

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA :

**SEALED**  
**INDICTMENT**

- v. - :

18 Cr.

MARC KLEIN, :

Defendant. :

- - - - - x

COUNT ONE  
(Conspiracy to Distribute Narcotics)

The Grand Jury charges:

Introduction

1. From at least in or about 2012, up to and including the present, in the Southern District of New York and elsewhere, MARC KLEIN, the defendant, a licensed pharmacist, conspired to unlawfully distribute nearly 10,000 pills of the Schedule II controlled substance oxycodone to individuals KLEIN knew had no legitimate medical need for them. In exchange for filling those medically unnecessary oxycodone prescriptions, KLEIN received cash payments, free meals, and an all-expense-paid vacation to Atlantic City.

2. At all times relevant to this Indictment, MARC KLEIN, the defendant, was the owner and supervising pharmacist of a pharmacy located in White Plains, New York ("Pharmacy-1"). KLEIN filled hundreds of medically unnecessary prescriptions for

large quantities of oxycodone and other controlled substances in return for cash payments and other pecuniary benefits. KLEIN filled illegitimate prescriptions for his co-conspirators, who, in turn, re-sold the pills on the street to drug-addicted individuals.

Background on Oxycodone and the Regulations Governing its  
Distribution

3. Oxycodone is a highly addictive, narcotic-strength opioid used to treat severe and chronic pain conditions, such as post-operative pain, serious back and orthopedic injuries, as well as pain associated with certain forms of cancer and other terminal illnesses. Oxycodone can be legitimately obtained from most pharmacies with a prescription written by a treating physician, and is typically dispensed in five- to thirty-milligram pills to patients.

4. Because of its addictive qualities and potential for abuse, the distribution of oxycodone is heavily regulated. Pharmacists and other healthcare professionals must register and be approved by the DEA and New York State licensing authorities in order lawfully to fill oxycodone prescriptions. Furthermore, federal and state regulations require that, before prescribing oxycodone, pharmacists must ensure that the prescription is issued for a legitimate medical purpose and in the usual course of generally accepted medical practice. See 21 C.F.R. § 1306.04;

N.Y. Comp. Codes R. & Regs. tit. 10 § 910.2. Pharmacists are required to consult the New York State Prescription Monitoring Program ("PMP") to review their patients' controlled substance ordering history and track and report all oxycodone prescriptions they fill. N.Y. Comp. Codes R. & Regs. tit. 10 § 80.63. Pursuant to federal regulations, prescriptions for oxycodone cannot be refilled until a patient who has exhausted his or her initial prescription has visited his or her doctor again. See 21 C.F.R. § 1306.12.

5. Because oxycodone is highly addictive and available pursuant only to a prescription written by a licensed healthcare professional, oxycodone prescriptions have enormous cash value to drug dealers who sell oxycodone pills on the street for thousands of dollars. At all times relevant to this Indictment, thirty-milligram oxycodone pills, which are popular among street-level drug dealers, had a street value of approximately \$30 per pills in New York City, with prices ranging even higher in other parts of the country. Thus, a single thirty-day prescription for 180 thirty-milligram pills of oxycodone could net a street-level dealer in New York City \$5,400 in cash or more.

### The Scheme to Distribute Oxycodone

6. Over at least six years, between approximately 2012 and the present, MARC KLEIN, the defendant, profited from filling medically unnecessary prescriptions for oxycodone and other controlled substances for co-conspirators KLEIN knew had no legitimate medical need for the drugs. KLEIN's co-conspirators sold the pills they received from KLEIN at high prices to individuals addicted to oxycodone, among others.

7. As part of the scheme, MARC KLEIN, the defendant, the owner of Pharmacy-1, filled illegitimate prescriptions for controlled substances - including prescriptions that other pharmacies refused to fill - in order to increase profits at Pharmacy-1. Many of those prescriptions were filled by customers who had traveled to the pharmacy from many miles away, had prescriptions that appeared to have been forged, and who themselves were addicted to oxycodone or intended to resell their pills. Indeed, KLEIN filled such a large volume of controlled substance prescriptions that, when confronted by a former pharmacist ("Pharmacist-1") who worked at Pharmacy-1 about his pharmacy's practices, KLEIN stated, in substance, that he and his employees could be called "licensed drug dealers" because "oxy pays the bills around here." Pharmacist-1 quit shortly thereafter.

8. As a further part of the scheme, MARC KLEIN, the defendant, caused the distribution of approximately 10,000 oxycodone pills to a co-conspirator ("CC-1") by filling medically unnecessary prescriptions for CC-1, and CC-1's mother, ex-wife, and sister, none of whom had medical conditions requiring oxycodone. Some of those prescriptions were written in variations of CC-1's name or in the names of CC-1's family members, despite that the family members never themselves went to Pharmacy-1 to fill their prescriptions. In addition, and on a monthly basis, KLEIN dispensed more oxycodone pills to CC-1 than CC-1 was permitted by law to obtain by, among other things, filling prescriptions early and "fronting" CC-1 oxycodone pills. To avoid detection, as KLEIN later admitted to law enforcement, KLEIN reported false information to PMP about when CC-1 filled oxycodone prescriptions.

9. MARC KLEIN, the defendant, filled oxycodone prescriptions for CC-1 for at least four years despite that, throughout that period, CC-1 also filled oxycodone prescriptions at multiple other pharmacies each month, which KLEIN knew or should have known had he checked PMP as he was required by law to do. Indeed, on at least twenty-six occasions, KLEIN filled oxycodone prescriptions for CC-1 when CC-1 unlawfully obtained during the same month thirty-day supplies of oxycodone from other pharmacies.

The result was that in some months, CC-1 received over 500 tablets of oxycodone in a thirty-day period, which oxycodone was re-sold and in New York and elsewhere.

10. In exchange for filling CC-1's prescriptions at Pharmacy-1, MARC KLEIN, the defendant, received from CC-1 cash payments and gifts, including free lunches and an all-expense-paid trip to Atlantic City, New Jersey for KLEIN and his wife. Indeed, KLEIN admitted to law enforcement that he filled those and other questionable prescriptions because he needed to make money and knew his customers were unable to fill controlled substances prescriptions at other mainstream pharmacies.

#### Statutory Allegations

11. From at least in or about 2012, up to and including the present, in the Southern District of New York and elsewhere, MARC KLEIN, the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree, together and with each other, to violate the narcotics laws of the United States.

12. It was a part and an object of the conspiracy that MARC KLEIN, the defendant, and others known and unknown, would and did distribute, dispense, possess with intent to distribute and dispense, and cause to be distributed and dispensed, a controlled substance outside the scope of professional practice and not for

a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1).

13. The controlled substance that MARC KLEIN, the defendant, conspired to distribute and dispense, possess with intent to distribute and dispense, and caused to be distributed and dispensed, outside the scope of professional practice and not for a legitimate medical purpose, was mixtures and substances containing a detectable amount of oxycodone, in violation of Title 21, United States Code, Section 841(b)(1)(C).

(Title 21, United States Code, Section 846.)

COUNTS TWO - FOURTEEN  
(Distribution and Possession with Intent to Distribute a  
Controlled Substance)

The Grand Jury further charges:

14. The allegations contained in paragraphs 1 through 11 of this Indictment are repeated and realleged as though fully set forth herein.

15. On or about the dates set forth below, in the Southern District of New York and elsewhere, MARC KLEIN, the defendant, intentionally and knowingly distributed, dispensed, and possessed with the intent to distribute and dispense, a controlled substance, outside the scope of professional practice and not for a legitimate medical purpose, in violation of Title 21, United States Code, Section 841(a)(1).

Count	Date
2	February 10, 2014
3	March 11, 2014
4	April 4, 2014
5	May 23, 2014
6	July 11, 2014
7	August 6, 2014
8	September 2, 2014
9	September 26, 2014
10	October 22, 2014
11	December 11, 2014
12	February 20, 2015
13	April 13, 2015
14	July 28, 2015

16. The controlled substance involved in the offense was a quantity of mixtures and substances containing a detectable amount of oxycodone, in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(C).

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

FORFEITURE ALLEGATIONS

17. As a result of committing the offenses alleged in Counts One through Fourteen of this Indictment, MARC KLEIN, the defendant, shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of said offenses and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, said offenses, including but not

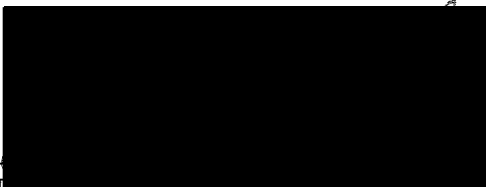


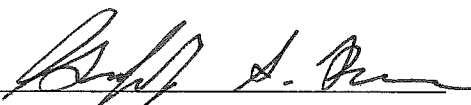
limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses that the defendant personally obtained.

Substitute Assets Provision

18. If any of the above-described forfeitable property, as a result of any act or omission of the defendant: (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) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 21, United States Code, Section 853.)

  
FOUR PERSON

  
GEOFFREY S. BERMAN  
United States Attorney

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SOUTHERN DISTRICT OF NEW YORK

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(21 U.S.C. §§ 846, 841)

Geoffrey S. Berman

United States Attorney

  
foreperson.

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