

JUDGE BATTS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v.-

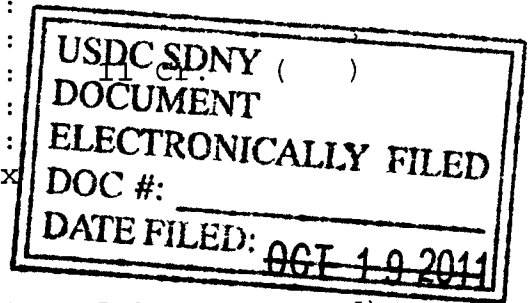
RUBIN KAYKOV and
ROMAN BORTNIK,

Defendants.
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COUNT ONE

11 CRIM 891

SEALED INDICTMENT



(Conspiracy To Commit Mail Fraud and Health Care Fraud)

The Grand Jury charges:

The Health Insurance Fraud Scheme

1. At all times relevant to this Indictment, Medicare was a federally funded program that provided health insurance to elderly individuals and persons with certain disabilities. Medicaid was a federally and state funded health insurance program that provided medical assistance to qualifying, low-income individuals. Medicare and Medicaid reimbursed, among other things, suppliers of durable medical equipment ("DME") to qualified beneficiaries. Such DME included medical equipment prescribed by health care providers that could stand repeated use for a protracted period of time and is generally not useful to a person in the absence of a medical condition or injury. Examples of DME covered by Medicare included motorized wheelchairs and powered pressure-reducing air mattresses. Examples of DME covered by Medicaid included orthopedic shoes and inserts.

2. At all times relevant to this Indictment, RUBIN KAYKOV, the defendant, owned and operated "Triangle 'R' Inc." ("Triangle R"), a DME company incorporated by KAYKOV in or about 2001 that purported to have been engaged in the business of providing DME to individuals and medical clinics. At times relevant to this Indictment, ROMAN BORTNIK, the defendant, worked for Triangle R, but also had his own purported DME wholesale company, known as "Tracey Drive Medical Supply Co." ("Tracey Drive"). The listed street address for Tracey Drive was in fact a location at which a hair salon operated, which bore no outward appearance that it was engaged in the business of DME.

3. Together, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, and their co-conspirators systematically defrauded Medicare and Medicaid of millions of dollars by billing for DME that was never actually provided to patients, or that was for more expensive DME than was in fact provided to patients. Bills were often submitted by the defendants and their co-conspirators to Medicare and Medicaid by mail, and payments were often remitted by mail.

4. As a part of the scheme, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, and their co-conspirators submitted bills to Medicare and Medicaid that were supported by fraudulent documentation, including hundreds of forged medical prescriptions for DME. Using stolen and/or counterfeit physicians'

prescription pads, the defendants and their co-conspirators forged DME prescriptions and physician signatures to support their bogus reimbursement claims. These bogus prescriptions bore physician license numbers and contained additional personal identifying information for the physicians. The defendants and their co-conspirators also, at times, forged the signatures of patients, and fraudulently altered documentation relating to those patients. Moreover, the patients to whom the DME was purportedly dispensed by KAYKOV, BORTNIK and their co-conspirators either never received the DME or received different, and far less expensive, equipment than was billed to Medicare and Medicaid.

5. As a further part of the scheme, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, and their co-conspirators prepared false documentation, including invoices, indicating that the DME distributed by Triangle R had been obtained wholesale from Tracey Drive. In truth and in fact, however, and as KAYKOV and BORTNIK well knew, Tracey Drive was not a wholesale supplier of DME to Triangle R. KAYKOV and BORTNIK used these fake invoices, and other fraudulent documentation, in further support of their fraudulent billing scheme, and to prevent Medicare and Medicaid from detecting the fraud in the event that Triangle R was asked to substantiate to Medicare and Medicaid the provenance and cost of a particular piece of fraudulently-billed DME.

Statutory Allegations

6. From at least in or about 2006, through and including in or about October 2011, in the Southern District of New York and elsewhere, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, and others known and unknown, willfully and knowingly combined, conspired, confederated and agreed together and with each other to violate Title 18, United States Code, Sections 1341 and 1347.

7. It was a part and an object of the conspiracy that RUBIN KAYKOV and ROMAN BORTNIK, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and would and did deposit and cause to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and would and did take and receive therefrom, a matter and thing, and would and did knowingly cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, a matter and

thing, in violation of Title 18, United States Code, Section 1341.

8. It was a further part and object of the conspiracy that RUBIN KAYKOV and ROMAN BORTNIK, the defendants, and others known and unknown, willfully and knowingly, would and did execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, a health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

Overt Acts

9. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about February 5, 2010, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, caused the delivery of certain DME to a beneficiary in the Bronx, New York ("W-1").

b. On or about February 5, 2010, KAYKOV and BORTNIK caused the delivery of certain DME to a beneficiary in Orange County, New York ("W-2").

c. On or about February 9, 2010, KAYKOV and BORTNIK, using a forged prescription, caused Medicare to be billed in the amount of approximately \$7,542.24 for a high-end motorized wheelchair and accessories that were never in fact delivered to W-1.

d. On or about February 19, 2010, KAYKOV and BORTNIK, using a forged prescription, caused Medicare to be billed in the amount of approximately \$7,542.24 for a high-end motorized wheelchair and accessories that were never in fact delivered to W-2.

e. In or about April 2010, a forged prescription was used to bill Medicaid for medical supplies for W-1, which supplies were never actually prescribed by a physician and which were never needed or received by W-1.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Health Care Fraud)

10. The allegations contained in Paragraphs 1 through 5 and 9 are repeated and realleged as if fully stated herein.

11. From at least in or about 2006 up to and including in or about October 2011, in the Southern District of New York and elsewhere, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, knowingly and willfully executed and attempted to execute a scheme and artifice to defraud health care benefit programs and

obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services, to wit, KAYKOV and BORTNIK billed Medicare and Medicaid for DME that was never actually provided to patients, and/or that was more expensive than the DME that was in fact provided to patients.

.(Title 18, United States Code, Sections 1347 and 2.)

COUNT THREE

(Aggravated Identity Theft)

The Grand Jury further charges:

12. The allegations contained in Paragraphs 1 through 5 and 9 are repeated and realleged as if fully stated herein.

13. From at least in or about 2006, up to and including at least in or about October 2011, in the Southern District of New York and elsewhere, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, willfully and knowingly, during and in relation to any felony violation enumerated in Title 18, United States Code, Section 1028A[©], including health care fraud and mail fraud, did transfer, possess, and use, without lawful authority, a means of identification of another person, to wit, the defendants used, without authorization, stolen prescription pads and personal identifying information of numerous medical doctors,

including their license numbers, names, and addresses, for the purpose of facilitating violations of Title 18, United States Code, Sections 1349 and 1347 as charged in Counts One and Two of this Indictment.

(Title 18, United States Code,
Sections 1028A(a)(1), (c)(4)-(5) and 2.)

Forfeiture Allegation Relating to Counts One and Two

14. As a result of committing the mail fraud and health care fraud offenses charged in Counts One and Two of this Indictment, in violation of Title 18, United States Code, Section 1349 and 1347, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, pursuant to Title 18, United States Code, Sections 981(a)(1)[©] and 982(a)(7) and Title 28, United States Code, Section 2461, shall forfeit all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offenses charged in Count One of this Indictment, including but not limited to at least \$5,500,000 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offenses.

Substitute Asset Provision

15. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the said defendants up to the value of the forfeitable property.

(Title 18, United States Code, Sections 981, 982, 1347, and 1349; Title 21, United States Code, Section 853; and Title 28, United States Code, Section 2461.)

Forfeiture Allegation Relating to Count Three

16. As a result of committing the aggravated identity theft offense alleged in Count Three of this Indictment, in violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(4)-(5) and 2, RUBIN KAYKOV and ROMAN BORTNIK, the defendants, shall forfeit to the United States, pursuant to 18 U.S.C. §

982(a)(2)(B), any property constituting or derived from proceeds obtained directly or indirectly as a result of the offense.

Substitute Asset Provision

17. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

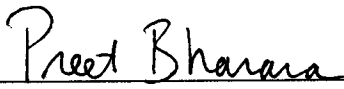
e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the said defendants up to the value of the forfeitable property.

(Title 18, United States Code, Sections 982 and 1028A; Title 21, United States Code, Section 853.)



FOREPERSON



PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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SOUTHERN DISTRICT OF NEW YORK**

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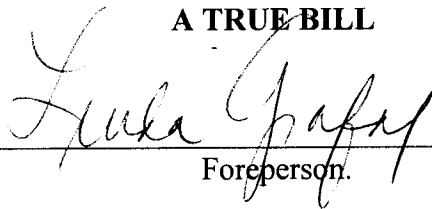
INDICTMENT

11 Cr. ()

(Title 18, United States Code, Sections 2, 1347, 1349,
1028A)

PREET BHARARA
United States Attorney.

A TRUE BILL


Foreperson.

10/19/11 Filed Indictment under seal a/w issued
Pitman, NJ

