

No. **CR - 08 00866**

JW

RS

FILED

UNITED STATES DISTRICT COURT

SEALED BY ORDER
OF THE COURT

NORTHERN DISTRICT OF CALIFORNIA

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs.

STEPHEN JOSEPH HEUER and ROBERT TERRY BOHEN

INDICTMENT

COUNT ONE:

18 U.S.C. § 371 - Conspiracy To Commit Offenses
Against the United States

COUNT TWO:

21 U.S.C. § 333(e)(1); 18 U.S.C. § 2 - Distribution
of Human Growth Hormone For Unauthorized
Uses; Aiding And Abetting

COUNTS THREE-EIGHT:

21 U.S.C. §§ 331(a) and 333(a)(2) - Introduction
and Delivery For Introduction Of Adulterated Drugs
With Intent To Defraud and Mislead; Aiding and
Abetting

COUNTS NINE-FOURTEEN:

21 U.S.C. §§ 331(a) and 333(a)(2) - Introduction
and Delivery For Introduction Of Misbranded Drugs
With Intent To Defraud and Mislead; Aiding and
Abetting

COUNTS FIFTEEN-NINETEEN:

18 U.S.C. § 1341; 18 U.S.C. § 2 - Mail Fraud;
Aiding and Abetting

DOCUMENT NO.	CSA's INITIALS
1	p
DISTRICT COURT CRIMINAL CASE PROCESSING	

AW
Heuer

COUNTS TWENTY-
TWENTY-TWO:

26 U.S.C. § 7201 - Tax Evasion

A true bill.

Ramona Wills

Foreperson

Filed in open court this 3 day of December

A.D. 2008

[Signature]

United States Magistrate Judge

Bail. \$ Defendant Heuer - NO BAIL WARRANT AS
Defendant Bohan - NO process required

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JOSEPH P. RUSSONIELLO (CASBN 44332)
United States Attorney

FILED

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RICHARD W. WIEKING
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U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

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OF THE COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JW

UNITED STATES OF AMERICA,
Plaintiff,
v.
STEPHEN JOSEPH HEUER and
ROBERT TERRY BOHEN,
Defendants.

CR No. 08 00866

VIOLATIONS: 18 U.S.C. § 371-
Conspiracy to Commit Offenses Against
The United States; 21 U.S.C. § 333(e)(1)
and 18 U.S.C. § 2 --Distribution of Human
Growth Hormone and Aiding and Abetting;
21 U.S.C. §§ 331(a), 333(a)(2) and 18
U.S.C. § 2- Introduction and Delivery of
Adulterated and Misbranded Drugs with
Intent to Defraud and Mislead and Aiding
and Abetting; 18 U.S.C. § 1341 and 18
U.S.C. § 2 - Mail Fraud and Aiding and
Abetting; 26 U.S.C. § 7201--Tax Evasion

RS

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Cocoon Nutrition was a nutritional supplement business operating out of Cupertino, California and Campbell, California, whose primary business was the distribution of items it identified as human growth hormone, along with dietary items and nutritional supplements. In addition to physical storefronts located, at separate times, in Cupertino and Campbell, Cocoon Nutrition maintained a website, cocoonnutrition.org, through which it distributed items it

INDICTMENT

1 identified as human growth hormone and other products.

2 2. Defendant Stephen Joseph Heuer (“Heuer”) was the owner and operator of Cocoon
3 Nutrition. Under the name of Cocoon Nutrition, Heuer and others conspired to distribute items
4 represented as containing human growth hormone to other persons in a manner outside the usual
5 course of professional practice, and not for a legitimate medical purpose.

6 3. Customer orders placed at the Cocoon Nutrition storefront or at the Cocoon Nutrition
7 website were filled through deliveries of items represented as containing human growth hormone
8 to customers throughout the United States.

9 4. Defendant Robert Terry Bohlen (“Bohlen”) owned a company called Anti-Aging
10 Research Laboratory (“AARL”) in Trabuco Canyon, California. Bohlen supplied Cocoon
11 Nutrition and Heuer with human growth hormone through AARL, and also directly distributed
12 items represented as containing human growth hormone to customers.

13 5. Under the Federal Food, Drug, and Cosmetic Act (FDCA), drugs were defined as,
14 among other things, articles intended for use in the cure, mitigation, treatment or prevention of
15 disease in man (21 U.S.C. § 321(g)(1)(B)); articles (other than food) intended to affect the
16 structure or function of the body of man (21 U.S.C. § 321(g)(1)(c)); or articles intended for use as
17 components other drugs (21 U.S.C. § 321(g)(1)(D)). A drug intended for use in man which,
18 because of its toxicity, or other potentiality for harmful effect, or the method of its use, or the
19 collateral measures necessary to its use, was not safe for use except under the supervision of a
20 practitioner licensed by law to administer such drug; or a drug which was limited by an approved
21 application under 21 U.S.C. § 355 to use under the professional supervision of a practitioner
22 licensed by law to administer such drug, could only be dispensed by a practitioner licensed by
23 law pursuant to a lawful prescription. 21 U.S.C. § 353(b)(1) . These drugs were commonly
24 known as "prescription drugs."

25 6. The term “labeling” was defined as all labels and other printed or graphic matter upon
26 any article or any of its containers or wrappers, or accompanying such article. 21 U.S.C.
27 § 321(m).

28 7. A drug was adulterated if, among other things, its strength differed from, or its purity

1 or quality fell below, that which it purported or was represented to possess. 21 U.S.C. § 351(c).

2 8. A drug was misbranded if, among other things, its labeling was false or misleading in
3 any particular. 21 U.S.C. § 352(a).

4 9. The term "human growth hormone" meant somatrem, somatropin, or an analogue of
5 either somatrem or somatropin. 21 U.S.C. § 333(e)(4). Somatropin was a synthetic or naturally--
6 occurring growth hormone from the human pituitary gland. Somatrem was an analog of
7 somatropin containing an additional (methionyl) amino-acid residue.

8 COUNT ONE: (18 U.S.C. § 371--Conspiracy To Commit Offenses Against the United
9 States)

10 10. On or about and between May 1, 2003, and September 12, 2005, in Santa Clara
11 County, in the Northern District of California, and elsewhere, defendants

12 STEPHEN JOSEPH HEUER and
13 ROBERT TERRY BOHEN,

14 and others, known and unknown to the grand jury, did intentionally conspire to commit offenses
15 against the United States, that is the defendants conspired to:

16 i. possess with intent to distribute, and distribute, human growth hormone, a/k/a
17 "HGH," for a use in humans other than the treatment of a disease or other
18 recognized medical condition, where such use had been authorized by the
19 Secretary of Health and Human Services, and pursuant to the order of a physician,
20 in violation of 21 U.S.C. § 333(e);

21 ii. introduce and deliver for introduction into interstate commerce, with the intent
22 to defraud and mislead, adulterated and misbranded drugs, as defined in Title 21,
23 United States Code, Section 351(c) and 352(a) respectively, in violation of Title
24 21, United States Code, Sections 331(a) and 333(a)(2); and

25 iii. commit mail fraud, in violation of 18 U.S.C. § 1341.

26 MANNER AND MEANS OF THE CONSPIRACY

27 11. It was a part of the conspiracy that defendant Bohen supplied defendant Heuer with
28 items represented as containing human growth hormone.

12 12. It was further a part of the conspiracy that defendants Heuer and Bohen distributed
13 items represented as containing human growth hormone without a valid prescription or other
14 order of a physician.

15 13. It was further a part of the conspiracy that beginning in at least 2003, defendants

1 Heuer and Bohen distributed items with false and misleading labeling, in that the labeling falsely
2 and misleadingly stated that the items contained human growth hormone, when in fact, as Heuer
3 and Bohen then and there well knew, the items did not contain any human growth hormone.

4 14. It was further a part of the conspiracy that defendant Heuer used various advertising
5 methods, including radio advertisement, e-mails, and Internet claims regarding the sale of items
6 containing human growth hormone, at a time when the defendants knew that the items
7 distributed did not, in fact, contain any human growth hormone.

8 15. It was further a part of the conspiracy that defendants Heuer and Bohen sent packages
9 of items which purportedly contained human growth hormone throughout the United States via
10 the United States Postal Service and the United Parcel Service, a private commercial carrier, and
11 accepted credit-card payments for the distributed substances.

12 ACTS IN FURTHERANCE OF THE CONSPIRACY

13 16. In furtherance of the conspiracy and to attain its ends, the defendants committed the
14 following acts in furtherance of the conspiracy, among others, in the Northern District of
15 California, and elsewhere:

16 a. On or about July 3, 2003, defendant Heuer mailed a bottle of Cocoon GH,
17 which was labeled to contain and did contain human growth hormone, via the United Parcel
18 Service from Cupertino, California to Alameda, California;

19 b. On or about January 7, 2004, defendant Heuer mailed a bottle of Cocoon GH
20 Liquid Spray Growth Hormone, which was labeled to contain, but did not contain, human growth
21 hormone, via the United Parcel Service, from Cupertino, California, to Reno, Nevada.

22 c. On or about August 10, 2004, defendant Heuer mailed a bottle of Cocoon GH,
23 which was labeled to contain, but did not contain, human growth hormone, via the United Parcel
24 Service, from Cupertino, California, to Reno, Nevada.

25 d. On or about October 21, 2004, defendant Heuer mailed one bottle of Cocoon
26 GH Extra Strength, which was labeled to contain and did contain human growth hormone, and
27 one bottle of Cocoon GH, which was labeled to contain, but did not contain, human growth
28 hormone, via the United Parcel Service, from Cupertino, California, to Oakland, California.

1 e. On or about December 13, 2004, defendant Heuer mailed one bottle of
2 Cocoon GH Extra Strength, which was labeled to contain, but did not contain, human growth
3 hormone, and one bottle of Cocoon GH, which was labeled to contain, but did not contain,
4 human growth hormone, via the United Parcel Service, from Campbell, California, to Oakland,
5 California.

6 f. On or about September 12, 2005, defendant Bohlen mailed a bottle of Cocoon
7 GH, which was labeled to contain, but did not contain, human growth hormone, via the United
8 States Postal Service, from Foothill Ranch, California, to Oakland, California.

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

10 COUNT TWO: (21 U.S.C. § 333(e)(1); 18 U.S.C. § 2-- Distribution Of Human Growth
11 Hormone For Unauthorized Uses; Aiding And Abetting)

12 17. On or about October 21, 2004, in Santa Clara County, in the Northern District of
13 California, and elsewhere, the defendants

14 STEPHEN JOSEPH HEUER and
15 ROBERT TERRY BOHEN,

16 did knowingly distribute Cocoon GH Extra Strength, a product which contained human growth
17 hormone, a/k/a "HGH," for a use in humans other than the treatment of a disease or other
18 recognized medical condition, where such use had been authorized by the Secretary of Health
19 and Human Services, to wit: for its anti-aging capabilities, and did so without the order of a
20 physician, in violation of Title 21, United States Code, Section 333(e)(1), and Title 18, United
21 States Code, Section 2.

22 COUNT THREE: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction And
23 Delivery For Introduction Of Adulterated Drugs With Intent To Defraud And
24 Mislead; Aiding And Abetting)

25 18. On or about January 7, 2004, in Santa Clara County, in the Northern District of
26 California, the defendants

27 STEPHEN JOSEPH HEUER and
28 ROBERT TERRY BOHEN,

29 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
30 commerce a drug, Cocoon GH Liquid Spray Growth Hormone, which was labeled as containing
31 192 servings of HGH, at 600 nanograms of HGH per serving, which was adulterated as defined

1 in 21 U.S.C. § 351(c), in that its strength differed from, and its quality fell below, that which it
2 purported and was represented to possess, to wit: the labeling stated that the drug contained
3 human growth hormone, when in fact the drug did not contain any detectable amount of human
4 growth hormone.

5 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
6 18, United States Code, Section 2.

7 COUNT FOUR: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery For
8 Introduction Of Adulterated Drugs With Intent To Defraud And Mislead;
Aiding And Abetting)

9 19. On or about August 10, 2004, in Santa Clara County, in the Northern District of
10 California, and elsewhere, the defendants

11 STEPHEN JOSEPH HEUER and
12 ROBERT TERRY BOHEN,

13 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
14 commerce a drug, Cocoon GH, which was labeled as containing 192 servings of HGH, at 600
15 nanograms of HGH per serving, and which was adulterated as defined in 21 U.S.C. § 351(c), in
16 that its strength differed from, and its quality fell below that which it purported and was
17 represented to possess, to wit: the labeling stated that the drug contained human growth hormone,
18 when in fact the drug did not contain any detectable amount of human growth hormone.

19 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
20 18, United States Code, Section 2.

21 COUNT FIVE: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery For
22 Introduction Of Adulterated Drugs With Intent To Defraud And Mislead;
23 Aiding And Abetting)

24 20. On or about October 21, 2004, in Santa Clara County, in the Northern District of
25 California, and elsewhere, the defendants

26 STEPHEN JOSEPH HEUER and
27 ROBERT TERRY BOHEN,

28 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
commerce a drug, Cocoon GH, which was labeled as containing 192 servings of HGH, at 600

1 nanograms of HGH per serving, which was adulterated as defined in 21 U.S.C. § 351(c), in that
2 its strength differed from, and its quality fell below that which it purported and was represented
3 to possess, to wit: the labeling stated that the drug contained human growth hormone, when in
4 fact the drug did not contain any detectable amount of human growth hormone.

5 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
6 18, United States Code, Section 2.

7 COUNT SIX: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery For
8 Introduction Of Adulterated Drugs With Intent To Defraud And Mislead;
Aiding And Abetting)

9 21. On or about December 13, 2004, in Santa Clara County, in the Northern District of
10 California, and elsewhere, the defendants

11 STEPHEN JOSEPH HEUER and
12 ROBERT TERRY BOHEN,

13 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
14 commerce a drug, Cocoon GH, which was labeled as containing 192 servings of HGH, at 600
15 nanograms of HGH per serving, and which was adulterated as defined in 21 U.S.C. § 351(c), in
16 that its strength differed from, and its quality fell below that which it purported and was
17 represented to possess, to wit: the labeling stated that the drug contained human growth hormone,
18 when in fact the drug did not contain any detectable amount of human growth hormone.

19 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
20 18, United States Code, Section 2.

21 COUNT SEVEN: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery For
22 Introduction Of Adulterated Drugs With Intent To Defraud And Mislead;
Aiding And Abetting)

23 22. On or about December 13, 2004, in Santa Clara County, in the Northern District of
24 California, and elsewhere, the defendants

25 STEPHEN JOSEPH HEUER and
26 ROBERT TERRY BOHEN,

27 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
28 commerce a drug, Cocoon GH Extra Strength, which was labeled as containing 192 servings of
HGH, at 833 nanograms of HGH per serving, and which was adulterated as defined in 21 U.S.C.

1 § 351(c), in that its strength differed from, and its quality fell below that which it purported and
2 was represented to possess, to wit: the labeling stated that the drug contained human growth
3 hormone, when in fact the drug did not contain any detectable amount of human growth
4 hormone.

5 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
6 18, United States Code, Section 2.

7 COUNT EIGHT: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery For
8 Introduction Of Adulterated Drugs With Intent To Defraud And Mislead;
Aiding And Abetting)

9 23. On or about September 12, 2005, in the Northern District of California, and
10 elsewhere, the defendant

11 ROBERT TERRY BOHEN

12 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
13 commerce a drug, Cocoon GH, which was labeled as containing 192 servings of HGH, at 600
14 nanograms of HGH per serving, in that its strength differed from, and its quality fell below that
15 which it purported and was represented to possess, to wit: the labeling stated that the drug
16 contained human growth hormone, when in fact the drug did not contain any detectable amount
17 of human growth hormone.

18 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
19 18, United States Code, Section 2.

20 COUNT NINE: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery For
21 Introduction Of Misbranded Drugs With Intent To Defraud And Mislead;
Aiding And Abetting)

22 24. On or about January 7, 2004, in Santa Clara County, in the Northern District of
23 California, and elsewhere, the defendants

24 STEPHEN JOSEPH HEUER and
25 ROBERT TERRY BOHEN,

26 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
27 commerce a drug, Cocoon GH Liquid Spray Growth Hormone, which was labeled as containing
28 human growth hormone, and which was misbranded as defined in 21 U.S.C. § 352(a), in that the

1 labeling falsely and misleadingly stated that the drug contained human growth hormone, when in
2 fact the drug did not contain human growth hormone.

3 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
4 18, United States Code, Section 2.

5 COUNT TEN: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery For
6 Introduction Of Misbranded Drugs With Intent To Defraud And Mislead;
Aiding And Abetting)

7 25. On or about August 10, 2004, in Santa Clara County, in the Northern District of
8 California, and elsewhere, the defendants

9 STEPHEN JOSEPH HEUER and
10 ROBERT TERRY BOHEN,

11 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
12 commerce a drug, Cocoon GH, which was labeled as containing human growth hormone, and
13 which was misbranded as defined in 21 U.S.C. § 352(a), in that the labeling falsely and
14 misleadingly stated that the drug contained human growth hormone, when in fact the drug did not
15 contain human growth hormone.

16 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
17 18, United States Code, Section 2.

18 COUNT ELEVEN: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery
19 For Introduction Of Misbranded Drugs With Intent To Defraud And
Mislead; Aiding And Abetting)

20 26. On or about October 21, 2004, in Santa Clara County, in the Northern District of
21 California, and elsewhere, the defendants

22 STEPHEN JOSEPH HEUER and
23 ROBERT TERRY BOHEN,

24 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
25 commerce a drug, Cocoon GH, which was labeled as containing human growth hormone, and
26 which was misbranded as defined in 21 U.S.C. § 352(a), in that the labeling falsely and
27 misleadingly stated that the drug contained human growth hormone, when in fact the drug did not
28 contain human growth hormone.

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

3 COUNT TWELVE: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery
4 For Introduction Of Misbranded Drugs With Intent To Defraud And
Mislead; Aiding And Abetting)

5 27. On or about December 13, 2004, in Santa Clara County, in the Northern District of
6 California, and elsewhere, the defendants

7 STEPHEN JOSEPH HEUER and
8 ROBERT TERRY BOHEN,

9 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
10 commerce a drug, Cocoon GH, which was labeled as containing human growth hormone, and
11 which was misbranded as defined in 21 U.S.C. § 352(a), in that the labeling falsely and
12 misleadingly stated that the drug contained human growth hormone, when in fact the drug did not
13 contain human growth hormone.

14 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
15 18, United States Code, Section 2.

16 COUNT THIRTEEN: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2-- Introduction/Delivery
17 For Introduction Of Misbranded Drugs With Intent To Defraud And
Mislead; Aiding And Abetting)

18 28. On or about December 13, 2004, in Santa Clara County, in the Northern District of
19 California, and elsewhere, the defendants

20 STEPHEN JOSEPH HEUER and
21 ROBERT TERRY BOHEN,

22 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
23 commerce a drug, Cocoon Extra Strength GH, which was labeled as containing human growth
24 hormone, and which was misbranded as defined in 21 U.S.C. § 352(a), in that the labeling falsely
25 and misleadingly stated that the drug contained human growth hormone, when in fact the drug
26 did not contain human growth hormone.

27 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
28 18, United States Code, Section 2.

1 COUNT FOURTEEN: (21 U.S.C. §§ 331(a) and 333(a)(2); 18 U.S.C. § 2--Introduction/Delivery
2 For Introduction Of Misbranded Drugs With Intent To Defraud And
Mislead; Aiding And Abetting)

3 29. On or about September 12, 2005, in the Northern District of California, and
4 elsewhere, the defendant

5 ROBERT TERRY BOHEN

6 did, with the intent to defraud and mislead, introduce, and deliver for introduction into interstate
7 commerce a drug, Cocoon GH, which was labeled as containing human growth hormone, and
8 which was misbranded as defined in 21 U.S.C. § 352(a), in that the labeling falsely and
9 misleadingly stated that the drug contained human growth hormone, when in fact the drug did not
10 contain human growth hormone.

11 All in violation of Title 21, United States Code, Sections 331(a) and 333(a)(2), and Title
12 18, United States Code, Section 2.

13 COUNTS FIFTEEN THROUGH NINETEEN: (18 U.S.C. §§ 1341 and 2-- Mail Fraud;
14 Aiding and Abetting)

15 30. Paragraphs 1 through 9 of the Introductory Allegations section and paragraphs 10
16 through 16 of Count One are realleged and incorporated as though fully set forth herein.

17 31. On or about the dates indicated for each Count below, in Santa Clara County, in the
18 Northern District of California, and elsewhere, the defendants

19 STEPHEN JOSEPH HEUER and
20 ROBERT TERRY BOHEN,

21 for the purpose of executing a scheme to defraud, by means of false and fraudulent
22 representations which were material in that they would reasonably influence a person to part with
23 money and property, namely, the scheme described in Count One by which the defendants made
24 false representations to customers that items sold by Cocoon Nutrition contained human growth
25 hormone, when in fact the items which were the subject of the representations did not contain
26 human growth hormone, knowingly sent and caused to be sent through the United States Postal
Service and commercial interstate carrier, the items indicated below:

27 //

28 //

	<u>COUNT</u>	<u>DATE</u>	<u>ITEM SENT</u>	<u>SENT FROM</u>	<u>SENT TO</u>
1					
2	15	1/7/04	Package containing 1 bottle labeled Cocoon GH	Cupertino, CA	Reno, NV
3					
4	16	8/10/04	Package containing 1 bottle labeled Cocoon GH	Cupertino, CA	Reno, NV
5					
6	17	10/21/04	Package containing 1 bottle labeled Cocoon GH and 1 bottle labeled Cocoon GH Extra Strength	Cupertino, CA	Oakland, CA
7					
8					
9	18	12/13/04	Package containing 1 bottle labeled Cocoon GH and 1 bottle labeled Cocoon GH Extra Strength	Campbell, CA	Oakland, CA
10					
11					
12	19	9/12/05	Package containing 1 bottle labeled Cocoon GH	Foothill Ranch, CA	Oakland, CA
13					

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

COUNT TWENTY: (26 U.S.C. § 7201—Tax Evasion)

On or about and between January 1, 2002, and April 15, 2003, in Santa Clara County, in the Northern District of California, and elsewhere, the defendant

STEPHEN JOSEPH HEUER

did willfully attempt to evade and defeat part of the income tax due and owing by him to the United States of America for the calendar year 2002, by the following means:

a. failing to file a U.S. Individual Income Tax Return, Form 1040, as required by law on or before April 15, 2003, to any proper officer of the Internal Revenue Service, thereby failing to report taxable income earned of \$187,389, and thereby evading tax due and owing of approximately \$63,326;

b. establishing a Corporation Sole in the name of Alchemy Ministries in the State of Washington for the purpose of concealing income, and using the Unified Business Identifier Number assigned to him by the State of Washington to conceal income derived from the sale of items through Cocoon Nutrition;

c. claiming, in prior correspondence with state and federal government officials, that he was a non-resident alien, that he was not a U.S. citizen, and that he was therefore not obligated to pay taxes;

d. maintaining offshore bank accounts for the purpose of concealing income derived from the sale of items through Cocoon Nutrition; and

1 e. using a business bank account to pay personal expenses and failing to report
2 the income realized by the use of the business account.

3 All in violation of Title 26, United States Code, Section 7201.

4 COUNT TWENTY-ONE: (26 U.S.C. § 7201–Tax Evasion)

5 On or about and between January 1, 2003, and April 15, 2004, in Santa Clara County, in
6 the Northern District of California, and elsewhere, the defendant

7 STEPHEN JOSEPH HEUER

8 did willfully attempt to evade and defeat part of the income tax due and owing by him to the
9 United States of America for the calendar year 2003, by the following means:

10 a.. failing to file a U.S. Individual Income Tax Return, Form 1040, as required by
11 law on or before April 15, 2004, to any proper officer of the Internal Revenue
12 Service, thereby failing to report taxable income earned of \$213,722, and thereby
13 evading tax due and owing of approximately \$69,856;

14 b. establishing a Corporation Sole in the name of Alchemy Ministries in the State
15 of Washington for the purpose of concealing income, and using the Unified
16 Business Identifier Number assigned to him by the State of Washington to conceal
17 income derived from the sale of items through Cocoon Nutrition;

18 c. claiming, in prior correspondence with state and federal government officials,
19 that he was a non-resident alien, that he was not a U.S. citizen, and that the
20 was therefore not obligated to pay taxes;

21 d. maintaining offshore bank accounts for the purpose of concealing income
22 derived from the sale of items through Cocoon Nutrition; and

23 e. using a business bank account to pay personal expenses and failing to report
24 the income realized by the use of the business account.

25 All in violation of Title 26, United States Code, Section 7201.

26 COUNT TWENTY-TWO: (26 U.S.C. § 7201–Tax Evasion)

27 On or about and between January 1, 2004, and April 15, 2005, in Santa Clara County, in
28 the Northern District of California, and elsewhere, the defendant

STEPHEN JOSEPH HEUER

did willfully attempt to evade and defeat part of the income tax due and owing by him to the
United States of America for the calendar year 2004, by the following means:

a.. failing to file a U.S. Individual Income Tax Return, Form 1040, as required by
law on or before April 15, 2005, to any proper officer of the Internal Revenue
Service, thereby failing to report taxable income earned of \$243,261, and thereby
evading tax due and owing of approximately \$80,240;

1 b. establishing a Corporation Sole in the name of Alchemy Ministries in the State
2 of Washington for the purpose of concealing income, and using the Unified
3 Business Identifier Number assigned to him by the State of Washington to conceal
4 income derived from the sale of items through Cocoon Nutrition;

5 c. claiming, in prior correspondence with state and federal government officials,
6 that he was a non-resident alien, that he was not a U.S. citizen, and that the
7 was therefore not obligated to pay taxes;

8 d. maintaining offshore bank accounts for the purpose of concealing income
9 derived from the sale of items through Cocoon Nutrition; and

10 e. using a business bank account to pay personal expenses and failing to report
11 the income realized by the use of the business account.

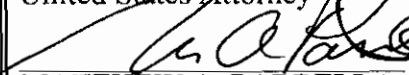
12 All in violation of Title 26, United States Code, Section 7201.

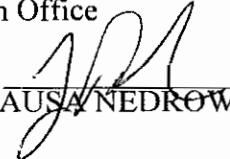
13 DATED: 12/3/08

14 A TRUE BILL.

15 
16 FOREPERSON

17 
18 JOSEPH P. RUSSONIELLO
19 United States Attorney

20 
21 MATTHEW A. PARRELLA
22 Chief, San Jose Branch Office

23 (Approved as to form: 
24 AUSA NEDROW

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

FILED

OFFENSE CHARGED

SEE ATTACHED SHEET

SEALED BY ORDER OF THE COURT

- Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

SEE ATTACHED SHEET

DEFENDANT - U.S.

2008 DEC -4 A 8:32

STEPHEN JOSEPH HEUER

RICHARD W. WIEKING CLERK

DISTRICT COURT NUMBER

U.S. DISTRICT COURT NO. DIST. OF CA. S.J.

CR-08 00866W

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FDA - OIG, CHRIS ROMOLO

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

JOSEPH P. RUSSONIELLO

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

AUSA JEFF NEDROW

DEFENDANT

IS NOT IN CUSTODY

- Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
Is a Fugitive
Is on Bail or Release from (show District)

IS IN CUSTODY

- On this charge
On another conviction
Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Santa Clara County

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: None

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address:

Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

PENALTY SHEET–UNITED STATES V. HEUER AND BOHEN

COUNT ONE

18 U.S.C. § 371--Conspiracy to Commit Offenses Against the United States

Maximum Penalty:

Five years imprisonment
\$250,000 fine
Three years supervised release
\$100 special assessment fee

COUNT TWO

21 U.S.C. § 333(e)(1) AND 18 U.S.C. § 2--Distribution and Possession with intent to distribute human growth hormone for unauthorized uses; Aiding and Abetting (Both Defendants)

Maximum Penalty:

Five Years Imprisonment
\$250,000 fine
Three Years Supervised Release
\$100 special assessment fee

COUNTS THREE THROUGH EIGHT

21 U.S.C. Sections 331(a) and 333(a)(2)--Introduction and Delivery For Introduction Of Adulterated Drugs With Intent To Defraud and Mislead; Aiding and Abetting

(Both Defendants Charged in Counts Three Through Seven)
(Defendant Bohem Charged Solely In Count Eight)

Maximum Penalties for Each Count:

Three Years Imprisonment
\$250,000 fine
One Year Supervised Release
\$100 special assessment fee

COUNTS NINE THROUGH FOURTEEN

21 U.S.C. Sections 331(a) and 333(a)(2)—Introduction and Delivery For Introduction Of Misbranded Drugs With Intent To Defraud and Mislead; Aiding and Abetting

(Both Defendants Charged in Counts Nine through Thirteen)
(Defendant Bohlen Charged Solely In Count Fourteen)

Maximum Penalties for Each Count:

Three Years Imprisonment
\$250,000 fine
One Year Supervised Release
\$100 special assessment fee

COUNTS FIFTEEN THROUGH NINETEEN

18 U.S.C. § 1341— Mail Fraud and 18 U.S.C. § 2—Aiding and Abetting (Both Defendants)

Maximum Penalties for Each Count:

20 years imprisonment
\$1,000,000 fine
Three years supervised release
\$100 special assessment fee

COUNTS TWENTY THROUGH TWENTY-TWO

26 U.S.C. § 7201—Tax Evasion (Defendant Heuer only)

Maximum Penalties for Each Count

Five Years Imprisonment
\$250,000 fine
Three Years Supervised Release
\$100 special assessment fee

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

FILED

OFFENSE CHARGED

SEE ATTACHED SHEET

SEALED BY ORDER OF THE COURT

- Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

SEE ATTACHED SHEET

DEFENDANT - U.S.

2008 DEC -4 A 8:33

ROBERT TERRY BOHEN

RICHARD W. WIEKING
CLERK

DISTRICT COURT NUMBER

U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

JW

CR - 08 00866

DEFENDANT

IS NOT IN CUSTODY

- 1) [X] Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
2) [] Is a Fugitive
3) [] Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) [] On this charge
5) [] On another conviction
6) [] Awaiting trial on other charges } [] Fed'l [] State

If answer to (6) is "Yes", show name of institution

Santa Clara County

Has detainer been filed? [] Yes [] No } If "Yes" give date filed

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Month/Day/Year

Or... if Arresting Agency & Warrant were not

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DATE TRANSFERRED TO U.S. CUSTODY

[] This report amends AO 257 previously submitted

PROCEEDING

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[] person is awaiting trial in another Federal or State Court, give name of court

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[] this prosecution relates to a pending case involving this same defendant

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SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

JOSEPH P. RUSSONIELLO

[X] U.S. Att'y [] Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

AUSA JEFF NEDROW

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

[] SUMMONS [X] NO PROCESS* [] WARRANT Bail Amount:

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Defendant Address:

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