

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S :

United States Attorney
Attorney for Plaintiff
One Pierrepont Plaza
Brooklyn, New York 11201

BY: CHARLES KLEINBERG, ESQ., AUSA

UNITED STATES DEPARTMENT OF JUSTICE
P.O. Box 386
Washington, D.C. 20004-2505

BY: ALLISON M. HARNISCH, ESQ.

MULHOLLAND, MINION & ROE
Attorneys for Defendants
374 Hillside Avenue
Williston Park, New York 11596

BY: ROBERT A. WEIS, ESQ.

UNITED STATES FOOD AND DRUG ADMINISTRATION
5600 Fishers Lane, GCF-1
Rockville, Maryland 20854

BY: MARC L. CADEN, ESQ.

ALSO PRESENT:

Joseph Vale

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IT IS HEREBY STIPULATED AND AGREED that all objections, except as to the form of the questions, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within examination may be subscribed and sworn to before any notary public with the same force and effect as though subscribed and sworn to before this court.

I N D E X

<u>WITNESS</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
J. VALE	MS. HARNISCH	5

<u>GOVERNMENT EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>FOR IDENT.</u>
A	The Wall Street Journal Article	60
B	Christian Brothers document	78
C	Letter dated 4/10/98	95
D	Christian Brothers newsletter	96
E	Letter from the FDA dated 10/28/98	96

REQUEST FOR PRODUCTION:

Pages

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2 Whereupon

3 JASON VALE,

4 having been first duly sworn, was examined and
5 testified as follows:

6 EXAMINATION BY

7 MS. HARNISCH:

8 Q. Please state your name and address for
9 the record.

10 A. Jason Vale, 82-50 235th Street, Bellerose
11 Manor, New York 11427.

12 Q. Mr. Vale, as I said, I'm Allison
13 Harnisch. I'll be the one taking your deposition
14 today.

15 Have you ever been deposed before?

16 A. No.

17 Q. I will ask you some questions, and my
18 questions and your answers will be recorded by
19 Ms. Freyeisen, who is the court reporter at the end
20 of the table.

21 Now, you understand you need to speak up
22 and answer orally when giving your answers so
23 Ms. Freyeisen can hear you clearly. She won't be
24 able to get a nod on the record.

25 On occasion I might ask a question. If

1 J. Vale

2 you don't understand it for any reason, let me know,
3 I'll rephrase the question. And I want to make all
4 of my questions clear so you can understand it and
5 answer them.

6 Now, if you want to break at any time,
7 please let me know. After you finish your answer
8 to the question, we'll take a break. Also, if you
9 want to talk to your attorney, we'll finish the
10 answer and then you can talk to your attorney.

11 Do you understand that?

12 A. Yes.

13 Q. Have you spoken to anyone about this
14 deposition?

15 A. Yes.

16 Q. Who did you speak to?

17 A. I spoke to a few different lawyers. I
18 talked to my family. I spoke to people at my
19 church, I think.

20 Q. Did you go through any documents while
21 you were talking about the deposition and preparing
22 for it?

23 A. I never got to see those documents which
24 I wanted to see.

25 Q. Which documents?

1 J. Vale

2 A. I think those are the ones in front of
3 you. My lawyer, Mr. Dilling said there were 600
4 pages that were sent. I'd like to go through that.

5 Q. Have you gone through any documents of
6 your own to prepare for this?

7 A. I -- no, I don't believe so. In
8 reference to what, like? Documents like what?

9 MR. WEIS: Anything you reviewed to help
10 refresh your recollection of the events, anything
11 like that, that's what she's asking.

12 A. Not specifically. No, I have not.

13 Q. Are you taking any medications or drugs
14 today that might make it difficult to understand or
15 answer any of my questions?

16 A. No, I am not.

17 Q. Is there any reason you can think of why
18 you won't be able to answer my questions truthfully
19 and fully?

20 A. Fully, because I might not know the full
21 answer. Truthfully, I have to be truthful.

22 Q. How old are you, Mr. Vale?

23 A. 32.

24 Q. What level of education do you have?

25 A. I graduated Queens College with a college

1 J. Vale

2 education.

3 Q. What was your degree in?

4 A. Psychology.

5 Q. Do you have any medical training? Did
6 you go to medical school?

7 A. I didn't go to medical school, no.

8 Q. Do you have any other medical training?

9 A. That's hard to answer. Medical training
10 as in?

11 Q. Any formal classes that you've taken?

12 A. I am taking -- I don't know the semantics
13 of medical as opposed -- so I'm not sure how to
14 answer that question, but I can say I have knowledge
15 in health. I never took a formal medical course
16 offered by -- I took -- can you rephrase the
17 question so I can answer it?

18 Q. Besides your general reading, background
19 reading, have you taken any formal college course
20 dealing with biology or chemistry?

21 THE WITNESS: It's hard to answer because
22 I have a nutritional course.

23 MR. WEIS: As opposed to just reading a
24 magazine, that would seem to count.

25 A. What I just said. A nutritional, like a

1 J. Vale

2 correspondence course, but you can actually get your
3 Ph.D in it, and I'm studying it, I have not finished
4 it. I'm actually really, really at the beginning of
5 it, but I haven't finished it.

6 Q. So you're enrolled in a nutritional
7 course right now?

8 A. Nutritional health. It has big biology
9 book like you just said and a big chemistry book,
10 which is regular college chemistry, biology.

11 Q. What organization is that through?

12 A. Holistic School of Medicine.

13 Q. Do you know where they're located?

14 A. They're in Ohio. I haven't talked to
15 them in about four or five, six most months. It's
16 correspondence. They have one office here, one
17 office there.

18 Q. Besides this course, have you taken any
19 other formal courses in science outside of your
20 college education?

21 A. Outside of my college education?

22 Q. Yes.

23 A. You mean like just a school course, only
24 school, no.

25 Q. Are you married?

1 J. Vale

2 A. No.

3 Q. Where do you work?

4 A. I work -- I basically work from my house.
5 That's basically it. I visit people.

6 Q. What company do you work for?

7 A. I work for Christian Brothers.

8 Q. What's your role with Christian Brothers?

9 A. Right now with all of this, I want to
10 work with Christian Brothers, but I -- I take care
11 of -- lately I've been taking care of a lot of the
12 computer work for Christian Brothers. When someone
13 calls up and needs to talk to someone, I talk with
14 them, I share with them and I'm in charge of
15 basically in charge of the finances.

16 Q. What's your position with the company?

17 A. On paper, it's president of the company.

18 Q. Did you found the company?

19 A. I did not -- well, I found the company
20 with John DiDonna and Steve Kersch, K-E-R -- I don't
21 know how to spell his name. It's a strange
22 spelling.

23 Q. Are these two men still involved in the
24 company?

25 A. They're not involved.

1 J. Vale

2 Q. Would you say that you run the company?

3 A. Diana probably runs the company. I'm
4 saying that, you know, a very good assistant
5 normally runs the company, but I would say that -- I
6 run a certain aspect of the company. I run an
7 aspect of the company, but can you be more specific,
8 I can because it's --

9 Q. You're the president of Christian
10 Brothers?

11 A. I'm the president, yes.

12 Q. What do those duties entail being
13 president?

14 A. We never wrote it down. We have stock
15 certificates and stuff like that, but we never
16 really -- we changed it around a few times. There's
17 minutes, but we did meetings all the way in the
18 beginning.

19 MR. WEIS: Mr. Vale, try to answer the
20 question being asked of you.

21 Would you please read back the question.

22 You need to listen to the question and
23 answer just what's being asked of you. Take your
24 time.

25 (Record read.)

1 J. Vale

2 A. Financial -- actually, I'm not in charge
3 of the financing. My mother is helping with that.
4 I'm there to take phone calls right now, and I'm
5 there to answer peoples' e-mails.

6 Q. Can you tell me about Christian Brothers?

7 MR. WEIS: I'm going to object to the
8 form.

9 Q. Mr. Vale, what is Christian Brothers
10 Corporation in the business of?

11 A. Christian Brothers is in the business of
12 -- it's hard to specify, so give me a few seconds.

13 MR. WEIS: Take your time and think to
14 yourself, and then you can answer the question.

15 A. We're in the business of -- we're
16 supplying the apricot seeds and the apricot seed
17 extract, which goes under other names, and supply
18 information, a book and video which we basically are
19 stopping right now, wondering what to do. We
20 supply different herbs. Basically, we supply
21 people, people call and they ask questions, and then
22 we sometimes have to pray with them or whatever, but
23 we also -- we supply the apricot seeds and the B 17
24 vitamin.

25 Q. The apricot seeds and the B 17 that's

1 J. Vale

2 also referred to as amygdalin sometimes?

3 A. Yes.

4 Q. And laetrile also?

5 A. Laetrile is different.

6 Q. What's the difference?

7 A. I don't know the difference, but there's
8 actually, I think, a difference to the amygdalin
9 also. It's not officially called laetrile, laetrile
10 is a different chemical makeup -- not chemical, it's
11 an extract from the food, but laetrile, as far as I
12 know, I don't fully know. It's different, a little
13 different from the B 17 -- than the -- I don't know
14 -- I don't fully know the differences. I don't even
15 know if I knew at one time.

16 Q. Can you tell me all of the products that
17 you sell or at least the apricot seed and B 17
18 products that you sell?

19 A. You said you want me to tell you all the
20 products I sell and then narrowed it down to the
21 two?

22 Q. I don't need to hear the herbs. If
23 you're selling echanaeca, but if you could tell me
24 all the amygdalin-type products you're selling.

25 Do you sell apricot seeds?

1 J. Vale

2 A. We sell apricot seeds.

3 Q. Do you sell amygdalin tablets?

4 A. Yes, it's called amydalina. Yeah, we
5 sell amygdalin tablets.

6 Q. Do you sell injectable amygdalin?

7 A. We sell a liquid that people, they can --
8 I'm under the understanding that this is okay.

9 MR. WEIS: She's just asking about what
10 you sell. She might have pages and pages of
11 questions for you, but at this point, she's asking
12 what you sell.

13 Q. Anything else that falls under that
14 category?

15 A. Oh, no.

16 With the laetrile?

17 Q. Do you have any other B 17 products?

18 A. There's the tablet, and then there's what
19 you just said, which that's the main thing I'm
20 worried about because now they're telling me --
21 Mr. Dilling said it's not illegal, I'm going to stop
22 selling it, you can sell it as a nutritional adjunct
23 just like the B 12 shots. I don't know if he had an
24 agenda or what, but that's --

25 MR. WEIS: Mr. Vale, you're just being

1 J. Vale

2 asked about what you sold, that's it. It's like a
3 list of the items.

4 Is there anything else along these lines
5 of products?

6 THE WITNESS: No. If I remember
7 something, I'll tell you but that's the only form,
8 the tablet, the extract.

9 Q. Just so the record is clear, there is a
10 tablet, there is the seeds, and there is the liquid
11 that can be injected?

12 A. Yes.

13 Q. That's all of the B 17 are amygdalin or
14 laetrile-type products that you sell?

15 A. Yes.

16 Q. How long have you been selling each of
17 those products for?

18 A. I don't know the exact length of time,
19 but I can give you an estimate.

20 Q. Sure.

21 A. The seeds, probably been selling for four
22 years, maybe four-and-a-half. The B 17, probably
23 -- let me just say the extract for about a little
24 less than that, like about three quarters of a year,
25 less than that. And --

1 J. Vale

2 Q. May I interrupt you for a second.

3 When you say "the extract," you mean the
4 liquid form?

5 A. The extract, I mean the tablet. The
6 liquid form is also an extract, it's also an
7 extract, just a liquid form.

8 Q. How long have you been selling the liquid
9 form for?

10 A. Can I ask a question?

11 Q. Yes.

12 A. Under the -- do you consider it illegal
13 to sell anything that's injectable?

14 MR. KLEINBERG: We can't respond to
15 questions at a deposition. The way it works --

16 A. Like that --

17 MR. KLEINBERG: Your job is simple just
18 tell the truth, just how long --

19 THE WITNESS: My job is not simple.

20 MR. WEIS: Let me talk to Mr. Vale.

21 If you have a question, I'll talk to you
22 about it.

23 MR. CADEN: Do you want to go off the
24 record?

25 MR. WEIS: Yes, off the record. You

1 J. Vale

2 can put it on the record that I'm taking Mr. Vale
3 outside and be back in a second.

4 (A recess was taken.)

5 MR. WEIS: Was there a pending question?
6 Can we hear it back or where were we?

7 (Record read.)

8 A. I want to just say one thing, and this is
9 not what we just discussed outside --

10 MR. WEIS: Mr. Vale, we're in the middle
11 of a deposition, and your only obligation is to
12 answer the questions. And if you have something to
13 say or tell the FDA something, we can do it later
14 on, but we're in the middle of the deposition.

15 A. I'm scared about the laetrile issue or
16 what there is about the injectable.

17 MR. WEIS: Can we please go off the
18 record, if you guys don't mind.

19 (A discussion was held off the record.)

20 MR. WEIS: Back on the record.

21 Can we hear the question back officially.

22 (Record read.)

23 A. The company, Christian Brothers, has been
24 selling it for about three years.

25 Q. Mr. Vale, you mentioned before the break

1 J. Vale

2 you mentioned that you'd be willing to stop selling
3 your products; is that right?

4 A. I said -- it's so -- at this point I'm
5 like -- it's just a very difficult issue. As you
6 both know that I did myself have cancer, and I was
7 going to die. Not saying it cures cancer, I'm not
8 saying it. If it came down to it I would be willing
9 to stop selling, you know, hopefully not apricot
10 seeds but the tablets and the injectable, the
11 liquid.

12 Q. So you'd be willing to stop selling two
13 out of the three products?

14 MR. WEIS: I'm going to object, because
15 I don't know if that's appropriate, because you're
16 really not looking for any sort of factual
17 information from him. I guess you're asking him for
18 his settlement issue or perhaps his opinion on the
19 ultimate issue in the case, so I'm going to object
20 to the question as to what he would be willing to do
21 in the future.

22 MR. KLEINBERG: That's incorrect. We're
23 not asking for a settlement issue, but since this is
24 injunctionable action, we do need to know if there
25 is any likelihood whether any regulations would be

1 J. Vale

2 violated in the future, and it's perfectly
3 appropriate to ask him what his intentions are.

4 MR. WEIS: His defendants have proposed
5 and made a formal proposal which the court is aware
6 of, and you're aware of, and to ask him right now
7 about his feelings or views of future activities is
8 inappropriate.

9 MS. HARNISCH: That's fine.

10 Q. Mr. Vale, you can still answer the
11 question.

12 MR. WEIS: I have an objection, and over
13 my objection we have certain stipulations here.

14 You can answer over my objection, to the
15 extent you haven't already.

16 I think he already did.

17 Q. Mr. Vale, the way this works --

18 A. I think I already answered.

19 Q. -- your attorney can make objections and
20 he will make objections for the record, but unless
21 there's something that's privileged, you still
22 answer the questions, the questions that I pose to
23 you.

24 A. I still don't fully understand this, but
25 when he's saying no and I'm saying yes. I did

1 J. Vale

2 answer that already.

3 MR. WEIS: We're making a record to the
4 court, Mr. Vale, so if you feel that you haven't
5 answered it or counsel feels you haven't answered it
6 fully, she can state that, but I've made an
7 objection to the question. I think you've answered
8 it already, but why don't we go ahead.

9 Q. Just to clarify, you're not willing to
10 stop selling the apricot seeds?

11 MR. WEIS: Objection to the form.

12 Go ahead and answer it.

13 A. The form of the question? I didn't say
14 I'm not willing to -- I'm just saying -- what I said
15 before about the other two products, let's leave it
16 like that. Whatever happens, you know, whatever.

17 Q. I'm going to turn back to the products
18 now.

19 How much do the tablets cost you?

20 A. Tablets cost me?

21 Q. Yes.

22 A. Now, I need you to be specific because
23 the price I get them for the cost of them, the
24 shipping and so forth.

25 Q. Break it down if you have to.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

J. Vale

How much does it cost per bottle, and then if there's additional shipping and handling costs, go ahead and tell me those as well.

A. Probably cost around, with shipment and everything, the cost on the products 60, \$65. I get it a little cheaper than that, but a lot.

Q. \$65 per bottle?

A. About 60, might be a little less than that.

Q. Per bottle of tablets?

A. For a bottle of the 500 milligram. You want to know each one?

Q. Yes, go ahead.

A. The 100 milligram, I'd say around, I guess, 13, 14. It's a little cheaper. It might be more expensive with all the costs involved.

What else? Is that it? The same price with the liquid. It's the same as the 500 milligrams, about \$60.

Q. That's the cost to you and to Christian Brothers?

A. I get charged a little less than that, but about \$10 for -- a little more. Actually, I get it from them for \$45, and then --

1 J. Vale

2 MR. WEIS: She's asking about your cost
3 of these various products. Can you just tell her
4 the products and what the costs are to you.

5 Do we have a time frame? Do you want to
6 give a time frame?

7 MS. HARNISCH: This year.

8 MR. WEIS: Can you do that for her?
9 List the products that we've been talking about and
10 the costs to you.

11 A. I thought you've been kidding around.
12 This year, you mean you want a list of
13 this, another time you mean?

14 THE WITNESS: What did she say, this
15 year?

16 MR. WEIS: Why don't we say at the time
17 that the Government commenced the action, what was
18 your cost of these various products. List them and
19 give the price, that's what she's asking.

20 A. I really don't know exactly. I can't
21 even tell you. I can just tell you, like I said,
22 if it's 41 -- it's 45 and 11 and -- it's \$45 and 11
23 are the two prices.

24 Q. I may come back to this. I'm going to
25 move on right now.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

J. Vale

A. 45 is for the 500 milligram, and the liquid and 11 is for the 100 milligram.

Q. Where do you buy your B 17?

A. I was trying to add a little more onto the -- you know, okay.

MR. WEIS: Where do you buy the B 17, that's the question.

I'm going to object to the form of the question, but you can answer it, Mr. Vale.

A. I'm going to follow my lawyer's advice on that, objection to the form of it.

MR. WEIS: I stated an objection just to the form of the question.

Are you able to answer that question?

THE WITNESS: I don't know. I'm nervous to answer that because --

MR. WEIS: Do you want to assert some sort of Fifth Amendment privilege, is that what you referred to?

THE WITNESS: Yes, can I? Is that a very important question that you need?

MR. WEIS: Mr. Vale --

A. I would like to assert the Fifth Amendment unless I'm forced not to.

1 J. Vale

2 MR. WEIS: Off the record, if it's okay
3 with counsel on the other side of the table.

4 MS. HARNISCH: Yes.

5 (A recess was taken.)

6 MS. HARNISCH: Mr. Vale, are you ready
7 to proceed?

8 THE WITNESS: No.

9 MS. HARNISCH: Mr. Weis, are you ready?

10 MR. WEIS: Yes.

11 Why don't we hear the last question and
12 then Mr. Vale can proceed. Why don't we hear the
13 last question back.

14 (Record read.)

15 A. Cytopharma. I don't know the address.

16 Q. Could you spell that for the court
17 reporter.

18 A. C-Y-T-O-P-H-A-R-M-A.

19 Q. Where is Cytopharma located?

20 A. Cytopharma is located in Mexico.

21 Q. How much of the apricot seeds do you buy
22 per year from Cytopharma?

23 A. I don't buy apricot seeds from
24 Cytopharma.

25 Q. What do you buy from Cytopharma?

