

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO.</b> _____
<b>v.</b>	<b>:</b>	<b>DATE FILED:</b> _____
<b>JOSEPH WOJTIW,</b> a/k/a "Woj,"	<b>:</b>	<b>VIOLATIONS:</b>
<b>JEFFERY McGURK</b>	<b>:</b>	<b>21 U.S.C. § 846 (conspiracy to distribute</b>
<b>JOSEPH MALKOWSKI</b>	<b>:</b>	<b>controlled substances – 1 count)</b>
<b>JAMES LENEGAN,</b> a/k/a "Boo,"	<b>:</b>	<b>18 U.S.C. § 2118(d) (conspiracy to</b>
<b>JOHN MALLOY,</b> a/k/a "Tow Pro,"	<b>:</b>	<b>burglarize pharmacies - 1 count)</b>
<b>WILLIAM HUDICEK,</b> a/k/a "Billy,"	<b>:</b>	<b>18 U.S.C. § 2118(b) (pharmacy burglary –</b>
a/k/a "Billy Jack,"	<b>:</b>	<b>18 counts)</b>
<b>DONALD HOMAN,</b> a/k/a "Woody,"	<b>:</b>	<b>21 U.S.C. § 841(a)(1) (possession with</b>
<b>JESSEY COLON,</b> a/k/a "Bart,"	<b>:</b>	<b>intent to distribute controlled substances –</b>
<b>JOHN JAMES, JR.,</b> a/k/a "Big Jay,"	<b>:</b>	<b>19 counts)</b>
<b>ROBERT DUNPHY,</b> a/k/a "Dunph,"	<b>:</b>	<b>18 U.S.C. § 371 (conspiracy to commit</b>
<b>EDWARD HOPKINS,</b> a/k/a "Buff"	<b>:</b>	<b>arson - 1 count)</b>
		<b>18 U.S.C. § 922(k) (possession of firearms</b>
		<b>with obliterated serial numbers – 1 count)</b>
		<b>18 U.S.C. § 924(c) (use of a firearm in</b>
		<b>connection with drug trafficking – 1 count)</b>
		<b>18 U.S.C. § 371 (conspiracy to deal in</b>
		<b>firearms without a license - 1 count)</b>
		<b>18 U.S.C. § 2 (aiding and abetting)</b>
		<b>Notices of forfeiture</b>

**UNDER SEAL**

**INDICTMENT**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

**Introduction**

At times material to this indictment:

1. The Controlled Substances Act, 21 U.S.C. §§ 801-97, governed the manufacture, distribution, and dispensing of controlled substances in the United States

2. Various prescription drugs were scheduled substances under the Controlled Substances Act. There are five schedules of controlled substances – Schedules I, II, III, IV, and V. Drugs were scheduled into these levels based on their potential for abuse, among other things. Abuse of Schedule II drugs may lead to severe psychological or physical dependence. Abuse of Schedule III drugs may lead to moderate or low physical dependence or high psychological dependence. Abuse of Schedule IV drugs may lead to more limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III. 21 U.S.C. § 812(b)(2), (3) and (4).

3. Defendants DONALD HOMAN, a/k/a "Woody," JOSEPH WOJTIW, JOSEPH MALKOWSKI, JEFFERY McGURK, JAMES LENEGAN, a/k/a "Boo," JOHN MALLOY, a/k/a "Tow Pro," and WILLIAM HUDICEK, a/k/a "Billy," a/k/a "Billy Jack," who were mostly from or near the Fishtown and Kensington areas of Philadelphia, were a roving band of burglars who, either in various combinations with each other or alone, burglarized homes, restaurants, businesses, and pharmacies.

4. In some instances, when additional man-power was needed to accomplish a burglary, others were recruited, such as defendants JESSEY COLON, a/k/a "Bart," JOHN JAMES, JR., a/k/a "Big Jay," ROBERT DUNPHY, a/k/a "Dunph," and EDWARD HOPKINS, a/k/a "Buff," to assist in the burglaries and share in the spoils.

5. The defendants scouted, identified, and selected small "mom and pop" pharmacies in various federal districts, including the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, and the District of Delaware, from which they could obtain various Schedule II - IV pharmaceutical controlled substances, containing, for

example, oxycodone (e.g. OxyContin, Percocet, Roxicet, Endocet), hydromorphone (Dilaudid), amphetamine and dextroamphetamine (Adderall, Dexedrine, Dextrostat), codeine tablets, cocaine powder, methylphenidate (e.g., Ritalin, Concerta), morphine (e.g., MS Contin, MSIR), methadone (e.g., Methadose), meperidine (e.g., Demerol), each a Schedule II controlled substance; hydrocodone (e.g., Lorcet, Lortab, Vicodin), codeine phosphate (Robitussin A-C, Tylenol with Codeine), each a Schedule III controlled substance; and alprazolam (Xanax), diazepam (Valium), lorazepam (Ativan), zolpidem (Ambien), each a Schedule IV controlled substance. Pharmacies of the “mom and pop” variety were selected due to their low level security systems, which could easily be disabled. The defendants decided to steal specific controlled substances from the pharmacy due to their high street value and ease of resale.

### **The Conspiracy**

6. From at least on or about December 8, 2002, the exact date unknown to the grand jury, to on or about June 1, 2005, in the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, and elsewhere, defendants

**JOSEPH WOJTIW,**  
a/k/a “Woj,”  
**JEFFERY MCGURK,**  
**JOSEPH MALKOWSKI,**  
**JOHN MALLOY,**  
a/k/a “Tow Pro,”  
**WILLIAM HUDICEK,**  
a/k/a “Billy,”  
a/k/a “Billy Jack,”  
**JAMES LENEGAN,**  
a/k/a “Boo,”  
**DONALD HOMAN**  
a/k/a “Woody,”  
**JESSEY COLON,**  
a/k/a “Bart,”

**JOHN JAMES, JR.,  
a/k/a “Big Jay,”  
ROBERT DUNPHY,  
a/k/a “Dunph,”and  
EDWARD HOPKINS,  
a/k/a “Buff,”**

conspired and agreed, together and with others known and unknown to the grand jury, to enter or attempt to enter, or remain in, without authority, the business premises or property of persons registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act, 21 U.S.C. § 822, with the intent to steal any material or compound containing a quantity of a controlled substance, including oxycodone, a Schedule II controlled substance, and whose replacement value to the registrant was not less than \$500, in violation of Title 18, United States Code Section 2118(b).

#### **MANNER AND MEANS**

It was part of the conspiracy that:

7. Defendant DONALD HOMAN recruited defendants JOSEPH WOJTIW and JOSEPH MALKOWSKI, and others known and unknown to the grand jury, to burglarize pharmacies for the purpose of stealing controlled substances, particularly OxyContin and Percocet, each a Schedule II controlled substance, and to resell them in the streets of Philadelphia.

8. Defendants JOSEPH WOJTIW and JOSEPH MALKOWSKI recruited others, including defendants JEFFERY McGURK, JAMES LENEGAN, JOHN MALLOY, and WILLIAM HUDICEK, and others known and unknown to the grand jury, to continue burglarizing pharmacies for controlled substances and cash.

9. Defendants JOSEPH WOJTIW, JEFFERY McGURK, JOSEPH MALKOWSKI, JAMES LENEGAN, JOHN MALLOY, WILLIAM HUDICEK, and DONALD HOMAN, and others known and unknown to the grand jury, selected pharmacies to burglarize by, among other ways, driving around various areas, including other districts, such as the District of New Jersey, and the District of Delaware, to locate and identify potential pharmacies that appeared to have low level security and alarm systems.

10. While in Philadelphia, in the Eastern District of Pennsylvania, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JOHN MALLOY planned to burglarize pharmacies in the District of New Jersey and the District of Delaware, in addition to other locations within the Eastern District of Pennsylvania, and then drove from Philadelphia to those other locations to commit pharmacy burglaries. The controlled substances stolen in those burglaries were transported back to Philadelphia, where they were divided up among defendants WOJTIW, MALKOWSKI, and MALLOY, and then sold in the streets of Philadelphia.

11. Under cover of darkness, while the pharmacies were closed for business, and without authority, defendants JOSEPH WOJTIW, JEFFERY McGURK, JOSEPH MALKOWSKI, JAMES LENEGAN, JOHN MALLOY, WILLIAM HUDICEK, and DONALD HOMAN, JESSEY COLON, JOHN JAMES, JR., ROBERT DUNPHY, and EDWARD HOPKINS, and others known and unknown to the grand jury, forcibly entered or attempted to enter the pharmacies, cut the telephone lines, disabled the alarm systems, and then waited outside the pharmacy for a period until it was clear that no police were responding to the location.

12. Once inside the pharmacy, defendants JOSEPH WOJTIW, JEFFERY McGURK, JOSEPH MALKOWSKI, JAMES LENEGAN, JOHN MALLOY, WILLIAM

HUDICEK, and DONALD HOMAN, and others known and unknown, stole various Schedule II through IV controlled substances, as well as U.S. currency, and left the premises.

### **OVERT ACTS**

In furtherance of the conspiracy, the defendants committed the following overt acts, among others, in the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the District of New Jersey, the District of Delaware, and elsewhere:

1. On or about December 8, 2002, during the hours the pharmacy was not open for business, defendant DONALD HOMAN broke into and entered the Street Road Pharmacy, located at 3532 Street Road in Bensalem, Pennsylvania, while John Flynn (charged elsewhere) acted as a lookout outside, and stole controlled substances maintained inside the pharmacy.

2. On or about December 21, 2002, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and DONALD HOMAN broke into and entered the Street Road Pharmacy, located at 3532 Street Road in Bensalem, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

3. On or about December 24, 2002, during the hours the pharmacy was not open for business, defendant DONALD HOMAN broke into and entered Budget Drug, a pharmacy, located at 1137 Bustleton Pike in Feasterville, Pennsylvania and stole controlled substances maintained inside the pharmacy, while John Flynn, charged elsewhere, acted as a lookout outside.

4. On or about July 26, 2003, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, DONALD HOMAN, and

ROBERT DUNPHY broke into and entered the Medicine Shoppe, located at 2113 West Main Street in Jeffersonville, West Norriton Township, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

5. On or about October 12, 2003, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and WILLIAM HUDICEK broke into and entered the Tepper Pharmacy, located at 333 East Lancaster Avenue in Wynnewood, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

6. On or about October 31, 2003, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and WILLIAM HUDICEK broke into and entered the Yorke Pharmacy, located at 5524 New Falls Road in Levittown, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

7. On or about November 17, 2003, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and WILLIAM HUDICEK attempted to enter the Tepper Pharmacy, located at 5524 New Falls Road in Levittown, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

8. On or about November 22, 2003, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and WILLIAM HUDICEK broke into and entered the Boothwyn Pharmacy, located at 2341 Chichester Avenue in Boothwyn, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

9. On or about January 19, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and WILLIAM HUDICEK broke into and entered the Shield's Pharmacy, located at 4027-4029 Brownsville

Road in Trevese, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

10. On or about February 6, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and WILLIAM HUDICEK broke into and entered the Bell's Pharmacy, located at 8508 Bustleton Avenue in Philadelphia, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

On or about February 20, 2004:

11. During the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and WILLIAM HUDICEK broke into and entered the Medicine Shoppe, 2113 West Main Street in Jeffersonville, West Norriton Township, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

12. Later the same day, defendant JEFFERY McGURK purchased the controlled substances stolen by defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and WILLIAM HUDICEK, and sold them to others.

13. On or about February 22, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JEFFERY McGURK broke into and entered Verree Pharmacy, located at 7960 Verree Road in Philadelphia, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

14. On or about February 24, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JEFFERY McGURK attempted to enter the Northeast Philadelphia Pharmacy, located at 1916 Welsh Road Philadelphia, Pennsylvania, to steal controlled substances maintained inside the pharmacy.



15. On or about February 26, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered the Northeast Philadelphia Pharmacy, located at 1916 Welsh Road in Philadelphia, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

16. On or about March 13, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered Bucks County Pharmacy, located at 7501 New Falls Road in Levittown, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

17. On or about March 25, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered The Medicine Shoppe Pharmacy, located at 2113 West Main Street in Jeffersonville, West Norriton Township, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

18. On or about April 14, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JEFFERY McGURK, and JAMES LENEGAN broke into and entered the Glen Center Pharmacy, located at 1969 Norristown Road in Ambler, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

19. On or about June 13, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JEFFERY McGURK, and JAMES LENEGAN attempted to enter the Nu Way Pharmacy, located at 1627 Haines Road in Levittown, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

20. On or about June 13, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JEFFERY McGURK, and JAMES LENEGAN broke into and entered the Oxford Valley Pharmacy, located at 1265 South Woodburn Road in Levittown, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

21. On or about June 26, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK attempted to enter the Oxford Valley Pharmacy, located at 1265 South Woodburn Road in Levittown, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

22. On or about September 9, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JAMES LENEGAN attempted to enter Shelly's Pharmacy, located at 4011 Fairdale Road in Philadelphia, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

23. On or about September 15, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JEFFERY McGURK, and JAMES LENEGAN attempted to break into and enter the Glendale Prescription Center pharmacy, located at 7736 Bustleton Avenue, Philadelphia in Pennsylvania, to steal controlled substances maintained inside the pharmacy.

24. On or about September 18, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered the Gateway Pharmacy Country and Gifts, located at 249 East Swedesford Road in Wayne, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

25. On or about September 18, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered the Medicine Shoppe, located at 578 Lancaster Avenue in Berwyn, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

On or about October 9, 2004:

26. During the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered the Medicine Shoppe pharmacy, located at 395 South Main Street in Wilkes-Barre, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

27. During the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK attempted to break into and enter Cook's Pharmacy, located at 777 Wyoming Avenue in Kingston, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

28. The same day, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered The Medicine Shoppe pharmacy, located at 69 North Market Street in Nanticoke, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

29. Later the same day, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK attempted to break into and enter the Medicine Shoppe, located at 1701 Wyoming Avenue in Exeter, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

30. On or about October 15, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered The Medicine Shoppe Pharmacy, located at 730 South Main Street in Old Forge, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

31. On or about October 16, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered The Medicine Shoppe Pharmacy, located at 1831 Pittston Avenue in Scranton, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

32. On or about October 16, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered the Viercinski Pharmacy, located at 100 East Grove Street in Clarks Summit, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

On or about October 29, 2004:

33. During the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK attempted to break into and enter the Medicine Shoppe, located at 701 Bridge Street in New Cumberland, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

34. Later the same day, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK attempted to break into and enter the Medicine Shoppe, located at 1305 Cumberland Street in Lebanon, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

35. The same day, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered the Medicine

Shoppe, located at 30 West Main Street in Palmyra, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

On or about October 30, 2004:

36. Defendant JOSEPH MALKOWSKI purchased some of the controlled substances stolen by defendants JOSEPH WOJTIW and JEFFREY McGURK from the Medicine Shoppe, located in Palmyra, Pennsylvania.

37. During the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFREY McGURK broke into and entered the Medicine Shoppe, located at 436 East Main Street in Middletown Borough, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

38. Later the same day, defendant JOSEPH MALKOWSKI purchased some of the controlled substances stolen from the Medicine Shoppe in Middletown Borough, Pennsylvania, from defendants JOSEPH WOJTIW and JEFFREY McGURK.

39. The same day, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFREY McGURK, also attempted to break into and enter the Medicine Shoppe, located at 33 East Simpson Street in Mechanicsburg, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

40. On or about November 13, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, JOHN MALLOY, and EDWARD HOPKINS broke into and entered the Oakwood Drugs pharmacy, located at 1204 East Hunting Park Avenue in Philadelphia, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

41. On or about November 21, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JOHN MALLOY broke into and entered the Stanton Discount Pharmacy, located at 2006 West Newport Pike in Wilmington, Delaware, and stole controlled substances maintained inside the pharmacy.

42. On or about December 1, 2004, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW and JEFFERY McGURK broke into and entered the Girard Family Pharmacy, located at 4947 Frankford Avenue in Philadelphia, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

43. On or about January 6, 2005, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JOHN MALLOY broke into and entered the Village Pharmacy, located at 1000 Route 70, in Lakewood, New Jersey, and stole controlled substances maintained inside the pharmacy.

44. On or about January 8, 2005, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, JOHN MALLOY, JESSEY COLON, AND JOHN JAMES, JR. attempted to enter Howard's Pharmacy, located at 1418 Manoa Road in Lower Merion, Pennsylvania, Lower Merion, Pennsylvania, to steal controlled substances maintained inside the pharmacy.

45. On or about January 23, 2005, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JOHN MALLOY broke into and entered the Elwyn Pharmacy, located at 194 South Middletown Road in Elwyn, Middletown Township, Pennsylvania, and stole controlled substances maintained inside the pharmacy.

46. On or about February 19, 2005, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JOHN MALLOY, broke into and entered Reses' Drugs pharmacy, located at 269 Whitehorse Pike in Pomona, New Jersey, and stole controlled substances maintained inside the pharmacy.

47. On or about February 23, 2005, during the hours the pharmacy was not open for business, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, JOHN MALLOY, JESSEY COLON, AND JOHN JAMES, JR. attempted to enter North Brunswick Pharmacy, located at 1825 Route 130 in North Brunswick, New Jersey to steal controlled substances maintained inside the pharmacy.

48. On or about June 1, 2005, during the hours the pharmacy was not open for business, defendants JOSEPH MALKOWSKI and JOHN MALLOY broke into and entered the cap Pharmacy, located at 804 Route 9 South in Cape May Court House, New Jersey, and stole controlled substances maintained inside the pharmacy.

All in violation of Title 18, United States Code, Section 2118(d).

**COUNT TWO**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 set forth in Count One of this indictment are realleged here.

2. From on or about December 21, 2002, to on or about June 1, 2005, in the Eastern District of Pennsylvania, and elsewhere, defendants

**JOSEPH WOJTIW,  
a/k/a "Woj,"  
JEFFERY McGURK, and  
JOSEPH MALKOWSKI,**

conspired and agreed, together and with others known and unknown to the grand jury, to knowingly and intentionally distribute a mixture and substance containing a detectable amount a controlled substance, including but not limited to, oxycodone (e.g. OxyContin, Percocet, Roxicet), hydromorphone (Dilaudid), amphetamine and dextroamphetamine (Adderall, Dexedrine, Dextrostat), codeine tablets, cocaine powder, methylphenidate (e.g., Ritalin, Concerta), morphine (e.g., MS Contin, MSIR), methadone (e.g., Methadose), meperidine (e.g., Demerol), each a Schedule II controlled substance; hydrocodone (e.g., Lorcet, Lortab, Vicodin), codeine phosphate (Robitussin A-C, Tylenol with Codeine), each a Schedule III controlled substance; and alprazolam (Xanax), diazepam (Valium), lorazepam (Ativan), zolpidem (Ambien), each a Schedule IV controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), (b)(1)(D), (b)(2).



### **MANNER AND MEANS**

3. Paragraphs 7 through 12 of Count One of this indictment are realleged here.

4. It was a further part of the conspiracy that defendants JOSEPH WOJTIW, JEFFERY McGURK, and JOSEPH MALKOWSKI, and others known and unknown to the grand jury, sold and distributed, and aided, abetted, and willfully caused the sale and distribution of, stolen pharmaceutical controlled substances.

### **OVERT ACTS**

In furtherance of the conspiracy, defendants JOSEPH WOJTIW, JEFFERY McGURK, and JOSEPH MALKOWSKI, and others known and unknown to the grand jury, committed the following overt acts, among others, within the Eastern District of Pennsylvania and elsewhere:

1. Overt Acts 1 through 6, 8 through 11, and 13, 15 through 18, 20, 24 through 26, 28, 30 through 32, 35, 37, 40 through 43, 45 and 46, and 48, set forth in Count One of this indictment are realleged here.

2. Following the theft of controlled substances from inside the pharmacies set forth in Overt Acts 1 through 6, 8 through 13, 15 through 18, 20, 24 through 26, 28, 30 through 32, 35 through 38, 40 through 43, 45 and 46, and 48, of Count One of this indictment, defendants JOSEPH WOJTIW, JEFFERY McGURK, and JOSEPH MALKOWSKI and others known and unknown to the grand jury, sold and distributed, and aided and abetted and willfully caused, the sale and distribution of the stolen controlled substances to others.

All in violation of Title 21, United States Code, Section 846.

**COUNT THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 1 of Count One of this indictment are realleged here.

2. On or about December 8, 2002, in Bensalem, in the Eastern District of Pennsylvania, defendant

**DONALD HOMAN,  
a/k/a “Woody,”**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Street Road Pharmacy, a pharmacy located at 3532 Street Road, Bensalem, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (OxyContin), methylphenidate (Ritalin, Concerta), codeine, and morphine (MSIR), each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT FOUR**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about December 8, 2002, in the Eastern District of Pennsylvania, defendant

**DONALD HOMAN,  
a/k/a “Woody,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 2,548 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, hydromorphone, and Concerta tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT FIVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 2 of Count One of this indictment are realleged here.

2. On or about December 21, 2002, in the Eastern District of Pennsylvania, defendant

**DONALD HOMAN,  
a/k/a “Woody,”**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Street Road Pharmacy, a pharmacy located at located at 3532 Street Road, Bensalem, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, Endocet, Roxicet, Percodan, Endodan), methylphenidate (Ritalin), codeine tablets, and morphine (MSIR, Oramorph), each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT SIX**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about December 21, 2002, in the Eastern District of Pennsylvania,  
defendant

**DONALD HOMAN,  
a/k/a "Woody,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 6,438 tablets containing controlled substances, including but not limited to, oxycodone, Percocet, Endocet, Roxicet, Percodan, Endodan, Ritalin, codeine tablets, MSIR, and Oramorph, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT SEVEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 3 of Count One of this indictment are realleged here.
2. On or about December 24, 2002, in the Eastern District of Pennsylvania, defendant

**DONALD HOMAN,  
a/k/a “Woody,”**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, Budget Drug, a pharmacy located at 1137 Bustleton Pike, Feasterville, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, OxyContin, Roxicet, MSIR, MSContin, Percocet, Roxicodone, oxycodone, Oxy IR, Oramorph and morphine sulfate tablets, each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT EIGHT**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about December 24, 2002, in the Eastern District of Pennsylvania,  
defendant

**DONALD HOMAN,  
a/k/a "Woody,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 6,600 tablets containing controlled substances, including but not limited to, OxyContin, Roxicet, MSIR, MSContin, Percocet, Roxycodone, oxycodone, Oxy IR, Oramorph and morphine sulfate tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT NINE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 4 of Count One of this indictment are realleged here.
2. On or about July 26, 2003, in the Eastern District of Pennsylvania, defendant

**ROBERT DUNPHY,  
a/k/a "Dunph,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Medicine Shoppe, located at 2113 West Main Street, Jeffersonville, West Norriton Township, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, OxyContin, Roxicet), methylphenidate (Ritalin), and morphine (MS Contin), each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.



**COUNT TEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about July 26, 2003, in the Eastern District of Pennsylvania, defendant

**ROBERT DUNPHY,  
a/k/a “Dunph,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 15,020 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, Percocet, Percodan, codeine, Roxicet, Roxicodone, Kadian, Adderall, Concerta, dextroamphetamine, Dextrostat, Endocet, Endodan, hydromorphone, methadone, Methadose, methylphenidate, Metadate, meperidine, morphine sulfate, MS Contin and Ritalin tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT ELEVEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 5 of Count One of this indictment are realleged here.
2. On or about October 12, 2003, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a "Billy,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Tepper Pharmacy, located at 333 East Lancaster Avenue, Wynnewood, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, OxyContin, Endocet), each a Schedule II controlled substance; hydrocodone, a Schedule III controlled substance; and alprazolam (Xanax), and diazepam, each a Schedule IV controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT TWELVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about October 12, 2003, in Wynnewood and Philadelphia, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 3,965 tablets containing controlled substances, including but not limited to, OxyContin, Percocet, and Endocet tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT THIRTEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 6 of Count One of this indictment are realleged here.

2. On or about October 31, 2003, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a "Billy,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Yorke Pharmacy, a pharmacy located at 5524 New Falls Road, Levittown, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, OxyContin, Endocet, Roxicet), methylphenidate (Ritalin, Concerta), amphetamine, (Adderall, Dexedrine), and morphine (morphine sulfate), each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT FOURTEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about October 31, 2003, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 6,220 tablets containing controlled substances, including but not limited to, OxyContin, Percocet, Roxicet, Ritalin, Dexadrine, Methyline, Morphine Sulfate, Endocet, Endodan, Concerta and Adderall tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT FIFTEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 8 of Count One of this indictment are realleged here.
2. On or about November 22, 2003, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

without authority, enter, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Boothwyn Pharmacy, located at 2341 Chichester Avenue, Boothwyn, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, OxyContin, Endocet, Tylox, Endodan, Percodan), each a Schedule II controlled substance; hydrocodone (Vicodin, Lortab), a Schedule III controlled substance; alprazolam (Xanax), lorazepam (Ativan), and diazepam (Valium), each a schedule IV controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT SIXTEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about November 22, 2003, in Boothwyn and Philadelphia, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 4,715 tablets containing controlled substances, including but not limited to, OxyContin, Endodan, Endocet, Percocet, Percodan and Tylox tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT SEVENTEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 9 of Count One of this indictment are realleged here.
2. On or about January 19, 2004, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Shield’s Pharmacy, located at 4027-4029 Brownsville Road, Trevese, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, Endocet, OxyContin), morphine (MS Contin tablets), each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.



**COUNT EIGHTEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about January 19, 2004, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 9,483 tablets containing controlled substances, including but not limited to, Percocet, Endocet, OxyContin and MS Contin tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT NINETEEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 10 of Count One of this indictment are realleged here.
2. On or about February 6, 2004, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, Bell’s Pharmacy, located at 8508 Bustleton Avenue, Philadelphia, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, OxyContin, Roxicet, Endocet), morphine (MS Contin, MSIR), each a Schedule II controlled substance; hydrocodone (Vicodin, Vicoprofen), a Schedule III controlled substance; and alprazolam (Xanax), a Schedule IV controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT TWENTY**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about February 6, 2004, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 1,220 tablets containing controlled substances, including but not limited to, OxyContin, Endocet, Roxicet and Morphine tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT TWENTY-ONE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 11 of Count One of this indictment are realleged here.
2. On or about February 20, 2004, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Medicine Shoppe, 2113 West Main Street, Jeffersonville, West Norriton Township, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, OxyContin, Roxicet, Percodan, Roxicodone), methylphenidate (Ritalin, Concerta, Methyln, Metadate), amphetamine, (Adderall, Dextrostat), and morphine (Kadian), methadone, and meperidine, each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT TWENTY-TWO**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about February 20, 2004, in the Eastern District of Pennsylvania, defendant

**WILLIAM HUDICEK,  
a/k/a “Billy,”**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 37,382 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, Percocet, Percodan, Roxicet, Roxicodone, Ritalin, Methylin, Adderall, amphetamine, Concerta, dextroamphetamine, Dextrostat, Kadian, meperidine, Metadate, methadone, methylphenidate and morphine tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT TWENTY-THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 18 of Count One of this indictment are realleged here.
2. On or about April 14, 2004, in the Eastern District of Pennsylvania, defendant

**JAMES LENEGAN,  
a/k/a "Boo,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Glen Center Pharmacy, a pharmacy located at 1969 Norristown Road, Ambler, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (OxyContin, Percocet, Roxicet, Endocet), dextroamphetamine (Dexedrine), morphine, meperidine, each a Schedule II controlled substance; hydrocodone (Vicodin), a Schedule III controlled substance; and alprazolam (Xanax), a Schedule IV controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT TWENTY-FOUR**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 14, 2004, in the Eastern District of Pennsylvania, defendant

**JAMES LENEGAN,  
a/k/a "Boo,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 4,200 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, Roxicet, Percocet, Endocet, meperidine, morphine, and Dexedrine tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT TWENTY-FIVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 20 of Count One of this indictment are realleged here.
2. On or about June 13, 2004, in the Eastern District of Pennsylvania, defendant

**JAMES LENEGAN,  
a/k/a "Boo,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Oxford Valley Pharmacy, located at 1265 South Woodburn Road, Levittown, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (OxyContin, Percocet, Roxicodone, Endocet), methadone, each a Schedule II controlled substance; hydrocodone (Vicodin), a Schedule III controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.



**COUNT TWENTY-SIX**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about June 13, 2004, in the Eastern District of Pennsylvania, defendant

**JAMES LENEGAN,  
a/k/a "Boo,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 6,300 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, methadone, Roxicodone, Percocet, and Endocet tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT TWENTY-SEVEN**

**THE GRAND JURY FURTHER CHARGES:**

1. On or about September 10, 2004, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**JAMES LENEGAN,  
a/k/a “Boo,”**

conspired and agreed with others known to the grand jury to commit an offense against the United States, that is, to maliciously damage and destroy, and attempt to maliciously damage and destroy, by means of fire, a building and equipment contained therein, used in interstate commerce and in activities affecting interstate commerce, that is, the PJP Market Place, located at 3899 Aramingo Avenue, Philadelphia, Pennsylvania, in violation of Title 18, United States Code, Section 844(i).

**MANNER AND MEANS**

It was part of the conspiracy that:

2. Defendants JEFFERY McGURK, JOSEPH WOJTIW and JAMES LENEGAN, under cover of night, entered PJP Market Place for the purposes of burglarizing the PJP Market Place and stealing the money order machine and blank money orders at the location.

3. At the direction of defendant JEFFERY McGURK, defendants JOSEPH WOJTIW and JAMES LENEGAN, attempted to destroy PJP Market Place by setting fire to it to conceal the fact that they had burglarized the business and stolen the money order machine and other items.

## OVERT ACTS

In furtherance of the conspiracy, the defendants committed the following overt acts in the Eastern District of Pennsylvania:

On or about September 10, 2004:

1. Defendants JEFFERY McGURK, JOSEPH WOJTIW, and JAMES LENEGAN met at Tony Roma's Bar, located at the 3800 block of Aramingo Avenue in Philadelphia, Pennsylvania, in the same strip mall location as PJP Market Place, to discuss burglarizing the PJP Market Place to open a safe and steal the money order machine located inside the store.
2. During the early morning hours, defendants JOSEPH WOJTIW and JAMES LENEGAN entered the PJP Market Place by cutting a hole in the roof and dropping into the store, while defendant JEFFERY McGURK waited nearby at Tony Roma's acted as a lookout and remained in contact with defendants WOJTIW and LENEGAN via cellular phone.
3. Defendants JEFFERY McGURK, JOSEPH WOJTIW, and JAMES LENEGAN communicated with each other during the burglary by using Nextel telephones.
4. While inside the PJP Market Place, defendants JOSEPH WOJTIW and JAMES LENEGAN attempted to disarm the burglary alarm system by ripping the system from the wall and also attempting to open the safe.
5. After defendants JOSEPH WOJTIW and JAMES LENEGAN failed to open the safe inside of the PJP Market Place, defendants WOJTIW and LENEGAN opened the metal loading dock gate to permit defendant JEFFERY McGURK to enter the business.
6. Once inside the PJP Market Place, defendant JEFFERY McGURK removed the money order machine and blank money orders and took them to Tony Roma's Bar.

7. At the direction of defendant JEFFERY McGURK, defendants JOSEPH WOJTIW and JAMES LENEGAN opened chaffing fuel cans (Sterno cans), which contained ignitable liquid, and spread the fuel throughout the office area of the business where the money machine had been located. Defendants WOJTIW and LENEGAN then ignited the fuel and started a fire, which triggered the PJP Market Place sprinkler system.

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

**COUNT TWENTY-EIGHT**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 40 of Count One of this indictment are realleged here.
2. On or about November 13, 2004, in the Eastern District of Pennsylvania, defendants

**JOHN MALLOY,  
a/k/a "Tow Pro," and  
EDWARD HOPKINS,  
a/k/a "Buff,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Oakwood Drugs pharmacy, a pharmacy located at 1204 East Hunting Park Avenue, Philadelphia, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (OxyContin, Endocet, Percocet), morphine (Oramorph, Kadian, MS Contin), methylphenidate (Concerta), amphetamine (Adderall) tablets, each a Schedule II controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Section 2118(b) and 2.

**COUNT TWENTY-NINE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about November 13, 2004, in the Eastern District of Pennsylvania,  
defendants

**JOHN MALLOY,  
a/k/a "Tow Pro," and  
EDWARD HOPKINS,  
a/k/a "Buff,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 7,360 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, Endocet, Percocet, Oramorph, Kadian, MS Contin, Concerta, Methyline, amphetamine and Adderall tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT THIRTY**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 41 of Count One of this indictment are realleged here.
2. On or about November 21, 2004, in Wilmington, in the District of Delaware, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Stanton Discount Pharmacy, a pharmacy located at 2006 West Newport Pike, Wilmington, Delaware, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (OxyContin, Percocet, Endocet), hydromorphone, morphine, methadone, amphetamine and dextroamphetamine (Adderall), each a Schedule II controlled substance; hydrocodone, codeine phosphate (Robitussin A-C), a Schedule III controlled substance; and alprazolam, diazepam, each a Schedule IV controlled substance, and traveled in interstate commerce to facilitate such entry and attempted entry, and to facilitate remaining on the premises and property.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT THIRTY-ONE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about November 21, 2004, in Wilmington, in the District of Delaware, and Philadelphia, in the Eastern District of Pennsylvania, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 10,165 tablets containing controlled substances, including but not limited to, OxyContin, oxycodone, Percocet, Endocet, hydromorphone, morphine, methadone and Adderall tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.



**COUNT THIRTY-TWO**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 43 of Count One of this indictment are realleged here.
2. On or about January 6, 2005, in Lakewood, in the District of New Jersey, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Village Pharmacy, a pharmacy formerly located at 1000 Route 70, Lakewood, New Jersey, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet), hydromorphone, methadone, methylphenidate (Ritalin), each a Schedule II controlled substance; hydrocodone (Vicoprofen, Vicodin), a Schedule III controlled substance; and alprazolam (Xanax), diazepam (Valium), each a Schedule IV controlled substance, and traveled in interstate commerce to facilitate such entry and attempted entry, and to facilitate remaining on the premises and property.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT THIRTY-THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about January 6, 2005, in the District of New Jersey, and in the Eastern District of Pennsylvania, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 2,165 tablets containing controlled substances, including but not limited to, Percocet, oxycodone, methadone, hydromorphone, methylphenidate and Ritalin tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT THIRTY-FOUR**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 45 of Count One of this indictment are realleged here.
2. On or about January 23, 2005, in the Eastern District of Pennsylvania, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Elwyn Pharmacy, a pharmacy located at 194 South Middletown Road, Middletown Township, Pennsylvania, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (Percocet, Endocet, Roxicodone), morphine sulfate, amphetamine (Adderall), each a Schedule II controlled substance; and alprazolam, a Schedule IV controlled substance, and whose replacement value was not less than \$500.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT THIRTY-FIVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about January 23, 2005, in the Eastern District of Pennsylvania, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 1,425 tablets containing controlled substances, including but not limited to, Adderall, Percocet and Endocet tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT THIRTY-SIX**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 46 of Count One of this indictment are realleged here.

2. On or about February 19, 2005, in the District of New Jersey, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, Reses' Drugs pharmacy, a pharmacy located at 269 Whitehorse Pike, Pomona, New Jersey, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (OxyContin, Endocet, Percocet, Endodan, Percodan), each a Schedule II controlled substance; hydrocodone (Lortab, Lorcet), a Schedule III controlled substance; and alprazolam (Xanax), diazepam, each a Schedule IV controlled substance, and did travel in interstate commerce to facilitate such entry and attempted entry, and to facilitate remaining on the premises and property.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT THIRTY-SEVEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about February 19, 2005, in the District of New Jersey and the Eastern District of Pennsylvania, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 4,700 tablets containing controlled substances, including but not limited to, OxyContin, Endocet, Percocet, oxycodone, Percodan and Endodan tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT THIRTY-EIGHT**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 47 of Count One of this indictment are realleged here.

2. On or about February 23, 2005, in North Brunswick, in the District of New Jersey, and Philadelphia, in the Eastern District of Pennsylvania, defendants

**JOHN MALLOY,  
a/k/a "Tow Pro,"  
JESSEY COLON,  
a/k/a "Bart," and  
JOHN JAMES, JR.,  
a/k/a "Big Jay,"**

without authority, attempted to enter, and aided and abetted the attempted entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the North Brunswick Pharmacy, located at 1825 Route 130, North Brunswick, New Jersey, with intent to steal materials and compounds containing any quantity of a controlled substance, and traveled in interstate commerce to facilitate such entry and attempted entry, and to facilitate remaining on the premises and property.

In violation of Title 18, United States Code, Sections 2118(b) and 2.

**COUNT THIRTY-NINE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 5 and Overt Act 48 of Count One of this indictment are realleged here.

2. On or about June 1, 2005, in the District of New Jersey, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

without authority, entered, and aided and abetted the entry of, the business premises of a person registered with the Drug Enforcement Administration under 21 U.S.C. § 822, that is, the Medicap Pharmacy, located at 804 Route 9 South, Cape May Court House, New Jersey, with intent to steal materials and compounds containing any quantity of a controlled substance, including but not limited to, oxycodone (OxyContin, Percocet, Endocet, Endodan), hydromorphone, amphetamine (Adderall, Dextrostat), morphine sulfate (Avinza), meperidine, methylphenidate (Concerta, Ritalin), each a Schedule II controlled substance, and traveled in interstate commerce to facilitate such entry and attempted entry, and to facilitate remaining on the premises and property.

In violation of Title 18, United States Code, Sections 2118(b) and 2.



**COUNT FORTY**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about June 1, 2005, in the District of New Jersey and the Eastern District of Pennsylvania, defendant

**JOHN MALLOY,  
a/k/a "Tow Pro,"**

knowingly and intentionally possessed with intent to distribute, and aided and abetted the possession with intent to distribute of, approximately 5,567 tablets containing controlled substances, including but not limited to, amphetamine, Adderall, morphine, Concerta, meperidine, Dextrostat, hydromorphone, morphine sulfate, OxyContin, oxycodone, Percocet, Endocet and Ritalin tablets, each a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT FORTY-ONE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. On January 29, 2005, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, JOHN MALLOY, JESSEY COLON, and JOHN JAMES, JR. burglarized the Ackley & Son Sporting Goods store, a federally licenced firearms dealer located at 311 West Main Street, Westfield, Pennsylvania, in the Middle District of Pennsylvania. The defendants stole approximately 188 firearms and ammunition from this gun shop. The defendants transported the stolen firearms to Philadelphia with the intent to sell the firearms for profit.

2. From on or about January 29, 2005, to in or around February 2005, in the Eastern District of Pennsylvania, defendants

**JOSEPH WOJIW,  
a/k/a "Woj,"  
JOSEPH MALKOWSKI,  
JOHN MALLOY,  
a/k/a "Tow Pro,"  
JESSEY COLON,  
a/k/a "Bart," and  
JOHN JAMES, JR.,  
a/k/a "Big Jay,**

conspired and agreed, together and with others known and unknown to the grand jury, to commit offenses against the United States, that is, to engage in the business of dealing in firearms, without being licensed to do so under the provisions of Chapter 44, Title 18 United States Code by selling and attempting to sell to others firearms stolen from Ackley and & Son Sporting Goods, in violation of Title 18, United States Code, Section 922(a)(1)(A).

## MANNER AND MEANS

It was part of the conspiracy that:

3. After burglarizing the Ackely & Sons Sporting Goods, a licensed firearms dealer in the Middle District of Pennsylvania, and stealing approximately 188 firearms, defendants JOSEPH MALKOWSKI, JOSEPH WOJTIW, JOHN MALLOY, JESSEY COLON, and JOHN JAMES, JR., transported the stolen firearms to Philadelphia and sought to sell the firearms to various individuals for profit, after keeping several firearms for themselves.

4. Defendants JOSEPH WOJTIW and JOHN MALLOY removed the serial numbers from the firearms using a Dremel rotary tool in order to hinder the tracing of the firearms by law enforcement.

5. In or about February 2005, defendant JOSEPH MALKOWSKI negotiated the sale of approximately 150 of the stolen firearms with obliterated serial numbers to Ehab Darwish, a/k/a "Abe," a/k/a "Ihab Darwish," a/k/a "Oscar," charged elsewhere.

6. With the assistance of defendant's JOSEPH WOJTIW, JOHN MALLOY, JESSEY COLON, and JOHN JAMES, JR., defendant JOSEPH MALKOWSKI caused approximately 150 stolen firearms with obliterated serial numbers to be delivered to Ehab Darwish, in exchange for incremental payments of cash and pharmaceutical controlled substances, together valued at approximately \$15,000.

7. After receiving approximately 40-50 of the stolen firearms back from Ehab Darwish, defendants JOSEPH WOJTIW, JOSEPH MALKOWSKI, and JOHN MALLOY, divided up the firearms and resold them to others.

## OVERT ACTS

In furtherance of the conspiracy, the defendants committed the following overt acts, among others in the Eastern District of Pennsylvania, and elsewhere:

1. On or about January 29, 2005, defendant JOSEPH MALKOWSKI, with the assistance of defendants JOSEPH WOJTIW, JOHN MALLOY, JESSEY COLON, and JOHN JAMES, JR., hid and stored firearms stolen from the Ackely & Sons Sporting Goods, a licensed firearms dealer in the Middle District of Pennsylvania, in a garage located at 2517 Letterly Street in Philadelphia.
2. On or about February 8, 2005, defendant JOSEPH WOJTIW, with the assistance of defendants JOHN MALLOY, JOHN JAMES, JR., and JOSEPH MALKOWSKI, moved all but one of the stolen firearms from the Letterly Street garage, to a vacant house on Weikel Street, Philadelphia, in defendant JOSEPH MALKOWSKI's uncle's name, to prevent their discovery by law enforcement.
3. On or about February 8, 2005, defendant JOSEPH MALKOWSKI negotiated the sale of approximately 150 of the stolen firearms to Ehab Darwish.
4. On or about February 8, 2005, with the assistance of defendants JOSEPH WOJTIW and JOHN MALLOY, defendant JOSEPH MALKOWSKI caused the stolen firearms to be transferred from the Weikel Street location to a garage near the 100 block of East Luray Street in Philadelphia, where the stolen firearms were unloaded into the garage by Ehab Darwish, the intended purchaser of the stolen firearms.
5. On or about February 17, 2005, defendants JOSEPH MALKOWSKI, JOSEPH WOJTIW, and JOHN MALLOY, received back approximately 40 to 50 of the stolen firearms from Ehab Darwish after Darwish decided that he did not want to purchase all of the

stolen firearms.

7. From on or about February 17, 2005, to in or around March 2005, defendants JOSEPH MALKOWSKI, JOSEPH WOJTIW, and JOHN MALLOY, divided up the returned stolen firearms and sold many of them to others.

8. From on or about February 8, 2005, through in or around March 2005, defendant JOSEPH MALKOWSKI received payment for the remaining stolen firearms from Ehab Darwish in installments of both cash and pharmaceutical controlled substances, for a total value of approximately \$15,000, which he divided with defendants JOSEPH WOJTIW, JOHN MALLOY, JESSEY COLON, and JOHN JAMES, JR.

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

**COUNT FORTY-TWO**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 of Count Forty-One of this indictment is realleged here.
2. In or around February 2005 to in or around March 2005, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**JOSEPH MALKOWSKI**

knowingly used and carried a firearm during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, possession with the intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

In violation of Title 18, United States Code, Section 924(c)(1).

**COUNT FORTY-THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 of Count Forty-One of this indictment is realleged here.
2. From before February 8, 2005, to in or around March 2005, in

Philadelphia, in the Eastern District of Pennsylvania, defendant

**JOSEPH MALKOWSKI**

knowingly possessed approximately 188 firearms, which had been stolen from the Ackley and Son Sporting Goods store, a licensed firearms dealer in the Middle District of Pennsylvania, and which had the serial numbers removed, obliterated, and altered, and which had been shipped and transported in interstate commerce.

In violation of Title 18, United States Code, Sections 922(k) and 924(a)(1)(B).

**NOTICE OF FORFEITURE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 21, United States Code, Sections 846 and 841(a)(1), set forth in this indictment, defendants

**JOSEPH WOJTIW,  
a/k/a "Woj,"  
JEFFERY McGURK,  
JOSEPH MALKOWSKI,  
JAMES LENEGAN,  
a/k/a "Boo,"  
JOHN MALLOY,  
a/k/a "Tow Pro,"  
WILLIAM HUDICEK,  
a/k/a "Billy,"  
a/k/a "Billy Jack,"  
DONALD HOMAN,  
a/k/a "Woody"  
JESSEY COLON,  
a/k/a "Bart,"  
JOHN JAMES, JR.,  
a/k/a "Big Jay,"  
ROBERT DUNPHY,  
a/k/a "Dunph,"  
EDWARD HOPKINS,  
a/k/a "Buff,"**

shall forfeit to the United States of America:

(a) any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses; and

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses.

2. If any of the property, subject to forfeiture, as a result of any act or omission of the defendants:

(a) cannot be located upon the exercise of due diligence;



- (b) has been transferred or sold to, or deposited with a third person;
- (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

subdivided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) to seek forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 21, United States Code, Section 853.

**NOTICE OF FORFEITURE**

**THE GRAND JURY FURTHER CHARGES THAT:**

As a result of the violations of Title 18, United States Code, Sections 371, 922(k), and 924(c), set forth in this indictment, defendants

**JOSEPH WOJTIW,  
a/k/a "Woj,"  
JOSEPH MALKOWSKI,  
JOHN MALLOY,  
a/k/a "Tow Pro,"  
JESSEY COLON,  
a/k/a "Bart,"  
JOHN JAMES, JR.,  
a/k/a "Big Jay,"**

shall forfeit to the United States of America the firearms involved in the commission of such offenses.

All pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 924(d).

**A TRUE BILL:**

**GRAND JURY FOREPERSON**

**PATRICK L. MEEHAN  
UNITED STATES ATTORNEY**