

among others, the acts alleged in Counts 32 - 107, set forth below, which Counts 32-107 are specifically incorporated herein.

**In violation of 18 U.S.C. § 1956(h).**

**COUNTS 32-107**  
**MONEY LAUNDERING**  
**18 U.S.C. § 1956**  
**18 U.S.C. § 2**

**A. GENERAL ALLEGATIONS**

With respect to Counts 32-107:

1. On or about the dates set forth in Counts 32-107, in the Southern District of Ohio and elsewhere, defendants **STEVEN E. WARSHAK, PAUL J. KELLOGG, HARRIET WARSHAK, and TCI MEDIA, INC.**, and other persons known and unknown to the Grand Jury, aiding and abetting each other, did knowingly conduct and attempt to conduct the financial transactions by wire and monetary instrument set forth herein, affecting interstate and foreign commerce, which involved the proceeds of specified unlawful activity, that is, mail fraud in violation of 18 U.S.C. §1341, wire fraud in violation of 18 U.S.C. §1343, and bank fraud in violation of 18 U.S.C. § 1344, and:
  - a. with the intent to promote the carrying on of such specified unlawful activity, in violation of 18 U.S.C. §1956(a)(1)(A)(i); and
  - b. knowing that the transactions were designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity, in violation of 18 U.S.C. §1956(a)(1)(B)(i).

2. As set forth more fully in Part III of Count 1, above, defendants **STEVEN E. WARSHAK, HARRIET WARSHAK**, and others conspired to defraud thousands of consumers and to defraud financial institutions, using the U.S. Mail and wire communications, among other means, to execute the scheme. This fraud scheme generated millions of dollars in proceeds of specified unlawful activity, that is, proceeds of mail fraud in violation of 18 U.S.C. § 1341, wire fraud in violation of 18 U.S.C. § 1343, and bank fraud in violation of 18 U.S.C. § 1344.
3. Defendants **STEVEN E. WARSHAK, HARRIET WARSHAK**, and **PAUL J. KELLOGG** established merchant agreements with various financial institutions to be used for processing credit card purchases. Defendants used merchant accounts of financial institutions to obtain proceeds from victims of their fraud scheme.
4. Defendant **STEVEN E. WARSHAK** received proceeds of consumer fraud, deposited these proceeds into bank accounts at financial institutions, transferred millions of dollars in fraud proceeds out of the operating accounts into many other accounts for the following purposes, among others: 1) to promote the carrying on of specified unlawful activity by reinvesting fraud proceeds into the illegal enterprise by paying advertising, rent, salaries, and bonuses to managers and other **BERKELEY** employees, such as defendants **PAUL J. KELLOGG** and **HARRIET WARSHAK**; and 2) to conceal or disguise the nature and source of the proceeds of specified unlawful activity through frequent and complex movement of the proceeds or by transferring proceeds into the names of third parties.

5. Defendant **PAUL J. KELLOGG, HARRIET WARSHAK, and TCI MEDIA, INC.**, assisted the defendants and conspirators by, among other things, causing fraud proceeds to be transferred out of the accounts of defendant **STEVEN E. WARSHAK** and into other accounts.
6. Defendant **STEVEN E. WARSHAK** is charged in Counts 77-80, 82, and 98 with a violation of 18 U.S.C. § 1956(a)(1)(A)(i).
7. Defendant **STEVEN E. WARSHAK** is charged in Counts 32-76, 81, 83-97, and 102-106 with a violation of 18 U.S.C. § 1956(a)(1)(B)(i).
8. Defendant **HARRIET WARSHAK** is charged in Counts 99-101, 107 with a violation of 18 U.S.C. § 1956(a)(1)(B)(i).
9. Defendant **PAUL J. KELLOGG** is charged in Counts 96-97 with a violation of 18 U.S.C. § 1956(a)(1)(B)(i).
10. Defendant **TCI MEDIA, INC.** is charged in Counts 57-58, 60-73, 79, 83, 91-93 with a violation of 18 U.S.C. § 1956(a)(1)(B)(i).

**B. RELEVANT FINANCIAL ACCOUNTS AND TRANSACTIONS**

With respect to Counts 32-107:

1. Financial institutions with which **STEVEN E. WARSHAK'S** companies held credit card merchant accounts wired revenue into bank accounts owned by **STEVEN E. WARSHAK** and located at Fifth Third Bank, Cincinnati, Ohio. During the conspiracy, merchant banks wired sale proceeds into **STEVEN E. WARSHAK'S** and **BERKELEY'S** bank accounts, including but not limited to, Fifth Third Bank accounts, such as Lifekey, Inc. account number [REDACTED] 3146; Boland Naturals account number

██████2135; Wagner Nutraceuticals Inc. (Rovicid) account number ██████1642; and Warner Health Care Inc. account number ██████1626. Subsequently, those accounts were converted to zero balance accounts ("ZBA" accounts) sometime in May 2004. Other ZBA accounts were also created by **BERKELEY**.

2. After May 2004, the main operating bank account for **WARSHAK'S** companies was Fifth Third Bank account number ██████0801. Account ██████0801 was the master account into which all ZBA accounts transfer and receive money, such that the ZBA accounts maintained a zero daily balance. Thus, account ██████0801 was a primary depository of money obtained from the consumer fraud scheme.
3. Defendant **STEVEN E. WARSHAK** opened and maintained, and caused to be opened and maintained, numerous business and personal bank accounts. **STEVEN E. WARSHAK** engaged in financial transactions by transferring proceeds of specified unlawful activity from the following accounts:
  - a. Fifth Third Bank account number ██████0801 in the name of Berkeley Premium Nutraceuticals, Inc. (previously served as main **BERKELEY** operating account);
  - b. Fifth Third Bank account number ██████4685 in the name of Wagner Nutraceuticals, Inc.;
  - c. Fifth Third Bank account number ██████9120 in the name of Berkeley Premium Nutraceuticals, Inc. (current **BERKELEY** operating account);
  - d. Fifth Third Bank account number ██████2135 in the name of Boland Naturals (ZBA account);

- e. Fifth Third Bank account number [REDACTED] 3146 in the name of Lifekey, Inc. (ZBA account); and
- f. Fifth Third Bank account number [REDACTED] 1626 in the name of Warner Health Care Inc. (ZBA account)

and depositing the proceeds of specified unlawful activity into the following accounts:

- g. Fifth Third Bank account number [REDACTED] 8440 in the name of Steve Warshak or [spouse];
- h. Fifth Third Bank account number [REDACTED] 0688 in the name of Steve Warshak (personal checking account);
- i. Fifth Third Bank account number [REDACTED] 6526, held by **TCI MEDIA, INC.**, in the name of TCI Media Inc. c/o Steve Warshak; and
- j. Fifth Third Bank account number [REDACTED] 4772 in the name of Steve Warshak (personal savings account).
4. As set forth in the chart below, in Counts 32 - 51, inclusive, defendant **STEVEN E. WARSHAK** deposited or caused to be deposited funds into Fifth Third Bank account number [REDACTED] 8440 in the name of Steve Warshak or in the name of his spouse from January 2004 to November 2004, totaling \$7,700,000.00.

Count	Date of Deposit to [REDACTED] 8440	Amount of Deposit	Transfer from Account No.	Account Name
32	01/12/04	\$100,000.00	[REDACTED] 4772	Warshak savings
33	02/03/04	\$500,000.00	[REDACTED] 0688	Warshak checking
34	02/03/04	\$500,000.00	[REDACTED] 0688	Warshak checking
35	03/03/04	\$25,000.00	[REDACTED] 0688	Warshak checking

Count	Date of Deposit to [REDACTED]8440	Amount of Deposit	Transfer from Account No.	Account Name
36	03/30/04	\$50,000.00	[REDACTED]0688	Warshak checking
37	03/30/04	\$50,000.00	[REDACTED]0688	Warshak checking
38	04/07/04	\$200,000.00	[REDACTED]0688	Warshak checking
39	04/15/04	\$500,000.00	[REDACTED]0688	Warshak checking
40	04/15/04	\$500,000.00	[REDACTED]0688	Warshak checking
41	04/15/04	\$500,000.00	[REDACTED]0688	Warshak checking
42	04/15/04	\$500,000.00	[REDACTED]0688	Warshak checking
43	05/27/04	\$500,000.00	[REDACTED]0688	Warshak checking
44	06/10/04	\$500,000.00	[REDACTED]0688	Warshak checking
45	06/10/04	\$500,000.00	[REDACTED]0688	Warshak checking
46	06/10/04	\$500,000.00	[REDACTED]0688	Warshak checking
47	07/23/04	\$100,000.00	[REDACTED]0688	Warshak checking
48	08/30/04	\$500,000.00	[REDACTED]0688	Warshak checking
49	09/13/04	\$425,000.00	[REDACTED]0688	Warshak checking
50	09/16/04	\$250,000.00	[REDACTED]0688	Warshak checking
51	11/05/04	\$1,000,000.00	[REDACTED]4133	Warshak investment
	<b>TOTAL</b>	\$7,700,000.00		

5. As set forth in the chart below, in Counts 52 through 59, inclusive, defendant **STEVEN E. WARSHAK** deposited or caused to be deposited funds into Fifth Third Bank account number [REDACTED]0688 in the name of Steve Warshak from January 2004 to May 2004, totaling \$16,514,987.63.

Count	Date of Deposit to [REDACTED] 0688	Amount of Deposit	Transfer from Account No.	Account Name
52	01/26/04	\$6,077,068.30	[REDACTED] 1449	Warshak savings (transfers from accounts 42294772 and 56968440)
53	02/09/04	\$1,000,000.00	[REDACTED] 3146	Lifekey, Inc.
54	02/18/04	\$1,000,000.00	[REDACTED] 2135	Boland Naturals
55	02/23/04	\$1,000,000.00	[REDACTED] 1626	Warner Health Care
56	04/15/04	\$300,000.00	[REDACTED] 8440	Warshak checking
57	05/18/04	\$5,200,000.00	[REDACTED] 6526	TCI Media, Inc.
58	05/20/04	\$1,500,000.00	[REDACTED] 6526	TCI Media, Inc.
59	08/30/04	\$437,919.33	[REDACTED] 8440	Warshak checking
	<b>TOTAL</b>	\$16,514,987.63		

6. Defendant **STEVEN E. WARSHAK** funneled financial transactions through Defendant **TCI MEDIA, INC.** from his companies prior to investing the funds as a way of further disguising and concealing the transactions. As set forth in the chart below, in Counts 60 through 73, inclusive, defendant **STEVEN E. WARSHAK** deposited or caused to be deposited funds into the bank account of defendant **TCI MEDIA, INC.**, Fifth Third Bank account [REDACTED] 6526, in the name of TCI Media Inc. c/o Steve Warshak from March 2004 to December 2004, totaling \$37,639,670.60.

Count	Date of Deposit to TCI MEDIA, INC. Account [REDACTED] 6526	Amount of Deposit	Transfer from Account No.	Account Name
60	03/18/04	\$1,000,000.00	[REDACTED] 2135	Boland Naturals
61	03/25/04	\$1,000,000.00	[REDACTED] 3146	Lifekey, Inc.

Count	Date of Deposit to TCI MEDIA, INC. Account [REDACTED] 6526	Amount of Deposit	Transfer from Account No.	Account Name
62	04/09/04	\$530,941.00	[REDACTED] 9120	Berkeley Premium Nutraceuticals, Inc.
63	04/16/04	\$534,540.00	[REDACTED] 3146	Lifekey, Inc.
64	05/11/04	\$2,074,189.60	[REDACTED] 4685	Wagner Nutraceuticals Inc.
65	05/18/04	\$500,000.00	[REDACTED] 3146	Lifekey, Inc.
66	05/18/04	\$1,500,000.00	[REDACTED] 2135	Boland Naturals
67	06/07/04	\$3,000,000.00	[REDACTED] 9120	Berkeley Premium Nutraceuticals, Inc.
68	07/06/04	\$3,000,000.00	[REDACTED] 0801	Berkeley operating
69	07/26/04	\$2,000,000.00	[REDACTED] 0801	Berkeley operating
70	08/06/04	\$4,000,000.00	[REDACTED] 0801	Berkeley operating
71	08/23/04	\$8,000,000.00	[REDACTED] 0801	Berkeley operating
72	09/13/04	\$3,000,000.00	[REDACTED] 0801	Berkeley operating
73	12/22/04	\$7,500,000.00	[REDACTED] 4133	Warshak investment
	<b>TOTAL</b>	\$37,639,670.60		

7. As set forth in the chart below, in Counts 74 through 76, inclusive, defendant **STEVEN E. WARSHAK** deposited or caused to be deposited funds into Fifth Third Bank account number [REDACTED] 4772 in the name of Steve Warshak on January 9, 2004, totaling \$4,950,000.00.

Count	Date of Deposit to [REDACTED] 4772	Amount of Deposit	Transfer from Account No.	Account Name
74	01/09/04	\$90,000.00	[REDACTED] 2135	Boland Naturals

Count	Date of Deposit to [REDACTED]4772	Amount of Deposit	Transfer from Account No.	Account Name
75	01/09/04	\$1,060,000.00	[REDACTED]1626	Warner Health Care, Inc.
76	01/09/04	\$3,800,000.00	[REDACTED]3146	Lifekey, Inc.
	<b>TOTAL</b>	\$4,950,000.00		

8. As set forth in the chart below, in Counts 77 through 78, inclusive, defendant **STEVEN E. WARSHAK** wrote two checks dated January 30, 2004, and drawn on Fifth Third Bank account number [REDACTED]3146, each in the amount of \$1,000,000.00. **STEVEN E. WARSHAK** made check number 10316 payable to his sister (presented on 2/3/04) and made check number 10317 payable to his other sister (presented on 2/4/04).

Count	Approx. Date of Presentment	Amount of Deposit	Drawing Account No.	Payee	Account Name
77	02/03/04	\$1,000,000.00	[REDACTED]3146	Sue Cossman	Lifekey, Inc.
78	02/04/04	\$1,000,000.00	[REDACTED]3146	Cindy Hall	Lifekey, Inc.

9. As set forth in the chart below, in Count 79, defendant **STEVEN E. WARSHAK** wrote a check, number 4272, dated September 22, 2004, made payable to a **BERKELEY** employee, and drawn on **TCI MEDIA, INC.** Fifth Third Bank account number [REDACTED]6526 in the amount of \$1,000,000.00.

Count	Approx. Date of Presentment	Amount of Deposit	Drawing Account No.	Account Name
79	10/01/04	\$1,000,000.00	[REDACTED]6526	TCI Media, Inc.

10. On or about January 18, 2005, defendant **PAUL J. KELLOGG** incorporated Strong Foundations, Inc., a purported non-profit charitable entity by which **BERKELEY** would provide homes to single-parent households. As set forth in the chart below, defendant **STEVEN E. WARSHAK** wrote a check, number 4597, dated January 28, 2005, made payable to Strong Foundations, Inc., and drawn on Fifth Third Bank account number [REDACTED]9120 in the amount of \$100,000.00. **STEVEN E. WARSHAK** deposited or caused to be deposited check 4597 to Fifth Third Bank account number [REDACTED]9593 in the name of Strong Foundations, Inc. (Count 80). Less than six months later, on July 22, 2005, defendant **STEVEN E. WARSHAK** returned \$90,000.00 from the Strong Foundations account to **BERKELEY'S** operating account (Count 81).

Count	Date of Deposit	Deposit to Account No.	Amount of Deposit	Transfer from Account No.	Account Name
80	01/28/05	71959593	\$100,000.00	[REDACTED]9120	Berkeley operating
81	07/22/05	71959120	\$90,000.00	[REDACTED]9593	Strong Foundations

11. Hallmark Homes, LLC is a Kentucky corporation established on January 7, 2005, by defendant **STEVEN E. WARSHAK'S** brother-in-law. During 2005, Hallmark Homes built four homes in Middletown, Ohio, using funds received from **STEVEN E. WARSHAK**. As set forth in the chart below, in Count 82, **STEVEN E. WARSHAK** transferred or caused to be transferred funds from Fifth Third Bank account number [REDACTED]9120 to Fifth Third Bank account number [REDACTED]7094 in the name of Hallmark Homes LLC, totaling \$180,000.00.

Count	Date of Credit Memo to ██████████7094	Amount of Deposit	Transfer from Account No.	Account Name
82	01/24/05	\$180,000.00	██████████9120	Berkeley operating

12. Knothead Clothing Co., LLC is a Kentucky limited liability company established on February 17, 2005, by another brother-in-law of defendant **STEVEN E. WARSHAK**. As set forth in the chart below, in Count 83, **STEVEN E. WARSHAK** transferred or caused to be transferred funds from Defendant **TCI MEDIA, INC.** Fifth Third Bank account number ██████████6526 to Fifth Third Bank account number ██████████6494 in the name of Knothead Clothing Company, totaling \$150,000.00.

Count	Date of Credit Memo to ██████████6494	Amount of Deposit	Transfer from Account No.	Account Name
83	02/11/05	\$150,000.00	██████████6526	TCI Media, Inc.

#### **Nationwide Life Insurance Company Annuity Account**

13. On or about January 30, 2004, **STEVEN E. WARSHAK** opened an annuity account – Nationwide Life Insurance Company contract number ██████████0961 in the name of Steve E. Warshak. As set forth in the chart below in Count 84, **STEVEN E. WARSHAK** deposited or caused to be deposited, into Nationwide Life Insurance Company contract number ██████████0961, check number 2305, dated February 2, 2004, made payable to Nationwide, signed by **STEVEN E. WARSHAK**, and drawn on Fifth Third Bank account number ██████████8440 in the amount of \$500,000.00.

Count	Annuity Issue Date	Amount of Deposit	Transfer from Account No.	Account Name
84	02/13/04	\$500,000.00	8440	Warshak checking

**Life Insurance Company of the Southwest ("LSW")**

14. As set forth in the chart below, in Counts 85 through 86, inclusive, on February 2, 2004, defendant **STEVEN E. WARSHAK** wrote two checks, nos. 2303 and 2304, each in the amount of \$250,000.00, payable to LSW, and drawn on Fifth Third Bank account number 8440 for the purchase of two annuities in the name of Steve Warshak.

Count	Policy Issue Date	Policy No.	Amount of Purchase	Transfer from Account No.	Account Name
85	02/04/04	524676X	\$250,000.00	8440	Warshak checking
86	02/04/04	524677X	\$250,000.00	8440	Warshak checking
		<b>TOTAL</b>	\$500,000.00		

**Brinker Capital, Inc.**

15. As set forth in the chart below, in Counts 87 through 89, inclusive, defendant **STEVEN E. WARSHAK** deposited or caused to be deposited funds into investment accounts through Brinker Capital, Inc. in the name of Steve E. Warshak from February 2004 to August 2004, totaling \$5,000,000.00.

Count	Date of Wire to Brinker	Amount of Deposit	Transfer from Account No.	Account Name
87	02/13/04	\$4,000,000.00	0688	Warshak checking

Count	Date of Wire to Brinker	Amount of Deposit	Transfer from Account No.	Account Name
88	06/01/04	\$500,000.00	██████0688	Warshak checking
89	08/19/04	\$500,000.00	██████0688	Warshak checking
	<b>TOTAL</b>	\$5,000,000.00		

#### National Financial Services, LLC, Equity Services Incorporated Accounts

16. Beginning on or about June 1, 2004, defendant **STEVEN E. WARSHAK** opened or caused to be opened, with the assistance of a conspirator who was defendant **WARSHAK'S** CPA and financial planner, the following investment account with National Financial Services/Equity Services ("NFS"): ████████4133 in the name of Steve E. Warshak, TOD (that is, transfer on death) to his spouse. Defendant **STEVEN E. WARSHAK** deposited or caused to be deposited funds into the National Financial Services/Equity Services accounts from Fifth Third Bank accounts ████████0688 and ████████6526 and from investment accounts with Brinker Capital, Inc.
17. As set forth in the chart below, in Counts 90 through 95, inclusive, defendant **STEVEN E. WARSHAK** deposited to caused to be deposited funds into NFS account number ████████4133, totaling \$28,302,673.89 in under six months.

Count	Date of Wire to ████████4133	Amount of Deposit	Transfer from Account No.	Account Name
90	06/01/04	\$2,500,000.00	██████0688	Warshak checking
91	07/15/04	\$5,500,000.00	██████6526	TCI Media, Inc.
92	08/19/04	\$5,500,000.00	██████6526	TCI Media, Inc.
93	08/31/04	\$8,000,000.00	██████6526	TCI Media, Inc.

Count	Date of Wire to [REDACTED] 4133	Amount of Deposit	Transfer from Account No.	Account Name
94	08/31/04	\$1,500,000.00	[REDACTED] 0688	Warshak checking
95	12/14/04	\$5,302,673.89	various	Brinker Capital
	<b>TOTAL</b>	\$28,302,673.89		

18. In June 2004, defendant **STEVEN E. WARSHAK** was aware that he and his companies were being investigated by the Federal Trade Commission (FTC) for fraudulent business practices. Thereafter, defendant **STEVEN E. WARSHAK**, defendant **PAUL J. KELLOGG**, and others began considering investment strategies to remove assets out of the name of **STEVEN E. WARSHAK** to protect assets from the anticipated FTC litigation and fines. Defendant Warshak, and others known and unknown to the Grand Jury, decided that the use of trusts under the guise of estate planning would successfully hide **WARSHAK'S** money from the FTC.
19. Defendant **KELLOGG** told a conspirator that defendant **STEVEN E. WARSHAK** was not personally named by the FTC as a liable party and that there was a "window of opportunity" in which they could get the money out of **STEVEN E. WARSHAK'S** name and into the name of defendant **STEVEN E. WARSHAK'S** wife.
20. On or about October 1, 2004, **STEVEN E. WARSHAK**, with the assistance of defendant **PAUL J. KELLOGG** and **WARSHAK'S** financial advisor, created at NFS a QTIP trust, account no. [REDACTED] 7671 in the name of Paul J. Kellogg TTEE, The Carri E. Warshak 2004 QTIP Trust U/A 10/1/04 ("QTIP" means qualified terminable interest property;

“TTEE” means trustee; and “U/A” means under agreement). This QTIP account was funded with transfers of stocks and/or bonds valued at approximately \$13,194,878.16.

21. In addition, Warshak transferred approximately \$1,000,000.00 out of [REDACTED] 4133 and into a gift trust (account no. [REDACTED] 7680 in the name of Paul J. Kellogg TTEE, The Warshak 2004 Gift Trust U/A 10/1/04).
22. As set forth in the chart below, in Counts 96 through 97, inclusive, defendants **STEVEN E. WARSHAK** and **PAUL J. KELLOGG** transferred or caused to be transferred \$1,000,000.00 from account [REDACTED] 4133 into account [REDACTED] 7680 and approximately \$13,194,878.16 in stocks/bonds from account [REDACTED] 4133 to account [REDACTED] 7671.
23. On or about November 23, 2004, **WARSHAK’S** financial advisor and coconspirator told defendant **STEVEN E. WARSHAK** that the trust was, in fact, established for litigation purposes, i.e., to hide and otherwise conceal the funds from the FTC. **WARSHAK’S** financial advisor assured **STEVEN E. WARSHAK** that the funds were put beyond the reach of the FTC under the guise of an estate planning strategy. **WARSHAK’S** financial advisor also told defendant **STEVEN E. WARSHAK** that defendant **KELLOGG**, as the trustee, could transfer the funds back into defendant **WARSHAK’S** name after the conclusion of the FTC litigation.

Count	Date of Trust	Deposit to Account No.	Amount of Deposit	Transfer from Account No.	Account Name
96	10/01/04	[REDACTED] 7680	\$1,000,000.00	[REDACTED] 4133	Warshak investment
97	10/01/04	[REDACTED] 7671	\$13,194,878.16	[REDACTED] 4133	Warshak investment
		<b>TOTAL</b>	\$14,194,878.16		

**UBS Financial Services, Inc.**

24. **STEVEN E. WARSHAK** drafted and signed check number 10320, dated January 30, 2004, payable to **HARRIET WARSHAK**, drawn on Fifth Third Bank account number [REDACTED] 3146 in the name of Lifekey, Inc. in the amount of \$1,000,000.00 (Count 98). On or about February 18, 2004, defendant **HARRIET WARSHAK** opened UBS Financial Services Inc. account number [REDACTED] 41 9D in the name of Harriet Warshak, TOD Steven Warshak. As set forth in the chart below in Count 99, **HARRIET WARSHAK** deposited or caused to be deposited, into UBS Financial Services Inc. account number [REDACTED] 41 9D.

Count	Date	Amount	Transfer from Account No.	Account Name
98	Check Date 01/30/04	\$1,000,000.00	[REDACTED] 3146	Lifekey, Inc.
99	Deposit Date 02/18/04	\$1,000,000.00	[REDACTED] 3146	Lifekey, Inc.

**Hartford Life Insurance**

25. As set forth in the chart below, in Count 100, defendant **HARRIET WARSHAK** purchased or caused to purchased Hartford Life Insurance annuity account number [REDACTED] 9413 in the name of Harriet Warshak.

Count	Issue Date	Amount of Purchase	Transfer from Account No.	Account Name
100	[REDACTED] 9413 02/20/04	\$250,000.00	[REDACTED] 41 9D	Harriet Warshak

**ING USA Annuity and Life Insurance Company**

26. As set forth in the chart below, in Count 101, defendant **HARRIET WARSHAK** purchased or caused to be purchased ING USA Annuity and Life Insurance Company account number [REDACTED] 87-0W in the name of Harriet Warshak.

Count	Issue Date [REDACTED] 87-0W	Amount of Purchase	Transfer from Account No.	Account Name
101	02/23/04	\$250,000.00	[REDACTED] 41 9D	Harriet Warshak

**U.S. Bank, N.A.**

27. As set forth in the chart below, in Count 102, defendant **STEVEN E. WARSHAK** wired \$100,000.00 from Fifth Third account number [REDACTED] 0688 into U.S. Bank N.A. checking account number [REDACTED] 4409 in the name of Steven Warshak.

Count	Date of Wire Credit to [REDACTED] 4409	Amount of Deposit	Transfer from Account No.	Account Name
102	03/12/04	\$100,000.00	[REDACTED] 0688	Warshak checking

28. As set forth in the chart below, in Count 103 through 104, inclusive, defendant **STEVEN E. WARSHAK** deposited or caused to be deposited funds into U.S. Bank checking account number [REDACTED] 5066 in the name of his spouse, totaling \$285,000.00.

Count	Date of Deposit to [REDACTED] 5066	Amount of Deposit	Transfer from Account No.	Account Name
103	09/13/04	\$10,000.00	[REDACTED] 4409	Warshak checking
104	11/10/04	\$275,000.00	[REDACTED] 8440	Warshak checking
	<b>TOTAL</b>	\$285,000.00		

**First Colony Life Insurance Company**

29. As set forth in the chart below, in Count 105, defendant **STEVEN E. WARSHAK** wrote check number 2320, dated April 5, 2004, drawn on Fifth Third Bank account number [REDACTED] 8440, made payable to First Colony Life for the purchase of a life insurance policy in the name of Steve E. Warshak.

Count	Approx. Date of Purchase of [REDACTED] 0584	Amount of Purchase	Transfer from Account No.	Account Name
105	04/05/04	\$143,005.87	[REDACTED] 8440	Warshak checking

**Midland National**

30. As set forth in the chart below, in Count 106, defendant **STEVEN E. WARSHAK** wrote check number 2326, dated May 26, 2004, drawn on Fifth Third Bank account number [REDACTED] 8440, made payable to Midland National, for the purchase of an annuity (Contract no. [REDACTED] 3028) in the name of Steve Warshak.

Count	Issue Date [REDACTED] 3028	Amount of Purchase	Transfer from Account No.	Account Name
106	06/03/04	\$500,000.00	[REDACTED] 8440	Warshak checking

**Smith Barney/CitiGroup**

31. As set forth in the chart below, in Count 107, on May 12, 2004, defendant **HARRIET WARSHAK** deposited or caused to be deposited into Smith Barney/CitiGroup account number [REDACTED] 3734 in the name of Harriet Warshak TOD Steven Edward Warshak for the purchase of seven different securities.

Count	Date of Deposit to [REDACTED] 34-19	Amount of Deposit	Transfer from Account No.	Account Name
107	05/12/04	\$467,940.15	[REDACTED] 41 9D	Harriet Warshak

All in violation of 18 U.S.C. § 1956(h) and 2.

**COUNT 108**  
**MONEY LAUNDERING**  
18 U.S.C. § 1956  
18 U.S.C. § 2

1. From on or about April 16, 2002 and continuing through at least June 28, 2004, in the Southern District of Ohio, and elsewhere, defendant **STEVEN E. WARSHAK** did knowingly conduct and attempt to conduct the following financial transactions by wire and monetary instrument as set forth herein, affecting interstate and foreign commerce, which involved the proceeds of specified unlawful activity, that is, mail fraud in violation of 18 U.S.C. § 1341, wire fraud in violation of 18 U.S.C. § 1343, and bank fraud in violation of 18 U.S.C. § 1344, knowing that the transactions were designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity, in violation of 18 U.S.C. §1956(a)(1)(B)(i).
2. As set forth more fully in Part III of Count 1, above, defendant **STEVEN E. WARSHAK** and others conspired to defraud thousands of consumers and to defraud financial institutions, using the U.S. Mail and wire communications, among other means, to execute the scheme. This fraud scheme generated millions of dollars in proceeds of specified unlawful activity, that is, proceeds of mail fraud in violation of 18 U.S.C. §

1341, wire fraud in violation of 18 U.S.C. § 1343, and bank fraud in violation of 18 U.S.C. § 1344.

3. Defendants established merchant agreements with various financial institutions to be used for processing credit card purchases. Defendants used merchant accounts of financial institutions to obtain proceeds from victims of their fraud scheme.
4. Defendant **STEVEN E. WARSHAK** received proceeds of consumer fraud, deposited these proceeds into bank accounts at financial institutions, transferred millions of dollars in fraud proceeds out of the operating accounts into many other accounts for the following purposes, among others to conceal or disguise the nature and source of the proceeds of specified unlawful activity through frequent and complex movement of the proceeds or by transferring proceeds into the names of third parties.
5. Defendant **STEVEN E. WARSHAK** opened and maintained, and caused to be opened and maintained, numerous business and personal bank accounts including, but not limited to, the following Fifth Third Bank accounts:
  - a. Lifekey, Inc. account number [REDACTED] 3146;
  - b. Warner Health Care Inc. account number [REDACTED] 1626; and
  - c. Berkeley Premium Nutraceuticals, Inc. account number [REDACTED] 9120.
6. Defendant **STEVEN E. WARSHAK** established merchant agreements with various financial institutions to be used for processing credit card purchases. Defendant **STEVEN E. WARSHAK** used merchant accounts of financial institutions to obtain proceeds from victims of their fraud scheme; deposited and caused to be deposited proceeds earned from the consumer fraud scheme into bank accounts, such as the Fifth

Third Bank accounts listed in paragraph 5 above; and caused and directed others to write checks from these accounts as described below to conceal and disguise the nature and source of the proceeds of specified unlawful activity, that is, mail fraud and wire fraud.

7. At the direction of defendant **STEVEN E. WARSHAK**, two **BERKELEY** employees obtained checks drawn on the Fifth Third Bank accounts described in paragraph 5 above. Defendant **STEVEN E. WARSHAK** further directed that the checks be made payable to "Cash" or payable to one of the two **BERKELEY** employees as payee. The checks were issued in the amount of \$5,000.00.
8. The **BERKELEY** employees thereafter endorsed the checks and cashed them at a financial institution and then sent the cash via commercial carrier to defendant **STEVEN E. WARSHAK**. The financial transactions are set forth in greater detail in the chart below.
9. In order to conceal and disguise the nature of these transactions, defendant **STEVEN E. WARSHAK** directed **BERKELEY** employees to list these checks as business expenses.

These transactions include, but are not limited to, those set forth in the chart below:

Trans- action	Account Number	Account Name	Check Number	Check Date	Amount
1	██████3146	LifeKey, Inc.	007687	04/16/02	\$5,000.00
2	██████3146	LifeKey, Inc.	009595	10/02/03	\$5,000.00
3	██████3146	LifeKey, Inc.	009742	10/20/03	\$5,000.00
4	██████3146	LifeKey, Inc.	009879	11/03/03	\$5,000.00
5	██████3146	LifeKey, Inc.	009950	11/10/03	\$5,000.00
6	██████3146	LifeKey, Inc.	009740	11/17/03	\$5,000.00

Trans- action	Account Number	Account Name	Check Number	Check Date	Amount
7	████ 3146	LifeKey, Inc.	010063	11/24/03	\$5,000.00
8	████ 3146	LifeKey, Inc.	010155	12/09/03	\$5,000.00
9	████ 3146	LifeKey, Inc.	010221	12/15/03	\$5,000.00
10	████ 3146	LifeKey, Inc.	010275	12/22/03	\$5,000.00
11	████ 3146	LifeKey, Inc.	010390	01/05/04	\$5,000.00
12	████ 1626	Warner Health Care Inc.	006894	01/08/04	\$5,000.00
13	████ 3146	LifeKey, Inc.	010410	01/09/04	\$5,000.00
14	████ 1626	Warner Health Care Inc.	006933	01/13/04	\$5,000.00
15	████ 3146	LifeKey, Inc.	010459	01/14/04	\$5,000.00
16	████ 3146	LifeKey, Inc.	011557	01/26/04	\$5,000.00
17	████ 1626	Warner Health Care Inc.	007124	02/02/04	\$5,000.00
18	████ 3146	LifeKey, Inc.	011569	02/02/04	\$5,000.00
19	████ 3146	LifeKey, Inc.	011653	02/09/04	\$5,000.00
20	████ 3146	LifeKey, Inc.	011699	02/17/04	\$5,000.00
21	████ 1626	Warner Health Care Inc.	007205	02/17/04	\$5,000.00
22	████ 1626	Warner Health Care Inc.	007268	02/23/04	\$5,000.00
23	████ 3146	LifeKey, Inc.	011806	02/23/04	\$5,000.00
24	████ 1626	Warner Health Care Inc.	007343	03/01/04	\$5,000.00
25	████ 3146	LifeKey, Inc.	011823	03/01/04	\$5,000.00
26	████ 3146	LifeKey, Inc.	011907	03/08/04	\$5,000.00
27	████ 1626	Warner Health Care Inc.	007429	03/15/04	\$5,000.00
28	████ 3146	LifeKey, Inc.	011922	03/15/04	\$5,000.00
29	████ 1626	Warner Health Care Inc.	007458	03/22/04	\$5,000.00
30	████ 3146	LifeKey, Inc.	011932	03/22/04	\$5,000.00
31	████ 1626	Warner Health Care Inc.	007480	03/29/04	\$5,000.00

Trans- action	Account Number	Account Name	Check Number	Check Date	Amount
32	████ 3146	LifeKey, Inc.	011942	03/29/04	\$5,000.00
33	████ 1626	Warner Health Care Inc.	007583	04/12/04	\$5,000.00
34	████ 3146	LifeKey, Inc.	011849	04/12/04	\$5,000.00
35	████ 1626	Warner Health Care Inc.	007655	04/20/04	\$5,000.00
36	████ 3146	LifeKey, Inc.	011867	04/20/04	\$5,000.00
37	████ 1626	Warner Health Care Inc.	007699	04/27/04	\$5,000.00
38	████ 3146	LifeKey, Inc.	011884	04/27/04	\$5,000.00
39	████ 1626	Warner Health Care Inc.	007741	05/06/04	\$5,000.00
40	████ 3146	LifeKey, Inc.	011893	05/06/04	\$5,000.00
41	████ 1626	Warner Health Care Inc.	007790	05/17/04	\$5,000.00
42	████ 3146	LifeKey, Inc.	011955	05/17/04	\$5,000.00
43	████ 1626	Warner Health Care Inc.	007838	05/24/04	\$5,000.00
44	████ 3146	LifeKey, Inc.	011966	05/24/04	\$5,000.00
45	████ 9120	Berkeley Premium Nutraceuticals, Inc.	001458	06/03/04	\$5,000.00
46	████ 1626	Warner Health Care Inc.	007892	06/07/04	\$5,000.00
47	████ 3146	LifeKey, Inc.	011968	06/07/04	\$5,000.00
48	████ 1626	Warner Health Care, Inc.	8017	06/28/04	\$5,000.00
49	████ 3146	LifeKey, Inc.	011998	06/28/04	\$5,000.00
				<b>TOTAL</b>	\$245,000.00

In violation of 18 U.S.C. §§ 1956 and 2.

**COUNT 109**  
**CONSPIRACY TO COMMIT AN OFFENSE**  
**AGAINST THE UNITED STATES BY MISBRANDING**  
**18 U.S.C. § 371**

**A. CONSPIRACY TO MISBRAND AND ITS OBJECTS**

1. At all times relevant to this Indictment, the United States Food and Drug Administration (“FDA”) was the agency of the United States responsible for protecting the health and safety of the American public by enforcing the Federal Food, Drug, and Cosmetic Act (hereinafter “FDCA”) and by assuring, among other things, that food intended for human consumption was not adulterated or misbranded.
2. The FDCA prohibited any act with respect to a food if such act was done while such food was held for sale (whether or not the first sale) after shipment in interstate commerce and if such act resulted in that food becoming misbranded. 21 U.S.C. § 331(k).
3. A food is deemed to be misbranded if its labeling is false or misleading in any particular way. 21 U.S.C. § 343(a)(1).
4. A food was defined as articles used for food or drink for man or other animals. 21 U.S.C. § 321(f)(1).
5. A dietary supplement was an article intended to supplement the diet that contains one or more specified ingredients and, among other things, is labeled as a dietary supplement. A dietary supplement was deemed to be a food within the meaning of the FDCA. 21 U.S.C. § 321 (ff).
6. Defendant **STEVEN P. PUGH** worked at **BERKELEY** primarily in the warehouse as a manager.

Beginning in about February 2004, and continuing until sometime in March 2005, in the Southern District of Ohio and elsewhere, defendants **STEVEN E. WARSHAK, PAUL J. KELLOGG**, and **STEVEN P. PUGH** did, with the intent to defraud and mislead, conspire and agree together and with each other and with other persons both known and unknown to the Grand Jury, to commit an offense against the United States by, among other things, misbranding dietary supplements, in violation of 21 U.S.C. §§ 331 and 333.

**B. MANNER AND MEANS OF THE CONSPIRACY**

Beginning sometime in 2003, **BERKELEY** marketed and distributed into interstate commerce the product Rovicid as a prostate health product for men which could enhance sexual performance and help reduce susceptibility to certain kinds of cancer. In or about February 2004, defendants **STEVEN E. WARSHAK, PAUL J. KELLOGG**, and **STEVEN P. PUGH** changed the ingredients of Rovicid and labeled it as a heart-health dietary supplement for both men and women. These defendants, having quantities of the "old" Rovicid in stock, conspired to replace the labels of the "old" product with those of the "new" Rovicid, which would cause the "old" Rovicid to become misbranded because its labeling did not accurately reflect its ingredients and was thereby false and misleading. Thereafter, these defendants caused the misbranded Rovicid to be introduced into interstate commerce.

**C. OVERT ACTS**

In furtherance of such conspiracy and to effect the objects of the conspiracy, one or more of these defendants committed one or more overt acts, including, but not limited to, the following:

1. Sometime in March 2004, defendant **STEVEN E. WARSHAK** instructed a conspirator to coordinate with defendant **STEVEN P. PUGH** the repackaging of **BERKELEY'S** existing supply of Rovicid. Defendant **WARSHAK** directed that the (30) count blister packs be removed from the packaging (boxes) with labeling showing that Rovicid's indications were for prostate health. **WARSHAK** directed that two blister packs of (30) count each were to be placed into new packaging with labeling showing that Rovicid's indication's were for heart health. The labeled ingredients on the two boxes were different. Before the conspirator carried out **WARSHAK'S** instructions, **WARSHAK** contacted the conspirator again and advised that he (**WARSHAK**) had coordinated the repackaging of the Rovicid directly with defendant **PUGH**.
2. Sometime thereafter in March 2004, defendant **STEVEN P. PUGH** directed the **BERKELEY** warehouse staff to repackage the old Rovicid, as needed, to fill orders and not to use either the newly formulated or the clam shell-packaged Rovicid until the old (prostate health) product was used up.
3. Pursuant to defendant **PUGH'S** directive, the misbranded Rovicid was shipped to customers nationwide by U.S. Mail, from about February 2004 until sometime in March 2005.
4. On or before May 14, 2004, at some time prior to the FDA inspection of **BERKELEY'S** warehouse located at Duff Drive, defendant **PAUL J. KELLOGG** did, with the intent to defraud and mislead, order the removal of misbranded Rovicid product, including returns, from the Duff warehouse for the purpose of hiding the misbranded product from the FDA inspectors. Defendant **KELLOGG** discussed this plan to hide the Rovicid from the FDA

with other conspirators. As a result, a conspirator directed defendant **STEVEN P. PUGH** to execute defendant **KELLOGG'S** order to hide the misbranded Rovicid from the FDA.

5. Thereafter, in May 2004, defendant **STEVEN P. PUGH** directed that all of the remaining Rovicid in stock, contained in the "old" packaging with labeling for prostate health, be immediately repackaged into the packaging for heart health and relocated to an area called "the sick aisle". The sick aisle was a designated area of the warehouse set aside for **BERKELEY** products that did not meet FDA labeling requirements or were otherwise misbranded.
6. Thereafter, in May 2004, defendant **PUGH** directed **BERKELEY** warehouse staff to continue to only use the repackaged Rovicid from the sick aisle to fill orders until that product was used up. **BERKELEY** warehouse staff complied with **PUGH'S** directive until sometime in about March 2005, when a conspirator told warehouse employees to destroy the Rovicid in the sick aisle because it was about to exceed its expiration date for usage.

**In violation of 18 U.S.C. § 371.**

**COUNT 110**  
**MISBRANDING**  
**21 U.S.C. §§ 331(k), 333(a)(2)**  
**18 U.S.C. § 2**

1. The Grand Jury realleges and reincorporates by reference the allegations in Count 109 as though fully set forth herein.

2. From about February 2004 until sometime in March 2005, in the Southern District of Ohio and elsewhere, defendants **STEVEN E. WARSHAK, PAUL J. KELLOGG, STEVEN P. PUGH** and **BERKELEY**, did, with the intent to defraud and mislead, cause foods and dietary supplements to become misbranded within the meaning of 21 U.S.C. §343(a)(1), and aided and abetted each other in doing so, in that these defendants caused Rovicid, a food and dietary supplement, to contain false or misleading labeling that did not accurately reflect the product's ingredients, and these defendants did so while the food and dietary supplement was held for sale.

**In violation of 21 U.S.C. §§ 331 and 333, and 18 U.S.C. § 2.**

**COUNT 111**  
**CONSPIRACY TO OBSTRUCT PROCEEDINGS BEFORE THE**  
**U.S. FOOD AND DRUG ADMINISTRATION**  
**18 U.S.C. § 371**

**A. CONSPIRACY TO OBSTRUCT AND ITS OBJECTS**

1. The Grand Jury realleges and incorporates by reference the allegations in Count 109 as though fully set forth herein.
2. Beginning on or before May 13, 2004, and continuing until the date of this Indictment, in the Southern District of Ohio and elsewhere, defendants **PAUL J. KELLOGG**, and **STEVEN P. PUGH**, knowingly and willfully conspired and agreed together and with each other, and with other persons both known and unknown to the Grand Jury, to commit an offense against the United States, that is, to corruptly influence, obstruct, impede, and endeavor to influence, obstruct, and impede the due and proper administration of law under which a proceeding was being had before the United States

Food and Drug Administration (“FDA”), an agency of the United States, that is, the inspection of the premises of **BERKELEY**, including a warehouse facility operated by **BERKELEY** at 5462 Duff Drive, Cincinnati, Ohio, and aided and abetted each other in doing so, by removing from the warehouse, hiding, and otherwise concealing and attempting to conceal and directing others to remove, hide and otherwise conceal from the FDA inspectors, a substantial quantity of the product Rovicid, a product sold by **BERKELEY**, in violation of 18 U.S.C. §1505.

**B. OVERT ACTS**

In furtherance of such conspiracy and to effect the objects of the conspiracy, one or more of these defendants committed one or more overt acts, including, but not limited to, the following:

1. On or about May 14, 2004, after learning that the U.S. Food and Drug Administration intended to conduct an inspection of **BERKELEY** products housed in **BERKELEY'S** warehouse facilities, including the warehouse on 5462 Duff Drive in Cincinnati, Ohio, defendant **PAUL J. KELLOGG** instructed a conspirator to tell defendant **STEVEN P. PUGH** to remove from the warehouse the misbranded Rovicid, that is, the “old” Rovicid previously marketed and labeled for prostate health which had been placed into packages with labeling for use of the product for heart health, in order to hide and conceal the misbranded Rovicid from the FDA inspectors.
2. Later on or about May 14, 2004, pursuant to defendant **KELLOGG'S** direction, defendant **PUGH** ordered the second-shift warehouse manager to have the misbranded Rovicid and excess packaging moved out of the warehouse and loaded onto a rental truck

which was being used at that time by **BERKELEY** to transfer products between warehouse locations.

3. Later on or about May 14, 2004, pursuant to defendant **PUGH'S** instruction, the second-shift warehouse employees removed the misbranded Rovicid from the warehouse and loaded onto the rental truck, completing the loading the next morning, before the FDA inspectors arrived at the Duff warehouse.
4. On or about May 15, 2004, defendant **PUGH** instructed a Duff warehouse employee to move the rental truck loaded with the misbranded Rovicid from the Duff warehouse to the parking lot of another **BERKELEY** office location.
5. On or about May 18, 2004, after the FDA inspectors had concluded the Duff warehouse inspection, a conspirator directed the same Duff warehouse employee to go to the offsite location to pick up the rental truck, drive it back to the Duff warehouse, and restock the misbranded Rovicid into the warehouse for continued sale.

In violation of 18 U.S.C. § 371.

**COUNT 112**  
**CONSPIRACY TO OBSTRUCT PROCEEDINGS BEFORE THE**  
**U.S. FEDERAL TRADE COMMISSION**  
**18 U.S.C. § 371**

**A. CONSPIRACY TO OBSTRUCT AND ITS OBJECTS**

From about September 2004 and continuing until the date of this Indictment, the exact dates being unknown to the United States, defendants **STEVEN E. WARSHAK** and **PAUL J. KELLOGG** knowingly and willfully conspired and agreed together and with each other and with other persons both known and unknown to the Grand Jury, to commit an offense against the

United States, that is, to corruptly influence, obstruct, impede, and endeavor to influence, obstruct, and impede the due and proper administration of law under which a proceeding was being had before the United States Federal Trade Commission ("FTC"), an agency of the United States, that is, an investigation into false claims and advertising, unauthorized billing and shipping, and other unfair trade practices in connection with the marketing and sale of certain products by **BERKELEY**, located in the Southern District of Ohio in Cincinnati, Ohio, in that defendants **PAUL J. KELLOGG**, **STEVEN E. WARSHAK**, and other persons both known and unknown to the Grand Jury, transferred funds out of an account held by and under the ownership and control of defendant **STEVEN E. WARSHAK**, and transferred such funds into a trust fund account in the name of defendant **WARSHAK'S** spouse, purportedly established for estate planning, but in actuality for the purpose of hiding and otherwise concealing and attempting to conceal such funds from the FTC, in violation of 18 U.S.C. § 1505.

**B. OVERT ACTS**

In furtherance of such conspiracy and to effect the objects of the conspiracy, one or more of these defendants committed one or more overt acts, including, but not limited to, the following:

1. In June 2004, defendant **STEVEN E. WARSHAK** was aware that he and his companies were being investigated by the Federal Trade Commission (FTC) for fraudulent business practices. Thereafter, defendant **STEVEN E. WARSHAK**, defendant **PAUL J. KELLOGG**, and others began considering investment strategies to remove assets out of the name of Defendant **STEVEN E. WARSHAK** to protect assets from the anticipated FTC litigation and fines. Defendant **WARSHAK**, and others known and unknown to the

Grand Jury, decided that the use of trusts under the guise of estate planning would successfully hide **WARSHAK'S** money from the FTC.

2. Defendant **KELLOGG** told a conspirator that **STEVEN E. WARSHAK** was not personally named by the FTC as a liable party and that there was a "window of opportunity" in which they could get the money out of **WARSHAK'S** name and into the name of defendant **WARSHAK'S** wife.
3. On or about October 1, 2004, **STEVEN E. WARSHAK**, with the assistance of defendant **PAUL J. KELLOGG** and **WARSHAK'S** financial advisor, created a QTIP trust, account no. BJS-017671 in the name of Paul J. Kellogg TTEE, The Carri E. Warshak 2004 QTIP Trust U/A 10/1/04 ("QTIP" means qualified terminable interest property; "TTEE" means trustee; and "U/A" means under agreement). This QTIP account was funded with transfers of stocks and/or bonds valued at approximately \$13,194,878.16.
4. In addition, **WARSHAK** transferred approximately \$1,000,000.00 out of BJS-014133 and into a gift trust (account no. BJS-017680 in the name of Paul J. Kellogg TTEE, The Warshak 2004 Gift Trust U/A 10/1/04).

**In violation of 18 U.S.C. § 371.**

**FORFEITURE ALLEGATION  
SPECIFIED UNLAWFUL ACTIVITY PROCEEDS**

The Grand Jury further finds probable cause to believe that upon conviction of one or more of the offenses alleged in Count 1 (Conspiracy to Commit Mail, Wire and Bank Fraud); Counts 2 - 13 (Mail Fraud); Counts 15, 23, and 27 (Bank Fraud); and Count 29 (Access Device Fraud) of this Indictment, defendants **STEVEN E. WARSHAK, BERKELEY PREMIUM**

**NUTRACEUTICALS, INC., CHARLES W. CLARKE, JR., HARRIET WARSHAK, PAUL J. KELLOGG, and AMAR D. CHAVAN**, shall forfeit to the United States, pursuant to 18 U.S.C. § 982 or 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations, including but not limited to the following:

**1. MONEY JUDGMENT**

A sum of money equal to \$100,000,000.00 in United States currency, representing the amount of proceeds obtained as a result of the offense, 18 U.S.C. § 1349, Conspiracy to Commit Mail, Wire, and Bank Fraud; 18 U.S.C. § 1341, Mail Fraud; 18 U.S.C. § 1344, Bank Fraud; and 18 U.S.C. § 1029, Credit Card Fraud, for which the defendants are jointly and severally liable.

**2. REAL PROPERTY**

The following lots or parcels of land, as further described in EXHIBIT A, together with its buildings, appurtenances, improvements, fixtures, attachments and easements:

- a. Real property known and numbered 5130 Rollman Estates, Hamilton County, Cincinnati, Ohio 45236.
- b. Real property known and numbered 5140 Rollman Estates, Hamilton County, Cincinnati, Ohio 45236.
- c. Real property known and numbered 7027 Beech Hollow Drive, Hamilton County, Cincinnati, Ohio 45236.
- d. Real property known and numbered 5150 Rollman Estates, Hamilton County, Cincinnati, Ohio 45236.

- e. Real property known and numbered 5758 San Elijo, San Diego County, Rancho Santa Fe, California 92067.
- f. Real property known and numbered 7701 Sagamore Drive, Hamilton County, Cincinnati, Ohio 45236.

**3. CONVEYANCES**

- a. 2004 Grand Cherokee, VIN: 1J8GW68JX4C147775, State of Ohio Title No. 8300742020, in the name of Steve Warshak, with all attachments thereon.
- b. 2005 GMC Denali, VIN: 1GKFK66U14J273213, State of Ohio Title No. 310439556, in the name of Steve Warshak, with all attachments thereon.

**4. BANK ACCOUNTS**

All United States currency funds or other monetary instruments credited to the following bank accounts:

- a. Funds in the amount of \$158,204.26 seized on 1/30/06 from Fifth Third Bank Account No. [REDACTED] 7094 in the name of Hallmark Homes LLC.
- b. Funds in the amount of \$151,792.92 seized on 1/31/06 from Fifth Third Bank Account No. [REDACTED] 7094 in the name of Hallmark Homes LLC.
- c. Contents of Fifth Third Bank Account No. [REDACTED] 7122 in the name of Paul J. Kellogg.
- d. Contents of U.S. Bank Account No. [REDACTED] 1787 in the names of [REDACTED] and Paul J. Kellogg.
- e. Contents of U.S. Bank Savings Account No. [REDACTED] 3513 in the names of [REDACTED] and Paul J. Kellogg.

- f. Funds in the amount of \$327,596.76 seized on 3/16/05 from Fifth Third Bank Checking Account No. [REDACTED] 6526 in the name of TCI Media, Inc. c/o Steve Warshak.
- g. Funds in the amount of \$19,478.07 seized on 3/16/05 from U.S. Bank N.A. Checking Account No. [REDACTED] 4409 in the name of Steven Warshak.
- h. Funds in the amount of \$2,105,736.48 seized on 3/16/05 from Fifth Third Bank Checking Account No. [REDACTED] 8440 in the name of Steve Warshak or Carri Warshak MD.
- i. Funds in the amount of \$16,239.27 seized on 4/5/06 from Fifth Third Bank Account No. [REDACTED] 6494 in the name of Knothead Clothing Company.
- j. Contents of Fifth Third Bank Account No. [REDACTED] 9593 in the name of Strong Foundations Inc.

**5. INVESTMENT ACCOUNTS**

- a. Contents of ING USA Annuity & Life Insurance Company Account No. [REDACTED] 870W in the name of Harriet Warshak (approximate value \$272,900.69).
- b. Contents of Hartford Life Insurance Annuity Account No. [REDACTED] 9413 in the name of Harriet Warshak (approximate value \$256,456.11).
- c. Contents of Smith Barney Citigroup Account No. [REDACTED] 3419 in the name of Harriet Warshak TOD Steven Edward Warshak (approximate value \$474,732.76).
- d. Contents of Nationwide Life Insurance Company Annuity Account No. [REDACTED] 0961 in the of Steve E. Warshak (approximate value \$512,174.23).

- e. Contents of National Financial Services, LLC/Equity Services Incorporated  
Account No. [REDACTED] 4133 in the name of Steve E. Warshak, TOD Carri Warshak  
(approximate value \$4,130,212.88).
- f. Contents of National Financial Services, LLC/Equity Services Incorporated  
Account No. [REDACTED] 7671 in the name of Paul J. Kellogg TTEE, The Carri E.  
Warshak 2004 QTIP Trust U/A 10/1/04 (approximate value \$13,741,349.39).
- g. Contents of National Financial Services, LLC/Equity Services Incorporated  
Account No. [REDACTED] 7680 in the name of Paul J. Kellogg TTEE, The Warshak  
2004 Gift Trust U/A 10/1/04 (approximate value \$1,049,011.43).
- h. Contents of Life Insurance Company of the Southwest SPDA-5 Annuity Account  
No. [REDACTED] 676X in the name of Steve Warshak (approximate value \$244,517.80).
- i. Contents of Life Insurance Company of the Southwest Platinum Annuity Account  
No. [REDACTED] 677X in the name of Steve Warshak (approximate value \$229,727.54).
- j. Contents of Midland National Life Insurance Company Contract No. [REDACTED]  
3028 in the name of Steve Warshak (approximate value \$413,357.76).
- k. Contents of Putnam Investor Services, College Advantage Plan, Account No.  
[REDACTED] BBB3 in the name of Steve E. Warshak, [REDACTED].
- l. Contents of Putnam Investor Services, College Advantage Plan, Account No.  
[REDACTED] 5408 in the name of Steve E. Warshak, [REDACTED].
- m. Contents of Putnam Investor Services, College Advantage Plan, Account No.  
[REDACTED] 4203 in the name of Steve E. Warshak, [REDACTED].

**6. INSURANCE POLICY**

- a. Contents of First Colony Life Insurance Company (Genworth Financial) Policy No. [REDACTED]0584 in the name of the Warshak Family 2004 TST UTAD 10/01/2004, Paul J. Kellogg as Trustee (approximate value \$113,280.00).

**7. REAL ESTATE PROCEEDS**

- a. Funds in the amount of \$152,532.91 seized on 2/15/06, which represents proceeds from the sale of real property known and number as 8153 Darlene Terrace, Middletown, Ohio 45044.

**8. ACCOUNTS RECEIVABLE**

- a. All funds due to **STEVEN E. WARSHAK** and **BERKELEY** pertaining to an unsecured loan in the amount of \$189,725 to Claudia J. Eagler on or about November 16, 2004 for the purchase of real property known and numbered 7751 Sagamore Drive, Hamilton County, Cincinnati, Ohio 45236.
- b. All funds due to defendants **STEVEN E. WARSHAK**, **BERKELEY**, or **TCI MEDIA, INC.** pertaining to an unsecured loan in the amount of \$250,000.00 to Brian Giebel and Lynn Dowd on or about September 16, 2004.
- c. All funds due to defendants **STEVEN E. WARSHAK**, or **TCI MEDIA, INC.** pertaining to an unsecured loan in the amount of \$450,000 to Richard S. Golden on or about December 14, 2004.

**FORFEITURE ALLEGATION  
MONEY LAUNDERING**

1. Pursuant to 18 U.S.C. § 982(a)(1), each defendant who is convicted of one or more of the offenses set forth in Counts 30-108 shall forfeit to the United States the following property:
  - a. All right, title, and interest in any and all property involved in each offense in violation of 18 U.S.C. § 1956 or 1957, or conspiracy to commit such offense, for which the defendant is convicted, and all property traceable to such property, including the following: (1) all money or other property that was the subject of each transaction, transportation, transmission or transfer in violation of Section 1956 or 1957; (2) all commissions, fees and other property constituting proceeds obtained as a result of those violations; and (3) all property used in any manner or part to commit or to facilitate the commission of those violations.
  - b. A sum of money equal to the total amount of money involved in each offense, or conspiracy to commit such offense, for which the defendant is convicted. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount involved in such offense.

**All in accordance with 18 U.S.C. § 982(a)(1), and Rule 32.2(a), Federal Rules of Criminal Procedure.**

**SUBSTITUTE ASSETS**

If any of the above-described forfeitable property, as a result of any act or omission of the defendants: (1) cannot be located upon the exercise of due diligence; (2) has been transferred or sold to, or deposited with, a third party; (3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or (5) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above, including but not limited to the following:

**1. BANK ACCOUNTS**

- a. Contents of Fifth Third Bank Account No. [REDACTED] 6526 in the name of TCI Media, Inc.
- b. Contents of Fifth Third Bank Account No. [REDACTED] 9120 in the name of Berkeley Premium Nutraceuticals, Inc.
- c. Contents of Fifth Third Bank Account No. [REDACTED] 9358 in the name of Berkeley Healthcare, Inc.
- d. Contents of Fifth Third Bank Savings Account No. [REDACTED] 2186 in the name of Berkeley Premium Nutraceuticals, Inc.
- e. Contents of Fifth Third Bank Checking Account No. [REDACTED] 9373 in the name of Harriet Warshak.
- f. Contents of Fifth Third Bank Account No. [REDACTED] 0801 in the name of Berkeley Premium Nutraceuticals, Inc.

**2. INVESTMENT ACCOUNTS**

- a. Contents of Smith Barney CitiGroup IRA Account No. [REDACTED] 1111 in the name of Harriet Warshak, CGM IRA Custodian.

- b. Contents of Scudder Investments, mutual fund Account No. [REDACTED]6871 in the name of Harriet Warshak TR, Warshak Living Trust, U/A05/03/96.
- c. Contents of Scudder Trust Co., CUST for the IRA of Harriet Warshak, Account No. [REDACTED]1106.
- d. Contents of ING Life Insurance and Annuity Co. TRS of Berkeley Premium Nutraceuticals PS Plan Account No. [REDACTED]M593 in the name of Steve Warshak.

**3. ACCOUNTS RECEIVABLE**

- a. All funds due to **STEVEN E. WARSHAK/TCI MEDIA, INC.** pertaining to an unsecured loan in the amount of \$300,000 to As Per Usual Productions, LC/Somalab on or about September 29, 2004.
- b. Contents of Fifth Third Bank Account No. [REDACTED]9470 in the name of Fathead Inc., Attention Steve Warshak.


**4. OTHER PROPERTY**

- a. Membership at La Costa Resort and Spa purchased on January 23, 2005 for \$10,500.00.
- b. All royalties (approx. 5 %) and accounts receivable payable to **STEVEN E. WARSHAK** and entities owned by **STEVEN E. WARSHAK** from Fathead, LLC.

A TRUE BILL.

15  
GRAND JURY FOREPERSON

GREGORY G. LOCKHART  
UNITED STATES ATTORNEY

  
RALPH W. KOHNEN  
Deputy Criminal Chief