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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA . Case No. 06-CR-643 (AET)
 .
 . 402 East State Street
 v. . Trenton, New Jersey 08608
 .
 ALBERT POET, .
 Defendant. .
 . March 19, 2007
 2:16 p.m.

TRANSCRIPT OF TRIAL
BEFORE HONORABLE ANNE E. THOMPSON
UNITED STATES DISTRICT COURT JUDGE and JURY

APPEARANCES:

For the Government: Office of the U.S. Attorney
By: EUGENIA P. COWLES, AUSA
 JAMES LYNCH, AUSA
 402 East State Street
 Room 430
 Trenton, NJ 08608

For the Defendant: JEROME BALLAROTTO, ESQ.
 143 White Horse Avenue
 Trenton, NJ 08610

Cooper Levenson
By: WILLIAM J. HUGHES, JR., ESQ
 1125 Atlantic Avenue
 Atlantic City, NJ 08401

Audio Operator: Jakiba Herndon

Transcript recorded by electronic sound recording, transcript
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J&J COURT TRANSCRIBERS, INC.
268 Evergreen Avenue
Hamilton, New Jersey 08619
E-mail: jjcourt@optonline.net

(609) 586-2311 Fax No. (609) 587-3599

1 Complicated, complex language or straightforward, simple to
2 understand, obvious as to what it means?

3 You've heard ladies and gentlemen that the Botox
4 substance --

5 THE COURT: Something is wrong with the microphone
6 all of a sudden.

7 MR. LYNCH: Some unskilled lawyer might have
8 accidentally turned it off, Your Honor, for which he apologizes.
9 This product clearly was ordered by Dr. Poet. No suggestion
10 this was something accidentally done by a staff member and
11 suddenly the product comes in and say, oh, my God, look at
12 this, this is not for human consumption, how did this stuff get
13 here, ship it back, we can't give this stuff to patients. No
14 suggestion of that.

15 Ladies and gentlemen, you heard some testimony from
16 Ms. Toth about after the arrival of the product -- think about
17 this. Think about here testimony. After the arrival of the
18 product, Dr. Poet used some of it on staff members and used
19 some of it on himself. Does that strike you as reasonable
20 women and men? Does that strike you as reasonable medical
21 practice? You order a drug and before you dispense that drug
22 to your patients you use it on staff members and use it on
23 yourself? What in the world is that all about? Oh, oh, that's
24 right. This is the non-FDA approved stuff that's not for use
25 on humans. Would anybody dare suggest that the testing process

1 of this substance engaged in by Dr. Poet is near as precise,
2 near as specific, near as detailed as the FDA process of
3 testing a drug? It's outrageous, ladies and gentlemen. Think
4 about that concept. A doctor orders drugs to dispense to
5 patients and he tests those drugs on himself and on staff?
6 Does that sound like reasonable medical practice? Does that
7 sound like the way distinguished, brilliant practitioners of
8 medicine should conduct their business?

9 Mr. Lynch, why? Why in the world would this happen?
10 Why would this doctor do what he did? Well, let's talk first
11 and let's be sure and clear and positive about the fact that he
12 did what's being alleged here. We'll talk about the reasons
13 for it in a moment. Let's talk about just nailing down the
14 fact that he did what's alleged here.

15 You heard testimony in connection with this matter,
16 and there are medical records that are available for your
17 review, and the records are going to give you some information
18 as to the orders of this Tritox substance that Dr. Poet made
19 beginning in the year 2003. If you have it in front of you,
20 copies of your indictment, I would invite your attention to
21 Page 9 of the indictment, and what that does, I'll just show
22 you. If you don't have your paper with you, you might look at
23 it later in the deliberative process. It gives a list of the
24 13 orders of the Tritox TRI botulism substance, Botulism Toxin
25 Type A, Dr. Poet made, okay, beginning on December 4, 2003,

1 most reasonable patients. And from the testimony of some of
2 these patients, while in time after the fact they trust and
3 they're loyal to this doctor, it's something that might have
4 been material to them, too.

5 Remember, these patients repeatedly told you they
6 came to get rid of those wrinkles, they wanted the stuff that
7 was going to get rid of their wrinkles. Well, what do we know
8 about FDA approval? We heard from Dr. Walton that one of the
9 things the FDA looks for is not only will the drug do what we
10 ask it to do, but is the manufacturing process such that that
11 drug comes out the same way every time?

12 So, what does FDA approval do for this patient, or
13 these patients who come to Dr. Poet? It tells them that the
14 stuff about to be put into them is the stuff that fixes those
15 wrinkles. It's not something we don't have any information
16 about. It's not something from a company that hasn't been
17 inspected, a company that hasn't gone through the approval
18 process. When they get Botox, when they ask for Botox, when
19 they ask for that one FDA approved product, they're also asking
20 for the product that's been shown to work, and clearly it
21 mattered to these patients, as it would to any reasonable
22 patient that what they got worked for what they came for. They
23 wanted the drug that got rid of their wrinkles. They wanted
24 something that consistently performed. Don't be confused by
25 the language about treatments, procedures or drugs. Members of

1 the jury, Dr. Poet's patients came for Botox.

2 Now, I want to talk to you a little bit about the
3 intent in this case, about how we know that the use of this
4 drug was part of that scheme to defraud, was part of something
5 Dr. Poet was doing with an intent to defraud his patients, and
6 I think the easiest way to see that intent is to look at the
7 chronology of what happened here.

8 Members of the jury, this chart shows you the orders
9 Dr. Poet placed between October of 2003, and as we scroll down,
10 through December of 2004, or I believe even the first order in
11 January 2005. It shows what he was ordering, TRI's product or
12 Botox. Now, let's go up to the top, and I want to tell you
13 where this information comes from because it's information you
14 will have in the jury room and information you can review. The
15 orders from Botox come from Government's Exhibit 101. Those
16 are the Allergan invoices. Now, the defense attorney made
17 noises about how much Allergan product had been ordered during
18 this time. That simply depends on the time frame you look at,
19 and as we walk through this time frame together, I'll talk
20 about that with you.

21 What about the TRI orders? We seem them in
22 Government's Exhibit 3, the invoices from TRI, those invoices
23 that Special Agent Scheurer read for you in detail. We also
24 know about it from 107D, that's the stipulation the parties
25 have entered in which the parties agree that Dr. Poet did order