

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

SEALED INDICTMENT

S1 12 Cr. 889

RUVIN KATZ, :

a/k/a "Rubin,"

BEN-ZION KLIOT, :

a/k/a "Beni,"

ZAHI KLIOT, :

a/k/a "Zack,"

RAFAEL DJAFAROV, :

SOL NAIMARK, :

ALEXANDRE SCHEER, :

KARLENE TULLONGE, :

a/k/a "Karen Blair,"

RENEE WYNNE, :

MICHAEL SPRUILL, :

JERRY BAPTISTE, :

BERTRAM BAPTISTE, :

STEPHANIE FOGLE, :

and

ARTHUR DAVIS, :

Defendants. :

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JUDGE COTE

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/27/12

COUNT ONE

(Conspiracy to Commit Health Care Fraud and Mail Fraud)

The Grand Jury charges:

The No-Fault Insurance Fraud Scheme

1. At all times relevant to this Indictment, vehicles registered in New York State were required to have no-fault automobile insurance, which enabled the driver and passengers of a vehicle registered and insured in New York State

to obtain benefits of up to \$50,000 per person for injuries sustained in a car accident, regardless of fault. Injured vehicle occupants could assign their right to reimbursement from an insurance company to others, including to medical clinics that provided treatment. When such an assignment was made, the medical clinics, or their agents, billed the insurance company directly for services rendered, and subsequently received payment from the insurance company. Typically, insurance companies compensated the medical practitioners at a fixed rate for various medical services to treat accident victims. Under the law, victims of automobile accidents could also seek damages exceeding \$50,000 if they could show, typically through a legal claim, that they had sustained "serious bodily injury" as a result of the accident.

2. From in or about January 2011, up to and including in or about February 2012, RUVIN KATZ, a/k/a "Rubin," BEN-ZION KLIOT, a/k/a "Beni," and ZAHI KLIOT, a/k/a "Zack," the defendants, managed a no-fault medical clinic located at 116-05 Jamaica Avenue, Richmond Hill, New York (in Queens County) known as "Gotham Medical."

3. From in or about January 2011, up to and including in or about February 2012, RAFAEL DJAFAROV, the

defendant, managed two no-fault medical clinics: (1) "Jamaica Medical," which was located at 172-17 Jamaica Avenue, Jamaica, New York (in Queens County), and (2) "Remsen Medical" or "Remsen Health Center," which was located at 377 Remsen Avenue, Brooklyn, New York (together, the "DJAFAROV Clinics").

4. While purporting to be legitimate medical care clinics specializing in the treatment of accident victims, Gotham Medical and the DJAFAROV Clinics were, in fact, medical fraud mills that routinely billed automobile insurance companies under the no-fault program for medical treatments that were (i) never provided, or (ii) unnecessary, because the person purportedly under treatment did not medically need the treatments. Gotham Medical and the DJAFAROV Clinics used and paid individuals (hereinafter referred to as "Runners") to refer "patients" who were in vehicle collisions. The Runners found patients by, among other means, paying sources inside area hospitals to provide them with patient lists.

5. Often, patients had suffered little or no injury from the collisions, yet obtained weeks or months of medically unnecessary treatments and tests at Gotham Medical and the DJAFAROV Clinics. The clinics, or their agents, then billed automobile insurance companies under the no-fault program for

these unnecessary medical treatments and tests, typically for many thousands of dollars per patient.

6. Patients were urged to report to Gotham Medical and the DJAFAROV Clinics for a certain number of treatments, and were coached on how to describe their injuries so as to maximize insurance payments and legal settlements based upon bogus claims of "serious bodily injury." Patients were motivated to participate in the scheme in return for cash payments made to them by Runners, and/or by the prospect of receiving substantial settlements through their sham bodily injury claims.

7. Through the scheme, the defendants and their co-conspirators defrauded numerous insurance companies, including companies with offices located in the Southern District of New York, in the amount of millions of dollars.

The Defendants' Roles in the Conspiracy

8. At all times relevant to this Indictment, RUVIN KATZ, a/k/a "Rubin," BEN-ZION KLIOT, a/k/a "Beni," and ZAHI KLIOT, a/k/a "Zack," the defendants, were responsible for oversight of Gotham Medical, including management and finances, and the daily operations of the Clinic. These defendants paid Runners and patients; supervised the submission of fraudulent billing to insurance companies; and coached and managed

patients.

9. At all times relevant to this Indictment, RAFAEL DJAFAROV, the defendant, was responsible for oversight of the DJAFAROV Clinics, including management and finances, and the daily operations of the Clinics. DJAFAROV paid Runners and arranged the coaching and management patients.

10. At all times relevant to this Indictment, SOL NAIMARK, the defendant, was a practicing attorney who worked at the Law Office of Naimark and Tannenbaum, which was located at 169-95 137th Avenue, Jamaica, New York (in Queens County). After patients were recruited by Runners, NAIMARK would receive the new patients in his office and then would refer them to one of the DJAFAROV Clinics or Gotham Medical, knowing that as a result of his referrals, the clinics would submit fraudulent billings to insurance companies for medically unnecessary treatment. NAIMARK paid the Runner for each patient brought to him initially, and then continued to pay the Runner based on the insurance coverage each patient had and the frequency with which they made visits to one of the clinics.

11. At all times relevant to this Indictment, KARLENE TULLONGE, a/k/a "Karen Blair," the defendant, was an employee of a hospital ("Hospital-1") in Brooklyn, New York. In exchange

for receiving fees, TULLONGE provided a Runner affiliated with NAIMARK, Gotham Medical, and the DJAFAROV Clinics, with the names and contact information of patients to recruit into the scheme, knowing that as a result of the information she provided to the Runner about patients, the Runner, NAIMARK, Gotham Medical and the DJAFAROV Clinics would submit fraudulent billings to insurance companies for medically unnecessary treatment.

12. At all times relevant to the Indictment, RENEE WYNNE, the defendant, worked at a hospital in Jamaica, New York (in Queens County) ("Hospital-2"). MICHAEL SPRUILL, the defendant, served as a liaison between WYNNE and a Runner affiliated with SOL NAIMARK, the defendant, Gotham Medical, and the DJAFAROV Clinics. SPRUILL and WYNNE provided the Runner with the names and contact information of patients to recruit into the scheme, knowing that as a result of the information they provided to the Runner about patients, the Runner, NAIMARK, Gotham Medical and the DJAFAROV Clinics would submit fraudulent billings to insurance companies for medically unnecessary treatment.

13. At all times relevant to the Indictment, ALEXANDRE SCHEER, the defendant, was a neurological surgeon who

purported to own and work at Gotham Medical. SCHEER intentionally subjected patients to unnecessary medical examinations and treatments to increase the fraudulent billings, and thereby the profits, for the scheme. The testing and treatments were not necessary to diagnose or treat any medical problems, but were done in order to support fraudulent billings to carriers of no-fault insurance policies. SCHEER also processed and submitted to insurance companies bills that he knew to be fraudulent.

14. At all times relevant to the Indictment, JERRY BAPTISTE, BERTRAM BAPTISTE, STEPHANIE FOGLE, and ARTHUR DAVIS, the defendants, were among the patients of Gotham Medical and the DJAFAROV Clinics who received unnecessary medical treatment for their purported injuries, and who facilitated the submission of fraudulent billing to insurance companies. These patients received payment from Runners in exchange for their continued visits to the Clinic.

Statutory Allegations

15. From at least in or about January 2011 up to and including in or about February 2012, in the Southern District of New York and elsewhere, RUVIN KATZ, a/k/a "Rubin," BEN-ZION KLIOT, a/k/a "Beni," ZAHY KLIOT, a/k/a "Zack," RAFAEL DJAFAROV,

SOL NAIMARK, ALEXANDRE SCHEER, KARLENE TULLONGE, a/k/a "Karen Blair," RENEE WYNNE, MICHAEL SPRUILL, JERRY BAPTISTE, BERTRAM BAPTISTE, STEPHANIE FOGLE, and ARTHUR DAVIS, 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, Section 1347.

16. It was a part and object of the conspiracy that RUVIN KATZ, a/k/a "Rubin," BEN-ZION KLIOT, a/k/a "Beni," ZAHI KLIOT, a/k/a "Zack," RAFAEL DJAFAROV, SOL NAIMARK, ALEXANDRE SCHEER, KARLENE TULLONGE, a/k/a "Karen Blair," RENEE WYNNE, MICHAEL SPRUILL, JERRY BAPTISTE, BERTRAM BAPTISTE, STEPHANIE FOGLE, and ARTHUR DAVIS, 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.

17. It was further a part and object of the

conspiracy that RUVIN KATZ, a/k/a "Rubin," BEN-ZION KLIOT, a/k/a "Beni," ZAHI KLIOT, a/k/a "Zack," RAFAEL DJAFAROV, SOL NAIMARK, ALEXANDRE SCHEER, KARLENE TULLONGE, a/k/a "Karen Blair," RENEE WYNNE, MICHAEL SPRUILL, JERRY BAPTISTE, BERTRAM BAPTISTE, STEPHANIE FOGLE, and ARTHUR DAVIS, 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.

Overt Acts

18. 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 December 16, 2011, BERTRAM BAPTISTE and JERRY BAPTISTE, the defendants, met with a Runner in a car outside of Gotham Medical in Queens, New York. During that meeting, JERRY BAPTISTE accepted \$500 from a Runner.

b. On December 30, 2011, STEPHANIE FOGEL and ARTHUR DAVIS, the defendants, met with a Runner in a car outside of Gotham Medical in Queens, New York. During that meeting, FOGEL and DAVIS each accepted payments of \$500.

c. On October 28, 2011, RAFAEL DJAFAROV, the defendant, paid a Runner \$2,500 in Queens, New York.

d. On December 2, 2011, SOL NAIMARK, the defendant, wrote a Runner a check for \$2,000 in Queens, New York.

e. On January 13, 2012, RUVIN KATZ, a/k/a "Rubin," and ZAHI KLIOT, a/k/a "Zack," the defendants, paid a Runner \$1,000 as partial payment in Queens, New York.

f. On February 6, 2012, BEN-ZION KLIOT, a/k/a

"Beni," the defendants, contacted a Runner and discussed providing a lawyer for a patient the Runner had recruited in Queens, New York.

g. On February 20, 2012, MICHAEL SPRUILL, the defendant, sent a text message to a Runner.

h. At numerous points between 2011 and 2012, ALEXANDER SCHEER, the defendant, billed insurance companies with offices located in the borough of Manhattan for medically unnecessary treatments.

i. At numerous points between 2011 and 2012, a Runner affiliated with NAIMARK, the DJAFAROV CLINICS, and Gotham Medical, made payments to KARLENE TULLONGE, a/k/a "Karen Blair," and RENEE WYNNE, the defendants, at bank branches located in the borough of Manhattan.

Forfeiture Allegation

19. As a result of committing the health care and mail fraud conspiracy offense charged in Count One of this Indictment, in violation of Title 18, United States Code, Section 1349, RUVIN KATZ, a/k/a "Rubin," BEN-ZION KLIOT, a/k/a "Beni," ZAHI KLIOT, a/k/a "Zack," RAFAEL DJAFAROV, SOL NAIMARK, ALEXANDRE SCHEER, KARLENE TULLONGE, a/k/a "Karen Blair," RENEE WYNNE, MICHAEL SPRUILL, JERRY BAPTISTE, BERTRAM BAPTISTE,

STEPHANIE FOGLE, and ARTHUR DAVIS, the defendants, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) 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 \$3,800,000 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the offense.

20. 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;

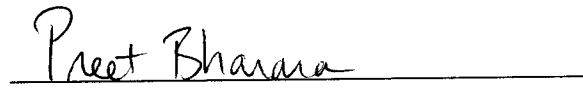
it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the said defendants up to the value of the forfeitable property.

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



FOREPERSON

11-27-12



PREET BHARARA

United States Attorney

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KLIOT, a/k/a "Beni," ZAHY KLIOT,
a/k/a "Zack," RAFAEL DJAFAROV, SOL
NAIMARK, ALEXANDRE SCHEER, KARLENE
TULLONGE, a/k/a "Karen Blair,"
RENEE WYNNE, MICHAEL SPRUILL, JERRY
BAPTISTE, BERTRAM BAPTISTE,
STEPHANIE FOGLE, and ARTHUR DAVIS,

Defendants.

INDICTMENT

12 Cr.

(18 U.S.C. §§ 1049)

PREET BHARARA

United States Attorney.

A TRUE BILL

 11-27-12
Foreperson.

11/27/12 FILED SEALED INDICTMENT AARUS LAMONT ISSUED
COTT, USA