

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
 V.) Criminal No. 02-
)
FRED E. COOPER) (15 U.S.C. §§78j(b) & 78ff;
) 18 U.S.C. §2;
) 26 U.S.C. §7206(1);
) 17 C.F.R. §240-10b)

INFORMATION

The United States Attorney charges that:

1. At all times material to this Count, Biocontrol Technology, Inc., also known as BICO, (hereinafter referred to as Biocontrol), was a Pennsylvania Corporation with its principal place of business in Pittsburgh, Pennsylvania. The common stock of Biocontrol was publicly traded in the United States on the NASDAQ market.

2. At all times material to this Information, Biocontrol was engaged in the business of developing and producing medical devices.

3. At all times material to this Information, the defendant, FRED E. COOPER, a resident of the Western District of Pennsylvania, was employed as the Chief Executive Officer and Chief Financial Officer of Biocontrol, and was a member of its board of directors. Biocontrol's daily operations were under the control of defendant, FRED E. COOPER.

4. At all times material to this Information, as a corporation the securities of which were publicly traded in the United States, Biocontrol was required to prepare and file with the United States

Securities and Exchange Commission annual reports, known as Forms 10-K, the purpose of which were to afford to the investing public disclosure of all material information regarding the company's financial transactions and condition during the reporting period, and, specifically, disclosure of financial benefits reaped by its officers and directors as a result of their association with the company, under "Item 13, Certain Relationships and Related Transactions."

5. On or about March 11, 1996, the defendant, FRED E. COOPER, caused certificates of deposit owned by Biocontrol in the amount of \$250,000 to be pledged to Three Rivers Bank as collateral for a loan received from the bank for his personal use and benefit.

6. On or about March 11, 1996, the defendant, FRED E. COOPER, caused certificates of deposit owned by Biocontrol, in the amount of \$183,000, to be pledged to Three Rivers Bank as collateral for loans received from the bank by A.J.F., not a defendant herein, an officer and director of the company, for his personal use and benefit.

7. On or about March 11, 1996, the defendant, FRED E. COOPER, caused certificates of deposit owned by Biocontrol, in the amount of \$190,000, to be pledged to Three Rivers Bank as collateral for loans received from the bank by G.K., not a

defendant herein, an

officer and director of the company, for his personal use and benefit.

8. On or about March 11, 1996, the defendant, FRED E. COOPER, caused the execution of documents by the corporate secretary, D.E.S., not a defendant herein, stating that Biocontrol would guarantee repayment to Three Rivers Bank of the three loans for the personal use and benefit of its officers described above.

9. On or about March 31, 1997, in the Western District of Pennsylvania, the defendant, FRED E. COOPER, did unlawfully, knowingly and wilfully, by use of the means and instrumentalities of interstate commerce and the mails, directly and indirectly, use and employ, and cause to be used and employed, manipulative and deceptive devices in connection with the purchase and sale of the securities of Biocontrol, in contravention of Rule 10b-5 (17 C.F.R. Section 240.10b-5) of the rules and regulations promulgated by the United States Securities and Exchange Commission, and did:

- a) employ and cause to be employed devices, schemes and artifices to defraud,
- b) make and cause to be made untrue statements of material facts, and omit and cause to be omitted from statements of material facts certain facts necessary in order that such statements would not be misleading in the light of the circumstances under which they were made, and

c) engage in and cause to be engaged in acts, practices and courses of business which would and did operate as a fraud and deceit upon the investing public, by filing and causing to be filed with the Securities and Exchange Commission a Form 10-K for Biocontrol, for the year ending December 31, 1996, which did not disclose the pledges of Biocontrol's certificates of deposit to collateralize loans by Three Rivers Bank to its officers or the submission to Three Rivers Bank of Biocontrol's guarantees of repayment of such loans.

In violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 17, Code of Federal Regulations, Section 240-10b-5 and Title 18, United States Code, Section 2.

COUNT TWO

The United States Attorney further charges:

That on or about October 15, 1995, in the Western District of Pennsylvania, FRED E. COOPER, a resident of Allegheny County, Pennsylvania, did willfully make and subscribe a joint U.S. Individual Income Tax Return for the calendar year 1994 which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that the said return reported taxable income in the amount of \$346,040.00, whereas as he then and there well knew and believed, the taxable income for the 1994 calendar year was substantially in excess of that heretofore stated.

In violation of Title 26, United States Code, Section 7206(1).

MARY BETH BUCHANAN
United States Attorney
PA ID NO. 50254