



FILED *[Signature]*

STATE BAR COURT OF CALIFORNIA

APR 01 2010

HEARING DEPARTMENT – SAN FRANCISCO

**STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO**

In the Matter of)	Case No.: 09-N-15800-PEM
)	
ROBERT J. McFADDEN,)	ORDER
)	
Member No. 71883,)	
)	
<u>A Member of the State Bar.</u>)	

On March 10, 2010, the parties in the above-entitled matter submitted for consideration and approval a Stipulation Re Facts, Conclusions of Law and Disposition (Stipulation) to the Honorable Pat McElroy. The Stipulation provided that respondent would be disbarred in this matter.¹

Finding the Stipulation to be fair to the parties and that the Stipulation adequately protects the public, IT IS ORDERED that the stipulated facts and disposition are APPROVED and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

The parties are bound by the Stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted, or 2) this court modifies or further modifies the approved stipulation (See Rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the date it is filed. (See Rule 9.18(a), California Rules of Court.)**

IT IS SO ORDERED.

Dated: April 1, 2010

Pat McElroy

 PAT McELROY
 Judge of the State Bar Court

¹ The stipulation is attached to this order.

ORIGINAL

FILED *JP*

MAR 10 2010

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA
 2 OFFICE OF THE CHIEF TRIAL COUNSEL
 3 RUSSELL G. WEINER, No. 94504
 4 INTERIM CHIEF TRIAL COUNSEL
 5 PATSY J. COBB, No. 107793
 6 DEPUTY CHIEF TRIAL COUNSEL
 7 ALAN B. GORDON, No. 125642
 8 ASSISTANT CHIEF TRIAL COUNSEL
 9 JOSEPH R. CARLUCCI, No. 172309
 10 SUPERVISING TRIAL COUNSEL
 11 ERIN McKEOWN JOYCE, No. 149946
 12 DEPUTY TRIAL COUNSEL
 13 1149 South Hill Street
 14 Los Angeles, California 90015-2299
 15 Telephone: (213) 765-1356

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

11	In the Matter of:)	Case Nos. 09-N-15800
12	ROBERT JAMES MCFADDEN, JR.,)	STIPULATION RE FACTS, CONCLUSIONS
13	No. 71883,)	OF LAW AND DISBARMENT AND
14	<u>A Member of the State Bar</u>)	ORDER APPROVING

15
 16 IT IS HEREBY STIPULATED AND AGREED by and between the Office of the Chief
 17 Trial Counsel of the State Bar of California ("State Bar"), by and through Deputy Trial Counsel
 18 Erin McKeown Joyce, and Respondent Robert James McFadden, Jr., in accordance with Rule
 19 133 of the Rules of Procedure of the State Bar of California as follows:

20 **I. JURISDICTION**

21 Respondent was admitted to the practice of law in the State of California on December
 22 22, 1976, and since that time has been a member of the State Bar of California.

23 **II. WAIVERS AND UNDERSTANDING OF THE PARTIES**

24 It is understood and acknowledged by the parties to this Stipulation re Facts, Conclusions
 25 of Law and Disbarment ("Stipulation") that:

26 A. The proceeding listed by case number in the caption of this Stipulation is entirely
 27 resolved by this Stipulation except as expressly set forth in this Stipulation;

28 ///

1 B. The parties agree to be bound by the factual stipulations contained in this
2 Stipulation even if the conclusions of law or disposition are rejected or changed by the Supreme
3 Court;

4 C. The factual statements contained in this Stipulation constitute admissions of fact
5 and may not be withdrawn by either party, except with court approval;

6 D. Respondent acknowledges the provisions of Business and Professions Code
7 sections 6086.10 and 6140.7;

8 E. Until costs are paid in full, Respondent will remain ineligible to seek
9 reinstatement to the practice of law pursuant to Rule 662(c) of the Rules of Procedure of the
10 State Bar of California. Respondent acknowledges that the Office of the Chief Trial Counsel has
11 informed him that as of February 19, 2010, the estimated costs in this matter are \$5,290.50.
12 Respondent further acknowledges that, should this Stipulation be rejected or should relief from
13 the Stipulation be granted; the costs in this matter may increase due to the cost of further
14 proceedings;

15 F. Respondent has been advised in writing in a separate document as of February 19,
16 2010, of any investigations or proceedings pending at the time of execution of this Stipulation
17 that are not resolved by this Stipulation (except for investigations, if any, by criminal law
18 enforcement agencies), identified by investigative case number or proceeding case number, and
19 complaining witness name, if any;

20 G. The parties waive any variance between the Notice of Disciplinary Charges filed
21 on November 2, 2009, and the facts and/or conclusions of law contained in this Stipulation.
22 Additionally, the parties waive the issuance of an Amended Notice of Disciplinary Charges. The
23 parties further waive the right to the filing of an Notice of Disciplinary Charges and to a formal
24 hearing on any charge not included in the pending Notice of Disciplinary Charges.

25 H. The parties are aware that if this Stipulation is approved, the Court will issue an
26 order of inactive enrollment under Business and Professions Code section 6007(c)(4) and Rule of
27 Procedure 220(c).

28 ///

1 **III. STATEMENT OF ACTS OR OMISSIONS ACKNOWLEDGED BY**
2 **RESPONDENT AS CAUSES FOR DISBARMENT**

3 The parties hereby stipulate and Respondent specifically admits that the following facts
4 are true and undisputed. The parties further stipulate and Respondent specifically acknowledges
5 that the following acts and/or omissions constitute cause for disbarment:

6 **Case No. 09-N-15800**

7 **Failure to Obey California Rule of Court 9.20**

8 1. Respondent willfully violated California Rule of Court 9.20, by willfully
9 disobeying or violating an order of the court as follows:

10 2. On June 17, 2009, the Review Department of the State Bar Court issued an
11 order placing Respondent on interim suspension in case number 09-C-10283 pending final
12 disposition of the proceedings in that matter (the "9.20 Order"). The 9.20 Order included a
13 requirement that Respondent comply with Rule 9.20 of the California Rules of Court, by
14 performing the acts specified in subdivisions (a) and (c) within 30 and 40 days, respectively,
15 after the effective date of the 9.20 Order.

16 3. Respondent was already actually suspended effective July 1, 2009, based on a
17 Supreme Court Order dated June 11, 2009, which had placed Respondent on suspension due to
18 his failure to pay his bar membership fees. To date, Respondent has not paid his State Bar
19 membership fees for 2009, and the suspension order of June 11, 2009, remains in effect.

20 4. On June 17, 2009, the Clerk of the State Bar Court properly served Respondent
21 with the 9.20 Order by placing a copy in a sealed envelope correctly addressed to Respondent
22 at his State Bar membership records address. Respondent received the 9.20 Order.

23 5. On June 25, 2009, the Office of Probation sent a letter to Respondent reminding
24 him of his obligation to comply with Rule 9.20 as the result of the 9.20 Order. The letter
25 specifically informed Respondent that he was required to file his Rule 9.20 compliance
26 declaration as specified in Rule 9.20(c) no later than August 19, 2009. The June 25, 2009
27 letter was properly sent to Respondent by the Office of Probation by placing a copy in a sealed

28 ///

1 envelope correctly addressed to Respondent at his State Bar membership records address.

2 Respondent received the June 25, 2009 Office of Probation letter.

3 6. The 9.20 Order became effective on July 10, 2009, and at all times thereafter
4 has remained in full force and effect.

5 7. Respondent failed to comply with subdivision (c) of Rule 9.20 prior to the
6 deadline of August 19, 2009.

7 8. On September 23, 2009, the Office of Probation sent a letter to Respondent
8 notifying Respondent of his failure to comply with Rule 9.20 as the result of the 9.20 Order.
9 The September 23, 2009 letter was properly sent to Respondent by the Office of Probation by
10 placing a copy in a sealed envelope correctly addressed to Respondent at his State Bar
11 membership records address. Respondent received the September 23, 2009 Office of
12 Probation letter.

13 9. It was not until October 21, 2009 that Respondent filed his untimely Rule 9.20
14 compliance declaration.

15 10. The untimely Rule 9.20 compliance declaration filed by Respondent was
16 materially false in that Respondent averred in that declaration that he had notified all clients,
17 co-counsel, opposing counsel and adverse parties of his disqualification to act as an attorney
18 after the effective date of his inactive enrollment, and further averred that he had filed a copy
19 of his notice sent to opposing counsel or adverse parties with the court where any litigation was
20 pending. However, in the lawsuit entitled *Joseph Lee v. U. S. Bank, et al.*, filed in Riverside
21 Superior Court, case no. INC 079785, Respondent failed to notify his opposing counsel and
22 failed to file the required notice with the court and required counsel of record for plaintiff
23 Joseph Lee at the time of his inactive enrollment and upon filing the Rule 9.20 compliance
24 declaration.

25 11. By failing to timely file his Rule 9.20 compliance declaration in conformity
26 with the requirements of Rule 9.20(c), and by belatedly filing a materially false Rule 9.20
27 compliance declaration, Respondent failed to comply with the provisions of the order of the
28 Review Department of the State Bar Court in State Bar case number 09-C-10283 requiring

1 compliance with Rule 9.20(c). By the foregoing conduct, Respondent willfully violated
2 California Rule of Court 9.20. By submitting the materially false Rule 9.20 compliance
3 declaration, Respondent engaged in an act of moral turpitude.

4 **Other Misconduct Warranting Disbarment**

5 12. On January 27, 2009, Respondent was convicted in the United States District
6 Court for the District of New Hampshire in case no. 06-cr-00226-PB-2, of three felony counts
7 as follows:

8 One count of Conspiracy to Commit Wire Fraud in violation of Title 18 United States
9 Code sections 1349 and 1343, a felony involving moral turpitude analogous to *In re Utz* (1989)
10 48 Cal. 3d 468;

11 One count of Conspiracy to Launder Monetary Instruments in violation of Title 18
12 United States Code sections 1956(h), 1956(a)(1)(A)(i) and 1956(a)(1)(B)(i), a felony involving
13 moral turpitude; and

14 One count of Conspiracy to Engage in Unlicensed Wholesale Distribution of
15 Prescription Drugs in violation of Title 18 United States Code sections 331(t), 333(b)(1)(D)
16 and 353(e)(2)(A), a felony involving moral turpitude analogous to *In re Giddens* (1981) 30
17 Cal. 3d 110, *In re Leardo* (1991) 53 Cal. 3d 1 and *In re Nadrich*(1988) 44 Cal. 3d 271.

18 13. Respondent's criminal convictions have been transmitted to the Review
19 Department and have resulted in the initiation of State Bar Court criminal conviction case
20 no. 09-C-10283. Respondent's three felony convictions are final.

21 **IV. CONCLUSIONS OF LAW**

22 The parties hereby stipulate and Respondent specifically admits that by his conduct
23 described in paragraphs 1 through 13 above, Respondent engaged in acts of serious misconduct
24 and moral turpitude warranting disbarment.

25 Specifically, Respondent's willful failure to timely comply with Rule 9.20, and his
26 belated filing of the materially false 9.20 Compliance Declaration warrant disbarment.

27 ///

28 ///

1 Respondent's criminal convictions for three felonies involving moral turpitude warrant
2 disbarment pursuant to Business and Professions Code sections 6101 and 6102. Respondent is
3 subject to summary disbarment for his criminal convictions.

4 **V. AUTHORITIES SUPPORTING DISBARMENT**

5 The parties hereby stipulate that Respondent's willful violation of Rule 9.20 warrants
6 Respondent's disbarment. *In the Matter of Grueneich* (Review Dept. 1993) 2 Cal. State Bar
7 Ct. Rptr. 439 (Disbarment is generally the appropriate sanction for willful violation of former
8 Rule 955 of the California Rules of Court, the precursor to Rule 9.20); *see also, In the Matter*
9 *of Snyder* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 593.

10 Moreover, Respondent's convictions for three felonies involving moral turpitude
11 subject Respondent to summary disbarment pursuant to Standards 3.2 and 3.3 of the Standards
12 for Attorney Sanctions for Professional Misconduct. Standard 3.3 specifically provides that
13 "[f]inal conviction of a felony defined by section 6102(c) shall result in summary disbarment,
14 irrespective of any mitigating circumstances."

15 **VI. STIPULATION TO ADMISSION OF DOCUMENTS**

16 The parties hereby stipulate that State Bar Exhibits 1 through 5 described below and
17 attached hereto, shall be admitted into evidence in these proceedings.

18 Exhibit 1 True and correct copy of the June 17, 2009 State Bar Court Order in case no.
19 09-C-10283, pursuant to which Respondent was required to comply with Rule of
20 Court 9.20.

21 Exhibit 2 True and correct copy of the August 16, 2009 declaration of Respondent
22 submitted by Respondent claiming that he complied with Rule 9.20. Respondent
23 did not file this declaration.

24 Exhibit 3 True and correct copy of the October 18, 2009 Rule 9.20 Compliance Declaration
25 belatedly filed by Respondent.

26 Exhibit 4 Certified copy of a Notice of Further Order to Show Cause Hearing Regarding
27 Plaintiff's Failure to Appear in a lawsuit entitled *Joseph Lee v. U.S. Bank, et al.*
28 filed in Riverside Superior Court, case no. INC 079785.

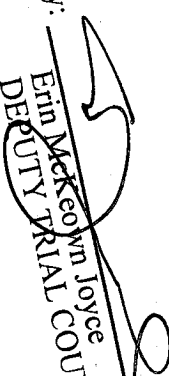
1 Exhibit 5
2 True and correct copy of the Transmittal of Records of Conviction of Attorney
3 (Bus. & Prof. Code sections 6101-6102; Cal. Rule of Court, Rule 9.5 et seq.) filed
4 May 28, 2009 in State Bar case no. 09-C-10283.

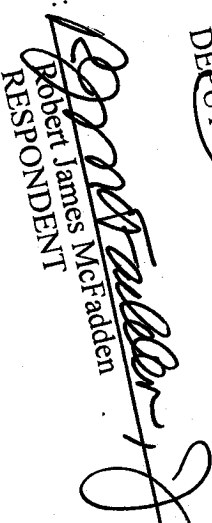
5 **VII. DISCIPLINE**

6 The parties hereby stipulate that Respondent shall be disbarred.

7 **AGREED AND ACCEPTED:**

8 Respectfully submitted,
9 THE STATE BAR OF CALIFORNIA
10 OFFICE OF THE CHIEF TRIAL COUNSEL

11 By: 
12 Erin Mckeown Joyce
13 DEPUTY TRIAL COUNSEL

14 DATED: February 2, 2010
15
16 By: 
17 Robert James McFadden
18 RESPONDENT

19 DATED: March 1, 2010

20
21
22
23
24
25
26
27
28

FILED
MDS

JUN 17 2009

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

09-C-10283

**REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK**

IN THE MATTER OF **ROBERT J. McFADDEN**

A MEMBER OF THE STATE BAR OF CALIFORNIA

Since respondent **ROBERT J. McFADDEN**, State Bar Number **71883**, has been convicted of violating title 18 United States Code sections 1343,1349 (conspiracy to commit wire fraud), 1956(a)(1)(A)(i), 1956(a)(1)(B)(i) and 1956(h) (money laundering), felonies involving moral turpitude, under the authority of rule 9.10(a), California Rules of Court, it is ordered pursuant to Business and Professions Code section 6102 that respondent be suspended from the practice of law effective July 10, 2009, pending final disposition of this proceeding. It is further ordered that respondent comply with rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 60 days, respectively, after the effective date of this suspension.

The review department reserves the moral turpitude classification of Robert J. McFadden's felony violations of title 18 United States Code section 371 and title 18 United States code sections 331(t), 333(b)(1)(D) and 353(e)(2)(A). The parties are invited to file briefs within 20 days of service of this order addressing whether a violation of title 18 United States Code involves moral turpitude per se.

John R. ...

Robert J. McFadden, Jr.
#04086-049
Unit A4A
P.O.Box 7001
Taft, California 93268

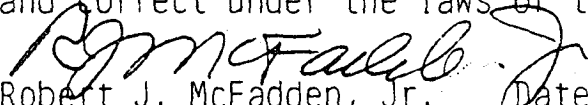
IN THE MATTER OF ROBERT J. McFadden, JR,
STATE BAR NUMBER 71883

09-C-10283
Declaration of
Robert J. McFadden, Jr.

I, Robert J. McFadden, Jr. hereby declare:

1. That on or about June 17, 2009, the date of the State Bar Order regarding the effective date of suspension of July 10, 2009, I had but one open and pending legal case file.
2. Prior to that date, my law practice had been closed and all pending files had been disposed of by transferring the files to new counsel or to the clients to act in propria persona.
3. Months prior to the date of June 17, 2009, clients received written correspondence and a substitution of attorney regarding the necessity to transfer the file.
4. On August ¹² ~~8~~ ^{RTM}, 2009, I delivered to the camp facility mail room, written notifications, pursuant to CRC, 9,20(a), by certified mail, returned receipt requested, to the plaintiff and defendant, both in propria persona.
5. I may receive correspondence at the above address.

I hereby declare that the above and foregoing is true and correct under the laws of the State of California.


Robert J. McFadden, Jr. Dated August 16, 2009 at Taft, Calif

CERTIFICATE OF SERVICE

09-C-10283

I, ROBERT J MCFADDEN JR (SB# 071883) hereby certify that I have served a true and correct copy of the following:

Declaration of Robert J McFadden, Jr.
pursuant to C.R.C. 9.20(c)

Which is deemed filed at the time it was deposited in Taft Correctional Institution's internal mail system, since TCI has no separate system designed for legal mail, in accordance with Rule 4, Federal Rules of Appellate Procedure and Houston V. Lack, 108 S. Ct. 2379 (1988), by placing same in a sealed, first class postage prepaid envelope addressed to :

KRISTIN L. PITUSMA
STATE BAR OF CALIF
1149 So Hill St
LOS ANGELES, CA 90015-2299

and depositing same in the institution mail box at Taft Correctional Institution at Taft, California.

I declare, under penalty of perjury (Title 28 U.S.C. 1746), That the foregoing is true and correct.

Dated this 19 day of OCT, 2009.
~~17th~~ Aug

Robert J McFadden Jr
10-18-09 Robert J McFadden Jr

ROBERT J. MCFADDEN JR
 #04086-L-1-Unit A4A
 P.O. Box 7001
 TAFT, CALIF 93268
 NO PHONE #

State Bar Court

Counsel for Respondent: PRO PER	Case Number(s): 09-C-10283	For Court's Use Only:
In the Matter of ROBERT J MCFADDEN A Member of the State Bar of California	JR RULE 9.20 COMPLIANCE DECLARATION	

I, ROBERT J. MCFADDEN JR State Bar member number 71883, have been ordered to comply with the provisions of subdivisions (a) and (c) of rule 9.20, California Rules of Court, as part of a suspension ordered by the State Bar Court or Supreme Court, or an order of disbarment or an order accepting my resignation by the Supreme Court.

[Answer each question by checking one box per question. If neither option is correct, attach a declaration under penalty of perjury explaining your situation.]

Within 30 days of the effective date of the order of suspension/disbarment/acceptance of resignation ("effective date"): (See rule 9.16(a), California Rules of Court):

1. I notified all clients and co-counsel, in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my consequent disqualification to act as an attorney after the effective date of the order of suspension/disbarment, and in those cases where I had no co-counsel, I urged the clients to seek legal advice elsewhere, calling attention to any urgency in seeking another attorney.
 As of the date upon which the order to comply with rule 9.20 was filed, I had no clients.
2. I delivered to all clients any papers or other property to which the clients were entitled, or notified clients and co-counsel, if any, of a suitable time and place where the papers or other property could be obtained, and called attention to any urgency for obtaining the papers or other property.
 As of the date upon which the order to comply with rule 9.20 was filed, I had no papers or other property to which clients were entitled.
3. I refunded fees paid, any part of which had not been earned.
 As of the date upon which the order to comply with rule 9.20 was filed, I had earned all fees paid to me.
4. I notified all opposing counsel or adverse parties not represented by counsel in matters that were pending on the date upon which the order to comply with rule 9.20 was filed by certified or registered mail, return receipt requested, of my disqualification to act as an attorney after the effective date of my suspension, disbarment, or the Supreme Court's acceptance of my resignation, and filed a copy of my notice to opposing counsel/adverse parties with the court, agency or tribunal before which litigation was pending for inclusion in its files.
 As of the date upon which the order to comply with rule 9.20 was filed, I did not represent any clients in pending matters.
5. In the future, communications may be directed to me at the following address: ABOVE LOCATION
6. see attached exhibits

[If this is not your current State Bar membership address, this declaration will change your membership address.
 See Bus. & Prof. Code §6002.1(b)]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Taft, Calif, California, on October 18, 2009.

Willful failure to comply with the provisions of rule 9.20 may result in revocation of probation; suspension; disbarment; denial of reinstatement; or, contempt or conviction.

Robert J. McFadden Jr
 [Signature]
ROBERT J. MCFADDEN JR
 (Print Name)

1 JOHN M. SORICH (CA Bar No. 125223)
jsorich@adorno.com
2 S. CHRISTOPHER YOO (CA Bar No. 169442)
cyoo@adorno.com
3 AILEEN M. BANELLIS (CA Bar No. 253162)
abanellis@adorno.com
4 ADORNO YOSS ALVARADO & SMITH
A Professional Corporation
5 1 MacArthur Place, Suite 200
Santa Ana, California 92707
6 Tel: (714) 852-6800
Fax: (714) 852-6899

7 Attorneys for Defendants
8 US BANK, NATIONAL ASSOCIATION, AS TRUSTEE
erroneously sued as US BANK NATIONAL ASSOCIATION,
9 CHASE HOME FINANCE LLC, DONNA HOPKINS,
and RICHARD J. ALEXANDER

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF RIVERSIDE, DESERT DISTRICT**

13 JOSEPH LEE,

14 Plaintiff,

15 v.

16 US BANK NATIONAL ASSOCIATION;
17 CHASE HOME FINANCE LLC; DONNA
HOPKINS, individually and as an agent for
18 CHASE HOME FINANCE LLC; RICHARD J.
ALEXANDER, individually and as an agent for
19 CHASE HOME FINANCE LLC and DOES 1 to
20 10, Inclusive,

21 Defendants.

CASE NO.: INC 079785

JUDGE: Randall D. White
DEPT: "2J"

**NOTICE OF FURTHER ORDER TO
SHOW CAUSE HEARING REGARDING
PLAINTIFF'S FAILURE TO APPEAR**

DATE: October 1, 2009
TIME: 8:30 a.m.
DEPT: "2J"

22
23
24
25
26 ///

27 ///

28 ///

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** an order to show cause hearing regarding Plaintiff's failure to
3 appear at the case management conference took place on July 8, 2009 at 8:30 a.m. in Department
4 "2J" of Riverside County Superior Court, Desert Branch, the Honorable Randall D. White, presiding.
5 Aileen M. Banellis, Esq. of Adorno, Yoss, Alvarado & Smith, a professional corporation, appeared
6 telephonically for defendants US Bank National Association, as Trustee ("US Bank"), erroneously
7 sued as US Bank National Association, Chase Home Finance LLC ("Chase"), Donna Hopkins, and
8 Richard J. Alexander (collectively, "Defendants"). No other appearances were made.

9 **PLEASE TAKE FURTHER NOTICE** that the order to show cause hearing regarding
10 Plaintiff's failure to appear at the case management conference was continued to **October 1, 2009 at**
11 **8:30 a.m. in Department 2J.**

12 Due to Plaintiff's counsel's suspension from the State Bar of California, Defendants were
13 asked to give notice through the State Bar of California and to Plaintiff.

14
15 DATED: July 9, 2009

ADORNO YOSS ALVARADO & SMITH
A Professional Corporation

16
17
18 By: 

19 JOHN M. SORICH
20 S. CHRISTOPHER YOO
21 AILEEN M. BANELLIS
22 Attorneys for Defendants
23 US BANK, NATIONAL ASSOCIATION, AS
24 TRUSTEE erroneously sued as US BANK
25 NATIONAL ASSOCIATION, CHASE HOME
26 FINANCE LLC. DONNA HOPKINS.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

Joseph Lee v. US Bank National Association, et al.

Riverside Superior Court Case No. INC 079785

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is **ADORNO YOSS ALVARADO & SMITH, 1 MacArthur Place, Santa Ana, CA 92707.**

On July 9, 2009, I served the foregoing document described as **NOTICE OF FURTHER ORDER TO SHOW CAUSE REGARDING HEARING REGARDING PLAINTIFF'S FAILURE TO APPEAR** on the interested parties in this action.

by placing the original and/or a true copy thereof enclosed in (a) sealed envelope(s), addressed as follows:

SEE ATTACHED SERVICE LIST

BY REGULAR MAIL: I deposited such envelope in the mail at 1 MacArthur Place, Santa Ana, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

BY THE ACT OF FILING OR SERVICE, THAT THE DOCUMENT WAS PRODUCED ON PAPER PURCHASED AS RECYCLED.

BY FACSIMILE MACHINE: I Tele-Faxed a copy of the original document to the above facsimile numbers.

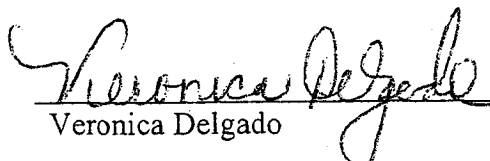
BY OVERNIGHT MAIL: I deposited such documents at the Overnite Express or Federal Express Drop Box located at 1 MacArthur Place, Santa Ana, California 92707. The envelope was deposited with delivery fees thereon fully prepaid.

BY PERSONAL SERVICE: I caused such envelope(s) to be delivered by hand to the above addressee(s).

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

Executed on July 9, 2009, at Santa Ana, California.


Veronica Delgado

AUURRO LUSS ALVAKADU & SMITH
ATTORNEYS AT LAW
SANTA ANA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

Joseph Lee v. US Bank National Association, et al.
Riverside Superior Court Case No. INC 079785

Robert J. McFadden, Jr., Esq.
McFadden & Associates
1111 East Tahquitz Canyon Way, Suite 209
Palm Springs, CA 92262

(760) 327-4731-telephone
(760) 327-6591-facsimile

Attorney for Plaintiff, Joseph Lee

Joseph Lee
2930 Wyman Drive
Palm Springs, CA 92262

**Due to Plaintiff's counsel's suspension from
the State Bar of California, defendants to give
notice to Plaintiff and State Bar of California**

State Bar of California
1149 South Hill Street
Los Angeles, CA 90015

**Due to Plaintiff's counsel's suspension from
the State Bar of California, defendants to give
notice to Plaintiff and State Bar of California**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF SERVICE BY REGULAR MAIL

CASE NUMBER: 09-N-15800

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

**DECLARATION OF ERIN McKEOWN JOYCE RE
RESPONDENT'S FILING OF DECLARATION PURSUANT
TO RULE OF COURT 9.20**

And

**DECLARATION OF JESSE CISNEROS, STATE BAR
PARALEGAL, RE SETTING TELEPHONIC STATUS
CONFERENCE**

in a sealed envelope placed for collection and mailing at Los Angeles, on the date shown below, addressed to:

Robert James McFadden, Jr.
McFadden & Associates
PO Box 509
Desert Hot Springs, CA 92240

and

Robert J. McFadden, Jr.
#04086-049 Unit A
P. O. Box 7001
Taft, California 93268

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: January 17, 2010

Signed: Paula Heider
Paula Heider
Declarant

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
KRISTIN L. RITSEMA, No. 149966
SUPERVISING TRIAL COUNSEL
1149 South Hill Street
Los Angeles, California 90015-2299
Telephone: (213) 765-1000

FILED

MAY 28 2009

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

IN THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA

IN THE MATTER OF THE)
CONVICTION OF:) Case No. 09-C-10283
)
) Transmittal of Records of Conviction of Attorney (Bus. & Prof.
ROBERT JAMES MCFADDEN,) Code §§ 6101-6102; Cal. Rules of Court, rule 9.5 et seq.)
No. 71883,)
) [X] Felony;
) [X] Crime(s) involved moral turpitude;
A Member of the State Bar.) [] Probable cause to believe the crime(s) involved moral
) turpitude;
) [] Crime(s) which may or may not involve moral turpitude or
) other misconduct warranting discipline;
_____) [] Transmittal of Notice of Finality of Conviction.

To the CLERK OF THE STATE BAR COURT:

1. Transmittal of records.

- [X] A. Pursuant to the provisions of Business and Professions Code sections 6101-6102 and California Rules of Court, rule 9.5 et seq., the Office of the Chief Trial Counsel transmits a certified copy of the records of conviction of the following member of the State Bar for such consideration and action as the Court deems appropriate:
- [] B. Notice of Appeal
- [] C. Evidence of Finality of Conviction (Notice of Lack of Appeal)
- [] D. Other

Name of Member: ROBERT JAMES MCFADDEN

Date member admitted to practice law in California: December 22, 1976

Member's Address of Record: 1111 E. Tahquitz Canyon Way, #209

Palm Springs, CA 92262

2. Date and court of conviction; offense(s).

The record of conviction reflects that the above-named member of the State Bar was convicted as follows:

Date of entry of conviction: January 27, 2009

Convicting court: United States District Court, District of New Hampshire

Case number(s): 06-cr-00226-PB-2

Crime(s) of which convicted and classification(s): One count of Conspiracy to Commit Wire Fraud in violation of Title 18 United States Code §§ 1349 and 1343, a felony involving moral turpitude analogous to *In re Utz* (1989) 48 Cal. 3d 468; one count of Conspiracy to Launder Monetary Instruments in violation of Title 18 United States Code §§ 1956(h), 1956(a)(1)(A)(i), and 1956(a)(1)(B)(i), a felony involving moral turpitude; and one count of Conspiracy to Engage in Unlicensed Wholesale Distribution of Prescription Drugs in violation of Title 18 United States Code § 371 and Title 21 United States Code §§ 331(t), 333(b)(1)(D), and 353(e)(2)(A), a felony involving moral turpitude analogous to *In re Giddens* (1981) 30 Cal. 3d 110, *In re Leardo* (1991) 53 Cal. 3d 1, and *In re Nadrich* (1988) 44 Cal. 3d 271.

3. Compliance with Rule 9.20. (Applicable only if checked.)

We bring to the Court's attention that, should the Court enter an order of interim suspension herein, the Court may wish to require the above-named member to comply with the provisions of rule 9.20, California Rules of Court, paragraph (a), within 30 days of the effective date of any such order; and to file the affidavit with the Clerk of the State Bar Court provided for in paragraph (c) of rule 9.20 within 40 days of the effective date of said order, showing the member's compliance with the provisions of rule 9.20.

4. Other information to assist the State Bar Court

Once the conviction is final, the State Bar intends to file a request for summary disbarment.

DOCUMENTS TRANSMITTED:

Certified copy of the Third Superseding Indictment – dated 10/22/08

Certified copy of Verdict – dated 01/27/09

Certified copy of Docket – dated 02/18/09

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

BY:



KRISTIN L. RITSEMA

Supervising Trial Counsel

DATED: May 27, 2009

A copy of this transmittal and its
Attachments have been sent to:

ROBERT JAMES MCFADDEN
1111 E. Tahquitz Canyon Way, #209
Palm Springs, CA 92262

A courtesy copy to:

DAVID H. BOWNES
486 Union Ave.
Laconia, NH 03246

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

Plaintiff

v.

1. BETH HANDY,
2. ROBERT McFADDEN,
3. BOAZ BENMOSHE,
a.k.a. Ron Ben, Moshe
Ben-Moshe, Moshe Ben Moshe,
Boaz Ben Moshe,
4. OFER LUPOVITZ, a.k.a. Ofer Lupo

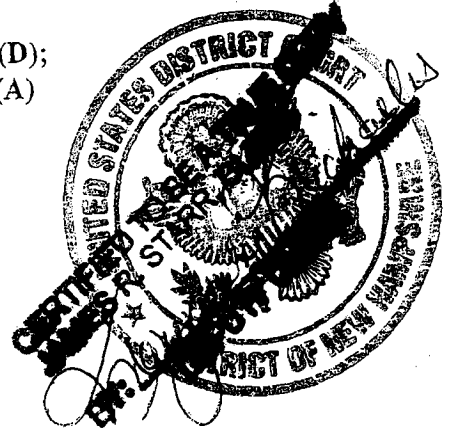
Defendants

CRIMINAL NO. 06-226-PB

VIOLATIONS:

- 18 U.S.C. § 2;
- 18 U.S.C. § 371;
- 18 U.S.C. § 1001;
- 18 U.S.C. § 1343;
- 18 U.S.C. § 1349;
- 18 U.S.C. § 1956(h);
- 21 U.S.C. § 331(f);
- 21 U.S.C. § 333(b)(1)(D);
- 21 U.S.C. § 353(e)(2)(A)

THIRD
SUPERSEDING
INDICTMENT



THE GRAND JURY CHARGES:

COUNT ONE

18 U.S.C. § 1349

(Conspiracy to Commit Wire Fraud)

A. GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. The United States Food and Drug Administration (hereinafter "FDA") was the agency of the United States responsible for, among other things, regulating the wholesale distribution of prescription drugs.
2. Serostim was an injectable drug manufactured in Puerto Rico by Serono, Inc., and approved by the FDA for the treatment of AIDS-wasting syndrome in HIV-infected patients.
3. Serostim was a prescription drug that could be safely used only under the professional supervision of a licensed practitioner.

4. Defendant ROBERT McFADDEN ("McFADDEN") was an attorney with offices located in Palm Springs, California. Defendant McFADDEN was not licensed by the State of California to engage in wholesale distribution of prescription drugs in or from that state.

5. Co-conspirator Thomas Lavery ("Lavery") was a wholesale distributor of Serostim operating out of Palm Springs, California. Lavery sometimes conducted business, with defendant McFADDEN, under the name of "Las Palmas Marketing Group." Neither Lavery nor Las Palmas Marketing Group were licensed by the State of California to engage in wholesale distribution of prescription drugs in or from California.

6. Defendant BETH HANDY ("HANDY") resided in Milford, New Hampshire and was licensed by the State of New Hampshire to engage in wholesale distribution of prescription drugs in and from that state. Defendant HANDY conducted business from her residence under the name of "Alpine Pharma." Defendant HANDY was not licensed by the State of California to engage in wholesale distribution of prescription drugs in or from that state.

7. Co-conspirator Robert Hatch ("Hatch") and defendants, BOAZ BENMOSHE ("BENMOSHE"), and OFER LUPOVITZ ("LUPOVITZ") operated from in or around Palm Springs, California, and obtained Serostim which they sold to Lavery and defendant McFADDEN. Hatch and defendants BENMOSHE and LUPOVITZ were not licensed by the State of California to engage in wholesale distribution of prescription drugs in or from that state.

8. J.M. Blanco, Inc. and Droguería Javiness, both located in Puerto Rico, were wholesale distributors of prescription drugs.

9. J.M. Blanco, Inc. never sold any prescription drugs, including Serostim, to Drogueria Javiness.
10. Drogueria Javiness never bought or sold the prescription drug Serostim.
11. Medex Biopharm, Inc., also known as Medex Medical, was a licensed wholesale distributor of prescription drugs based in Memphis, Tennessee.
12. Medical Center Pharmaceuticals was a licensed wholesale distributor of prescription drugs based in San Diego, California.
13. Optia Medical was a licensed wholesale distributor of prescription drugs based in North Salt Lake City, Utah.
14. TXRX was a licensed wholesale distributor of prescription drugs based in Humble, Texas.
15. G&K Pharma LLC was a licensed wholesale distributor of prescription drugs based in Odenton, Maryland.
16. Matrix Infusion, Dialysist West, and Nationwide Medical/Surgical, Inc. were customers that purchased Serostim from defendant HANDY.
17. McKesson, Flomed Corporation and Colonial Wholesale were licensed wholesale distributors of prescription drugs.

**B. WHOLESALE DISTRIBUTION OF PRESCRIPTION DRUGS
IN THE UNITED STATES**

18. U.S. drug manufacturers, such as Serono, Inc., generally distribute their prescription drugs to pharmacies, hospitals, and customers through licensed wholesale distributors.

19. A prescription drug is frequently bought and sold among numerous licensed wholesale distributors before being purchased by pharmacies and hospitals and then dispensed to the patient.

20. Some wholesale distributors obtain drugs from questionable, and often unlicensed, sources who sell drugs at prices significantly below the average wholesale price of the drug. Those sources may have purchased stolen or expired drugs, or drugs that were previously dispensed and resold by the patient for whom the drug was prescribed. The drugs are then reintroduced into the wholesale distribution chain.

21. The Prescription Drug Marketing Act ("PDMA") requires wholesale distributors of prescription drugs to be licensed by the state(s) in or from which they distribute. Pursuant to the PDMA, the FDA enacted minimum guidelines for state licensing of wholesale distributors of prescription drugs. These guidelines are designed to eliminate potential risks to the public health by protecting the integrity of the drug distribution system. The guidelines require review of the applicant's criminal history and impose minimum standards for record retention and for storage and handling of prescription drugs.

22. The PDMA also requires any wholesale distributor of prescription drugs that is not the manufacturer or an authorized distributor of record to provide to the recipient of the

drugs a statement identifying each prior sale, purchase, or trade of the drug, including the date of each transaction and the names and addresses of all parties to the transaction. This statement is commonly referred to as a "pedigree." Pedigrees are used to verify prior sales of the drugs as a means to prevent the distribution of drugs that are counterfeit, stolen, expired, obtained through fraud, or otherwise substandard.

23. On March 14, 2002, Serono, Inc. issued a letter to wholesalers/pharmacists informing them that Serono, Inc. sells no product at less than the wholesale acquisition cost. Serono, Inc. advised that if distributors are contacted by a supplier that offers Serostim at a reduced rate, that is, at less than \$34.30 per milligram, caution should be exercised and at the very least the pedigree should be verified back to the authorized Serono, Inc. distributor.

24. On April 19, 2002, Serono, Inc. issued a notification to wholesalers/pharmacists that it had become aware of Serostim being offered on the market for considerably less than the lowest price at which Serono, Inc. itself sells the product. Serono, Inc. introduced a bar code system designed to ensure that patients received only genuine Serostim and that they purchased it only through proper distribution channels. Serono, Inc. also published a list of authorized wholesalers to whom they sold Serostim, which included J.M. Blanco, Inc. and McKesson.

25. Beginning in October 2002, Serono, Inc. implemented a "Secured Distribution Program" to manage the distribution of Serostim to patients. The program was intended to maintain the integrity of Serostim's distribution in the United States. Under the program, Serono, Inc. shipped Serostim directly to contracted network pharmacies that served as the exclusive distributors of Serostim in the United States.

C. THE CONSPIRACY

26. Paragraphs 1 through 25 are realleged and incorporated herein by reference.

27. Beginning in or about February, 2002 and ending in or about June, 2004, in the District of New Hampshire and elsewhere,

1. BETH HANDY, and

2. ROBERT McFADDEN,

defendants herein, and others known and unknown to the Grand Jury, did knowingly and willfully combine, conspire, confederate, and agree to commit an offense against the United States, to wit: to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property from others by means of false and fraudulent pretenses, representations, and promises, and, for the purpose of executing the scheme and artifice, knowingly transmitting and causing to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, and sounds in violation of Title 18, United States Code, Section 1343.

D. PURPOSE OF THE CONSPIRACY

28. It was the purpose of the conspiracy for the co-conspirators to enrich themselves through the illegal sale and distribution of Serostim.

E. MANNER AND MEANS OF THE CONSPIRACY

29. The following were among the manner and means used by the defendants to carry out the object of the conspiracy and to ensure its success:

30. That Hatch and defendants BENMOSHE and LUPOVITZ obtained Serostim for unlawful distribution.

31. That Hatch and defendants BENMOSHE and LUPOVITZ illegally supplied Lavery and defendant McFADDEN with large quantities of the Serostim generally on consignment for distribution, despite being unlicensed to engage in wholesale distribution of prescription drugs in the State of California.

32. That defendant McFADDEN established, maintained and managed a client trust account at Washington Mutual Bank in Palm Springs, California which received payments for the Serostim that members of the conspiracy illegally distributed, and from which proceeds were withdrawn to pay members of the conspiracy for participating in the scheme.

33. That defendant HANDY arranged for the sale of the Serostim (obtained by Lavery and defendant McFADDEN) to licensed wholesale distributors of prescription drugs.

34. That after arranging each sale, defendant HANDY contacted Lavery, who then shipped the Serostim via couriers including Federal Express from Palm Springs, California to the customer. In order to conceal the illegitimate sources of the product as well as his own involvement, Lavery generally used defendant HANDY's name and address and/or Alpine Pharma as the shipper on the shipping label, and enclosed a packing slip, prepared by defendant HANDY and transmitted by her via facsimile to Lavery and defendant McFADDEN in California, bearing Alpine Pharma's name and address in Milford, New Hampshire.

35. That defendant HANDY obtained information from several sources, including Lavery, in order to falsify pedigrees that she prepared for the customers.

36. That defendant HANDY prepared false pedigrees representing that she acquired Serostim from several sources including Droguería Javiness, Colonial Wholesale, Optia Medical

or Flomed and that the Serostim originated from McKesson or J.M. Blanco, Inc. Some of the pedigrees prepared by defendant HANDY also falsely represented that the drugs were distributed in compliance with the PDMA.

37. That defendant HANDY transmitted the false pedigrees to the customers via facsimile, sometimes indicating that a pedigree was "standing" for all of her sales, meaning that the pedigree would remain the same for all of her Serostim shipments, and defendant HANDY therefore did not always transmit a pedigree for each shipment of Serostim to that customer.

38. That defendant HANDY prepared bogus purchase invoices for her own files and record keeping purposes and legal compliance requirements, falsely indicating that Alpine Pharma had purchased the Serostim from Droguería Javiness, but accurately identifying the recipients of the Serostim. Defendant HANDY faxed copies of some of the bogus purchase invoices to defendant McFADDEN's office in California.

39. That defendant HANDY instructed the customers to wire transfer their payments for the Serostim either to the client trust account managed by defendant McFADDEN or to her bank account d/b/a Alpine Pharma, at the Bank of New Hampshire.

40. That upon receipt of the payment for the Serostim, defendant HANDY wire transferred the funds, less her share of the profits, to the client trust account established and managed by defendant McFADDEN.

41. That upon receipt of the proceeds, defendant McFADDEN withdrew the proceeds in the form of either cash or checks made out to "cash," "Washington Mutual Bank" or

"McFADDEN and Associates" from the client trust account, which would be endorsed by McFADDEN and cashed by either Lavery and/or defendant McFADDEN.

42. That these monies were used to purchase official bank checks from Washington Mutual Bank in order to pay Hatch and defendants BENMOSHE, LUPOVITZ, and HANDY for their involvement in the scheme.

43. That Lavery delivered the official bank checks as well as cash to Hatch and defendants BENMOSHE and LUPOVITZ as payment for their involvement in the scheme.

44. That Lavery and defendant McFADDEN retained a share of the profits as payment for their participation in the scheme.

F. OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

45. In furtherance of the conspiracy, and to effect the object and purpose thereof, Lavery and defendants McFADDEN and HANDY committed and caused to be committed the following overt acts, among others, within the District of New Hampshire and elsewhere:

46. On or about the dates listed below, defendant HANDY prepared misleading packing slips bearing Alpine Pharma's name and address, and transmitted the packing slips via facsimile from Milford, New Hampshire, to defendant McFADDEN's office in Palm Springs, California, for inclusion in the packages of Serostim to be shipped by Lavery.

<u>Date Faxed</u>	<u>Customer</u>	<u>Date Product Shipped</u>
1/14/2003	Medex BioPharm	1/15/2003
2/5/2003	Medex BioPharm	2/8/2003
2/25/2003	Medex BioPharm	2/25/2003
6/16/2003	Medex BioPharm	6/17/2003

5/3/2004	Medex BioPharm	5/3/2004
5/19/2004	Medex BioPharm	5/22/2004

47. On or about the dates listed below, Lavery shipped Serostim to customers via Federal Express from Palm Springs, California. Each package bore a shipping label completed by or at the direction of Lavery which falsely represented that the package was mailed by defendant HANDY from New Hampshire.

<u>Date Shipped From California</u>	<u>Quantity Shipped</u>	<u>Recipient</u>
1/15/2003	100 boxes	Medex BioPharm in Tennessee
1/20/2003	125 boxes	Medex BioPharm in Tennessee
2/8/2003	100 boxes	Medex BioPharm in Tennessee
2/25/2003	100 boxes	Medex BioPharm in Tennessee
3/6/2003	100 boxes	Medex BioPharm in Tennessee
5/15/2003	50 boxes	Medex BioPharm in Tennessee
5/29/2003	25 boxes	Medical Center Pharmaceuticals in California
9/27/2003	29 boxes	Medex BioPharm in Tennessee
12/11/2003	25 boxes	Medex BioPharm in Tennessee
12/31/2003	25 boxes	Medex BioPharm in Tennessee

All in violation of Title 18, United States Code, Section 1349.

COUNTS TWO TO TWENTY-SEVEN
18 U.S.C. §§ 2 and 1343
(Wire Fraud)

48. Paragraphs 1 through 25, 30 through 44, and 46 through 47 are realleged and incorporated herein by reference.

49. On or about the dates set forth below, in the District of New Hampshire and elsewhere within the jurisdiction of this Court,

1. BETH HANDY,

a defendant herein, having devised and intending to devise a scheme and artifice to defraud by means of false and fraudulent pretenses, representations, and promises, did, for the purpose of executing said scheme and artifice, knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce, a writing, sign, signal, and sound as follows:

<u>COUNT</u>	<u>Date</u>	<u>Item Transmitted</u>
TWO	11/11/2002	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medical Center Pharmaceuticals in California.
THREE	1/14/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
FOUR	2/25/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
FIVE	3/6/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
SIX	5/16/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.

SEVEN	6/2/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
EIGHT	6/10/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medical Center Pharmaceuticals in San Diego, California.
NINE	8/5/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
TEN	10/6/2003	Pedigree transmitted via facsimile from Milford, New Hampshire by defendant HANDY to Medex BioPharm in Memphis, Tennessee.
ELEVEN	11/14/2002	Wire transfer of \$21,875 from Medical Center Pharmaceutical's account at Union LA Bank in California to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medical Center Pharmaceuticals.
TWELVE	1/16/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
THIRTEEN	1/22/2003	Wire transfer of \$106,250 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
FOURTEEN	2/11/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
FIFTEEN	2/27/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.

SIXTEEN	3/10/2003	Wire transfer of \$85,000 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
SEVENTEEN	5/16/2003	Wire transfer of \$41,250 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
EIGHTEEN	6/2/2003	Wire transfer of \$21,250 from Medical Center Pharmaceutical's account at Union LA Bank in California to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medical Center Pharmaceuticals.
NINETEEN	6/4/2003	Wire transfer of \$47,372 from Medex Medical's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, \$42,500 of which constituted payment for Serostim shipped to Medex BioPharm.
TWENTY	6/18/2003	Wire transfer of \$21,250 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
TWENTY-ONE	7/15/2003	Wire transfer of \$37,000 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
TWENTY-TWO	8/4/2003	Wire transfer of \$12,250 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
TWENTY-THREE	8/19/2003	Wire transfer of \$27,750 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.

TWENTY-FOUR	9/17/2003	Wire transfer of \$21,875 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
TWENTY-FIVE	9/18/2003	Wire transfer of \$65,625 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
TWENTY-SIX	9/30/2003	Wire transfer of \$26,535 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.
TWENTY-SEVEN	10/7/2003	Wire transfer of \$91,500 from Medex BioPharm's account at Trust One Bank in Tennessee to defendant HANDY's account at the Bank of New Hampshire, as payment for Serostim shipped to Medex BioPharm.

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

COUNT TWENTY-EIGHT
18 U.S.C. § 1956(h)
(Conspiracy to Launder Monetary Instruments)

50. Paragraphs 1 through 25, 30 through 44, and 46 through 47 are realleged and incorporated herein by reference.

51. Beginning in or about April 2002, and continuing until in or about June 2004, in the District of New Hampshire and elsewhere within the jurisdiction of this Court,

1. BETH HANDY,
2. ROBERT McFADDEN,
3. BOAZ BENMOSHE, and
4. OFER LUPOVITZ,

the defendants herein, knowingly, willfully, intentionally and unlawfully did conspire, confederate, and agree together with each other and with other persons to the Grand Jury known and unknown, to commit offenses against the United States, in violation of Title 18, United States Code, Section 1956, that is: to knowingly conduct and attempt to conduct financial transactions affecting interstate and foreign commerce, knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, when the financial transactions in fact involved the proceeds of specified unlawful activity, to wit: wire fraud, as defined in Title 18, United States Code, Section 1343, and conspiracy to commit wire fraud, as defined in Title 18, United States Code, Section 1349,

- (a) with the intent to promote the carrying on of the specified unlawful activity, contrary to the provisions of Title 18, United States Code, Section 1956(a)(1)(A)(i); and
- (b) knowing that the transactions were designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of specified unlawful activity, contrary to the provisions of Title 18, United States Code, Section 1956(a)(1)(B)(i).

MANNER AND MEANS OF THE CONSPIRACY

52. The following were among the manner and means used by the defendants to carry out the objects of the conspiracy and to ensure its success:

53. Between April 2002 and October 2003, customers who purchased Serostim from defendant HANDY paid for the Serostim by wiring funds to defendant HANDY's bank account.

On each occasion that the customers wired payment to defendant HANDY's bank account, defendant HANDY wired a portion of the funds to the client trust account managed by defendant McFADDEN.

54. Between February 2002 and March 2002, and December 2003 and June 2004, customers who purchased Serostim from defendant HANDY paid for the Serostim by wiring funds to the client trust account managed by defendant McFADDEN. On some occasions after the customers wired payments to the client trust account, defendant McFADDEN withdrew funds from the client trust account and an official bank check would be mailed to defendant HANDY in New Hampshire to compensate her for her participation in the scheme.

55. Defendant McFADDEN withdrew cash or prepared checks made payable to "cash," "McFadden and Associates" or "Washington Mutual Bank" from the funds deposited in the client trust account. Lavery and defendant McFADDEN used the funds to purchase official bank checks that Lavery used to pay Hatch and defendants BENMOSHE and LUPOVITZ for their participation in the scheme.

56. Hatch and defendants BENMOSHE and LUPOVITZ instructed Lavery to prepare the official bank checks such that the checks were sometimes payable in amounts less than \$10,001, sometimes payable to other persons and entities, and sometimes payable to variations of their names such as Ben Moshe, Boaz Ben Moshe, Moshe Ben Moshe, Moshe Benmoshe and Ron Ben.

All in violation of Title 18, United States Code, Section 1956(h).

COUNT TWENTY-NINE

18 U.S.C. § 371 and 21 U.S.C. §§ 331(t), 333(b)(1)(D), and 353(e)(2)(A)

(Conspiracy to Engage in Unlicensed Wholesale Distribution of Prescription Drugs)

57. Beginning in or about February, 2002, through in or about June, 2004, in the District of New Hampshire and elsewhere within the jurisdiction of this Court,

1. BETH HANDY,

2. ROBERT McFADDEN,

3. BOAZ BENMOSHE, and

4. OFER LUPOVITZ

the defendants herein, and others known and unknown to the Grand Jury did knowingly and willfully combine, conspire, confederate, and agree to commit an offense against the United States, to wit: to knowingly engage in the wholesale distribution in interstate commerce of prescription drugs in a state without being licensed by that state, in violation of Title 21, United States Code, Sections 331(t), 333(b)(1)(D), and 353(e)(2)(A) and Title 18, United States Code, Section 371.

A. MANNER AND MEANS

58. The facts and conduct described in paragraphs 1 through 25 and 30 through 44 are incorporated by reference as if fully set forth herein and are among the manner and means used by the defendants to carry out the object of the conspiracy and ensure its success.

B. OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

59. The facts alleged in paragraphs 46 and 47 are alleged to be separate overt acts undertaken in furtherance of the conspiracy and to effect the object and purpose thereof and are incorporated herein by reference as if set forth as separate overt acts.

All in violation of Title 21, United States Code, Sections 331(t), 333(b)(1)(D), and 353(e)(2)(A) and Title 18, United States Code, Section 371.

COUNTS THIRTY TO THIRTY-EIGHT

**18 U.S.C. § 1001(a)(3)
(Material False Statements)**

60. The allegations set forth in paragraphs 1 through 25, 30 through 44, and 46 through 47 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

61. On or about the dates set forth below, in the District of New Hampshire and elsewhere within the jurisdiction of this Court,

1. BETH HANDY,

a defendant herein, in a matter within the jurisdiction of the FDA, an agency within the executive branch of the United States, knowingly and willfully made and used a false document that she knew contained materially false, fictitious, and fraudulent statements and entries, in that defendant HANDY provided pedigrees that falsely stated the sources of Serostim to wholesale distributors to whom she caused the Serostim to be sold, with the intent of concealing the true source of the Serostim.

<u>COUNT</u>	<u>Pedigree Date</u>	<u>Date Sent</u>	<u>Recipient</u>
THIRTY	11/11/2002	11/11/2002	Medical Center Pharmaceuticals
THIRTY-ONE	1/13/2003	1/14/2003	Medex BioPharm
THIRTY-TWO	2/25/2003	2/25/2003	Medex BioPharm
THIRTY-THREE	2/25/2003	3/6/2003	Medex BioPharm
THIRTY-FOUR	undated	5/16/2003	Medex BioPharm
THIRTY-FIVE	5/29/2003	6/10/2003	Medical Center Pharmaceuticals
THIRTY-SIX	undated	6/2/2003	Medex BioPharm
THIRTY-SEVEN	undated	8/5/2003	Medex BioPharm
THIRTY-EIGHT	undated	10/6/2003	Medex BioPharm

Each count in violation of Title 18, United States Code, Section 1001(a)(3).

NOTICE OF CRIMINAL FORFEITURE PURSUANT TO
18 U.S.C. § 982(a)(1)
(Money Laundering)

1. Pursuant to Title 18, United States Code, Section 982(a)(1), a defendant who is convicted of the offense set forth in Count Twenty-Eight shall forfeit to the United States the following property:
 - a. All right, title, and interest in any and all property involved in each offense in violation of Title 18, United States Code, Section 1956, or conspiracy to commit such offense, for which the defendant is convicted, and all property traceable to such property, including the following: 1) all money or other property that was the subject of each transaction, transportation, transmission or transfer in violation of Section 1956; 2) property located at 23 Valhalla Drive, Milford, New Hampshire; 3) all commissions, fees and other property

constituting proceeds obtained as a result of those violations; and 4) all property used in any manner or part to commit or to facilitate the commission of those violations.

b. A sum of money equal to the total amount of money involved in each offense, or conspiracy to commit such offense, for which the defendant is convicted. The amount of the money judgment sought is \$1,758,675. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount involved in such offense.

2. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), each defendant shall forfeit substitute property, up to the value of the amount described in paragraph 1(b) above, if, by any act or omission of the defendants, the property described in paragraph 1(b) above, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred, sold to or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty. Such substitute property shall include, but is not limited to, property located at 16 Lone Wolf Drive, North Woodstock, New Hampshire;

All in accordance with Title 18, United States Code, Section 982(a)(1), and Rule 32.2(a), Federal Rules of Criminal Procedure.

NOTICE OF CRIMINAL FORFEITURE PURSUANT TO
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)
(Wire Fraud)

Upon conviction of one or more of the offenses alleged in Counts One through Twenty-Seven of this Indictment, defendants HANDY and McFADDEN shall forfeit to the United States

pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) all property, real and personal, constituting or derived from proceeds obtained directly or indirectly as a result of the said violations, including but not limited to the following:

1. A sum of money equal to \$2,606,110 in United States currency, representing the amount of proceeds obtained as a result of the offenses, violations of Title 18, United States Code, Sections 2, 1343, and 1349, Wire Fraud and Conspiracy to Commit Wire Fraud;

If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above, including but not limited to:

- (1) Property located at 16 Lone Wolf Drive, North Woodstock, New Hampshire;
- All in accordance with Title 18, United States Code, Section 981(a)(1)(C), Title 28,

United States v. Beth Handv, et al.
Third Superseding Indictment
Page 22

United States Code, Section 2461(c), and Rule 32.2(a), Federal Rules of Criminal Procedure.

TRUE BILL

/s/ Foreperson of the Grand Jury
Foreperson of the Grand Jury

THOMAS P. COLANTUONO
United States Attorney

/s/ Sarah E. Hawkins
Sarah E. Hawkins
Special Assistant United States Attorney

/s/ Mark A. Irish
Mark A. Irish
Assistant United States Attorney

Dated: October 22, 2008

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 06-226-02-PB

Robert McFadden

VERDICT

We, the Jury, find the defendant, Robert McFadden:

Guilty
GUILTY/NOT GUILTY

as to Count One of the Indictment
(Conspiracy to Commit Wire Fraud)

Guilty
GUILTY/NOT GUILTY

as to Count Twenty-Eight of the Indictment
(Conspiracy to Commit Money Laundering)

Guilty
GUILTY/NOT GUILTY

as to Count Twenty-Nine of the Indictment
(Conspiracy to Commit Wholesale Distribution
of Prescription Drugs)

Date: 1/27/09



**U.S. District Court
District of New Hampshire (Concord)
CRIMINAL DOCKET FOR CASE #: 1:06-cr-00226-PB-2
Internal Use Only**

Case title: USA v. Handy et al

Date Filed: 11/29/2006

Assigned to: Judge Paul J. Barbadoro

Defendant (2)

Robert McFadden

represented by **David H. Bownes**
Bownes Law Office PC
486 Union Ave
Laconia , NH 03246
603-524-4330
Email: office@dhblaw.net
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment*

Pending Counts

18 USC 1349 ATTEMPT AND
CONSPIRACY TO COMMIT MAIL
FRAUD
(1)

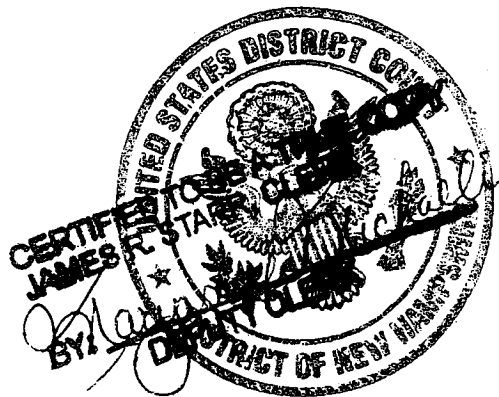
18:1349 AND 1343 ATTEMPT AND
CONSPIRACY TO COMMIT MAIL
FRAUD
(1s)

18:1349 Conspiracy to Commit Wire
Fraud
(1ss)

18:1349 Conspiracy to Commit Wire
Fraud
(1sss)

18:1956(a)(1)(A)(i) CONSPIRACY TO
LAUNDER MONETARY
INSTRUMENTS
(28s)

Disposition



18:1956(h) Conspiracy to Launder
Monetary Instruments
(28ss)

18:1956(h) Conspiracy to Launder
Monetary Instruments
(28sss)

18:371 AND 21:331(t), 33(b)(1)(D)
AND 353(e)(2)(A) CONSPIRACY TO
ENGAGE IN UNLICENSED
WHOLESALE DISTRIBUTION OF
PRESCRIPTION DRUGS
(29s)

18:371, 21:331(t), 333(b)(1)(D) and
353(e)(2)(A) Conspiracy to Engage in
Unlicensed Wholesale Distribution of
Prescription Drugs
(29ss)

18:371, 21:331(t), 333(b)(1)(D), 353(e)
(2)(A) Conspiracy to Engage in
Unlicensed Wholesale Distribution of
Prescription Drugs
(29sss)

18 USC 1956(h) CONSPIRACY TO
LAUNDER MONETARY
INSTRUMENTS
(33)

18 USC 371, 21 USC 331(t), 333(b)
(1)(D), 353(d)(2)(A) CONSPIRACY TO
DEFRAUD THE UNITED STATES -
TO ENGAGE IN UNLICENSED
WHOLESALE DISTRIBUTION OF
PRESCRIPTION DRUGS
(34)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

Disposition

None

Plaintiff

USA

represented by **Mark A. Irish**

US Attorney's Office (NH)
James C. Cleveland Federal Building
53 Pleasant St, 4th Flr
Concord , NH 03301-0001
603 225-1552
Email: mark.irish@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Sarah E. Hawkins
US Department of Health and Human
Services (MD)
Office of General Counsel
Food and Drug Division
5600 Fishers Lane, Ste 6-31
Rockville , MD 20857
301-827-1130
Email: sarah.hawkins@fda.hhs.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Aixa Maldonado-Quinones
US Attorney's Office (NH)
53 Pleasant St, 4th Flr
Concord , NH 03301-0001
603 225-1552
Email: aixa.maldonado@usdoj.gov
ATTORNEY TO BE NOTICED

Robert J. Rabuck
US Attorney's Office (NH)
53 Pleasant St, 4th Flr
Concord , NH 03301-0001
225-1552
Email: rob.rabuck@usdoj.gov
TERMINATED: 10/14/2008

Seth R. Aframe
US Attorney's Office (NH)
53 Pleasant St, 4th Flr
Concord , NH 03301-0001
603 230-2532
Email: seth.aframe@usdoj.gov

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/29/2006	<u>1</u>	SEALED INDICTMENT as to Beth Handy (1) count(s) 1, 2-32, 33, 34, 35-44; Robert McFadden (2) count(s) 1, 33, 34; Robert Hatch (3) count(s) 33, 34; Boaz Benmoshe (4) count(s) 33, 34; Ofer Lupovitz (5) count(s) 33, 34. <i>Original document available in clerks office.</i> (dae,) (Entered: 12/06/2006)
11/29/2006	<u>3</u>	MOTION to Seal Case at Level II until defendant is taken into custody by USA as to Robert McFadden (dae,) (Entered: 12/06/2006)
11/29/2006		ENDORSED ORDER granting <u>3</u> Motion to Seal Case at Level II as to Robert McFadden (2). Text of Order: Granted. So Ordered by Judge James R. Muirhead. (dae,) (Entered: 12/06/2006)
11/29/2006	<u>8</u>	Praecipe for Warrant by USA as to Robert McFadden. (dae,) (Entered: 12/06/2006)
12/01/2006		Arrest Warrant Issued as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Original warrant and copies to US Marshal and US Probation. (dae,) (Entered: 12/06/2006)
12/12/2006		Arrest of Robert McFadden, Robert Hatch, Boaz Benmoshe in the Central District of California. (amm,) (Entered: 12/15/2006)
01/05/2007		NOTICE OF HEARING as to Robert McFadden: Arraignment set for 1/8/2007 02:00 PM before Magistrate Judge James R. Muirhead. (jgb,) (Entered: 01/05/2007)
01/08/2007	<u>26</u>	CJA 20 as to Robert McFadden: Appointment of Attorney David H. Bownes for Robert McFadden for criminal case. Signed by Clerk James R. Starr. Follow up on submission of CJA Voucher on 7/9/2007. (jgb,) (Entered: 01/10/2007)
01/08/2007	<u>27</u>	COLLATERAL RECEIPT no. 0195 as to Robert McFadden for US Passport issued to Robert James McFadden, Jr.. copy of receipt mailed to David Bownes, Esq. (jgb,) (Entered: 01/10/2007)
01/08/2007		Minute Entry for proceedings held before Judge James R. Muirhead :INITIAL APPEARANCE and ARRAIGNMENT as to Robert McFadden (2) Count 1,33,34 held on 1/8/2007. Defendant: sworn, advised of rights & charges, waived reading of indictment, and pled not guilty. Court approves financial affidavit. Defendant released on conditions. Trial Date: 2/6/07, 2-3 weeks. (Tape #2:18) (Govt Atty: Mark Irish) (Defts Atty: David Bownes) (USP: Daniel Gildea)(Total Hearing Time: :05)(CJA Time: :23) (jgb,) (Entered: 01/10/2007)
01/08/2007	<u>28</u>	Arrest Warrant Returned Executed on 1/7/07 as to Robert McFadden. (mxm,) (Entered: 01/12/2007)

01/08/2007	<u>29</u>	MOTION to Appoint Counsel with Financial Declaration. by Robert McFadden. <i>Original document available in clerks office.</i> (mxm,) (Entered: 01/12/2007)
01/08/2007		ENDORSED ORDER approving <u>29</u> Motion to Appoint Counsel as to Robert McFadden (2). <i>Text of Order: Request Approved. Appoint counsel So Ordered</i> by Judge James R. Muirhead. (mxm,) (Entered: 01/12/2007)
01/08/2007	<u>30</u>	ORDER Setting Conditions of Release as to Robert McFadden. So Ordered by Judge James R. Muirhead. (mxm,) (Entered: 01/12/2007)
01/12/2007		TRIAL NOTICE: Jury Selection/Trial set for two week period beginning 2/6/2007 09:30 AM before Judge Paul Barbadoro. Final Pretrial Conference set for 1/23/2007 04:00 PM before Judge Paul Barbadoro. (mxm,) (Entered: 01/12/2007)
01/22/2007	<u>31</u>	Partially Assented to MOTION to Continue Trial to 6/5/07 (Waiver of Speedy Trial to be filed conventionally) by Robert McFadden. Follow up on Objection on 2/12/2007 Miscellaneous Deadline set for 1/31/2007. (Attachments:, # 1)(Bownes, David) (Entered: 01/22/2007)
01/24/2007	<u>34</u>	ORDER granting <u>31</u> Motion to Continue Trial in the interest of justice as to Robert McFadden (2). So Ordered by Judge Paul Barbadoro. Final Pretrial Conference set for 5/22/2007 03:30 PM before Judge Paul Barbadoro. Jury Selection/Trial set for two week period beginning 6/5/2007 09:30 AM before Judge Paul Barbadoro. (mxm,) (Entered: 01/25/2007)
02/01/2007	<u>39</u>	WAIVER of Speedy Trial by Robert McFadden. (mxm,) (Entered: 02/01/2007)
05/02/2007	<u>46</u>	Partially Assented to MOTION to Continue Trial to on or after September 11, 2007 (Waiver of Speedy Trial to be filed conventionally) by Robert Hatch as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz Follow up on Objection on 5/22/2007 Miscellaneous Deadline set for 5/11/2007. (Lange, Bjorn) (Entered: 05/02/2007)
05/04/2007	<u>49</u>	ORDER granting <u>46</u> Motion to Continue Trial in the interest of justice as to Beth Handy (1), Robert McFadden (2), Robert Hatch (3), Boaz Benmoshe (4), Ofer Lupovitz (5). So Ordered by Judge Paul Barbadoro. Final Pretrial Conference set for 9/24/2007 04:45 PM before Judge Paul Barbadoro. Jury Selection/Trial set for two week period beginning 10/10/2007 09:30 AM before Judge Paul Barbadoro. (mm,) (Entered: 05/04/2007)
09/25/2007		Reset Trial Deadline(s) in case as to Beth Handy, Robert McFadden, Boaz Benmoshe, Ofer Lupovitz Final Pretrial Conference set for 12/19/2007 03:30 PM before Judge Paul J. Barbadoro. Jury Selection/Trial set for two week period beginning 1/8/2008 09:30 AM before Judge Paul J. Barbadoro. Jury Trial set for two-week period beginning 1/8/2008 09:30 AM before Judge Paul J. Barbadoro. (mxm) (Entered: 09/26/2007)

09/26/2007	<u>61</u>	SUPERSEDING INDICTMENT as to Beth Handy (1) count(s) 1s, 2s-27s, 28s, 29s, 30s-39s, Robert McFadden (2) count(s) 1s, 28s, 29s, Robert Hatch (3) count(s) 28s, 29s, Boaz Benmoshe (4) count(s) 28s, 29s, Ofer Lupovitz (5) count(s) 28s, 29s. <i>Original document available in clerks office.</i> (amm) (Entered: 09/27/2007)
09/26/2007	<u>63</u>	Præcipe for Summons by USA as to Robert McFadden. (amm) (Entered: 09/27/2007)
09/27/2007		Summons Issued as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Arraignment set for 10/15/2007 09:30 AM before Magistrate Judge James R. Muirhead. (amm) (Entered: 09/27/2007)
09/27/2007		NOTICE OF HEARING as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz: Arraignment on Superceding Indictment set for 10/15/2007 09:30 AM before Magistrate Judge James R. Muirhead. (amm) (Entered: 09/27/2007)
10/02/2007	<u>68</u>	Summons Returned Executed on 10/1/07 as to Robert McFadden. (mxm) (Entered: 10/04/2007)
10/12/2007	<u>74</u>	Assented to MOTION to Waive Defendant's Appearance at Arraignment <i>and Continue Bail</i> by Robert McFadden. Certain exhibit(s) maintained conventionally in Clerks Office. (Attachments: # <u>1</u> Summons - Waiver Waiver of Defendant's Appearance at Arraignment)(Bownes, David) (Entered: 10/12/2007)
10/12/2007		ORDER granting <u>74</u> Assented to MOTION to Waive Defendant's Appearance at Arraignment <i>and Continue Bail</i> as to Robert McFadden (2). So Ordered by Judge James R. Muirhead. (jgb) (Entered: 10/12/2007)
10/15/2007	<u>79</u>	WAIVER of Persbnal Appearance at Arraignment and Entry of Plea of Not Guilty by Robert McFadden. (mxm) (Entered: 10/18/2007)
11/28/2007	<u>85</u>	NOTICE of Non-Objection by Robert McFadden. (Attachments: # <u>1</u>)(Bownes, David) (Entered: 11/28/2007)
12/05/2007	<u>89</u>	WAIVER of Speedy Trial by Robert McFadden. (mxm) (Entered: 12/06/2007)
03/07/2008	<u>95</u>	Petition for Writ of Habeas Corpus ad Testificandum for Thomas Martino on March 25, 2008 at 9:30 a.m. re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 03/07/2008)
03/07/2008	<u>96</u>	Petition for Writ of Habeas Corpus ad Testificandum for Thomas Martino on April 1, 2008 at 9:30a.m. re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 03/07/2008)
03/07/2008		Writ of Habeas Corpus ad Testificandum Issued as to Thomas Martino for 3/25/08 and 4/1/08 (mxm) (Entered: 03/07/2008)

03/07/2008	<u>97</u>	Assented to MOTION to Continue Trial (Waiver of Speedy Trial to be filed conventionally) by Robert McFadden. Miscellaneous Deadline set for 3/21/2008. (Attachments: # <u>1</u> Waiver of Speedy Trial)(Bownes, David) (Entered: 03/07/2008)
03/10/2008	<u>98</u>	ORDER granting <u>97</u> Motion to Continue Trial in the interest of justice as to Robert McFadden (2). So Ordered by Judge Paul J. Barbadoro. Final Pretrial Conference set for 5/21/2008 04:15 PM before Judge Paul J. Barbadoro. Jury Selection set for two week period beginning 6/3/2008 09:30 AM before Judge Paul J. Barbadoro. Jury Trial set for two-week period beginning 6/10/2008 09:30 AM before Judge Paul J. Barbadoro. (mxm) (Entered: 03/10/2008)
03/12/2008	<u>99</u>	Petition for Writ of Habeas Corpus ad Testificandum for Thomas Martino on Tuesday, May 27, 2008 re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 03/12/2008)
03/12/2008	<u>100</u>	Petition for Writ of Habeas Corpus ad Testificandum for Thomas Martino on June 3, 2008 at 9:30am re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 03/12/2008)
03/13/2008		Petitions for Writ of Habeas Corpus ad Testificandum for Thomas Martino on 5/27/08 and June 3, 2008 re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (mxm) (Entered: 03/13/2008)
03/28/2008	105	INTERIM CJA 20, Interim Voucher # 1 as to Robert McFadden: Authorization to Pay David H. Bownes, Esq. Total amount authorized/certified: \$16,382.19. Amount paid this voucher: \$13,346.87. Amount withheld this voucher: \$3,035.32. Certified by USDC Judge Barbadoro on 1/30/08. Approved by USCA Judge Howard on 3/19/08. (Original document available in clerks office.) (jeb) (Entered: 03/28/2008)
05/08/2008		NOTICE OF HEARING as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz: Status Conference set for 5/14/2008 02:30 PM before Judge Paul J. Barbadoro. (mm) (Entered: 05/08/2008)
05/09/2008	<u>109</u>	Partially Assented to Assented to MOTION to Continue Status Conference by Robert McFadden. (Bownes, David) (Entered: 05/09/2008)
05/13/2008		ENDORSED ORDER granting <u>109</u> as to Robert McFadden (2). Text of Order: Granted. The clerks shall consult with counsel and set a new time for a telephone status conference this week So Ordered by Judge Paul J. Barbadoro. (mm) (Entered: 05/13/2008)
05/13/2008		NOTICE OF HEARING as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz: Telephone Conference set for 5/14/2008 10:30 AM EST before Judge Paul J. Barbadoro. To participate,

		please call: 1-800-516-9896, participant code: 6032267303. Counsel for each defendant must participate.(mm) (Entered: 05/13/2008)
05/14/2008		Minute Entry for proceedings held before Judge Paul J. Barbadoro: TELEPHONE CONFERENCE as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz held on 5/14/2008. Parties to confer and if so decide, are to file a joint motion to continue trial by 5/16/08(Total Hearing Time:.30) (mm) (Entered: 05/14/2008)
05/14/2008	<u>110</u>	NOTICE of Intent to Use Summary Witness by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 05/14/2008)
05/16/2008	<u>111</u>	Joint MOTION to Continue Trial Until October 21, 2008 (Waiver of Speedy Trial to be filed conventionally)by Boaz Benmoshe as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 6/5/2008. Miscellaneous Deadline set for 6/2/2008. (Iacopino, Michael) (Entered: 05/16/2008)
05/19/2008	<u>112</u>	ORDER granting <u>111</u> Motion to Continue Trial in the interest of justice as to Beth Handy (1), Robert McFadden (2), Robert Hatch (3), Boaz Benmoshe (4), Ofer Lupovitz (5). So Ordered by Judge Paul J. Barbadoro. Final Pretrial Conference set for 9/29/2008 03:00 PM before Judge Paul J. Barbadoro. Jury Selection/Trial set for two week period beginning 10/21/2008 09:30 AM before Judge Paul J. Barbadoro. Jury Trial set for two-week period beginning 10/21/2008 09:30 AM before Judge Paul J. Barbadoro. Miscellaneous Deadline set for 6/2/2008 for Waiver of Speedy trial. (mxm) (Entered: 05/19/2008)
05/22/2008	<u>113</u>	Petition for Writ of Habeas Corpus ad Testificandum for Thomas Martino on May 29, 2008 at 9:30a.m re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 05/22/2008)
05/23/2008		Writ of Habeas Corpus ad Testificandum Issued as to Thomas Martino for 5/29/2008 @ 9:30 am. (vln) (Entered: 05/23/2008)
06/04/2008	<u>118</u>	WAIVER of Speedy Trial by Robert McFadden. (mxm) (Entered: 06/05/2008)
09/02/2008	<u>120</u>	NOTICE OF ATTORNEY APPEARANCE Aixa Maldonado-Quinones appearing for USA. (Maldonado-Quinones, Aixa) (Entered: 09/02/2008)
09/10/2008	<u>121</u>	MOTION to Dismiss <i>for Improper Venue</i> by Boaz Benmoshe as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 9/29/2008. (Iacopino, Michael) (Entered: 09/10/2008)
09/17/2008	<u>123</u>	JOINDER in Motion by Robert McFadden re: <u>121</u> MOTION to Dismiss. (Bownes, David) (Entered: 09/17/2008)
09/17/2008	<u>124</u>	JOINDER in Motion by Robert McFadden as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz re: 119

		MOTION to Change Venue. (Bownes, David) (Entered: 09/17/2008)
09/23/2008	<u>125</u>	Petition for Writ of Habeas Corpus ad Testificandum for Thomas Martino on October 14, 2008 @ 9:30a.m. re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 09/23/2008)
09/23/2008		Writ of Habeas Corpus ad Testificandum Issued as to Thomas Martino for 10/14/08 (mxm) (Entered: 09/24/2008)
09/27/2008		ENDORSED ORDER denying 119 Motion for Change of Venue as to Ofer Lupovitz (5). Text of Order: Denied. I deny the motion for the reasons set forth in the government's objection. So Ordered by Judge Paul J. Barbadoro. (mm) (Entered: 09/29/2008)
09/28/2008	<u>133</u>	MOTION to Dismiss <i>Superceding Indictment Count 28</i> by Boaz Benmoshe. Follow up on Objection on 10/14/2008. (Attachments: # <u>1</u> Memorandum of Law In Support of Motion to DIsmisss Superceding Indictment Count 28)(Iacopino, Michael) (Entered: 09/28/2008)
09/29/2008		Minute Entry for proceedings held before Judge Paul J. Barbadoro: FINAL PRETRIAL CONFERENCE as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz held on 9/29/2008.counsel for all defendants present. Case going to trial. (Total Hearing Time: 1:45)(CJA Time: 2:30) (mm) (Entered: 09/30/2008)
10/02/2008	<u>138</u>	OBJECTION by USA as to Robert McFadden re <u>124</u> Joinder in Motion <i>For Change of Venue</i> . (Maldonado-Quinones, Aixa) (Entered: 10/02/2008)
10/02/2008	<u>139</u>	OBJECTION by USA as to Robert McFadden re <u>123</u> Joinder in Motion <i>To Dismiss For Improper Venue</i> . (Maldonado-Quinones, Aixa) (Entered: 10/02/2008)
10/08/2008	<u>140</u>	SECOND SUPERSEDING INDICTMENT as to Beth Handy (1) count(s) 1ss, 2ss-27ss, 28ss, 29ss, 30ss-39ss, Robert McFadden (2) count(s) 1ss, 28ss, 29ss, Robert Hatch (3) count(s) 28ss, 29ss, Boaz Benmoshe (4) count(s) 28ss, 29ss, Ofer Lupovitz (5) count(s) 28ss, 29ss. <i>Original document available in clerks office.</i> (jar) (Entered: 10/09/2008)
10/08/2008	<u>145</u>	Praecipe for Warrant by USA as to Robert McFadden. (jar) (Entered: 10/09/2008)
10/08/2008		Arrest Warrant Issued as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Original warrant and copies to US Marshal and US Probation. (jar) (Entered: 10/09/2008)
10/09/2008	<u>141</u>	FILED IN ERROR - MOTION for Robert J. Rabuck to Withdraw as Attorney by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 10/27/2008. (Rabuck, Robert) Modified on 10/9/2008 to add: in correct document attached (jar). (Entered: 10/09/2008)

10/09/2008	<u>143</u>	NOTICE OF ATTORNEY APPEARANCE Seth R. Aframe appearing for USA. (Aframe, Seth) (Entered: 10/09/2008)
10/10/2008	<u>149</u>	Partially Assented to MOTION for Robert J. Rabuck to Withdraw as Attorney by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 10/30/2008. (Rabuck, Robert) (Entered: 10/10/2008)
10/10/2008	<u>153</u>	NOTICE of Assent of Defendant Ofer Lupovitz's Assented to Motion to Continue re 152 Assented to MOTION to Continue Trial to 4/13/09 (Waiver of Speedy Trial to be filed conventionally) by Robert McFadden as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Bownes, David) (Entered: 10/10/2008)
10/14/2008		NOTICE OF HEARING as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz: Telephone Conference set for 10/15/2008 02:30 PM before Judge Paul J. Barbadoro. The call in information is being sent to counsel under separate e-mail. (mm) (Entered: 10/14/2008)
10/14/2008		ENDORSED ORDER granting <u>149</u> Motion for Robert J. Rabuck to Withdraw as Attorney by USA as to Beth Handy (1), Robert McFadden (2), Robert Hatch (3), Boaz Benmoshe (4), Ofer Lupovitz (5). <i>Text of Order: Granted So Ordered</i> by Judge Paul J. Barbadoro. (jar) (Entered: 10/14/2008)
10/15/2008	<u>156</u>	ORDER granting 152 Motion to Continue Trial in the interest of justice as to Ofer Lupovitz (5)(Final Pretrial Conference set for 12/22/2008 03:00 PM before Judge Paul J. Barbadoro. Jury Selection/Trial set for two week period beginning 1/13/2009 9:30 AM before Judge Paul J. Barbadoro. Waiver of Speedy Trial Deadline set for 10/27/2008.). So Ordered by Judge Paul J. Barbadoro. (vln) (Entered: 10/15/2008)
10/15/2008		Minute Entry for proceedings held before Judge Paul J. Barbadoro: TELEPHONE CONFERENCE as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz held on 10/15/2008. (Court Reporter: Susan Bateman)(Total Hearing Time: 20 mins) (jar) (Entered: 10/17/2008)
10/15/2008	<u>180</u>	ORDER denying without prejudice <u>121</u> Motion to Dismiss as to Boaz Benmoshe (4), denying without prejudice to the right to renew at the time of trial 155 Sealed Motion for Subpoenas at Level I as to Robert McFadden (2); denying without prejudice to the right to renew at the time of trial 131 Motion in Limine as to Ofer Lupovitz (5). So Ordered by Judge Paul J. Barbadoro. (jar) (Entered: 10/29/2008)
10/15/2008		Minute Entry for proceedings held before Judge Paul J. Barbadoro: TELEPHONE CONFERENCE as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz held on 10/15/2008. (Govt Atty: Mark Irish) (Defts Atty: Richard Johnson, David Bownes, Bjorn Lange, Michael Iacopino, Dana Cole)(Total Hearing Time: 20

		minutes)(CJA Time: 20 minutes) (vln) (Entered: 11/07/2008)
10/16/2008	<u>157</u>	MOTION to Substitute Second Superceding Indictment re <u>140</u> Superseding Indictment, by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 11/3/2008. (Attachments: # <u>1</u> Exhibit Second Superceding Indictment)(Irish, Mark) Modified on 10/20/2008 to add: motion withdrawn, see notice document #160 (jar). (Entered: 10/16/2008)
10/16/2008		ACTION REQUIRED - NOTICE Nonconforming Document re <u>157</u> MOTION to Substitute Second Superceding Indictment re <u>140</u> Superseding Indictment, filed by USA. The document fails to comply with LR 7.1-No statement of concurrence was included. File statement and link to document no. 157. The document will remain on file. Please note that unless a document curing the defect is filed by the Notice of Compliance Deadline the matter may be referred to a judicial officer for appropriate action. If the filing party has any questions concerning this notice, please contact the judge's case manager at 603-225-1423.(Notice of Compliance Deadline set for 11/3/2008.) (jar) (Entered: 10/16/2008)
10/17/2008	<u>159</u>	Petition for Writ of Habeas Corpus ad Testificandum for Thomas Martino on Wednesday, October 22, 2008 at 9:30a.m re: defendant Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 10/17/2008)
10/17/2008	<u>160</u>	WITHDRAWAL of Motion by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz re <u>157</u> MOTION to Substitute Second Superceding Indictment re <u>140</u> Superseding Indictment. (Irish, Mark) Modified on 10/20/2008 to delete duplicate text (jar). (Entered: 10/17/2008)
10/20/2008		Writ of Habeas Corpus ad Testificandum Issued as to Thomas Martino for 10/22/2008 (jar) (Entered: 10/20/2008)
10/22/2008	<u>165</u>	Assented to MOTION to Waive Appearance at Arraignment and Continue Bail by Robert McFadden. (Attachments: # <u>1</u> Waiver of Defendant's Appearance at Arraignment)(Bownes, David) (Entered: 10/22/2008)
10/22/2008	<u>169</u>	THIRD SUPERSEDING INDICTMENT as to Beth Handy (1) count(s) 1sss, 2sss-27sss, 28sss, 29sss, 30sss-38sss, Robert McFadden (2) count(s) 1sss, 28sss, 29sss, Boaz Benmoshe (4) count(s) 28sss, 29sss, Ofer Lupovitz (5) count(s) 28sss, 29sss. <i>Original document available in clerks office.</i> (jar) (Entered: 10/24/2008)
10/22/2008	<u>172</u>	Praecepte for Summons by USA as to Robert McFadden. (jar) (Entered: 10/24/2008)
10/22/2008		Summons Issued as to Beth Handy, Robert McFadden, Boaz Benmoshe, Ofer Lupovitz. Initial Appearance set for 11/6/2008 11:00 AM before Magistrate Judge James R. Muirhead. (jar) (Entered: 10/24/2008)
10/23/2008	<u>167</u>	Assented to MOTION to Continue Pre-Trial Conference by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz.

		(Maldonado-Quinones, Aixa) (Entered: 10/23/2008)
10/23/2008	<u>168</u>	MOTION for Joinder re: <u>133</u> Motion to Dismiss <i>Superseding Indictment Count 28 by Boaz Benmoshe</i> by Robert McFadden as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 11/10/2008. (Bownes, David) (Entered: 10/23/2008)
10/24/2008		ENDORSED ORDER granting <u>165</u> Assented to MOTION to Waive Appearance at Arraignment and Continue Bail as to Robert McFadden (2). <i>Text of Order: Granted So Ordered by Magistrate Judge James R. Muirhead.</i> (jar) (Entered: 10/24/2008)
10/24/2008		ENDORSED ORDER granting <u>167</u> Assented to MOTION to Continue Pre-Trial Conference as to Beth Handy (1), Robert McFadden (2), Robert Hatch (3), Boaz Benmoshe (4), Ofer Lupovitz (5). <i>Text of Order: Granted So Ordered by Judge Paul J. Barbadoro. Final Pretrial Conference set for 12/19/2008 03:00 PM before Judge Paul J. Barbadoro.</i> (jar) (Entered: 10/27/2008)
10/26/2008		ENDORSED ORDER granting <u>168</u> Motion for Joinder as to Beth Handy (1), Robert McFadden (2), Robert Hatch (3), Boaz Benmoshe (4), Ofer Lupovitz (5) RE <u>133</u> Motion to Dismiss Count 28 of the Superseding Indictment <i>Text of Order: Granted So Ordered by Judge Paul J. Barbadoro.</i> (jar) (Entered: 10/27/2008)
10/27/2008	<u>177</u>	Arrest Warrant Returned Unexecuted as to Robert McFadden. (jar) (Entered: 10/28/2008)
10/27/2008	<u>183</u>	Summons Returned Executed on 10/24/2008 as to Robert McFadden. (vln) (Entered: 10/29/2008)
10/28/2008	<u>176</u>	Assented to MOTION to Waive Appearance at Arraignment Scheduled for 11/6/08 and Continue Bail by Robert McFadden. (Attachments: # <u>1</u> Waiver of Appearance at Arraignment)(Bownes, David) (Entered: 10/28/2008)
10/29/2008		ENDORSED ORDER granting <u>176</u> Assented to MOTION to Waive Appearance at Arraignment Scheduled for 11/6/08 and Continue Bail as to Robert McFadden (2). <i>Text of Order: Granted So Ordered by Magistrate Judge James R. Muirhead.</i> (jar) (Entered: 10/30/2008)
11/05/2008	<u>188</u>	WAIVER of Personal Appearance at Arraignment and Entry of Plea of Not Guilty by Robert McFadden. Approved on 11/6/08 by Magistrate Judge Muirhead (mxm) (Entered: 11/06/2008)
12/08/2008	<u>192</u>	INTERIM CJA 20, Interim Voucher # 2 as to Robert McFadden: Authorization to Pay David H. Bownes, Esq. Total amount authorized/certified: \$12,637.50. Amount paid this voucher: \$10,131.50. Amount withheld this voucher: \$2,506.00. Certified by USDC Judge Barbadoro on 11/19/2008. Approved by USCA Judge Howard on 12/3/2008. (Original document available in clerks office.) (tmh) (Entered: 12/09/2008)

12/18/2008	<u>196</u>	MOTION Join in Defendant Lupovitz's Motion for Change in Venue by Robert McFadden. Follow up on Objection on 1/8/2009. (Bownes, David) (Entered: 12/18/2008)
12/19/2008	<u>197</u>	Assented to MOTION counsel to appear telephoncially at final pre-trial scheduled for Friday, December 19, 2008 at 3:00 p.m. by Robert McFadden. (Bownes, David) (Entered: 12/19/2008)
12/19/2008		ENDORSED ORDER granting <u>197</u> Assented to MOTION counsel to appear telephoncially at final pre-trial scheduled for Friday, December 19, 2008 at 3:00 p.m. as to Robert McFadden (2). Text of Order: Granted So Ordered by Judge Paul J. Barbadoro. (jar) (Entered: 12/19/2008)
01/02/2009	<u>201</u>	MOTION for Travel-CJA Expenses Pursuant to 18 U.S.C. 4285 & 28 U.S.C. 1651 by Robert McFadden. (Bownes, David) (Entered: 01/02/2009)
01/05/2009		ENDORSED ORDER granting <u>201</u> Motion for Travel-CJA as to Robert McFadden (2). Text of Order: Granted So Ordered by Judge Paul J. Barbadoro. (jar) (Entered: 01/05/2009)
01/06/2009	<u>203</u>	WITNESS LIST by Robert McFadden: (Bownes, David) (Entered: 01/06/2009)
01/06/2009	<u>204</u>	WITNESS LIST by USA as to Beth Handy, Robert McFadden. (Irish, Mark) (Entered: 01/06/2009)
01/07/2009	<u>206</u>	MOTION for Reconsideration re <u>133</u> MOTION to Dismiss <i>Superceding Indictment Count 28</i> , 193 MOTION to Change Venue by Robert McFadden as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 1/26/2009. (Bownes, David) (Entered: 01/07/2009)
01/07/2009	1 <u>207</u>	MOTION in Limine re: Serono Laboratories by USA as to Beth Handy, Robert McFadden. Follow up on Objection on 1/26/2009. (Attachments: # <u>1</u> Exhibit 1-Criminal Judgment-US v. Serono Laboratories, Inc.)(Irish, Mark) (Entered: 01/07/2009)
01/07/2009	1 <u>208</u>	MOTION in Limine re: Robert Hatch by USA as to Beth Handy, Robert McFadden. Follow up on Objection on 1/26/2009. (Attachments: # <u>1</u> Exhibit 1-Copy of Criminal History of Robert Hatch)(Irish, Mark) (Entered: 01/07/2009)
01/07/2009	1 <u>209</u>	MOTION in Limine re: Pedigree Litigation by USA as to Beth Handy, Robert McFadden. Follow up on Objection on 1/26/2009. (Attachments: # <u>1</u> Exhibit 1-United States Court of Appeals for the Second Circuit's Opinion) (Irish, Mark) (Entered: 01/07/2009)
01/08/2009	1 <u>210</u>	MOTION in Limine re: Victims of Fraud by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. Follow up on Objection on 1/26/2009. (Maldonado-Quinones, Aixa) (Entered: 01/08/2009)

01/08/2009	<u>211</u>	NOTICE OF ATTORNEY APPEARANCE Sarah E. Hawkins appearing for USA. (mxm) (Entered: 01/08/2009)
01/08/2009		NOTICE. This case has been designated for Electronic Case Filing. All further submissions shall be filed in compliance with the Administrative Procedures for Electronic Case Filing. Sarah Hawkins must complete an online registration form within 30 days.(Notice of Compliance Deadline set for 2/10/2009.) (mxm) (Entered: 01/08/2009)
01/12/2009		ENDORSED ORDER denying <u>206</u> Motion for Reconsideration as to Beth Handy (1), Robert McFadden (2), Robert Hatch (3), Boaz Benmoshe (4), Ofer Lupovitz (5). Text of Order: Motion denied. The motions are denied as to defendant McFadden on the merits. So Ordered by Judge Paul J. Barbadoro. (mm) (Entered: 01/12/2009)
01/12/2009	<u>216</u>	WITNESS LIST by USA as to Beth Handy, Robert McFadden, Robert Hatch, Boaz Benmoshe, Ofer Lupovitz. (Irish, Mark) (Entered: 01/12/2009)
01/13/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY SELECTION/TRIAL - Day 1 as to Robert McFadden held on 1/13/2009. Jury sworn. Opening statements. Evidence begins. Witnesses Appearing: Nancy Kennedy, Chris Fiesel, John Thornton. (Court Reporter: Susan Bateman (am), Diane Churas (pm)) (Govt Atty: Mark Irish, Aixa Maldonado) (Defts Atty: David Bownes)(Total Hearing Time: 4:00) (mxm) (Entered: 01/14/2009)
01/14/2009	<u>217</u>	Government's Clarification Regarding Human Growth Hormone by USA as to Robert McFadden (Irish, Mark) (Entered: 01/14/2009)
01/14/2009	<u>220</u>	TRIAL BRIEF by USA as to Robert McFadden. (Attachments: # <u>1</u> Exhibit 1-Legislative History)(Irish, Mark) (Entered: 01/14/2009)
01/14/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 2 as to Robert McFadden held on 1/14/2009. Evidence introduced. Witnesses Appearing: Christopher Gould, Peter Grasso, Terry Cannada, Judy Nurse. (Court Reporter: Sandra Bailey) (Govt Atty: Mark Irish, Aixa Maldonado) (Defts Atty: David Bownes)(Total Hearing Time: 3:30) (mxm) (Entered: 01/14/2009)
01/15/2009	<u>221</u>	TRIAL BRIEF by USA as to Robert McFadden. (Irish, Mark) (Entered: 01/15/2009)
01/15/2009	<u>222</u>	Government's Memorandum on California Licensing Law by USA as to Robert McFadden (Irish, Mark) (Entered: 01/15/2009)
01/16/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 3 as to Robert McFadden held on 1/16/2009. Evidence introduced. Witnesses Appearing: Jaime Gonzalez, Jakelyn Rios Michae Cohn, Terry Trevort. Defendant's motion for dismissal or mistrial denied. Interpreter: Ricardo Azocar for Jaime Gonzalez. (Court Reporter: Susan bateman (am), Diane Churas (pm)) (Govt Atty: Mrk Irish, Aixa Maldonado) (Defts Atty: David Bownes)(Total Hearing Time: 4:55) (mxm) (Entered: 01/16/2009)

01/16/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 4 as to Robert McFadden held on 1/16/2009. Evidence introduced. Witnesses Appearing: Vicki Hancock, Terry Trevort, Kathleen Longbow, Joyce Novell, Deborah Raboin. (Court Reporter: s. Bailey (am), S. Bateman (pm)) (Govt Atty: Mark Irish, Aixa Maldonado) (Defts Atty: David Bownes)(Total Hearing Time: 5:20) (mm) (Entered: 01/20/2009)
01/20/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 5 as to Robert McFadden held on 1/20/2009. Evidence introduced. Witnesses Appearing: Deborah Raboin, Tom Lavery. (Court Reporter: D. Churas (am), S Bailey (pm)) (Govt Atty: Mark Irish, Axia Maldonado) (Defts Atty: David Bownes)(Total Hearing Time: 5:15) (mxm) (Entered: 01/21/2009)
01/21/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 6 as to Robert McFadden held on 1/21/2009. Evidence introduced. The government's case continues. Witnesses Appearing: Thmas Lavery, Robert Hatch. (Court Reporter: S. Bateman (am), D. Churas (pm)) (Govt Atty: Mark Irish, Aixa Maldonado) (Defts Atty: David Bownes) (Total Hearing Time: 5:35) (mxm) (Entered: 01/22/2009)
01/22/2009	<u>223</u>	Proposed Jury Instructions by USA as to Robert McFadden. (Maldonado-Quinones, Aixa) (Entered: 01/22/2009)
01/22/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 7 as to Robert McFadden held on 1/22/2009. Evidence introduced. USA case continues. Witnesses Appearing: Robert Hatch, Roosevelt Lodge, Beth Handy. (Court Reporter: s. Bailey (am), S. Bateman (pm)) (Govt Atty: Mark Irish, Aia Maldonado) (Defts Atty: David Bownes) (Total Hearing Time: 5:50) (mm) Modified on 1/23/2009 to correct hearing time: (mm). (Entered: 01/23/2009)
01/23/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 8 as to Robert McFadden held on 1/23/2009. Evidence introduced. Government rests, Rule 29 motion denied without prejudice. Defendant's case begins Witnesses Appearing: Thomas Lavery, Jess Rodriguez, Angela Howard, Alon Barak, Hal Tomlinson, W. Thomas Conway. (Court Reporter: D. Cuas (am), S. Bailey (pm)) (Govt Atty: Mrk Irish, Aixa Maldonado) (Defts Atty: David Bownes)(Total Hearing Time: 3:30) (mxm) (Entered: 01/23/2009)
01/26/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 9 as to Robert McFadden held on 1/26/2009. Evidence introduced. Witnesses Appearing: Beth Handy, David Furtado. Renewed Rue 29 motion denied. Defendant rests. Closing arguments. Court charges jury. Jury retires to deliberate. Jury deliberations. (Court Reporter: S. Bailey (am), D. Churas (pm)) (Govt Atty: Mark Irish, Aixa Maldonado) (Defts Atty: David Bownes)(Total Hearing Time: 6:25)(CJA Time: 8:25) (mxm) (Entered: 01/29/2009)

01/26/2009	<u>224</u>	Court Instructions as to Robert McFadden. (Attachments: # <u>1</u> Redacted Indictment)(mxm) (Entered: 01/29/2009)
01/26/2009	<u>225</u>	EXHIBIT LIST by USA as to Robert McFadden. (Attachments: # <u>1</u> Redacted Exhibit list for the jury)(mxm) (Entered: 01/29/2009)
01/26/2009	<u>226</u>	EXHIBIT LIST by Robert McFadden. (Attachments: # <u>1</u> Redacted Exhibit list given to the jury)(mm) (Entered: 01/29/2009)
01/26/2009	<u>227</u>	Jury Question No. 1 as to Robert McFadden. <i>Original document available in clerks office.</i> (mxm) (Entered: 02/02/2009)
01/27/2009		Minute Entry for proceedings held before Judge Paul J. Barbadoro: JURY TRIAL - Day 10 as to Robert McFadden held on 1/27/2009.. Jury deliberations. Jury has 4 questions. Jury returns verdict. (Court Reporter: Diane Churas) (Govt Atty: Mark Irish, Aixa Maldonado) (Defts Atty: David Bownes) (USP: Kevin Lavigne)(Total Hearing Time:.15)(CJA Time: 4:30) (mxm) (Entered: 01/29/2009)
01/27/2009	<u>228</u>	Jury Question No. 2 as to Robert McFadden. <i>Original document available in clerks office.</i> (mxm) (Entered: 02/02/2009)
01/27/2009	<u>229</u>	Jury Question No. 3 as to Robert McFadden. <i>Original document available in clerks office.</i> (mxm) (Entered: 02/02/2009)
01/27/2009	<u>230</u>	Jury Question No. 4 as to Robert McFadden. <i>Original document available in clerks office.</i> (mxm) (Entered: 02/02/2009)
01/27/2009	<u>231</u>	JURY VERDICT as to Robert McFadden (2) Guilty on Count 1sss,28sss,29sss. <i>Original document available in clerks office.</i> (mxm) (Entered: 02/02/2009)
02/02/2009		NOTICE OF HEARING as to Robert McFadden: Sentencing set for 4/29/2009 11:00 AM before Judge Paul J. Barbadoro. <i>The court has allotted 1 hour for the hearing. Please contact the court immediately if you anticipate the hearing will exceed the allotted time.</i> (mxm) (Entered: 02/02/2009)
02/02/2009	<u>232</u>	TRANSCRIPT of Proceedings as to Robert McFadden for Trial testimony of Robert Hatch before Judge Barabdoro held on 1/21/09. Court Reporter: Diane Churas, Telephone # 603 224-1442. Transcript is available for public inspection, but may not be copied or otherwise reproduced, at the Clerk's Office for a period of 90 days. Additionally, only attorneys of record and pro se parties with an ECF login and password who purchase a transcript from the court reporter will have access to the transcript through PACER during this 90-day period. If you would like to order a copy, please contact the court reporter at the above listed phone number. NOTICE: Any party who requests an original transcript has 21 days from service of this notice to determine whether it is necessary to redact any personal identifiers and, if so, to electronically file a Redaction Request.

		Redaction Request Follow Up 2/26/2009. Redacted Transcript Follow Up 3/9/2009. Release of Transcript Restriction set for 5/4/2009. (mxm) (Entered: 02/02/2009)
02/11/2009	<u>233</u>	<p>TRANSCRIPT of Proceedings as to Robert McFadden for Jury trial day 7 before Judge Barbadoro held on 1/22/09. Court Reporter: Sandra Bailey, Telephone # 603 225-1454. Transcript is available for public inspection, but may not be copied or otherwise reproduced, at the Clerk's Office for a period of 90 days. Additionally, only attorneys of record and pro se parties with an ECF login and password who purchase a transcript from the court reporter will have access to the transcript through PACER during this 90-day period. If you would like to order a copy, please contact the court reporter at the above listed phone number.</p> <p>NOTICE: Any party who requests an original transcript has 21 days from service of this notice to determine whether it is necessary to redact any personal identifiers and, if so, to electronically file a Redaction Request.</p> <p>Redaction Request Follow Up 3/9/2009. Redacted Transcript Follow Up 3/17/2009. Release of Transcript Restriction set for 5/12/2009. (mm) (Entered: 02/11/2009)</p>

DECLARATION OF SERVICE BY REGULAR MAIL

CASE NUMBER: 09-C-10283

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

Transmittal of Records of Conviction of Attorney

Certified copy of the Third Superseding Indictment – dated 10/22/08

Certified copy of Verdict – dated 01/27/09

Certified copy of Docket – dated 02/18/09

in a sealed envelope placed for collection and mailing as regular mail, at Los Angeles, California on the date shown below, addressed to:

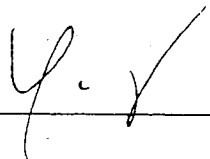
A courtesy copy to:

ROBERT JAMES MCFADDEN
1111 E. Tahquitz Canyon Way, #209
Palm Springs, CA 92262

DAVID H. BOWNES
486 Union Ave.
Laconia, NH 03246

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California on the date shown below.

Signed: _____



Date: _____

5/28/09

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Finding the Stipulation to be fair to the parties and that the Stipulation adequately protects the public, IT IS ORDERED that the stipulated facts and disposition are APPROVED and the DISCIPLINE IS RECOMMENDED to the Supreme Court.

The parties are bound by the Stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See Rule 135(b), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after the date it is filed. (See Rule 9.18(a), California Rules of Court.)**

DATED: _____

Hon. Pat E. McElroy
STATE BAR COURT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF SERVICE BY REGULAR MAIL

CASE NUMBER: 09-N-15800

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 1149 South Hill Street, Los Angeles, California 90015, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles, on the date shown below, a true copy of the within

**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND
DISBARMENT AND ORDER APPROVING**

in a sealed envelope placed for collection and mailing at Los Angeles, on the date shown below, addressed to:

**Robert James McFadden, Jr.
#04086-049 Unit A
P. O. Box 7001
Taft, California 93268**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: March 8, 2010

Signed: *Paula Heider*
Paula Heider
Declarant

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on, April 1, 2010, I deposited a true copy of the following document(s):

ORDER

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ROBERT J MCFADDEN, JR. 071883
#04086-049 UNIT A4A
P O BOX 7001
TAFT, CA 93268

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ERIN McKEOWN JOYCE , Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 1, 2010.



Laurretta Cramer
Case Administrator
State Bar Court