

AHM/MMH JUL 2004  
FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

UNITED STATES OF AMERICA, )  
 )  
v. )  
 )  
ROBERT E. THOMSON and )  
JAMES C. REILLY )

Case No. \_\_\_\_\_  
CR-04-J-0240-5

INDICTMENT

The Grand Jury charges:

INTRODUCTION

That at all times material to this Indictment:

1. HealthSouth Corporation ("HealthSouth") was a publicly traded corporation organized under the laws of the State of Delaware with its headquarters in Birmingham, Alabama. HealthSouth claimed to be the nation's largest provider of outpatient surgery, diagnostic imaging and rehabilitative healthcare services with approximately 1,800 locations in all 50 states, Puerto Rico, the United Kingdom, Australia, and Canada. HealthSouth was an "issuer" within the meaning of the Securities Exchange Act of 1934, and, as such, was subject to the accounting provisions of the Foreign Corrupt Practices Act of 1977, Title 15, United States Code, Section 78m(b)(2), *et seq.*
2. Defendant ROBERT E. THOMSON was the President and Chief Operating Officer of HealthSouth's In Patient Division from in or about 1996 until in or about August 2001.

3. Defendant JAMES C. REILLY was an attorney licensed to practice law in the state of Alabama. Defendant REILLY was employed as HealthSouth's Vice President of Legal Services from in or about March 1997 until in or about November 2001.

4. The "Saudi Foundation" was a private, not for profit organization funded by members of the Saudi Royal Family. The Saudi Foundation's "Director General" was a Saudi national who exercised administrative control over certain of the Saudi Foundation's administrative activities, including the negotiation and execution of certain contracts.

5. The "Australian Entity" was a HealthSouth-affiliated entity formed in or about July 2000.

#### The Saudi Contract

6. In or about 1998, the Saudi Foundation began construction of a 450-bed rehabilitation hospital in Saudi Arabia ("the Saudi Hospital").

7. In or around January 2000, HealthSouth and the Saudi Foundation began negotiating an agreement under which HealthSouth was to provide staffing and management services for the Saudi Hospital. The proposed contract ("the Saudi Contract") called for the Saudi Foundation to pay HealthSouth \$10,000,000 annually over a five-year term.

8. The Saudi Foundation's Director General acted as the lead negotiator for the Saudi Foundation. Defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, negotiated on behalf of HealthSouth.

9. On or around June 1, 2000, the Saudi Foundation's Director General requested a payment of \$1,000,000 from HealthSouth as a "finder's fee." Defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, sought advice from an attorney outside HealthSouth ("the Outside Attorney") concerning the legality of making such a payment. On or about June 12,

2000, the Outside Attorney advised defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, that the payment could only be made with the written approval of the Saudi Foundation.

10. Defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, subsequently requested the Outside Attorney's advice about the propriety of paying the Saudi Foundation's Director General through a consulting contract with a HealthSouth-affiliated entity. The Outside Attorney advised the defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, that any such contract had to require the Saudi Foundation's Director General to provide real services in return, that the market value of those services should equate to the amount the Saudi Foundation's Director General was paid, and that HealthSouth could not make any "backdoor" payment or provide any reimbursement to the HealthSouth-affiliated entity to fund such a consulting contract or to compensate the HealthSouth-affiliated entity for its execution of a contract with the Saudi Foundation's Director General.

11. On or about July 17, 2000, defendant ROBERT E. THOMSON signed the Saudi Contract on behalf of HealthSouth. The Saudi Foundation's Director General countersigned the Saudi Contract on or about August 12, 2000. The Saudi Contract called for HealthSouth to receive a \$6,000,000 payment from the Saudi Foundation each January, with the remaining \$4,000,000 to be paid at a later point during each of the succeeding five years.

**COUNT ONE**  
**Conspiracy**  
**Title 18, United States Code, Section 371**

1. The Grand Jury realleges and incorporates by reference the allegations contained in paragraph 1 through 11 of the Introduction of this Indictment as though fully set out herein, and further charges:

**THE CONSPIRACY AND ITS OBJECTS**

2. From in or about June 2000 and continuing to sometime after June 2003, within Jefferson County in the Northern District of Alabama, and elsewhere, the defendants

**ROBERT E. THOMSON and  
JAMES C. REILLY**

did knowingly and willfully combine, conspire, confederate, and agree with each other and with other persons and entities known and unknown to the Grand Jury, to commit the following offenses against the United States, that is to:

(a) travel and cause travel in interstate and foreign commerce and use and cause to be used the mail and any facility in interstate and foreign commerce with intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment and carrying on, of any unlawful activity, to wit, bribery in violation of Section 13A-11-120 of the Alabama Criminal Code; and thereafter to perform and attempt to perform and cause the performance and attempted performance of an act to promote, manage, establish, and carry on, and to facilitate the promotion, management, establishment and carrying on of said unlawful activity, in violation of Title 18, United States Code, Sections 1952(a)(3) and 2; and

(b) knowingly and willfully cause HealthSouth to fail to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and

dispositions of HealthSouth's assets, in violation of the Foreign Corrupt Practices Act of 1977, Title 15, United States Code, Section 78m(b)(2) and Title 18, United States Code, Section 2.

**PURPOSE OF THE CONSPIRACY**

3. The purpose of the conspiracy was for the defendants ROBERT E. THOMSON and JAMES C. REILLY to secure a contract for HealthSouth with the Saudi Foundation by agreeing to pay and causing be paid a bribe to the Saudi Foundation's Director General, and to cause HealthSouth's books, records, and accounts to fraudulently and falsely reflect that the bribe payment was made for legitimate purposes by concealing the relationship between the bribe payment and the Saudi Contract.

**MANNER AND MEANS OF THE CONSPIRACY**

The manner and means by which defendants ROBERT E. THOMSON and JAMES C. REILLY and their co-conspirators would and did seek to accomplish the purposes of the conspiracy included, but were not limited to, the following:

4. It was part of the conspiracy that the defendants and others would and did agree to pay money to the Saudi Foundation's Director General in order to induce him to execute the Saudi contract on behalf of the Saudi Foundation.

5. It was further part of the conspiracy that the defendants and others would and did cause HealthSouth to enter into the Saudi Contract.

6. It was further part of the conspiracy that the defendants and others would and did cause a sham "consulting contract" to be executed between the Saudi Foundation's Director General and the Australian Entity in order to secretly finance the payment of money promised to the Saudi Foundation's Director General.

7. It was further part of the conspiracy that the defendants and others would and did cause payments to be made pursuant to the sham "consulting contract" in December 2000, January 2002, and February 2003.

8. It was further part of the conspiracy that the defendants and others would and did use the Australian Entity and other entities to serve as intermediaries to facilitate payments to the Saudi Foundation's Director General.

9. It was further part of the conspiracy that the defendants and others would and did cause HealthSouth funds to be used to transfer money through various intermediaries and by various methods to pay the Saudi Foundation's Director General as provided in the sham "consulting contract."

10. It was further part of the conspiracy that the defendants and others would and did cause the payments made to the Saudi Foundation's Director General to be recorded on HealthSouth's books, records, and accounts as legitimate disbursements without revealing the true purpose of the payments and the relationship of the payments to the Saudi Contract.

#### **OVERT ACTS**

In furtherance of the conspiracy and to effect the objects of the conspiracy, the following overt acts, among others, were committed in the Northern District of Alabama and elsewhere:

11. In or about June 2000, defendant ROBERT E. THOMSON directed others to notify the Saudi Foundation's Director General that HealthSouth would pay him a bribe.

12. In or about July 2000, defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, agreed to pay a bribe of \$500,000 per year to the Saudi Foundation's Director General by

transferring funds from HealthSouth to the Saudi Foundation's Director General through the Australian Entity.

13. In or about July 2000, defendant ROBERT E. THOMSON and others informed the Chief Operating Officer of the Australian Entity that she would be required to sign a consulting contract to be executed between the Australian Entity and the Saudi Foundation's Director General.

14. On or about September 20, 2000, defendant JAMES C. REILLY prepared an initial draft of a sham "consulting contract" between the Australian Entity and the Saudi Foundation's Director General.

15. On or about September 22, 2000, defendant JAMES C. REILLY caused alterations to be made to the draft of the sham "consulting contract," including a change requiring that the Saudi Foundation's Director General be paid in advance of any services rendered.

16. On or about September 27, 2000, defendant JAMES C. REILLY communicated with the Chief Operating Officer of the Australian Entity concerning the sham "consulting contract."

17. On or about September 27, 2000, defendant JAMES C. REILLY transmitted by wire a revised draft of the sham "consulting contract" to an attorney for the Australian Entity.

18. On or about October 2, 2000, defendant JAMES C. REILLY caused a copy of the final, partially executed sham "consulting contract," under which the Saudi Foundation's Director General was to be paid \$500,000 per year, to be circulated to defendant ROBERT E. THOMSON, and others, and caused a copy to be placed in HealthSouth's files.

19. In or about December 2000, defendant ROBERT E. THOMSON directed others to request that the Saudi Foundation's Director General cause the Saudi Foundation to make a

\$6,000,000 payment to HealthSouth in advance of the date such payment was due under the terms of the Saudi Contract, in return for a promise that HealthSouth pay the Saudi Foundation's Director General the first payment under the sham "consulting contract" before it was due.

20. On or about December 20, 2000, after the Saudi Foundation's Director General caused the Saudi Foundation to pay \$6,000,000 to HealthSouth before that payment was due under the Saudi Contract, defendant ROBERT E. THOMSON caused HealthSouth to wire funds to the Australian Entity in order to fund the first payment to the Saudi Foundation's Director General under the sham "consulting contract" in the amount of \$500,000.

21. In or about May 2001, defendant ROBERT E. THOMSON and others instructed the Chief Operating Officer of the Australian Entity not to contact the Saudi Foundation's Director General concerning his lack of performance under the sham "consulting contract."

22. On or about January 9, 2002, pursuant to the sham "consulting contract," defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, caused HealthSouth to wire funds to an intermediary in order to fund the second payment of \$500,000 to the Saudi Foundation's Director General.

23. On or about February 24, 2003, pursuant to the sham "consulting contract," defendants ROBERT E. THOMSON and JAMES C. REILLY, and others, caused HealthSouth to wire funds to an intermediary in order to fund the third payment of approximately \$525,915.26 to the Saudi Foundation's Director General.

All in violation of Title 18, United States Code, Section 371 and Title 18, United States Code, Section 2.

**COUNT 2**  
**Travel Act**  
**Title 18, United States Code, Section 1952**

1. The Grand Jury repeats and re-alleges the allegations contained in paragraphs 1 through 11 of the Introduction to this Indictment as though fully set out herein.
2. On or about September 27, 2000, within Jefferson County in the Northern District of Alabama, and elsewhere, the defendants

**ROBERT E. THOMSON and**  
**JAMES C. REILLY**

did use and cause to be used a facility in interstate and foreign commerce to wit: a wire transmission from Birmingham, Alabama to Melbourne, Australia transmitting a draft of the sham "consulting contract" with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment and carrying on of an unlawful activity, to wit: bribery in violation of § 13A-11-120 of the Alabama Criminal Code; and thereafter did perform and attempt to perform and cause the performance and attempted performance of an act to promote, manage, establish, and carry on, and to facilitate the promotion, management, establishment and carrying on of said unlawful activity.

All in violation of Title 18, United States Code, Section 1952 and Title 18, United States Code, Section 2.

**COUNTS 3 and 4**  
**Books, Records, and Accounts Violations**  
**Title 15, United States Code, Sections 78m(b)(2)**

1. The Grand Jury repeats and re-alleges the allegations contained in paragraphs 1 through 11 of the Introduction to this Indictment as though fully set out herein.
2. On or about the dates set forth below for each of Counts 3 and 4, within Jefferson County in the Northern District of Alabama, and elsewhere, the defendants,

**ROBERT E. THOMSON and**  
**JAMES C. REILLY,**

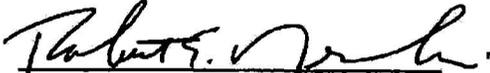
then officers, agents and employees of HealthSouth Corporation, an issuer of a class of securities registered under Section 78f of the Securities Exchange Act of 1934, knowingly and willfully caused HealthSouth to fail to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of HealthSouth's assets, to wit: the defendants THOMSON and REILLY caused false entries to be reflected on the books and records of HealthSouth, as described below for each such count.

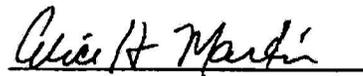
3. The allegations of paragraphs 1 through 2 above are re-alleged for each of Counts 3 and 4 below as though fully set out therein.

<b>Count</b>	<b>Date</b>	<b>Nature of the false and fraudulent entry</b>
3	12/20/00	A wire transfer request form for a \$500,000 disbursement to the Australian Entity for "consulting services" concealed that the money was intended to fund the first payment to the Saudi Foundation's Director General.
4	1/31/01	A journal entry recording a \$500,000 disbursement to the Australian Entity for professional fees concealed that the money was intended to fund the first payment to the Saudi Foundation's Director General.

All in violation of Title 15, United States Code, Section 78m(b)(2) and Title 18, United States Code, Section 2.

A TRUE BILL

  
FOREPERSON OF THE GRAND JURY

  
ALICE H. MARTIN  
United States Attorney  
Northern District of Alabama

JOSHUA R. HOCHBERG  
Chief, Fraud Section  
Criminal Division  
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