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Phony-pill seller wants funds back, conviction tossed

Dennis Wagner

The Arizona Republic
May. 8, 2006 12:00 AM

Michael Consoli and his associates made nearly \$78 million selling mail-order pills they claimed would enlarge men's sex organs, enhance women's breasts and even improve golf scores.

There was no scientific basis for saying the pills worked. The Scottsdale-based company, C.P. Direct, duped an estimated 450,000 buyers with fraudulent sales tactics. Some also were victimized by a credit-card billing scam.

That's what it says in Maricopa County Superior Court records, including plea agreements signed in August 2003 by Consoli and his nephew and partner, Vincent Passafiume. They admitted guilt. They told a judge they weren't coerced.

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investigators.

So, more than two years after serving his time, Consoli is asking the state Court of Appeals to overturn the convictions. He is also calling for an FBI investigation of "government corruption" and hopes to get back whatever is left of the money.

"All I wanted to do is make guys' penises 3 inches longer, and I'm the bad guy?" Consoli asks. "This is about what the state of Arizona did to us to get the money."

Across town, Assistant Attorney General Marc Knops shakes his head. He says court records clearly identify the bad guys in this tale: Consoli and Passafiume.

According to one witness, the two laughed at the gullibility of men who bought penis-enlarging pills known as Longitude and SizeMax. They acquired Paradise Valley mansions and drove exotic cars when they weren't being chauffeured around in a white limousine. They kept more than \$2.8 million in neatly stacked \$100 bills inside a bedroom safe.

And they pleaded guilty.

Knops rolls his eyes when asked about the continuing battle for money from the magic-pill business. All kinds of people put in claims on the company's assets: fraud victims, law enforcement agencies, attorneys, pill manufacturers, even a nude model from California.

"This is a once-in-a-lifetime case," Knops says. "We never see these kinds of funds. And it's kind of like rockets streaming in a lot of different ways. . . . Stay tuned for the next episode."

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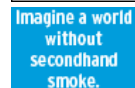
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Consoli sits at a dining room table with his 80-year-old mother, Geraldine, and Passafiume.

This is the trio's third consumer-fraud mess in a decade. After the first attorney general's investigation, in 1996, they agreed not to rip off customers. Two years later, they were fined \$100,000 and banned from doing business in Arizona.

So they moved to Las Vegas in 1998 and came up with a plan for a mass-media campaign to sell herbal pills. FatBloc supposedly was a weight reducer. Full & Firm was to enhance breasts. There was even LongJack for improved golf scores.

But the big seller was Longitude. According to court records, there was no laboratory and no scientific testing, despite claims of a three-year research project.

"I'm the guy who invented that pill," Passafiume, 32, boasts. "Before you know it, we're in *GQ Magazine* and on Howard Stern commercials."

"It's not like it was just pipe dreams," Consoli adds. "We had testimonials."

Both men acknowledged in the interview that they made a huge mistake by returning to Arizona in 2000. They said they violated court orders to be with relatives who suffered serious illnesses. Within months, C.P. Direct was doing business in Scottsdale, raking in money.

Production costs were just \$2.65 for a bottle of 60 pills of Longitude. Consumers were charged more than \$50 per container. According to court findings, some customers who wanted only a single order were placed on a monthly program and found it nearly impossible to cancel orders or get refunds.

So many complaints poured in that credit-card companies refused to do business with C.P. Direct. Consoli, desperate to continue charging pills to clients, admits he began bribing a broker who allegedly schemed to provide new credit-card services.

By late 2001, C.P. Direct was grossing up to \$8 million a month. One-quarter of that money went into advertising. A typical commercial for Longitude promised a 26 percent size increase. There was even a before-and-after photo contest, with the winner supposedly getting a Lamborghini. According to declarations in court records, the contest was rigged so Consoli's chauffeur, Thomas "Travis" McKeever, would pose as the winner.

Instead, McKeever became the state attorney general's key witness against C.P. Direct.

The informer

McKeever had gone to work for Consoli in 2001. Within a few months, the new bodyguard and driver received a Corvette, expensive musical equipment and a salary.

In December 2001, he either quit or was fired. According to Consoli, McKeever learned that C.P. Direct was operating illegally and demanded \$300,000.

McKeever, who declined to comment for this story, denied that accusation in an interview with Maricopa County sheriff's investigators. He said Consoli had threatened him and made sexual advances on a juvenile relative, so he went to authorities.

In February 2002, McKeever sent a letter to the state Attorney General's Office alleging that Consoli and Passafiume were "laundering money and (conducting) many other illegal activities."

The attorney general assigned Dan Kelly, a state Department of Public Safety financial-claims investigator, as lead agent. McKeever told Kelly about fraud at C.P. Direct and claimed he saw Consoli give large amounts of cash to a suspected mob associate in Las Vegas, according to court records. He also helped recruit two other former C.P. Direct employees as witnesses.

McKeever was given immunity.

Kelly mentioned early on that informers in racketeering cases sometimes are eligible to receive a percentage of assets seized but made no promises. The Attorney General's Office declined a request for an interview with Kelly.

In May 2002 the attorney general obtained a search warrant based largely on informer statements, and C.P. Direct was raided. Under a racketeering forfeiture law, authorities seized the company, mansions, exotic cars and other property purchased by Consoli and Passafiume.

Lawrence Warfield, a court-appointed receiver assigned to evaluate assets, sell them, pay debts and disburse leftover money, found that the company never filed income-tax returns or prepared normal accounting records. In addition, \$23 million had been moved from C.P. Direct into the personal checking accounts of Consoli and Passafiume.

Warfield recalls going to Consoli's house, where detectives seized a safe full of cash from a bedroom closet on a Friday afternoon: "I was the only guy in the world driving around in a Hyundai Accent with \$2.8 million in the back, looking for a bank to deposit it in."

Just rewards?

Prosecutors filed criminal charges. Key defendants, including Geraldine Consoli, faced 20 years or more in prison.

Lawyers at the Attorney General's Office added a civil racketeering complaint to get bank

funds, seven homes worth more than \$1 million each, and such exotic cars as a \$300,000 Ferrari.

As the case dragged on in court, McKeever began hounding Kelly for financial help. He received \$1,600 for a home-security system but no reward. Then, in early 2003, the civil and criminal complaints were settled in a single deal:

- Michael Consoli and Passafiume pleaded guilty to money laundering and fraud, with a punishment of six months in jail and five years of probation. Charges against Geraldine Consoli were dropped.
- The defendants lost all assets except \$1 million cash, a few cars and home furnishings.
- Consoli and Passafiume were banned from contradicting the plea statements and doing further business in the state.

It seemed final.

But in November 2003, Consoli sued McKeever and other government witnesses for defamation, saying they lied about fraud at C.P. Direct. That complaint was dropped after the Attorney General's Office filed court papers accusing Consoli of witness tampering.

About the same time, McKeever turned against prosecutors.

In an interview later with sheriff's deputies, McKeever explained that he had become increasingly upset because no reward money had come through. McKeever said he warned Kelly, "Hey, I could just go say to whoever . . . that you coerced me into saying certain things" about C.P. Direct.

Within days, McKeever talked to Consoli's lawyer, claiming that Kelly had pressed him to "flat-out lie" in one allegation and to have other witnesses make overblown statements about fraud at C.P. Direct.

McKeever's turnabout came just days before Consoli and Passafiume were to be sentenced. Defense attorney Ulises Ferragut asked Judge Ronald Reinstein of Maricopa County Superior Court to overturn the plea agreement and dismiss the charges. He said Kelly induced McKeever to "fabricate" allegations, and the two men engaged in a "conspiracy" to lie about C.P. Direct.

As a result, he argued, the search warrant was tainted. He also complained that prosecutors withheld exculpatory evidence, including the immunity deal and \$1,600 payment.

Based on plea papers, Reinstein rejected those arguments and sentenced both defendants to jail. But he also called for an independent investigation.

Follow the money

Maricopa County sheriff's detectives investigated and filed a 325-page report based on interviews with McKeever, Kelly and others. Their conclusion: "There is no evidence of misconduct by officer Dan Kelly."

Consoli dismisses the sheriff's finding as an example of state law enforcement agents backing one another. He says the criminal charges were false but he was forced to sign a guilty plea under the threat of prison for himself and his aging mother.

"We had no choice," he said. "If you had a gun to your head, would you agree?"

Today, a substantial chunk of the \$77.6 million is gone, spent on debts, legal fees and the receivership. Warfield is in the process of issuing about \$4 million in consumer refunds. Just last month, a Superior Court judge transferred C.P. Direct's former headquarters in Scottsdale to the Arizona Department of Public Safety. Warfield hopes to settle everything by year's end.

Under Arizona statutes, what's left of the racketeering proceeds would go to law enforcement agencies.

But Consoli has other ideas.

"I'm not letting the crumbs get away with this," he said. "They broke the law to get our assets."

Meanwhile, Passafiume was arrested and released on bond last month for probation violations, including a charge that he had resumed doing business in the state.

Reach the reporter at dennis.wagner@arizonarepublic.com or (602) 444-8874.

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Your comments

Anyone who is ignorant enough to believe that a pill will increase breast firmness or @\$%& length deserves to lose \$50!
(**mathilde4905**, May 8, 2006 08:43AM)

Agreed... People need to consult with their doctor before taking any kind supplements. (**Jay3713**, May 8, 2006 09:16AM)

If you are breking the law and get caught tooooooo bad!!!!!!!!!!!!!! People like this who prey on the nieve need to be prosecuted to the extent of the law. To come back later and cry foul after they admitted to guilt, get real. More should be done to stop flagrant fraud such as this. (**9145**, May 8, 2006 09:58AM)

This is ridiculous. Rich people live in a completely different world with different laws. Why aren't these guys sitting in a federal prison right now? Why was Passafiume just released on bond? Why are my tax dollars being spent to fund this kangaroo court? Get a real judge and a real jury in there. (**James2693**, May 8, 2006 10:10AM)

mathilde4905,
So, a guy with a 3 inch @\$%& hears an ad for a supplement that would change his life forever, sees testimonials, guarantees and supposed "long-term studies" that support this claim on the company's website, and orders the stuff. Afterwards, when it doesn't work and he tries to get a refund, there's no one answering the phone at the company's Customer Service line. Then he's charged again in a month and still no one is there to cancel this recurring charge. It's your belief that he deserves to lose his money because he's ignorant? The gurantee alone is most likely what made 90% of the victims order the stuff in the first place. I suppose you think elderly people taken advatage of by fraudulent contractors and predatory lenders deserve to lose their money as well? Let's call a spade a spade. These guys are scumbags and should be put away for good. Whether a naive person believes in the claims or not is irrelevant, because these idiots knew what they were doing and sought out to deceive people for the purpose of taking their money, period. They shouldn't have even been offered a plea bargain, after being charged three times in ten years for the same offenses. It's true, they need a real judge and jury to try these POS dirtbags.
(**9148**, May 8, 2006 10:57AM)

If people read small print they would know they were going to be charged for this on a monthly basis. Thats why the monthly charge was not an issue in the court. The only issue is that they were selling something that did not work. Like thats something new. Every infomercial in the world is like that but they don't get arrested. As long as there are idiots to buy it why not sell it. These guys just happened to try and push there luck a little too far and got busted. If I could make that much money by selling something like that I would. (**mat(mat9563)**, May 8, 2006 11:46AM)

We don't need people like these in this world. Lock them up and throw away the key. (**tony7676**, May 8, 2006 11:54AM)

Comparing these phony herbal pills to what they sell on infomercials is apples to oranges. For one, the majority of products sold on infomercials are not blatantly bogus gelatin pills with useless ingredients inside. They are, however, things that would be beneficial to someone if they used them correctly. Such as exercise equipment, acne solutions and whatever else they sell nowadays. Plus, they honor their requests for refunds. This company didn't. Also, even if the auto-billing prose was in the fine print, it didn't matter because there was no way to cancel it anyway. It was a phony company with a phony Customer Support line. They just kept charging people and the victims had to cancel all future transactions with the company through their creditors. By that time, you're out \$100 just like that.

If you would do the same thing as these guys you're just as much of a scumbag as they are. Why not start up a chimney cleaning service, go to elderly people's homes, and do nothing while collecting their life savings? It's the same thing - exploiting vulnerabilities in naive individuals for profit. If that's the way you choose to do business

then don't complain and waste taxpayers' money by tying up the legal system when you're busted.

Sure, they CHOSE to buy these things with the hope that they might work, but how many of them would have ordered this stuff if they didn't see the words "money back guarantee"? The company clearly had no intention of EVER granting any monies back to the victims of this fraud. (**9148**, May 8, 2006 12:14PM)

You should know what you are talking about before you start arguing. With infomercials there are only a few companys who will actually give money back. I worked in a call center selling stuff for almost every infomercial. 95% of infomercials that offer a 30 day money back guarentee have a similar type of scam. For one the 30 days starts the day you order it over the phone. Then it takes three weeks to deliver. 30 days after that is when people try to get their money back and guess what. They dont get it. Other informercials do honor it as 30 days from when you recieve for it. But if you call to get your money back you are givin your money back in form store credit for whatever company it was purchased through which when a customer is pissed with a company product that is the last thing they want. Some infomercials products do work but most do not. Like the phony real estate scams, weight loss pills, etc..., i am not talking about work out machines or anything like that. Plain and simple this scam is the same as any other infomercial scam. I am not saying if I got busted I would try to blame others cause I would not. But if I could find a way to make that much money for nothing you can bet your @\$%& I would do it. (**mat (mat9563)**, May 8, 2006 12:28PM)

Judges should schedule hearings for a jury and record the results. We pay entirely too much money to corrupt judges and lawyers in this state who do nothing more strenuous than cash their checks and they want to prosecute other people for racketeering, extortion, and fraud while openly engaging in the same in the court. We need public hearings to expose the corruption in our courts, and we need to hold judges and lawyers personally responsible for the consequences of their corruption and incompetence, rather than sticking the taxpayers of Maricopa county with the bill and giving themselves a fat bonus. If more money went to the fact finding necessary to ensure justice, and much less to corrupt lawyers and judges for their unjustifiable fees, then we would have a JUSTICE system, rather than the corrupt LEGAL system we currently suffer. (**Brian2173**, May 8, 2006 12:59PM)

Mat you want something for nothing because you are amoral and lazy and have the ethics every other criminal out there. These people got exactly what they deserved, and if you engage in this type of activity it will someday catch up to you too. Your attitudes are part of the problem pal. Jails are full of people who shirk their personal responsibilities and justify their actions with excuses. I'm sure you will be tempted to respond with some smart remark, but don't bother. I won't be reading anymore of these posts. I've heard all I need from you. (**tom323**, May 8, 2006 01:08PM)

mat, anyone would love to fatten their bank accounts for doing nothing, but how many of us would go to the extent of making false claims for non-existent research and victimize hundreds of thousands of people to achieve that? I know I wouldn't and it's not just out of a fear of being busted, it's a moral issue. I believe that some of these infomercial products are scams as well, and these people should be prosecuted as well. However, Don Lupree, ab-whathaveyous and the get-rich-quick guys are selling a product which, if used correctly, could generate something. So there is some value to what they sell, they're not just capsules filled with useless powder. And even if they only offer store credit and charge a re-stocking fee or whatever, at least they plan to offer something. These guys had no intention of ever refunding anyone's money, they generated a scam business and knew it wouldn't last, so they got what they could and got out, only to be prosecuted after the fact. It seems they've done it elsewhere as well, and it baffles me as to why they were permitted to open up shop in Az. again.

I agree that there are a lot of borderline scams out there and they are praying on the naive and vulnerable just as these three douchebags did. But the ones who resort to fraudulent tactics should receive the same fate as CP Direct. And if you were going to go that route I would hope you receive the same fate as well. (**9148**, May 8, 2006 01:31PM)

Wow are people not reading about growth of the human body. NOthing can make you taller, slimmer, smarter, or healthier by a pill...even

the vitamin people never should claim their pills work. Maybe the vitamins help but do not make you live until 200... People read more about the growth in the body. You stop at about 17 - 19 years old that is it folks...read more...look up things before you buy. Go to the library see more information before putting hard earned money on rip off stuff...that is all I have to say...be careful (**Mary5994**, May 8, 2006 01:39PM)

I'm so glad Mike and Vinnie got caught finally. I worked for them in 1996 when the company was "Insiders Audio" and "Insiders Computer World". I knew that they were being at least unethical when they called their customers dumb and idiots. We did mail order claiming to have the best prices guaranteed or your money back. Vinnie would brag about making up the testimonials and they would very rarely give unsatisfied customers their money back. the customers would call us very irate and we (The employees) would have to make these poor customers jump through all kinds of hoops in order to get their money back. I finally couldn't take it anymore because Vinnie seemed to deliberately want to screw over people as much as he possibly could. Vinnie was the brains behind the operation, comming up with as much as 5 schemes at a time. Mike was the manager and businessman behind the organization. He would basically go along with whatever Vinnie wanted. Mike's mother was a sweet lady and so was Vinnie's. I'm glad they didn't get in too much trouble because Vinnie was very mean to them. Vinnie should go to jail for all that he has done. He will do anything he can to screw people over. (**Howard6570**, May 8, 2006 02:19PM)

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I think Vinny Passafiume is back as "Vincent James" with 77milliondollars.com and 12-month-millionaire.com