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