

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

RENE DJESSA, and  
DANIEL OHOYO,

Defendants.

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:  
:

SEALED INDICTMENT

15 Cr. \_\_\_\_\_

**15 CRIM 858**

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COUNT ONE  
(Conspiracy)

The Grand Jury charges:

Relevant Entities

1. The United States Agency for International Development ("USAID") is an independent federal agency that receives foreign policy guidance from the Secretary of State of the United States. USAID provides loans, grants, and technical assistance to assist countries with global health issues, natural disasters, poverty, and good governance.

2. The President's Malaria Initiative ("PMI") is a United States government-funded interagency initiative led by USAID and implemented with the U.S. Centers for Disease Control and Prevention ("CDC") of the U.S. Department of Health and Human Services ("HHS"). The United States launched the PMI in 2005 to support malaria prevention and treatment programs in

certain high-burden countries in sub-Saharan Africa. For fiscal year 2014, the PMI's funding was approximately \$618 million. The PMI coordinates with foreign governments in 19 focus countries in Africa and in the Mekong subregion to implement strategies to strengthen health systems and improve malaria prevention and treatment, including the procurement and distribution of antimalarial medication.

3. RENE DJESSA and DANIEL OHOYO, the defendants, are residents of Kinshasa, Democratic Republic of the Congo ("DRC"). The DRC is one of the 19 PMI focus countries in sub-Saharan Africa. DJESSA purports to operate a wholesale pharmacy business out of a residence in Kinshasa. OHOYO operates a business in the Kinshasa city market area that sells various pharmaceuticals. DJESSA supplies OHOYO with pharmaceuticals.

#### Use of Coartem for the Treatment of Malaria

4. Malaria is a serious and sometimes fatal mosquito-borne infectious disease caused by parasites. In 2013, an estimated 198 million cases of malaria occurred worldwide and approximately 500,000 people died, mostly children in the sub-Saharan African region. Malaria must be diagnosed and treated promptly with an antimalarial drug to keep the illness from progressing and to prevent further spread of infection in the community.

5. One of the malaria prevention and treatment measures funded by the PMI is the procurement and distribution of artemisinin-based combination therapies ("ACTs") to treat individuals with uncomplicated malaria. ACTs contain an artemisinin-based drug combined with another effective antimalarial medication.

6. One type of ACT that the PMI procures and distributes to the 19 focus countries in sub-Saharan Africa is Coartem. Coartem contains two active substances, artemether and lumefantrine, that work together to kill the parasites that cause malaria. Coartem is taken orally and is effective in treating acute, uncomplicated malaria infections. Coartem is manufactured by a pharmaceutical company at a manufacturing facility in the Southern District of New York.

The Defendants' Illegal Diversion of PMI-Funded Coartem

7. In or about 2011, USAID personnel in the DRC discovered significant quantities of PMI-funded ACTs, including Coartem, being sold in various markets in Kinshasa. Upon further investigation, USAID determined that at least some of the Coartem being sold in the DRC had been procured through PMI funding for distribution in other sub-Saharan African countries, including Malawi, Angola, Mozambique, Zambia, Benin, Zimbabwe, and Ghana.

8. On or about January 30, 2013, a special agent with the USAID Office of Inspector General ("USAID-OIG") acting in an undercover capacity ("UC-1"), met with a co-conspirator not named as a defendant herein ("CC-1") in Brazzaville, Congo. UC-1 posed as a South African businessman interested in purchasing Coartem for clients. CC-1 is a shop owner in the "Total Market" in Brazzaville. CC-1 advised UC-1 that CC-1 could obtain an unlimited supply of Coartem to sell to UC-1. After confirming that the batch numbers of the Coartem dispenser boxes that CC-1 was offering to sell were funded through the PMI, UC-1 paid CC-1 approximately \$1,000 in United States currency for 11 dispenser boxes of Coartem.<sup>1</sup> While inside of CC-1's shop, UC-1 observed approximately 30 additional dispenser boxes of Coartem.

9. On January 31, 2013, UC-1 met with CC-1 at CC-1's shop in Brazzaville to negotiate the purchase of an additional approximately 412 dispenser boxes of Coartem for \$10,000 in United States currency. CC-1 told UC-1 that the Coartem would be provided by CC-1's supplier in Kinshasa, DRC, and that UC-1 would be required to take possession of the Coartem in Kinshasa.

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<sup>1</sup> Each dispenser box contains approximately 30 blister packs, each of which contains 6, 12, 18, or 24 individual Coartem tablets depending on the weight of the patient. One blister pack is a course of treatment for a patient.

10. On February 26, 2013, UC-1 met with DANIEL OHOYO, the defendant, who CC-1 identified as CC-1's supplier, at OHOYO's shop near the city market area in Kinshasa, DRC.<sup>2</sup> OHOYO agreed to sell Coartem to UC-1 and provided UC-1 with his cellphone number. UC-1 then purchased approximately 184 dispenser boxes of Coartem from OHOYO for \$40 per box for a total of approximately \$7,360 in United States currency.

11. On or about June 11, 2013, UC-1 met with DANIEL OHOYO, the defendant, at OHOYO's shop in Kinshasa, DRC. While inside a room in OHOYO's shop, OHOYO brought in several shipping cartons containing dispenser boxes of Coartem for UC-1 to inspect. UC-1 then purchased approximately 139 dispenser boxes of Coartem from OHOYO for approximately \$5,400 in United States currency. UC-1 asked OHOYO if he would be willing to introduce UC-1 to OHOYO's supplier of Coartem in exchange for a "finder's fee" and a commission each time UC-1 purchased Coartem from OHOYO's supplier. OHOYO told UC-1 that he would consider the request.

12. On or about August 20, 2013, UC-1 met with DANIEL OHOYO, the defendant, at OHOYO's shop in Kinshasa, DRC. During the meeting, OHOYO agreed to introduce UC-1 to OHOYO's supplier. OHOYO told UC-1 that OHOYO and his partners are the main

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<sup>2</sup> All of UC-1's communications with DANIEL OHOYO, the defendant, were facilitated through the use of a translator.

suppliers of Coartem in the DRC. OHOYO offered to sell approximately 50 dispenser boxes of Coartem to UC-1, but UC-1 declined.

13. On or about October 29, 2013, UC-1 met with DANIEL OHOYO, the defendant, at a residence in Kinshasa, DRC ("Residence-1"). While inside Residence-1, UC-1 observed two other individuals move several large shipping boxes into the living room where UC-1 and OHOYO were located. OHOYO opened the shipping boxes, which contained approximately 300 dispenser boxes of Coartem. UC-1 purchased approximately 97 dispenser boxes of Coartem for approximately \$3,880 in United States currency, but refused to purchase the remaining dispenser boxes of Coartem because they appeared damaged.

14. On or about February 12, 2014, UC-1 met with DANIEL OHOYO, the defendant, at a hotel in Kinshasa, DRC. OHOYO agreed to introduce UC-1 to OHOYO's Coartem supplier in exchange for a \$70,000 commission to be paid after UC-1 received shipments of Coartem from OHOYO's supplier at a reduced rate. UC-1 and OHOYO agreed to meet the next day so that OHOYO could introduce UC-1 to his Coartem supplier.

15. On or about February 13, 2014, UC-1 met with DANIEL OHOYO, the defendant, at another residence in Kinshasa, DRC ("Residence-2"). OHOYO presented 17 shipping boxes to UC-1 that contained approximately 350 dispenser boxes of Coartem.

UC-1 agreed to purchase approximately 272 dispenser boxes of Coartem from OHOYO for approximately \$10,880 in United States currency. UC-1 refused to pay OHOYO for the Coartem, however, until OHOYO introduced UC-1 to OHOYO's supplier. OHOYO then placed a cellphone call to his Coartem supplier and set up a meeting for later that afternoon.

16. In the afternoon on or about February 13, 2014, UC-1 picked up DANIEL OHOYO, the defendant, at Residence-2 and drove to a restaurant in Kinshasa, DRC. Inside the restaurant, OHOYO introduced UC-1 to RENE DJESSA, the defendant, as OHOYO's supplier.<sup>3</sup> After speaking with DJESAA for approximately 15 minutes, UC-1 and OHOYO exited the restaurant. UC-1 then gave OHOYO an envelope containing approximately \$10,000 in United States currency for the 272 dispenser boxes of Coartem that UC-1 had agreed to purchase from OHOYO. After OHOYO counted the cash, OHOYO and UC-1 re-entered the restaurant. OHOYO told DJESSA that DJESSA should sell Coartem to UC-1 at the same price paid by OHOYO. DJESSA told UC-1 that DJESSA is the Coartem supplier for the DRC, Angola, and Congo.

17. After further discussions on February 13, 2014, DJESSA agreed to sell Coartem to UC-1 for \$30 per box and agreed to "front" UC-1 up to 4,000 dispenser boxes of Coartem. DJESSA

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<sup>3</sup> All of UC-1's communications with RENE DJESSA, the defendant, were facilitated through the use of a translator.

stated that he could supply UC-1 with as much Coartem as UC-1 wanted. DJESSA further stated, however, that he was only willing to deliver the Coartem in Kinshasa because it was easy for him to import Coartem into the DRC. UC-1 and OHOYO then departed the restaurant and returned to Residence-2 where UC-1 paid OHOYO the remaining \$880 for the 272 dispenser boxes of Coartem that UC-1 had purchased. UC-1 took possession of the Coartem and departed.

18. On or about September 17, 2014, UC-1 and another USAID-OIG special agent acting in an undercover capacity ("UC-2"), met with RENE DJESSA, the defendant, at DJESSA's residence in Kinshasa, DRC ("Residence-3"). UC-1 introduced UC-2 to DJESSA as UC-1's business partner. During the meeting, DJESSA offered to sell UC-1 and UC-2 all of the Coartem that DJESSA had in stock for \$10,000 in United States currency. UC-1 and UC-2 agreed to return the next day to purchase the Coartem. DJESSA told UC-1 and UC-2 that he was working with partners in Uganda and Kenya, and might be willing to introduce his partners to UC-1 and UC-2 at a later date.

19. On or about September 18, 2014, UC-1 and UC-2 returned to Residence-3 and met with RENE DJESSA, the defendant. At DJESSA's direction, two workers brought several large cardboard shipping boxes into the room where UC-1 and UC-2 were waiting. The shipping boxes contained approximately 577



dispenser boxes of Coartem. Later that day, UC-1 paid DJESSA \$10,000 in United States currency for the Coartem.

20. On or about September 13, 2015, UC-2 and another USAID-OIG special agent acting in an undercover capacity ("UC-3"), met with RENE DJESSA, the defendant, at Residence-3 in Kinshasa, DRC.<sup>4</sup> UC-2 introduced UC-3 to DJESSA as a quality-control monitor for UC-1 and UC-2's business. UC-2 and UC-3 told DJESSA that of the Coartem dispenser boxes that UC-1 and UC-2 had purchased from DJESSA, those with the highest potency and efficacy were traced back to Coartem batches funded by USAID. UC-2 and UC-3 further stated that they only wanted to purchase USAID-funded Coartem from DJESSA. DJESSA acknowledged that most of the Coartem he supplies is funded by the United States government and agreed to sell only such Coartem to UC-2 and UC-3 going forward. UC-2 and UC-3 then purchased approximately 90 dispenser boxes of Coartem that DJESSA had in stock for approximately \$2,600 in United States currency. On the top of one of the shipping boxes in which DJESSA placed the Coartem purchased by UC-2 and UC-3 was written, among other things, "U.S. Embassy, USAID" in "Dar Es Salaam, Tanzania."

21. USAID-OIG has confirmed that a substantial portion of the Coartem purchased by UC-1, UC-2, and UC-3 from

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<sup>4</sup> UC-2's and UC-3's communications with RENE DJESSA, the defendant, were facilitated through the use of a translator.

RENE DJESSA and DANIEL OHOYO, the defendants, were in fact procured and distributed by USAID through the PMI.<sup>5</sup>

STATUTORY ALLEGATIONS

22. From at least in or about January 2013 through in or about September 2015, in the Democratic Republic of Congo and elsewhere, and in an offense begun outside the jurisdiction of any particular State or district of the United States, RENE DJESSA and DANIEL OHOYO, the defendants, who will be first brought to and arrested in the Southern District of New York and whose point of entry into the United States will be the Southern District of New York, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, a violation of Title 18, United States Code, Section 641.

23. It was a part and object of the conspiracy that RENE DJESSA and DANIEL OHOYO, the defendants, and others known and unknown, willfully and knowingly would and did embezzle, steal, purloin, and convert to their use and the use of others, and without authority did sell, convey and dispose of money and things of value exceeding \$1,000 of the United States and a department and an agency thereof, and property exceeding \$1,000

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<sup>5</sup> USAID-OIG has determined that some of the Coartem purchased from DJESSA and OHOYO between 2013 and 2014 were counterfeit.

made and being made under contract for the United States and a department and agency thereof, and did receive, conceal, and retain the same with intent to convert it to their use and gain, knowing it to have been embezzled, stolen, purloined and converted, to wit, DJESSA and OHOYO conspired to receive, sell, and convert for their own use and gain Coartem that had been procured and distributed by USAID through the PMI.

Overt Acts

24. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed:

a. On or about February 23, 2014, in Kinshasa, DRC, DANIEL OHOYO, the defendant, sold to UC-1 approximately 272 dispenser boxes of Coartem, a substantial portion of which was procured and distributed through the PMI, for approximately \$10,880 in United States currency.

b. On or about February 23, 2014, at a restaurant in Kinshasa, DRC, OHOYO introduced UC-1 to RENE DJESSA, the defendant, as OHOYO's supplier of Coartem in the DRC.

c. On or about September 13, 2015, DJESSA sold to UC-2 and UC-3 approximately 90 dispenser boxes of Coartem, which DJESSA acknowledged he was aware had been funded by the

United States government, for approximately \$2,600 in United States currency.

(Title 18, United States Code, Sections 371 and 3238.)

COUNT TWO  
(Theft of U.S. Government Property)

The Grand Jury further charges:

25. The allegations in paragraphs 1 through 20 of Count One of this Indictment are realleged as if fully set forth herein.

26. From at least in or about January 2013 through in or about September 2015, in the Democratic Republic of Congo and elsewhere, and in an offense begun outside the jurisdiction of any particular State or district of the United States, RENE DJESSA and DANIEL OHOYO, the defendants, who will be first brought to and arrested in the Southern District of New York and whose point of entry into the United States will be the Southern District of New York, willfully and knowingly did embezzle, steal, purloin, and convert to their use and the use of others, and without authority did sell, convey and dispose of money and things of value exceeding \$1,000 of the United States and a department and an agency thereof, and property exceeding \$1,000 made and being made under contract for the United States and a department and agency thereof, and did receive, conceal, and retain the same with intent to convert it to their use and gain,

knowing it to have been embezzled, stolen, purloined and converted, to wit, DJESSA and OHOYO did receive, sell, and convert for their own use and gain Coartem that had been procured and distributed by USAID through the PMI.

(Title 18, United States Code, Sections 2, 641, and 3238.)

FORFEITURE ALLEGATION

27. As a result of committing the offenses charged in Counts One and Two of this Indictment, RENE DJESSA and DANIEL OHOYO, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C), and Title 28, United States Code, Section 2461, all property, real and personal, which constitutes or is derived from proceeds traceable to such violations.

Substitute Asset Provision

28. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

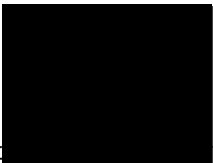
b. has been transferred or sold to, or deposited with, a third party;


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 subdivided without difficulty;  
it is the intent of the United States, pursuant to Title 18,  
United States Code, Section 981, Title 21, United States Code,  
Section 853(p), and Title 28, United States Code, Section 2461,  
to seek forfeiture of any other property of the defendants up to  
the value of the above forfeitable property.

(Title 18, United States Code, Section 981;  
Title 21, United States Code, Sections 853; and  
Title 28, United States Code, Section 2461.)

  
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FOREPERSON

  
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PREET BHARARA  
United States Attorney /pmk

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SEALED INDICTMENT


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(18 U.S.C. §§ 2, 371, 641, and 3238.)

PREET BHARARA  
United States Attorney.

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1. TRUE BILL

  
Foreperson.

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