

VERIFICATION AND AUTHENTICATION

Petitioner Masoud Bamdad, M.D., makes a solemn affirmation that the statements in this foregoing Petition for habeas relief, are made from his personal firsthand actual knowledge, and are true, correct, complete, and not misleading in anyway whatsoever, under penalty of perjury under the laws of the United States (28 U.S.C. §1746).

Petitioner Bamdad also certifies under penalty of perjury that the submitted Appendices (A-B) attached to this Petition, are authenticated, true, and correct copies of the originals.

Respectfully submitted,

MASOUD BAMDAD, M.D.
47237-112
Representation Pro Se
FCI-Big Spring
1900 Simler Ave.
Big Spring, TX 79720

App. 1

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 2008 Grand Jury

| | |
|------------------------------|-------------------------------|
| UNITED STATES OF AMERICA, |) CR No. 08-505(A)-GW |
| Plaintiff, |) <u>FIRST SUPERSEDING</u> |
| v. |) <u>INDICTMENT</u> |
| MASOUD BAMDAD, |) [21 U.S.C. §§ 842(a)(1), |
| Defendant. |) (b)(1)(C): Distribution and |
| |) Dispensing of a Controlled |
| |) Substance; 21 U.S.C. |
| |) §§ 841(a)(1), (b)(1)(C): |
| |) Distribution and Dispens- |
| |) ing of a Controlled |
| |) Substance Resulting in |
| |) Death; 21 U.S.C. § 859: |
| |) Distribution of a |
| |) Controlled Substance to |
| |) Persons Under Twenty- |
| |) One Years of Age; 21 |
| |) U.S.C. § 853(a): Criminal |
| |) Forfeiture of Property; |
| |) 18 U.S.C. § 2(b): Causing |
| |) an Act to Be Done] |

(Filed Oct. 29, 2008)

App. 2

The Grand Jury charges:

COUNTS ONE through EIGHTEEN

[21 U.S.C. §§ 841(a)(1), (b)(1)(C); 18. U.S.C. § 2(b)]

On or about the following dates, in Los Angeles County, within the Central District of California, defendant MASOUD BAMDAD, then a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, knowingly and intentionally distributed and dispensed, and caused the intentional distribution and dispensing of, the following number of pills containing a detectable amount of oxycodone, a Schedule II narcotic drug controlled substance, to the following persons:

| COUNT | DATE | NUMBER OF PILLS | PERSON |
|-------|----------|-----------------|--------|
| ONE | 9-24-07 | 60 | D.L. |
| TWO | 9-25-07 | 60 | T.N. |
| THREE | 9-27-07 | 60 | UC1 |
| FOUR | 10-25-07 | 60 | UC1 |
| FIVE | 10-25-07 | 60 | UC2 |
| SIX | 11-29-07 | 60 | UC1 |
| SEVEN | 11-29-07 | 60 | UC2 |
| EIGHT | 11-29-07 | 60 | UC3 |
| NINE | 12-03-07 | 60 | S.C. |

App. 3

| | | | |
|-----------|---------|-----|------|
| TEN | 1-9-08 | 60 | UC1 |
| ELEVEN | 1-9-08 | 60 | UC2 |
| TWELVE | 1-14-08 | 60 | R.B. |
| THIRTEEN | 2-1-08 | 90 | L.N. |
| FOURTEEN | 2-2-08 | 60 | G.R. |
| FIFTEEN | 2-14-08 | 60 | C.M. |
| SIXTEEN | 3-7-08 | 90 | B.A. |
| SEVENTEEN | 4-2-08 | 60 | L.G. |
| EIGHTEEN | 4-11-08 | 100 | J.D. |

COUNT NINETEEN

[21 U.S.C. §§ 841(a)(1), (b)(1)(C); 18 U.S.C. § 2(b)]

On or about April 9, 2008, in Los Angeles County, within the Central District of California, defendant MASOUD BAMDAD, then a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, knowingly and intentionally distributed and dispensed, and caused the intentional distribution and dispensing of, approximately 60 pills, each containing a detectable amount of oxycodone, a Schedule II narcotic drug controlled substance, to A.C., whose death and serious bodily injury resulted from the use of such substance.

App. 4

COUNTS TWENTY through TWENTY-FIVE

[21 U.S.C. §§ 84.1(a)(1), (b)(1)(C);
21 U.S.C. § 859; 18 U.S.C. § 2(b)]

On or about the following dates, in Los Angeles County, within the Central District of California, defendant MASOUD BAMDAD, then at least eighteen years of age and a physician licensed to practice medicine in the State of California, while acting and intending to act outside the usual course of professional practice and without a legitimate medical purpose, knowingly and intentionally distributed and dispensed, and caused the intentional distribution and dispensing of, the following number of pills containing a detectable amount of oxycodone, a Schedule II narcotic drug controlled substance, to the following persons who were then under twenty-one years of age:

| COUNT | DATE | NUMBER OF PILLS | PERSON | AGE |
|--------------|----------|-----------------|--------|-----|
| TWENTY | 5-16-07 | 60 | J.P. | 19 |
| TWENTY-ONE | 11-27-07 | 75 | B.B. | 19 |
| TWENTY-TWO | 1-9-08 | 60 | W.C. | 18 |
| TWENTY-THREE | 1-28-08 | 60 | C.C. | 18 |
| TWENTY-FOUR | 3-7-08 | 75 | Y.A. | 19 |
| TWENTY-FIVE | 4-2-08 | 60 | M.B. | 19 |

App. 5

COUNT TWENTY-SIX

[21 U.S.C. § 853(a)]

1. The allegations contained in Counts One through Twenty-Five of this Indictment are hereby repeated, realleged and incorporated by reference herein as though fully set forth at length for the purpose of alleging criminal forfeiture pursuant to the provisions of Title 21, United States Code, Section 853. Pursuant to Rule 32.2, Fed. R. Crim. P., the United States will seek forfeiture as part of any sentence in accordance with Title 21, United States Code, Section 853 in the event of defendant BAMDAD's conviction under Counts One through Twenty-Five of this Indictment. The interests of defendant BAMDAD that shall be subject to forfeiture include the following:

- a. All right, title, and interest in –
 - i. any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of any of the offenses described in Counts One through Twenty-Five; and
 - ii. any property, real or personal, used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, any of the offenses described in Counts One through Twenty-Five;
- b. A sum of money equal to the total value of the property described in paragraph 1(a).

2. Pursuant to Title 21, United States Code, Section 853(p), defendant BAMDAD shall forfeit

App. 6

substitute property, up to the value of the total amount described in paragraph 1(a), if, as the result of any act or omission of said defendant, said property, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred, sold to or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property that cannot be divided without difficulty.

A TRUE BILL

/s/

Foreperson

THOMAS P. O'BRIEN
United States Attorney

/s/ Christine C. Ewell

CHRISTINE C. EWELL
Assistant United States Attorney
Chief, Criminal Division

RODRIGO A. CASTRO-SILVA
Assistant United States Attorney
Chief, General Crimes Section

XOCHITL D. ARTEAGA
Assistant United States Attorney
General Crimes Section

STEPHANIE S. CHRISTENSEN
Assistant United States Attorney
General Crimes Section

APPENDIX B

CHAPTER 64 DIVERSION INVESTIGATIONS

Subchapter 641 Diversion Control Program

6411 DEA OFFICE OF DIVERSION CONTROL (OD)

6411.1 GENERAL. The mission and goals of DEA as they relate to the control of legally manufactured controlled substances as defined in Chapter 50 of the DEA Diversion Investigators Manual. The DEA Office of Diversion Control (OD) is charged with managing the overall program.

6411.2 DIVERSION INVESTIGATORS (GS-1830). The 1810 Diversion investigator workforce is responsible for initiating and developing investigations of suspect registrants as directed by the Diversion Investigators Manual. During the course of these investigations it may become necessary to use traditional enforcement actions. **DEA policy prohibits Diversion Investigators from the following enforcement actions:**

- A. Undercover activities of an kind.**
- B. Executing arrest or search warrants.** The 1810 Investigator may be present after the area has been secured to identify records, documents, or drugs.
- C. Conducting surveillance, either moving or stationary.**
- D. Developing, directing, or paying informants.** this does not deny the 1810 the ability to develop or receive information from registrants or drug industry officials who wish to lend their support to investigations or to

App. 8

provide information on diversion matters. An 1810 Diversion Investigator may accompany 1811 personnel in the debriefing of informants when such debriefing takes place in secure premises, i.e., DEA office, police station, etc.

6412 ENFORCEMENT SUPPORT OF DIVERSION CONTROL

6412.1. GENERAL. In support of diversion cases, DEA Special Agents (or State or local enforcement officers) will conduct the necessary enforcement actions.

6412.2 DEA FIELD RESPONSIBILITY. The responsibility for assuring that 1811 personnel are made available to conduct enforcement actions rests with field management. This does not prelude the use of State or local officers in joint cases where appropriate.

The following procedures will be used to coordinate enforcement actions which become necessary during the course of a diversion case.

A. The SAC or RAC, satisfied that the proposed enforcement actions are necessary, and that State or local officers in joint cases are unavailable or inappropriate, is responsible for assuring that adequate resources are made available to conduct these activities within the framework of existing resources and priorities.

B. The SAC or RAC will assign an 1811 group to conduct the enforcement activity. In offices where there is more than one
