



Department of Justice

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**BERKELEY EXECUTIVES CONVICTED OF CONSPIRACY AND FRAUD IN
CONNECTION WITH SALES OF DIETARY SUPPLEMENTS**

Jury verdict includes forfeiture of more than \$33 million

CINCINNATI -- A United States District Court jury here convicted four executives of Cincinnati-based Berkeley Premium Nutraceuticals of conspiracy and fraud at the conclusion of a trial that started January 8. After conviction on the criminal charges on February 22, the jury found today that Berkeley, as well as company owner Steven E. Warshak, his mother, and TCI Media, another company owned by Warshak, should forfeit to the United States more than \$33 million in assets that were proceeds of the crimes.

Gregory G. Lockhart, United States Attorney for the Southern District of Ohio; Gerald A. O'Farrell, Assistant Inspector in Charge, United States Postal Inspection Service; Keith L. Bennett, Special Agent in Charge, Federal Bureau of Investigation, Cincinnati Field Division; Jose A. Gonzalez, Special Agent in Charge, Internal Revenue Service Criminal Investigation, and Kim Rice, Special Agent in Charge, U.S. Food and Drug Administration Office of Criminal Investigations (FDA) announced the verdict in the criminal charges returned Friday and the verdict in the forfeitures returned today at the conclusion of a trial presided over by Senior United States District Judge S. Arthur Spiegel.

The jury convicted these individuals:

STEVEN E. WARSHAK, age 42, president and owner of Berkeley, of five counts of conspiracy to commit money laundering and various types of fraud as well as conspiracy to obstruct proceedings before the U.S. Federal Trade Commission, 12 counts of mail fraud, three counts of bank fraud, and 73 counts of money laundering for a total of 93 counts.

HARRIET WARSHAK, age 75, of West Chester, the mother of Steven E. Warshak, of a total of eight counts including conspiracy, bank fraud and money laundering.

PAUL J. KELLOGG, age 41, of West Chester, of. Kellogg was Berkeley's in-house attorney. The jury convicted Kellogg of six counts of conspiracy including conspiracy to obstruct proceedings before the Food and Drug Administration and the Federal Trade Commission, and money laundering.

STEVEN P. PUGH, age 38, of West Chester, worked primarily in the warehouse as a manager at Berkeley. He was convicted of one count of conspiracy to obstruct proceedings of the Food and Drug Administration.

The jury also convicted TCI Media, Inc, another company owned by Steven Warshak, of 21 counts of money laundering, and Berkeley Premium Nutraceuticals, with a total of 15 counts including conspiracy, mail fraud and misbranding.

The jury found that the company and the individuals illegally made millions of dollars over a five-year period through a fraud scheme that sent thousands of customers dietary supplements they did not order, charged customers' credit cards without authorization, misrepresented their business activities to their customers and the merchant banks they worked with, and laundered the money through personal bank and investment accounts.

The company's scheme involved false advertising which included made-up claims about size increases, fake customer satisfaction ratings, and fictitious doctors who the ads falsely claimed collaborated for 13 years to develop Enzyte, the company's leading male enhancement product. The false ads also contained representations about money-back guarantees that the company as a matter of practice would not honor. As part of the scheme, the conspirators placed many consumers who responded to free-trial solicitations on an automatic shipment program without the customer's authorization, knowledge, or consent. Berkeley would then send the product to the consumer and bill the consumer's credit card regularly. When customers called to cancel, the conspirators employed various means to delay or hinder any returns or cancellations from occurring.

The trial included testimony from 22 customers from across the country, witnesses from the Better Business Bureau, law enforcement agencies, and copies of internal documents including emails outlining the scheme.

The jury's verdict also contains a forfeiture charge in which the jury ruled that Steve Warshak, Harriet Warshak, Berkeley Premium Nutraceuticals, and TCI Media should forfeit 32 assets worth \$33,139,000. The assets include six pieces of real estate, the contents of 22 bank and investment accounts, cars, accounts receivable, contents of an insurance policy, and other assets having a nexus to the criminal acts.

The final sentence could also include monetary judgment in excess of \$100,000,000.

A federal grand jury indicted the executives and the company on September 21, 2006.

Lockhart commended the cooperative investigation by inspectors and agents from the U.S. Postal Inspection Service, FBI, IRS, and FDA, as well as Assistant U.S. Attorneys Anne L. Porter and Karl Kadon, and Mark Josephs, Trial Attorney with the U.S. Department of Justice Office of Consumer Litigation, who prosecuted the case, and Assistant U.S. Attorneys Nettie Wiethe and Deborah Grimes who are handling the forfeiture aspects of the case.

Lockhart also acknowledged the involvement of the Federal Trade Commission in uncovering Berkeley's business practices.

Judge Spiegel will set a date for sentencing.

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