

06-60064 CR-COOKE  
MAGISTRATE JUDGE  
BROWN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. \_\_\_\_\_

- 18 U.S.C. § 371
- 18 U.S.C. § 1341
- 18 U.S.C. § 1343
- 21 U.S.C. §§ 331(a), 352(a), (f), and (i), 333(a)(2)
- 21 U.S.C. §§ 331(b), 352(a), (f), and (i), 333(a)(2)
- 21 U.S.C. §§ 331(d), 355(a), 333(a)(2)

UNITED STATES OF AMERICA

vs.

ARTHUR VANMOOR,  
a/k/a ARTHUR VAN MOERKERKEN,  
a/k/a PHILLIP ROTH,

Defendant.

\_\_\_\_\_

FILED by [Signature] D.C.  
MAG. SEC.  
MAR 14 2005  
CLARENCE MADDOX  
CLERK, U.S. DIST. CT.  
S.D. OF FLA. FT. LAUD.

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”) was the federal agency charged with the responsibility of protecting the health and safety of the American public by enforcing the Federal Food, Drug, and Cosmetic Act, Title 21, United States Code, Sections 301, *et seq.* (“FDCA”). One purpose of the FDCA was to ensure that drugs sold for consumption or administration to humans were safe, effective, and bore labeling containing only true and accurate information. The FDA’s responsibilities under the FDCA included regulating the manufacture,

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labeling, and distribution of all drugs and drug components shipped or received in interstate commerce.

2. Under the FDCA, “drug” meant “. . . 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).

3. Under the FDCA, a “drug” was misbranded if its labeling was “false or misleading in any particular.” Title 21, United States Code, Section 352(a). The FDCA defined “labeling” as “all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.” Title 21, United States Code, Section 321(m).

4. Under the FDCA, a “drug” was also misbranded unless its labeling bore adequate directions for use. Title 21, United States Code, Section 352(f). Under the FDA's regulations, "adequate directions for use" meant directions under which the layman can use a drug safely for the purposes for which it is intended." Title 21, Code of Federal Regulations, Section 201.5. The "intended use" meant under the FDA's regulations,

. . . 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. This objective intent may, for example, be shown by labeling claims, advertising matter, or oral or written statements by such persons or their representatives. 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.

Title 21, Code of Federal Regulations, Section 201.128.

5. Under the FDCA, a drug was also “misbranded” if it was offered for sale under the name of another drug. Title 21, United States Code, Section 352(i)(3).

6. The FDCA prohibited the introduction or delivery for introduction, or causing the introduction or delivery for introduction into interstate commerce of any drug that was misbranded. Title 21, United States Code, Section 331(a).

7. The FDCA prohibited the misbranding of any drug in interstate commerce. Title 21, United States Code, Section 331(b).

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

9. Under the FDCA, no person shall introduce or deliver for introduction into interstate commerce any new drug, unless there was in effect an approval of a new drug application (“NDA”) pursuant to Title 21, United States Code, Section 355(b), or an abbreviated new drug application (“ANDA”) pursuant to Title 21, United States Code, Section 355(j), or exempted from such approval. Title 21, United States Code, Section 355(a); Title 21, United States Code, Section 355(i).

10. The FDCA prohibited the introduction or delivery for introduction, or causing the introduction or delivery for introduction into interstate commerce of any article in violation of Title

21, United States Code, Section 355. Title 21, United States Code, Section 331(d).

**The Corporations**

11. On or about January 25, 2005, Flu Fighter Corp. was incorporated in Florida, listing Phillip Roth as the incorporator, registered agent, and owner. Florida corporate records identified the business and mailing address of Flu Fighter Corp. as 22 S.E. 4<sup>th</sup> Street, #219, Boca Raton, Florida 33432.

12. On or about February 15, 2005, an “Application for Registration of Fictitious Name” was filed with the Florida Department of Commerce (“DOC”) for “Flu Fighter Laboratories ,Inc. [sic], listing an address of 22 S.E. 4<sup>th</sup> Street, #219, Boca Raton, Florida 33432. The application identified Amanda Vasquez Medina as the owner of the business.

13. On or about November 1, 2005, an “Application for Registration of Fictitious Name” was filed with the DOC for “Flu Fighter Laboratories,” listing an address of 22 S.E. 4<sup>th</sup> Street, #209, Boca Raton, Florida 33432. The application identified Amanda Vasquez Medina as the owner of the business.

14. On or about November 29, 2005, an “Application for Registration of Fictitious Name” was filed with the DOC for “Flu-Fighter Laboratories,” listing an address of 22 S.E. 4<sup>th</sup> Street, #219, Boca Raton, Florida 33432. The application identified Josephine Vasquez Medina as the owner of the business.

15. On or about December 5, 2005, “Flu Fighter Laboratories Inc.” was incorporated in Florida, listing Phillip Roth as the incorporator and registered agent. The business and mailing address of Flu Fighter Laboratories Inc. was listed as 22 S.E. 4<sup>th</sup> Street, #219, Boca Raton, Florida 33432.

16. 22 S.E. 4<sup>th</sup> Street, Boca Raton, Florida 33432 is the location of the mail-drop business, Mail Boxes International (“MBI”). Number 219 corresponded to a mailbox number rented by defendant **ARTHUR VANMOOR** beginning on or about March 1, 1999.

17. Flu Fighter Corp., Flu Fighter Laboratories ,Inc., Flu-Fighter Laboratories, and Flu Fighter Laboratories Inc. (collectively referred to hereafter as “FFL”) operated out of offices located at 100 E. Sample Road, Suites 300 and 330, Pompano Beach, Florida 33044, which were identified on the building roster and the office door as “Gold Entertainment.” Defendant **ARTHUR VANMOOR** incorporated Gold Entertainment, Inc., in Florida on or about November 16, 2001.

### **The Products**

18. Defendant **ARTHUR VANMOOR** caused FFL to manufacture and produce, among other things, “Cancer Control,” “Flu Fighter,” “Migraine Miracle,” “Cramps Comforter,” and “Hangover Heaven.” Because defendant **ARTHUR VANMOOR** intended for the articles to be used to treat and cure cancer, the flu, migraine headaches, cramps, and hangovers, respectively, “Cancer Control,” “Flu Fighter,” “Migraine Miracle,” “Cramps Comforter,” and “Hangover Heaven” were “drugs” within the meaning of the FDCA.

19. “Cancer Control,” “Flu Fighter,” “Migraine Miracle,” “Cramps Comforter,” and “Hangover Heaven” were not approved by the FDA for use in human beings.

### **COUNT 1**

#### **(18 U.S.C. § 371: Conspiracy)**

20. Paragraphs 1 through 19 of the General Allegations are incorporated as though realleged in their entirety herein.

21. From on or about January 25, 2005, and continuing through on or about at least

March 3, 2006, at Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendant,

**ARTHUR VANMOOR,  
a/k/a ARTHUR VAN MOERKERKEN,  
a/k/a PHILLIP ROTH,**

did knowingly and willfully combine, conspire, confederate, and agree 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 with specific intent to defraud, devise a scheme and artifice to defraud 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 knowingly 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;

b. to knowingly and with specific intent to defraud, devise a scheme and artifice to defraud 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 knowingly 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;

c. with intent to defraud and mislead, to 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 as defined by Title 21, United States Code, Sections 352(a), (f), and (i), in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2);

d. with intent to defraud and mislead, to misbrand, as defined by Title 21, United States Code, Sections 352(a), (f), and (i), a drug within the meaning of Title 21, United States Code, Section 321(g)(1), in interstate commerce, in violation of Title 21, United States Code, Sections 331(b) and 333(a)(2);

e. with intent to defraud and mislead, to introduce and deliver for introduction and cause to be introduced or delivered for introduction into interstate commerce an unapproved new drug, in violation of Title 21, United States Code, Sections 331(d), 355(a) and 333(a)(2) and *and eoe 7/14/00*

### **OBJECTS OF THE CONSPIRACY**

22. It was the purpose and object of the conspiracy for the defendant and his co-conspirators to enrich themselves unjustly by introducing into and marketing and selling in interstate commerce new drugs that were not approved by the FDA for use in human beings, to wit, "Cancer Control," "Migraine Miracle," "Flu Fighter," "Cramps Comforter," "Hangover Heaven," that were misbranded in that the labeling was false and misleading in particulars, the labeling failed to bear adequate directions for use, and the products were offered for sale under the name of other drugs.

23. It was further the purpose and object of the conspiracy for the defendant and his co-conspirators to enrich themselves unjustly by defrauding the FDA by distributing the drugs "Cancer Control," "Migraine Miracle," "Flu Fighter," "Cramps Comforter," "Hangover Heaven," that were not approved by the FDA for use in human beings, and that were misbranded in that the labeling was false and misleading in particulars, the labeling failed to bear adequate directions for use, and the products were offered for sale under the name of other drugs, and by failing to register as a drug

manufacturer as required by Title 21, United States Code, Section 360.

### **MANNER AND MEANS**

The manner and means by which the defendant and others sought to accomplish the objects of the conspiracy and the scheme and artifice to defraud included the following:

24. Defendant **ARTHUR VANMOOR** caused the various FFL entities to be incorporated or registered as fictitious names in the state of Florida.

25. Defendant **ARTHUR VANMOOR** caused a company to encapsulate and bottle the products “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” “Hangover Heaven,” and “Cramps Comforter,” all of which contained the same ingredients in the same proportions to each other.

26. Defendant **ARTHUR VANMOOR** caused the creation and maintenance of the following websites, among others, which could be accessed from any computer in the world with Internet access: [www.cancer-cure.us](http://www.cancer-cure.us), [www.flu-cure.us](http://www.flu-cure.us), [www.flucure.com](http://www.flucure.com), [www.migrainecure.com](http://www.migrainecure.com), [www.crampscomforter.com](http://www.crampscomforter.com), [www.cancercure.org](http://www.cancercure.org), [www.flufighter.net](http://www.flufighter.net), [www.livercancercure.org](http://www.livercancercure.org), [www.lungcancercure.org](http://www.lungcancercure.org), [www.breastcancercure.com](http://www.breastcancercure.com), [www.breastcancercure.us](http://www.breastcancercure.us), [www.martinweinstock.com](http://www.martinweinstock.com), [www.cancercontrol.info](http://www.cancercontrol.info), [www.cancerchronicle.com](http://www.cancerchronicle.com), [www.cancernews.biz](http://www.cancernews.biz), [www.migraine-cure.us](http://www.migraine-cure.us), [www.fda-approvals.com](http://www.fda-approvals.com), [www.migrainemiracle.com](http://www.migrainemiracle.com), [www.cancercontrol.us](http://www.cancercontrol.us), and [www.fightingdiseasesassociation.com](http://www.fightingdiseasesassociation.com).

27. To induce consumers in interstate and foreign commerce to purchase “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” from FFL, defendant **ARTHUR VANMOOR** caused these websites and others, which constituted “labeling” under Title 21, United States Code, Section 321(m) for the drugs “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” to contain materially false, misleading, and fraudulent claims, as well as omissions of material facts, about “Cancer

Control,” “Migraine Miracle,” “Flu Fighter,” that were not approved for human use by the FDA, including, but not limited, to the following:

a. that “Cancer Control,” “Migraine Miracle,” and “Flu Fighter” were “FDA-[a]pproved new medicine[s],” when, in truth and in fact, these products were not FDA-approved, and neither defendant **ARTHUR VANMOOR** nor anyone else had ever even filed a new drug application for any of these drugs with the FDA;

b. that “Cancer Control” guaranteed the curing of “breast, lung, prostate, colon, skin, liver, blood (leukemia), kidney, pancreas, brain and most other forms of metastatic and non-metastatic cancers within 6 weeks,” when, in truth and in fact, defendant **ARTHUR VANMOOR** had no scientifically reliable evidence that “Cancer Control” was sure to cure such cancers within six weeks, and some “Cancer Control” users died from their cancer rather than being cured;

c. that “Cancer Control” “eliminate[d] cancer pain and significantly reduce[d] tumor size in days,” when, in truth and in fact, defendant **ARTHUR VANMOOR** had no scientifically reliable evidence to support such a claim;

d. that “Cancer Control” had caused “[m]ore than 10,000 people [to be] cured and cancer free,” when, in truth and in fact, defendant **ARTHUR VANMOOR** had no scientifically reliable evidence to support such a claim, and the claim was false;

e. that “Cancer Control” was “[r]ecommended by leading cancer research physicians,” when, in truth and in fact, it was not, and defendant **ARTHUR VANMOOR** had fabricated the names and existence of physicians and their testimonials regarding “Cancer Control” that appeared on the websites;

f. that individuals whose photographs appeared on the websites bore certain names

and testified to the effectiveness of “Cancer Control,” “Migraine Miracle,” and “Flu Fighter,” when, in truth and in fact, defendant **ARTHUR VANMOOR** had stolen and otherwise misappropriated the photographs of these individuals and their alleged testimonials from websites for other products, and had modified them to give the individuals new names in some cases and to make it appear as though the individuals had endorsed FFL’s products, although they had not;

g. that “Cancer Control” consumers’ money would be fully refunded if the consumers felt no improvement and did not get cured, when, in truth and in fact, “Cancer Control” consumers who sought full refunds did not receive full refunds;

h. that “Cancer Control” was really the FDA-approved Pfizer drug Camptosar®, when, in truth and in fact, it was not, and it did not contain significant quantities, if any, of the active ingredient in Camptosar®;

i. that “Migraine Miracle” was really the FDA-approved drug Campral®, when, in truth and in fact, it was not, and it did not contain significant quantities, if any, of the active ingredient in Campral®;

j. that “Flu Fighter” was really the FDA-approved drug Boniva®, when, in truth and in fact, it was not, and it did not contain significant quantities, if any, of the active ingredient in Boniva®;

k. that the United States Department of Health and Human Services Cancer Prevention and Control, and the American Cancer Society had conducted successful tests on “Cancer Control,” showing the product to be effective, when, in truth and in fact, no one and no office within or associated with the United States Department of Health or the American Cancer Society had conducted such tests;

l. that “Flu Fighter” was recommended by “leading flu research physicians,” when, in truth and in fact, it was not, and defendant **ARTHUR VANMOOR** had caused the names, existence, and claims of the alleged “leading flu research physicians” to be fabricated;

m. that “Migraine Miracle” was recommended by “leading migraine headache research physicians,” when, in truth and in fact, it was not, and defendant **ARTHUR VANMOOR** had caused the names, existence, and claims of the alleged “leading migraine headache research physicians” to be fabricated;

n. that “[m]ore than 10,000 people [had been] cured and [were] flu free, thanks to [Flu Fighter,]” when, in truth and in fact, defendant **ARTHUR VANMOOR** had no scientifically reliable evidence of such a claim, and the claim was false;

o. that “[m]ore than 10,000 people [had been] cured and migraine free, thanks to [Migraine Miracle],” when, in truth and in fact, defendant **ARTHUR VANMOOR** had no scientifically reliable evidence of such a claim, and the claim was false;

p. that “Cancer Control” cured “everybody’s cancer” except those who “refuse[d] to follow the recommended dosage,” when, in truth and in fact, defendant **ARTHUR VANMOOR** had no scientifically reliable evidence to support such a claim.

28. Defendant **ARTHUR VANMOOR** caused telephone lines, including toll-free telephone lines, to be established to accept orders for “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” which were not approved by the FDA for use in human beings.

29. Defendant **ARTHUR VANMOOR** caused co-conspirators and employees to answer telephone calls to FFL and take orders for “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” which were not approved by the FDA for use in human beings.

30. Defendant **ARTHUR VANMOOR** caused co-conspirators and employees answering the telephones and taking orders for FFL to make false statements regarding, among other things, the alleged FDA approval status of “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” which drugs were not approved by the FDA for use in human beings.

31. Defendant **ARTHUR VANMOOR** caused FFL to send “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” which drugs were not approved by the FDA for use in human beings, by United States mail and by interstate and international commercial courier to people who had ordered and paid for the products.

### **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:

32. In or about August 2005 defendant **ARTHUR VANMOOR** arranged for a co-conspirator to create “bogus articles from bogus doctors, . . . pictures of people dressed like doctors holding the products [“Cancer Control,” “Migraine Miracle,” “Flu Fighter,” and “Cramps Comforter”], . . . [and] bogus testimonials” for websites promoting “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” and “Cramps Comforter.”

33. On or about December 24, 2005, after the court on December 22, 2005, in U.S. v. Arthur Vanmoor, et al., Case No. 05-61940-CV-LENARD/KLEIN (S.D. Fla.), entered a temporary restraining order shutting down websites and prohibiting the further promotion, advertisement, production, shipment, and/or sale of “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” and any other new drugs that were not FDA-approved, and after GoDaddy, a web-hosting company located

in the United States, suspended service to certain of defendant **ARTHUR VANMOOR**'s websites, defendant **ARTHUR VANMOOR** attempted to cause the transfer of the websites [www.migrainecure.com](http://www.migrainecure.com), [www.flucure.com](http://www.flucure.com), and [www.cancercure.org](http://www.cancercure.org) from GoDaddy to a South African web-hosting company.

34. On or about January 2, 2006, after the court on December 22, 2005, in U.S. v. Arthur Vanmoor, et al., Case No. 05-61940-CV-LENARD/KLEIN (S.D. Fla.), entered a temporary restraining order shutting down websites and prohibiting the further promotion, advertisement, production, shipment, and/or sale of "Cancer Control," "Migraine Miracle," "Flu Fighter," and any other new drugs that were not FDA-approved, defendant **ARTHUR VANMOOR** caused the terms "Food and Drug Administration" and "FDA" to be replaced with the term "Fighting Diseases Association" on his websites.

35. Despite the entry on December 22, 2005, of a temporary restraining order shutting down websites and prohibiting the further promotion, advertisement, production, shipment, and/or sale of "Cancer Control," "Migraine Miracle," "Flu Fighter," and any other new drugs that were not FDA-approved, on or about January 5, 2006, defendant **ARTHUR VANMOOR** e-mailed a co-conspirator that he was "putting the [web]sites back up. Things are looking better."

36. Despite the Court's direction on January 6, 2006, in U.S. v. Arthur Vanmoor, et al., Case No. 05-61940-CV-LENARD/KLEIN (S.D. Fla.), that "all websites and phone numbers be shut down immediately, by 5 p.m.," defendant **ARTHUR VANMOOR** refused to comply and instead caused the websites and phone numbers to continue operating.

37. On or about January 26, 2006, defendant **ARTHUR VANMOOR** caused a lawsuit to be filed on behalf of FFL against Ceba-Tek, Inc., and Southern Tape & Label, Inc., after they

cooperated with the United States in its investigation of defendant **ARTHUR VANMOOR** and his co-conspirators.

38. The allegations contained in Counts 2 through 12 of this Indictment are incorporated by reference as overt acts.

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

**COUNTS 2-6**  
**(Wire Fraud: 18 U.S.C. §§ 1343 and 2)**

39. Paragraphs 1 through 19 of the General Allegations and paragraphs 23 through 31 of Count 1 are incorporated by reference as though realleged in their entirety herein.

**SCHEME AND ARTIFICE**

40. It was the object of the scheme and artifice to defraud for the defendant **ARTHUR VANMOOR** to enrich himself unjustly by introducing into and marketing and selling in interstate commerce new drugs that were not approved by the FDA for use in human beings, to wit, "Cancer Control," "Migraine Miracle," "Flu Fighter," "Cramps Comforter," "Hangover Heaven," and that were misbranded in that the labeling was false and misleading in particulars, the labeling failed to bear adequate directions for use, and the products were offered for sale under the name of other drugs.

**USE OF THE WIRES**

41. On or about the dates listed below, at Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendant,

**ARTHUR VANMOOR,**  
**a/k/a ARTHUR VAN MOERKERKEN,**  
**a/k/a PHILLIP ROTH,**

did knowingly and willfully devise a scheme and artifice to defraud, 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	DESCRIPTION OF WIRE COMMUNICATION
2	8/05 - 1/06	Communication over the website <a href="http://www.cancercure.org">www.cancercure.org</a> that "Cancer Control" was FDA-approved, when, in fact, it was not.
3	8/05 - 1/06	Communication over the website <a href="http://www.migraineure.com">www.migraineure.com</a> that "Migraine Miracle" was FDA-approved, when, in fact, it was not.
4	8/05 - 1/06	Communication over the website <a href="http://www.flufighter.net">www.flufighter.net</a> that "Flu Fighter" was FDA-approved, when, in fact, it was not.
5	12/8/05	Acceptance of telephone call from Birmingham, Alabama, to FFL in the Southern District of Florida, in which FFL took an order from the caller for two bottles of "Cancer Control."
6	12/28/05	Acceptance of telephone call from Louisiana to FFL in the Southern District of Florida, in which FFL took an order from the caller for two bottles of "Cancer Control."

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

**COUNTS 7-8**

**(Mail Fraud: 18 U.S.C. §§ 1341 and 2)**

42. Paragraphs 1 through 19 of the General Allegations and paragraphs 23 through 31 of Count 1 are incorporated by reference as though realleged in their entirety herein.

**SCHEME AND ARTIFICE**

43. It was the object of the scheme and artifice to defraud for the defendant to enrich himself unjustly by introducing into and marketing and selling in interstate commerce new drugs that

were not approved by the FDA for use in human beings, to wit, “Cancer Control,” “Migraine Miracle,” “Flu Fighter,” “Cramps Comforter,” “Hangover Heaven,” and that were misbranded in that the labeling was false and misleading in particulars, the labeling failed to bear adequate directions for use, and the products were offered for sale under the name of other drugs.

**USE OF THE MAIL**

44. On or about the dates listed below, at Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendant,

**ARTHUR VANMOOR,  
a/k/a ARTHUR VANMOERKERKEN,  
a/k/a PHILLIP ROTH,**

did knowingly and willfully devise a scheme and artifice to defraud, 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 United States Mail and private and commercial interstate carrier, according to the directions thereon, certain mail matters and things, as more specifically described below:

<b>COUNT</b>	<b>DATE</b>	<b>DESCRIPTION OF MAIL MATTER</b>
7	12/8/05	Two bottles of “Cancer Control” sent from Miami, Florida, to Alabama
8	12/29/05	Two bottles of “Cancer Control” sent from the Southern District of Florida to Louisiana

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

**COUNTS 9-10**  
**(Misbranding: 21 U.S.C. §§ 331(b); 333(a)(2))**

45. Paragraphs 1 through 19 of the General Allegations and paragraphs 23 through 31 of Count 1 are incorporated by reference as though realleged in their entirety herein.

46. On or about the dates listed below, in Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendant,

**ARTHUR VANMOOR,  
a/k/a ARTHUR VANMOERKERKEN,  
a/k/a PHILLIP ROTH,**

with intent to defraud and mislead, and while the drugs were in interstate commerce did cause the drugs listed below to be misbranded in the following ways: (1) as defined in Title 21, United States Code, Section 352(a) in that the labeling was false and misleading in its particulars, as alleged above in paragraphs 28.a. - 28.p.; (2) as defined in Title 21, United States Code, Section 352(f)(1), in that the labeling did not bear adequate directions for its intended use(s), in that the drugs were offered for use to cure various ailments described below as to each count, knowing full well that the labeling of the drugs did not and could never bear adequate directions for such use because the drugs did not cure the conditions that they purported to cure; and (3) as defined in Title 21, United States Code, Section 352(i)(3), in that they were offered for sale under the name of other drugs, each type of misbranding constituting a violation of the FDCA, as set forth in the individual counts below:

<b>COUNT</b>	<b>DATE</b>	<b>INTERSTATE COMMERCE TRANSACTION</b>
9	12/8/05	Shipment of two bottles of "Cancer Control" from the Southern District of Florida to Alabama
10	12/29/05	Shipment of two bottles of "Cancer Control" from the Southern District of Florida to Louisiana

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

**COUNTS 11-12**  
**(Unapproved New Drugs: 21 U.S.C. §§ 331(d); 355(a); 333(a)(2))**

47. Paragraphs 1 through 19 of the General Allegations and paragraphs 23 through 31 of Count 1 are incorporated by reference as though realleged in their entirety herein.

48. On or about the dates listed below, in Broward, Palm Beach, and Miami-Dade Counties, in the Southern District of Florida, and elsewhere, the defendant,

**ARTHUR VANMOOR,  
a/k/a ARTHUR VANMOERKERKEN,  
a/k/a PHILLIP ROTH,**

with intent to defraud and mislead, did cause to be introduced and delivered for introduction into interstate commerce, "Cancer Control," a new drug within the meaning of Title 21, United States Code, Section 331(p) that did not have in effect an approval of an application filed pursuant to Title 21, United States Code, Sections 355(b) or 355(j), and was not exempted from such approval pursuant to Title 21, United States Code, Section 355(i) as charged in the individual counts below:

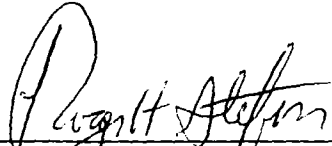
<b>COUNT</b>	<b>DATE</b>	<b>INTRODUCTION INTO INTERSTATE COMMERCE</b>
11	12/8/05	Two bottles of "Cancer Control" shipped from the Southern District of Florida to Alabama
12	12/29/05	Two bottles of "Cancer Control" shipped from the Southern District of Florida to Louisiana

All in violation of Title 21, United States Code, Sections 331(d), 355(a) and 333(a)(2), and

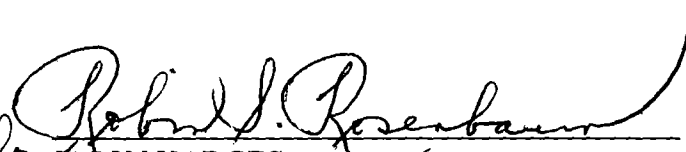
Title 18, United States Code, Section 2.

A TRUE BILL.

  
\_\_\_\_\_  
GRAND JURY FOREPERSON

  
for \_\_\_\_\_  
R. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
ROBIN S. ROSENBAUM  
ASSISTANT UNITED STATES ATTORNEY

  
for \_\_\_\_\_  
JASON HADGES  
SPECIAL ASSISTANT U.S. ATTORNEY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.  
ARTHUR VANMOOR  
\_\_\_\_\_

CERTIFICATE OF TRIAL ATTORNEY\*

Superseding Case Information:

Court Division: (Select One)

\_\_\_\_\_ Miami \_\_\_\_\_ Key West  
X FTL \_\_\_\_\_ WPB \_\_\_\_\_ FTP

New Defendant(s) Yes \_\_\_\_\_ No \_\_\_\_\_  
Number of New Defendants \_\_\_\_\_  
Total number of counts \_\_\_\_\_

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.

3. Interpreter: (Yes or No) No  
List language and/or dialect \_\_\_\_\_

4. This case will take 20 days for the parties to try.

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

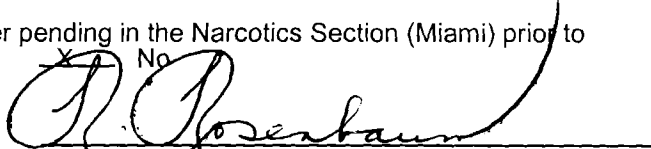
I	0 to 5 days	_____	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	<u>X</u>	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No  
If yes: Judge: \_\_\_\_\_ Case No. \_\_\_\_\_  
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No  
If yes: Magistrate Case No. \_\_\_\_\_  
Related Miscellaneous numbers: \_\_\_\_\_  
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

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

Defendant's Name: ARTHUR VANMOOR No.: \_\_\_\_\_

**Count # 1:**

Conspiracy; in violation of 18:371

\*Max Penalty: Five years' imprisonment; \$250,000 fine; 3 years' supervised release

**Counts #2-6:**

Wire fraud; in violation of 18:1343

\*Max Penalty: Twenty years' imprisonment; \$250,000 fine; 3 years' supervised release

**Counts #7-8:**

Mail fraud; in violation of 18:1341

\*Max Penalty: Twenty years' imprisonment; \$250,000 fine; 3 years' supervised release

**Counts #9-10:**

Misbranding; in violation of 21:331(b) and 33(a)(2)

\*Max Penalty: Three years' imprisonment; \$250,000 fine; 1 years' supervised release

**Count #11-12:**

Unapproved New Drugs; in violation of 21:331(d); 335(a); 333(a)(2)

\*Max Penalty: Three years' imprisonment; \$250,000 fine; 1 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

Central Criminal Division

**THE UNITED STATES OF AMERICA**

vs.

ARTHUR VANMOOR,  
a/k/a ARTHUR VANMOERKERKEN,  
a/k/a PHILLIP ROTH

**INDICTMENT**

- 18 U.S.C. §371
- 18 U.S.C. §1341
- 18 U.S.C. §1343
- 21 U.S.C. §331(a), 352(a), (f), and (l), 333(a)(2)
- 21 U.S.C. §331(b), 352(a), (f), and (l), 333(a)(2)
- 21 U.S.C. §331(d), 355(a), 333(a)(2)

*A true bill.*

*Foreperson*

Filed in open court this \_\_\_\_\_ day,

of \_\_\_\_\_ A.D. 2006 \_\_\_\_\_

*Clerk*

Bail \$ \_\_\_\_\_