

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA)	
)	
vs.)	PRESENTENCE INVESTIGATION REPORT
)	
Yong Sheng Jiao)	Docket No.: 0207 2:23CR00005-001(JS)
)	

Prepared for: The Honorable Joanna Seybert
United States District Judge

Prepared by: Gregory Giblin
United States Probation Officer
Central Islip, NY
631-712-6354

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Sentence Date: July 10, 2023 3:00 PM

Offense: **Count 1:**
Causing the Delivery of Misbranded Drugs into Interstate Commerce
21 U.S.C. §§ 331(a), 333(a)(2) and 352(a)
Not more than 3 years imprisonment/\$250,000 fine
(Class E Felony)

Arrest Date: 1/20/2023

Release Status: Released since the date of arrest on a \$50,000 unsecured bond.

Detainers: None

Other Defendants: None

Date Report Prepared: 4/26/23

Identifying Data:

Date of Birth: July 25, 1965
Age: 57
Race: Asian
Hispanic Origin: Non-Hispanic
Sex: Male

SSN#: 085-84-0004
FBI#: 740272EG3
USM#: 41098-510
State ID#: None
ICE#: A074877252
PACTS#: 8371873

Education: Master's Degree
Dependents: 3
Citizenship: United States and China
Immigration Status: Naturalized U.S. Citizen
Country of Birth: China
Place of Birth: Shanxi Province, China

Legal Address: 11 Brook Lane
 Glen Head, New York 11545

Residence Address: 11 Brook Lane
 Glen Head, New York 11545
 516-515-9785 (home)

Alias(es): “Yongsheng Jiao” and “Wilson Jiao”

Alternate IDs: None



Restrictions on Use and Redisclosure of Presentence Investigation Report. Disclosure of this presentence investigation report to the Federal Bureau of Prisons and redisclosure by the Bureau of Prisons is authorized by the United States District Court solely to assist administering the offender’s prison sentence (i.e., classification, designation, programming, sentence calculation, pre-release planning, escape apprehension, prison disturbance response, sentence commutation, or pardon) and other limited purposes, including deportation proceedings and federal investigations directly related to terrorist activities. If this presentence investigation report is redisclosed by the Federal Bureau of Prisons upon completion of its sentence administration function, the report must be returned to the Federal Bureau of Prisons or destroyed. It is the policy of the federal judiciary and the Department of Justice that further redisclosure of the presentence investigation report is prohibited without the consent of the sentencing judge.

PART A. THE OFFENSE

Charge(s) and Conviction(s)

1. On January 24, 2023, the defendant pled guilty before the Honorable Arlene R. Lindsay, U.S. Magistrate Judge, to a single-count information, which charges that between November 30, 2017, and April 30, 2020, the defendant, together with others, introduced and caused to be introduced into interstate commerce, with the intent to defraud and mislead, one or more drugs that were misbranded, specifically Dipyrone, which was misbranded in that it was mislabeled, in violation of 21 U.S.C. §§ 331(a), 333(a)(2) and 352(a).
2. The supervising Pretrial Services officer advised that the defendant has complied with all Court-ordered conditions of release.

The Offense Conduct

3. The United States Food and Drug Administration (FDA) is an agency of the United States Government responsible for the enforcement of the federal Food, Drug, and Cosmetic Act (FDCA), covered by 21 U.S.C. § 301, among other laws. The FDA's responsibilities include regulating drugs shipped, delivered, and received in interstate commerce. The FDCA prohibits the introduction or delivery for introduction into interstate commerce a drug that is misbranded, per 21 U.S.C. § 331(a). The FDCA defines "drug" to mean articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, and articles (other than food) intended to affect the structure or any function of the body of man or other animals. 21 U.S.C. § 321(g)(1). A drug is deemed to be misbranded under the FDCA if its labeling is false or misleading in any particular way. 21 U.S.C. § 352(a). FDCA defines the term labeling to mean all labels and other written, printed, or graphic matter upon any article or any of its containers or wrappers, or accompanying such article. 21 U.S.C. § 321(m).
4. The investigation into the instant offense commenced in April 2020 when the case agent received a referral from the headquarters of the FDA Office of Criminal Investigations (FDA-OCI). Specifically, FDA-OCI reported that during the latter part of March 2020, Customs and Border Protection (CBP) officials detained a drum shipped from China, which was declared as "sebacic acid." It was shipped from Changzhou An-Yuan Import & Export Corp. and addressed to Wilson Jiao, Santec Chemicals Corp., 96 Gazza Blvd., Farmingdale, NY 11735.¹ The contents of one of the 50 black plastic bottles contained in the drum was tested by CBP and confirmed as dipyrone, an unapproved drug. Additionally, FDA-OCI determined that the sender, Changzhou An-Yuan Import & Export Corp., was on record with the FDA for manufacturing violations. Specifically, the FDA issued a published "Import Alert" on August 11, 2017, due to that corporation's violations of current good manufacturing practices (cGMP).
5. FDA officials visited the defendant on August 28, 2020, and he admitted that he sold dipyrone to three businesses: Humco (a Texas company), Durbin (a Mississippi company), and API

¹ During the presentence interview, the defendant reported that his name is Yongsheng Wilson Jiao and that he often uses the name Wilson Jiao.

Solutions (an Alabama company). He did not make any incriminating statements to the FDA officials about the customs declarations reflecting the products as “sebacic acid” or that he knew dipyrone was not an FDA-approved drug. The defendant then requested counsel, and the interview was terminated.

6. Following his arrest, the defendant admitted that he had dipyrone shipped by Changzhou An-Yuan Import & Export Corp., a Chinese company owned by his wife. He further admitted that he knew the products shipped were dipyrone, and not “sebacic acid” as declared to Customs.
7. The investigation revealed that the defendant carried out the offense by ordering the unapproved dipyrone from his wife’s company in China. When speaking to law enforcement officials, he did not implicate his wife as complicit in this matter, and she has not been charged. The defendant admittedly obtained 87 kilograms of dipyrone from China to be shipped, knowing the declarations reflected “sebacic acid.” He further acknowledged knowing that the shipments were not legal and that by having the shipments declared as “sebacic acid,” the shipments would evade scrutiny by Customs officials. The investigation revealed that all invoices enclosed with each shipment of dipyrone also declared the shipped contents as “sebacic acid.” The defendant completed the sales of dipyrone to the aforementioned customers through his business, Santec Chemicals Corp.
8. The investigation revealed that the defendant made sales of dipyrone to three corporate customers during the period April 4, 2017, through May 06, 2020, and the sales totaled \$21,120.00. Each of the three corporate purchasers ordered dipyrone from the defendant via Santec Chemicas Corp., and they received exactly what they ordered. Hence, they are not considered victims in this matter and there is no loss.

Victim Impact

9. There is no identifiable victim.

Adjustment for Obstruction of Justice

10. The probation officer has no information indicating that the defendant impeded or obstructed justice.

Adjustment for Acceptance of Responsibility

11. Upon the advice of Defense Counsel, the defendant declined to discuss the instant offense during the presentence interview. The defendant pled guilty. Based on the defendant's guilty plea, which spared the Court and the Government the burden of preparing for trial, a reduction for acceptance of responsibility is warranted.

Offense Level Computation

12. The 2021 Guidelines Manual, incorporating all guideline amendments, was used to determine the defendant's offense level. USSG §1B1.11.

Count 1: Causing the Delivery of Misbranded Drugs into Interstate Commerce

13. **Base Offense Level:** The guideline for this 21 U.S.C. § 331 offense is USSG §2N2.1. Pursuant to the cross reference at USSG §2N2.1(c)(1), since the offense involved fraud (fraudulent Customs declarations), USSG §2B1.1 is used to determine the offense level. Pursuant to USSG §2B1.1(a)(2), the base offense level is 6. **6**
14. **Specific Offense Characteristics:** The Probation Department has determined that there was no loss in this case since the defendant's customers received the precise products they ordered, and there is no evidence that they suffered any financial harms. Therefore, there is no adjustment for loss at USSG §2B1.1(b)(1), and no other specific offense characteristics are applicable. **0**
15. **Victim Related Adjustment:** None. **0**
16. **Adjustment for Role in the Offense:** None. **0**
17. **Adjustment for Obstruction of Justice:** None. **0**
18. **Adjusted Offense Level (Subtotal):** **6**
19. **Chapter Four Enhancement:** None. **0**
20. **Acceptance of Responsibility:** The defendant has clearly demonstrated acceptance of responsibility for the offense. Accordingly, the offense level is decreased by two levels. USSG §3E1.1(a). **-2**
21. **Total Offense Level:** **4**

PART B. THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudication(s)

22. None.

Adult Criminal Conviction(s)

23. None.

Criminal History Computation

24. Since the defendant has no prior convictions, the total criminal history score is zero. According to the sentencing table in USSG Chapter 5, Part A, a criminal history score of zero establishes a criminal history category of I.

Other Criminal Conduct

25. The case agent informed that in 2019 and 2020, the defendant defrauded customs officials by importing products with fraudulent declarations. Specifically, the defendant imported amoxicillin (an antibiotic) and lomustine (a cancer drug), declaring these FDA-approved drug products as “sebacic acid.” Per the case agent, the defendant could have been charged with smuggling violations had Customs officials initiated an investigation.

Pending Charges

26. None.

Other Arrests

27. None.

PART C. OFFENDER CHARACTERISTICS

28. The following information was detailed by the defendant during his presentence interview, which was conducted in the presence of Defense Counsel. Unless otherwise noted, the defendant’s statements regarding his personal history were corroborated by his wife during a visit to the residence at the address of record. As of this writing, the defendant has not submitted documentation in support of the personal history information he reported.

Personal and Family Data

29. The defendant stated that he was born on July 25, 1965, in Shanxi Province, China, and is the first of two children produced by the marital union of Xianghai Jiao and Zhen Mei Wang. Immigration and Customs Enforcement (ICE) records reflect the same date of birth and country of origin the defendant reported.
30. Per the defendant, all his immediate family members were lifelong residents of China and are now deceased. The defendant’s father passed away in 2017 at age 85 due to natural causes. His mother died in 2010 at age 81 due to natural causes. The defendant’s parents’ marriage remained intact until the mother’s death. In 2008, at age 40, the defendant’s brother Yongkang Jiao succumbed to injuries he suffered in a motor vehicle accident. He is survived by his wife. The brother’s child also perished in the accident. According to the bail report, dated January 20, 2023, the defendant reported that his parents and a half-sibling were deceased and that a half-brother was living in China but did not have contact with the

defendant. During the presentence interview, the defendant averred that his only sibling is the brother who passed away in 2008.

31. The defendant and his brother were raised by both parents in a rural part of China. The father supported the family through his work as a laborer, while the mother did not hold employment. The father's income was sufficient to meet the needs of the family, but they had few comforts. In fact, the defendant recalled that the childhood home was very basic and lacked indoor plumbing. Despite those living conditions, the defendant does not believe his family experienced any significant financial hardships during his formative years. He described his parents as loving and supportive, and he was never subjected to any form of abuse during his youth. The defendant informed that he enjoyed close bonds with his parents and brother until each passed away.
32. In 1990, the defendant commenced a romantic relationship with Xiao Zhong Zhang, and the couple married in China soon thereafter. The defendant stated that he traveled to the United States in 1994 using an employment visa, and his wife initially remained in China. He explained that at that time, his employer sent him to the United States to expand the employer's reach in this country. The defendant remained in the United States and reportedly obtained permanent residency status in approximately 1998 or 1999. He stated that several years later, he became a naturalized United States citizen. Since his arrival in the United States, the defendant has lived in parts of New York City and Long Island. ICE records reflect the defendant's date of entry into the United States as December 2, 1997, and the records confirm that he is now a naturalized United States citizen.
33. The defendant's wife joined the defendant in the United States in approximately 1995, and the couple's first and only child, a healthy son named Victor Jiao, was born soon thereafter. The defendant and his wife and child lived together until approximately 2002, when the defendant and his wife separated because they were frequently arguing. The defendant's wife obtained custody of the child, and she and the defendant mutually agreed that the defendant would provide her with financial support, thereby obviating court intervention. The defendant preferred to provide no additional information about the separation during the presentence interview, though he did note that the marriage was ultimately dissolved by way of a divorce judgment filed in Queens County Supreme Court in 2008. This was verified by the Queens County Clerk's Office. The defendant maintains a cordial relationship with his former wife, approximately age 54, who lives in Queens and is believed to be unemployed. The defendant's son, age 26, is single and childless and resides in Northern California where he works as a software engineer for Google. The defendant described his son as "very independent," and the two have not maintained a close relationship in recent years.
34. In the early 2000s, the defendant met Yan Chen, a Chinese national who was living in Toronto, Canada, at that time. The defendant explained that he became acquainted with Ms. Chen through "business dealings," and the two established a romantic link some time thereafter. Over the course of several years, they maintained a romantic relationship while the defendant lived in the United States and Ms. Chen lived in Canada. Although it was not mentioned during the presentence interview, the defendant told Pretrial Services that he became a permanent resident of Canada and that while he never lived in that country, he traveled there regularly between 2004 and 2012 because Ms. Chen lived there. The defendant

informed that he and Ms. Chen married in Toronto in 2009. His wife relocated to the United States in 2012, and circa that time, they began living together at the address of record in Glen Head, New York. By that time, the couple had three young children who were born in Canada and were being raised by the defendant's wife with financial support from the defendant. The defendant's marriage remains intact, and his wife and children continue to live with him at the address of record in Glen Head. According to the defendant, his wife, age 46, has not held employment since 2021. The defendant explained that she previously worked for a business owned by the defendant that was dissolved in 2021, and she has not rejoined the workforce. As set forth herein, the instant investigation revealed that the defendant committed the instant offense by purchasing a substance from a Chinese company called Changzhou An-Yuan Import & Export Corp., which was owned by his current wife. The couple's three children are Elaine Jiao (age 17), Michael Jiao (age 15), and Eliana Jiao (age 12). All three are healthy and are students in the Jericho School District. The defendant's eldest daughter will attend college in the Fall of 2023, but final plans in that regard remain pending. The defendant's wife and children are healthy and emotionally supportive of the defendant despite his legal situation. Per the defendant, he enjoys close bonds with all of them.

35. The undersigned officer conducted a visit to the residence at the address of record, a single-story, single-family house located in an affluent residential neighborhood. A tour provided by the defendant in the presence of his wife revealed that the 4,531 square-foot house contains multiple living areas, a kitchen, a dining room, an office, four bedrooms and four bedrooms on the main level. The home's large, finished basement contains a fifth bathroom, a laundry room, a storage room, a second kitchen, and several spacious living areas. The home has an attached three-car garage, as well as a deck and an inground pool in the backyard. Overall, the residence was appropriately furnished and appeared to be well-maintained.
36. During the visit to the residence at the address of record, his wife described the defendant in most positive terms. She confirmed that he was raised in a loving and nurturing home environment in China and immigrated to the United States for employment reasons. His wife described the defendant as a hard-working and supportive husband whose primary focus is providing a safe, secure, and happy environment for her and their children. According to his wife, when the defendant is not working, he is often tending to the needs of the children, such as assisting with homework and driving the children to various school and community activities. With regard to the instant prosecution, his wife does not believe the defendant intended to break the law or harm anyone. She feels that the defendant may have been unaware of all the rules and requirements related to importing of pharmaceutical products and that this should not have resulted in a criminal prosecution. Accordingly, she is hopeful the Court will exercise leniency at sentencing.
37. If the defendant's identification documents were seized incident to his arrest, prior to or at sentencing, Defense Counsel should make an application to the Government for the return of said documents to the defendant or an appropriate designated relative.

Physical Condition

38. The defendant reported that he is healthy, takes no medications, and has no physical limitations; however, he acknowledged that he has never undergone a routine physical examination while living in the United States.

Mental and Emotional Health

39. The defendant stated that he has always enjoyed sound mental and emotional health and has never participated in any type of mental health therapy. He also averred that he has no history of gambling.

Substance Abuse

40. The defendant stated that he has never used any illicit drugs, improperly used any other controlled substances, or abused alcohol. Per the defendant, the last time he consumed an alcoholic beverage was “several years ago.”

Educational, Vocational and Special Skills

41. During his years in academia, the defendant was a strong student who had no learning problems or behavioral issues. After the defendant graduated from high school in 1981, he enrolled at Nankai University in Tianjin, China. From that institution, he earned a bachelor’s degree (1985) and a master’s degree (1988) with a focus on chemistry. He has not received any educational or vocational training in the United States.

Employment Record

42. Since 2002, the defendant has owned and operated Santec Chemicals Corp. As confirmed by an inquiry to the New York State Department of State Division of Corporations database, Santec Chemicals Corp. was filed with New York State as a domestic business corporation on June 6, 2002, with the defendant listed as the chief executive officer. The corporate address is listed as 96 Gazza Boulevard, Farmingdale, New York. The defendant described this corporation, which he operates on his own, as an importer of chemicals from overseas which the company sells to businesses in the United States. The business has a website, santecchemcorp.com, which contains the following description of the company:

Santec Chemicals is a chemical sourcing company and importer, experienced in arranging supplies per customer's specific ordering requirements for wide range of fine chemicals, food additives, dietary ingredients, bulk API's and related products.

We may supply grams to FCL's quantities for R&D, repackaging, compounding or commercial productions.

With best customer service in focus, we operate per ISO9001 / cGMP guidelines and our team works toward 100% customer satisfaction for

all products we supply. We place our future in our customers' successes!

Our efficient sourcing service will be your strong asset when coming to your demands for ever changing wide variety of chemical ingredients.

Please take a look at our product list as a reference for the kinds of products we handle.

Give us a call or send us a message for any products you may need, to find out how we can help.

For manufacturers, we also act as US agent for Food Facility Registration and Drug Site Registration, product Listing. Please refer to our fee schedule below and contact us if any specific service needed.

The defendant generally operates this business from his residence, though he does maintain an office and warehouse at 96 Gazza Boulevard in Farmingdale. He works from that location only occasionally. The defendant is the only principal of a separate corporation (“holding company”) called JC Causeway, Inc., which owns the building in Farmingdale where the Santec Chemicals Corp. is headquartered. As confirmed by an inquiry to the New York State Department of State Division of Corporations database, JC Causeway, Inc. was filed with New York State as a domestic business corporation on February 21, 2013, with the defendant listed as the chief executive officer. The corporate address is listed as 96 Gazza Boulevard, Farmingdale, New York. According to the defendant, his net income from Santec Chemicals Corp. has generally varied from \$50,000 to \$100,000 per year. The undersigned officer conducted a visit to 96 Gazza Boulevard in Farmingdale, which is a single-story commercial building. Much of the building is occupied by R & A Motors, an automotive repair shop.² The space occupied by Santec Chemicals Corp., which is accessible via the front door, includes an office area and storage areas where the products the defendant sells are stored. Although he was directed to do so, the defendant has not completed forms provided by the Probation Department to describe the financial situation of Santec Chemicals Corp. or JC Causeway, Inc.

43. The defendant informed that from 2013 to 2021, he owned and operated Santec Pharma Corp., which shared the same business model as Santec Chemicals Corp. but was focused on importing “raw materials” that were sold to pharmaceutical manufacturers located in the United States. When he operated Santec Pharma Corp., he generally worked on his own, but for some time, he had one employee. According to the defendant, he dissolved Santec Pharma Corp. due to the investigation into the instant offense. He stated that during the entirety of his ownership of this business, it generated net profits of approximately \$1 million. An inquiry to the New York State Department of State Division of Corporations database revealed no record of Santec Pharma Corp.

² According to the Coldwell Banker realty website, the rear section of 96 Gazza Boulevard (ostensibly the portion of the building currently rented to R & A Motors), is currently available for lease in the amount of \$4,000 per month.

44. From approximately 1988 to 2002, the defendant was reportedly employed full-time as a manager for FTL International, an importing/exporting business that was headquartered in China. He stated that he could not recall his income. The defendant resigned to start up his own company, Santec Chemicals Corp. His affiliation with FTL International is reflected in the Accurint database.
45. Prior to 1988, the defendant was a student. He was supported by his family, and while he attended graduate school (1985 to 1988), he received a stipend from the Chinese government to help him meet his basic living expenses.
46. According to the defendant, he has filed all personal and corporate income tax returns as required. As of this writing, he has not responded to the Probation Department's request that he submit recently filed returns.

Financial Condition: Ability to Pay

47. Since the defendant informed that a personal financial statement (and financial statements for his businesses) would be completed and submitted after the presentence interview, the defendant's financial condition was not discussed during the presentence interview. As of this writing, despite the Probation Department's requests, the defendant has not completed a personal financial statement or otherwise provided an accounting of his net worth (assets and liabilities) or an accounting of his monthly cash flow (income and expenses).
48. The defendant stated that he owns and inhabits the house at the address of record in Glen Head, New York. According to various real estate websites, the defendant's house has an estimated fair market value of between \$2.2 and \$2.4 million. It was purchased on June 28, 2012, for \$1,813,500. He and his wife are listed as co-owners. The defendant did not mention a mortgage or other encumbrance associated with that property, and there is no mortgage or other property-related loan or line of credit (past or present) listed in the defendant's Equifax credit report, which was processed on March 15, 2023. The Accurint database confirms that the defendant's business, JC Causeway, Inc., is the owner of the commercial building at 96 Gazza Boulevard in Farmingdale, New York, which was purchased on March 5, 2013, for \$535,000. The current fair market value of that commercial property is not known. The Accurint database also indicates that since September 22, 1998, the defendant has owned an attached townhouse at 68-08 174th Street in Flushing, New York. The purchase price was \$220,000. According to various real estate websites, that property has an estimated fair market value of between \$826,000 and \$900,000. The inquiry to the Accurint database revealed several motor vehicles recently registered by the defendant, including a 2013 Lexus and a 2017 Lexus..
49. With regard to liabilities, an Equifax credit history check revealed just one liability in the defendant's name: a credit card account through Citibank, which has a balance of \$4,282. The inquiry to the Accurint database revealed no additional liabilities or information bearing on the defendant's financial condition.
50. With regarding to monthly cash flow, the defendant reported that he earns \$50,000 to \$100,000 net annually (roughly \$4,166 to \$8,333 per month) through his business, Santec

Chemicals Corp. It also appears his commercial building in Farmingdale, New York, is generating rental income, but the amount is unknown. It is also unknown if the defendant's ownership of a residential property in Flushing, New York, is producing rental income. No information was provided regarding the defendant's monthly expenses.

51. The Probation Department notes that the defendant is represented by retained counsel in this matter. It is not known how the defendant is meeting that financial obligation.
52. Based on the defendant's failure to provide information regarding his financial condition during the presentence investigation, he has not demonstrated an inability to pay a fine. It is also noted that given his history of significant assets, earnings, and unknown debt, the Probation Department is unable to make an accurate determination on his ability to pay. Per USSG §5E1.2(a), the Court shall impose a fine since the defendant has not established that he is unable to pay a fine. According to Application Note 6 of the Commentary to USSG §5E1.2, "[t]he existence of income or assets that the defendant failed to disclose may justify a larger fine than that which otherwise would be warranted under this section."

PART D. SENTENCING OPTIONS

Custody

53. **Statutory Provisions:** The maximum term of imprisonment is three years. 21 U.S.C. § 333(a)(2).
54. **Guideline Provisions:** Based upon a total offense level of 4 and a criminal history category of I, the guideline imprisonment range is 0 to 6 months.

Supervised Release

55. **Statutory Provisions:** The Court may impose a term of supervised release of not more than one year. 18 U.S.C. § 3583(b)(3).
56. **Guideline Provisions:** Since the offense is a Class E Felony, the guideline range for a term of supervised release is one year. USSG §5D1.2(a)(3).

Probation

57. **Statutory Provisions:** Because Count 1 is a Class E Felony, the defendant is eligible for not less than one nor more than five years probation. 18 U.S.C. § 3561(c)(1). One of the following must be imposed as a condition of probation unless extraordinary circumstances exist: a fine, restitution, or community service. 18 U.S.C. § 3563(a)(2).
58. **Guideline Provisions:** If probation is imposed, the term shall be no more than three years if the offense level is less than 6. USSG §5B1.2(a)(2).

59. Since the applicable guideline range is in Zone A of the Sentencing Table, a condition requiring a period of community confinement, home detention, or intermittent confinement may be imposed, but is not required. USSG §5B1.1, comment. [n.1(a)].

Fines

60. **Statutory Provisions:** The maximum fine is \$250,000. 18 U.S.C. § 3571(b).
61. A special assessment of \$100 is mandatory. 18 U.S.C. § 3013.
62. **Guideline Provisions:** The fine range for this offense is from \$500 to \$9,500. USSG §5E1.2(c)(3).
63. Costs of prosecution shall be imposed on the defendant as required by statute. USSG §5E1.5. In determining whether to impose a fine and the amount of such fine, the Court shall consider, among other factors, the expected costs to the government of any term of probation, or term of imprisonment and term of supervised release imposed. USSG §5E1.2(d)(7) and 18 U.S.C. § 3572(a)(6). These costs may include drug and alcohol treatment, electronic monitoring, and/or contract confinement costs. The most recent advisory from the Administrative Office of the United States Courts, dated August 27, 2021, provides the following monthly cost data:

	<u>Bureau of Prisons Facilities</u>	<u>Community Correction Centers</u>	<u>Supervision by Probation Officer</u>
Daily	\$121.00	\$98.00	\$12.00
Monthly	\$3,688.00	\$2,980.00	\$371.00
Annually	\$44,258.00	\$35,761.00	\$4,454.00

Collateral Consequences of a Felony Conviction

64. As a result of a felony conviction, defendants face a potentially broad range of collateral consequences. Numerous federal and state laws place various restrictions on defendants, many of which attach automatically upon conviction. Some of these collateral consequences include the denial of government benefits, ineligibility for public housing, suspension of student loans, revocation or suspension of driver's licenses, and the inability to enlist in the military, or to serve on a jury or to vote. The potential collateral consequences of a felony conviction are numerous and circumstance-specific. For further guidance, please see the American Bar Association's website at www.abacollateralconsequences.org.

PART E. FACTORS THAT MAY WARRANT DEPARTURE

65. As previously noted herein, in 2019 and 2020, the defendant defrauded customs officials by importing products with fraudulent declarations. Specifically, he imported amoxicillin (an antibiotic) and lomustine (a cancer drug), declaring these FDA approved drug products as “sebacic acid.” Per the case agent, the defendant could have been charged with smuggling

violations had Customs officials initiated an investigation. Therefore, the Court may view this as the basis for an upward departure pursuant to USSG §§5K2.0 and 5K2.21.

**PART F. FACTORS THAT MAY WARRANT A SENTENCE OUTSIDE OF THE
ADVISORY GUIDELINE SYSTEM**

66. The probation officer has not identified any factors that may warrant a sentence outside of the advisory guideline system.

RESPECTFULLY SUBMITTED:

ROBERT L. CAPERS
CHIEF U.S. PROBATION OFFICER

Prepared by:

/s/ Gregory Giblin

Gregory Giblin
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Approved by:

/s/ Shayna E. Bryant

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