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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF NEW YORK  
CENTRAL ISLIP DIVISION

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT L.D.N.Y.  
★ MAR 15 2005 ★  
311810  
LONG ISLAND OFFICE

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

CASE NUMBER: 2003CR476-01

vs.

**MATTHEW CAHILL**

Defendant's Attorney: Marc Gann

THE DEFENDANT:

- pleaded guilty to count(s) ONE through ELEVEN of an ELEVEN COUNT INFORMATION
- pleaded nolo contendere to count(s) [count] which was accepted by the court.
- was found guilty on count(s) [count] after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>TITLE &amp; SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>DATE OFFENSE CONCLUDED</u>	<u>COUNT NUMBER(S)</u>
18 USC 371	CONSPIRACY TO COMMIT MAIL FRAUD, a Class D Felony		ONE (1)
21 USC 331 (a) and 333(a)( 2)	INTRODUCTION OF A MISBRANDED DRUG INTO INTERSTATE COMMERCE, A Class E Felony		TWO - ELEVEN

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
- After all appeals are exhausted count(s) (is)(are) dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Date of Imposition of Sentence: March 11, 2005

*Thomas C. Platt*  
\_\_\_\_\_  
**THOMAS C. PLATT**  
UNITED STATES DISTRICT JUDGE

DATE: March 15, 2005

A TRUE COPY ATTEST

DATED: \_\_\_\_\_

ROBERT C. HEINEMANN  
CLERK

BY: \_\_\_\_\_  
DEPUTY CLERK

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Defendant: MATTHEW CAHILL  
Case No.: 2003CR476 -01

Judgment - Page 2 of 5

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **TWENTY-FOUR (24) MONTHS on each count to run concurrent.**

- The court makes the following recommendations to the Bureau of Prisons:  
The defendant be designated to Otisville or another appropriate facility near his family residence.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district.
  - at \_\_\_ a.m./p.m. on \_\_\_.
  - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.
  - before 2 p.m. on May 6, 2005. If the defendant is not designated within the given time frame he/she should surrender to the Marshals office in Brooklyn. If the defendant has not already done so at the time of sentence he/she should communicate with the Marshals office to obtain information regarding the procedures for voluntary surrender.
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
United States Marshal

By: \_\_\_\_\_  
Deputy Marshal

Defendant: MATTHEW CAHILL  
Case No.: 2003CR476-01

Judgment - Page 3 of 5

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **THREE (3) YEARS on each count to run concurrent.**

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

While on supervised release, the defendant shall not commit another federal, state, or local crime, and shall not possess a firearm, ammunition, or destructive device as defined in 18 U.S.C § 921.

The defendant shall refrain from any unlawful use and possession of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

The defendant shall comply with the following standard conditions that have been adopted by this court.

#### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instruction of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician, and shall submit to periodic urinalysis tests as directed by the probation officer to determine the use of any controlled substance;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 14) if this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

Defendant: MATTHEW CAHILL  
 Case No.: 2003CR 476-01

**CRIMINAL MONETARY PENALTIES**

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B. The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g).

	<u>Assessment</u>	<u>Fine</u>	<u>Total Restitution</u>
<b>Totals:</b>	<b>\$1,100.00 (\$100.00 on each ct.)</b>	<b>\$</b>	<b>\$</b>

**FINE**

The above fine includes costs of incarceration and/or supervision in the amount of \$.

**RESTITUTION**

- The determination of restitution is deferred until \_\_\_\_\_. An Amended Judgment in a Criminal Case will be entered after such a determination. The U.S. Attorneys Office is directed to provide the necessary information to the court.
- The defendant shall make restitution to the following victims in the amounts listed below:
- Restitution is ordered jointly and severally with:

<u>Name of Payee</u>	<u>Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
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Totals:                      \$ \_\_\_\_\_                      \$ \_\_\_\_\_

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column above.

The amount of loss and the amount of restitution ordered will be the same unless, pursuant to 18 U.S.C. §3664(f)(3)(B), the court orders nominal payments and this is reflected on Sheet 6, Statement of Reasons.

- Restitution amount ordered pursuant to plea \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
  - the interest requirement is waived for            fine            restitution.
  - the interest requirement for            fine            restitution is modified as follows:

Defendant: MATTHEW CAHILL  
Case No.: 2003CR 476-01Judgment - Page 5 of 5

## SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) non-federal restitution; (3) federal restitution; (4) fine principal; (5) costs; (6) interest; (7) penalties.

Payment of the total criminal monetary penalties shall be due as follows:

- I.  In full
- A.  due immediately
- B.  on or before \_\_\_\_\_
- II.  In installments
- A.  monthly in installments of \$\_\_\_\_ over a period of \_\_ months, to commence \_\_ days after date of this judgment.
- B.  in \_\_\_\_\_ installments of \$\_\_\_\_\_ over a period of \_\_\_\_\_ to commence \_\_\_\_\_ days after the date of this judgment.

Any payment ordered under Part II, must comply with 18 U.S.C. §3572, 18 U.S.C. §3664(n), and include a provision under 18 U.S.C. §3664(k) in which defendant must notify the court of any material changes in defendant's economic circumstances. Upon such notice, the court may adjust the installment payment schedule.

Special instructions regarding the payment of criminal monetary penalties pursuant to 18 U.S.C. §3664(f)(3)(A):

In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due. The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

The defendant shall forfeit the defendant's interest in the following property to the United States:

As indicated in the March 11, 2005 Final Order of Forfeiture attached and ordered part of this judgment.

If this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program, are to be made to the Clerk, U.S. District Court, unless otherwise directed by the court.

JRC:WLB  
F. #2002R02623

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**CR 03 0476**

UNITED STATES OF AMERICA

INFORMATION

**FILED**

- against -

IN CLERK'S OFFICE Cr. No.  
U.S. DISTRICT COURT E.D.N.Y.

MATTHEW J. CAHILL,  
also known as  
"Brandon Walsh," and  
JASON S. SACKS,  
also known as  
"B. Preston" and "Jay,"

Title 21, U.S.C., §§  
331(a) and 333(a)(2);  
Title 18, U.S.C., §§ 371,  
981, 2 and 3551 et seq.;  
Title 28, U.S.C., § 2461(c))

★ APR 25 2003  
5130103  
LONG ISLAND OFFICE

**PLATT, J.**

Defendants.

**WALL, M.J.**

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THE UNITED STATES ATTORNEY CHARGES:

INTRODUCTION

At all times relevant to this Information:

1. Congress enacted the Federal Food, Drug and Cosmetic Act, which is set forth in Sections 301 to 397 of Title 21 of the United States Code, to protect the public from, among other things, drugs that were misbranded or not proven to be safe and effective for their intended uses.

2. Sections 331(a) and 333(a)(2) of Title 21, United States Code, prohibited the introduction or causing the introduction into interstate commerce of any drug that was misbranded with the intent to defraud or mislead.

3. Pursuant to Title 21, United States Code, Section 352(f), a drug was deemed to be misbranded unless its labeling bore,

among other things, adequate directions for its use and adequate warnings against its use where such use could be dangerous to the user's health.

4. Pursuant to Title 21, United States Code, Section 352(o), a drug was also deemed to be misbranded unless it was manufactured, prepared, propagated, compounded or processed in an establishment that was duly registered with the Secretary of the United States Department of Health and Human Services ("the Secretary").

5. 2,4-Dinitrophenol ("DNP") was used commercially in the manufacture of dyes and wood preservatives and as a pesticide. DNP was not approved for human consumption and was highly toxic to humans. Oral exposure to DNP could cause nausea, vomiting, sweating, dizziness, headache and weight loss. A lethal dose following oral exposure was approximately 14 to 43 milligrams per kilogram of body weight.

6. DNP has been sold as a weight loss "drug" because, when ingested by humans, DNP increases the body's metabolic rate and causes weight loss. Title 21, United States Code, Section 321(g)(1)(C) defined a "drug" to include "articles . . . intended to affect the structure or any function of the body of man." Because DNP was not approved by the United States Food and Drug Administration as a drug, however, there could be no appropriate

labeling bearing adequate directions for its use or adequate warnings against its use.

7. The defendant MATTHEW J. CAHILL resided at 864 Merrick Avenue, East Meadow, New York. The defendant MATTHEW J. CAHILL used the e-mail addresses designerlabs@yahoo.com, designerlabs@ziplip.com and orders@designerlab.com to identify himself over the Internet.

8. The defendant JASON S. SACKS resided at 359 Blacksmith Road, Levittown, New York. The defendant JASON S. SACKS used the e-mail addresses designerlabs@yahoo.com, designerlabs@ziplip.com and orders@designerlab.com to identify himself over the Internet.

9. The defendants ~~MATTHEW J. CAHILL~~ and JASON S. SACKS together operated a business called designerlabs.com, a company which distributed, among other things, DNP, steroids, vicodin and valium (hereinafter the "contraband") over the Internet.

10. The defendant MATTHEW J. CAHILL was responsible for obtaining the contraband from suppliers and for receiving payment from the purchasers of the contraband.

11. The defendant JASON S. SACKS was responsible for sending to the purchasers, through Priority and Express Mail, the packages containing the contraband.



COUNT ONE  
(Conspiracy to Commit Mail Fraud)

12. Paragraphs one through eleven of this Information are realleged and incorporated as if fully set forth in this paragraph.

13. On or about April 11, 2002, within the Eastern District of New York and elsewhere, the defendants MATTHEW J. CAHILL, also known as "Brandon Walsh," and JASON S. SACKS, also known as "B. Preston" and "Jay," knowingly and intentionally conspired to devise a scheme to defraud and obtain money and property by means of materially false and fraudulent pretenses, representations and promises, in violation of Title 18, United States Code, Section 1341.

14. It was a part of the scheme that the defendant MATTHEW J. CAHILL, also known as "Brandon Walsh," purchased DNP from Innotech Inc., 5443 Lea Hill Drive, Huntington, West Virginia, in bulk quantities. Innotech Inc. had a policy limiting the sale of DNP to commercial purchasers having a legitimate use for DNP.

15. It was a further part of the scheme that the defendant MATTHEW J. CAHILL, also known as "Brandon Walsh," falsely represented to Innotech Inc. that he owned a landscaping business and was purchasing DNP to use only as an insecticide.

16. It was a further part of the scheme that the defendants MATTHEW J. CAHILL, also known as "Brandon Walsh," and JASON S. SACKS, also known as "B. Preston" and "Jay," mixed DNP with baking powder, and, using an encapsulator, prepared capsules for

human consumption containing the DNP mixture even though the defendants then well knew and believed that DNP was not intended for human consumption.

17. It was a further part of the scheme that the defendants MATTHEW J. CAHILL, also known as "Brandon Walsh," and JASON S. SACKS, also known as "B. Preston" and "Jay," misbranded the DNP capsules because they were not duly registered with the Secretary and because the capsules did not bear labeling containing adequate directions for use or adequate warnings against use.

18. On or about April 11, 2002, for the purpose of executing said scheme and artifice, and attempting so to do, the defendant MATTHEW J. CAHILL, also known as "Brandon Walsh," caused to be delivered by mail according to the directions thereon, mail matter and things to be delivered by the United States Postal Service, to wit: a letter to Innotech Inc., 5443 Lea Hill Drive, Huntington, West Virginia, in which CAHILL stated that he owned a landscaping business and was purchasing the DNP to use only as an insecticide.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNTS TWO THROUGH FIVE

(Introduction Of A Misbranded Drug Into Interstate Commerce)

19. Paragraphs one through eleven of this Information are realleged and incorporated by reference as if fully set forth herein.

20. On or about the dates set forth below, within the Eastern District of New York and elsewhere, the defendants MATTHEW J. CAHILL, also known as "Brandon Walsh," and JASON S. SACKS, also known as "B. Preston" and "Jay," knowingly and intentionally introduced into interstate commerce, and caused the introduction into interstate commerce, with the intent to defraud and mislead, a drug, to wit: DNP, that was misbranded:

COUNT	APPROXIMATE DATE
Two	May 10, 2002
Three	May 30, 2002
Four	May 31, 2002
Five	August 24, 2002
Six	September 13, 2002
Seven	September 16, 2002
Eight	October 23, 2002
Nine	October 25, 2002
Ten	October 26, 2002
Eleven	November 19, 2002

(Title 21, United States Code, Sections 331(a) and 333(a)(2); Title 18, United States Code, Sections 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

21. The allegations contained in paragraphs 1 through 11 above are hereby realleged and incorporated herewith.

22. Pursuant to Title 18, United States Code, Sections 371 and 982(a)(1)(C) as well as Title 28, United States Code, Section 2461(c), upon conviction of the conspiracy offense set forth in this Information, the defendant MATTHEW J. CAHILL shall forfeit to the United States all right, title, and interest in any and all property, real and personal, involved in the conspiracy to violate 18 U.S.C. § 1341 and all property traceable to such property, including, but not limited to, the following: (a) \$35,008 seized from the residence located at 864 Merrick Avenue, East Meadow, New York; and (b) \$5,627 in currency seized pursuant to search warrants issued on October 9, 2002 and October 22, 2002 for packages sent to the residence of defendant MATTHEW J. CAHILL at the following address: B. Walsh, 864 Merrick Avenue, East Meadow, New York 11554. The property subject to forfeiture is an amount not less than \$40,635, with respect to which the United States is entitled to a money judgment against the defendant MATTHEW J. CAHILL.


23. If, by any act or omission of the defendant MATTHEW J. CAHILL, any forfeitable property or any portion thereof:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;

- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property, which cannot be divided without difficulty;

defendant MATTHEW J. CAHILL shall forfeit substitute property, up to the value of the property described in subparagraphs 23(a) through 23(e) above, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 981(a)(1)(C).

(Title 18, United States Code, Section 981; Title 28, United States Code, Section 2461(c))

  
\_\_\_\_\_  
ROSLYNN R. MAUSKOPF  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK