

FILED _____ ENTERED _____
LODGED _____ RECEIVED _____

JUL 29 2002

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON



CR 02-255 #1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v

DONAVON C CLAFLIN,

Defendant.

NO.

CR02-255R

INFORMATION

(Felony)

~~FILED UNDER SEAL~~

THE UNITED STATES ATTORNEY CHARGES THAT:

COUNT 1
(Conspiracy)

From in or about 1995, and continuing thereafter until a time unknown but at least until in or about October 2001, at Seattle, Bellevue, and Bainbridge Island, within the Western District of Washington, and elsewhere, the defendant, DONAVON C. CLAFLIN, together with other persons known and unknown to the United States Attorney, did unlawfully, willfully, and knowingly combine, conspire, confederate and agree among themselves and each other to commit certain offenses against the United States, as follows.

A. INTRODUCTION

1. Health Maintenance Centers, Inc., ("HMC") was incorporated in Washington State on May 12, 1995, and was administratively dissolved and reinstated at various times throughout the period from on or about December 6, 1995, through on or about October 30, 2000. Defendant DONAVON C. CLAFLIN was employed by HMC

1 beginning in 1995 and from at least as early as 1997 was HMC's treasurer and the
2 authorized signer for most of the bank accounts maintained by HMC. The Articles of
3 Incorporation for HMC provided that the corporate purposes of HMC were "[t]o operate
4 health and exercise clubs, and related facilities" and "[t]o engage in any business, trade or
5 activity which may be conducted lawfully by a corporation organized under the
6 Washington State Business Corporation Act." The Articles of Incorporation for HMC
7 also provided that "[t]his corporation is authorized to issue 10,000 shares of common
8 stock and each share shall have a par value of \$1.00." On February 5, 1997, HMC filed
9 Articles of Amendment that provided, among other things, that "[t]his corporation is
10 authorized to issue 15,000,000 shares of common stock and each share shall have a par
11 value of \$1.00." On or about December 26, 2001, HMC ceased to exist as a Washington
12 State corporation and merged with a Delaware corporation known as HMC Acquisition
13 Corp , a wholly-owned subsidiary of Znetix, Inc. Also on or about December 26, 2001,
14 HMC Acquisition Corp. changed its name to Health Maintenance Centers, Inc.

15 2. Project X, Inc , was incorporated in the State of Washington on
16 November 3, 1999. On October 3, 2000, Project X filed Articles of Amendment with the
17 Washington State Secretary of State changing its name to Znetix, Inc On or about
18 September 25, 2001, Znetix, Inc , ceased to exist as a Washington State corporation and
19 merged with a Delaware corporation known as Znetix, Inc.

20 3. From in or about 1995 through a time unknown but at least until in or about
21 October 2001, HMC, Project X, and Znetix, and affiliated entities, through various sales
22 agents and at the direction and with the participation of persons known and unknown to
23 the United States Attorney, including defendant DONAVON C. CLAFLIN, solicited and
24 received in excess of \$50 million from investors. At no time were the offers and sales of
25 securities issued by HMC, Project X, Znetix, and affiliated entities registered with the
26 United States Securities and Exchange Commission, the State of Washington Department
27 of Financial Institutions, Securities Division, or with the securities regulatory authorities
28 in any other state

1 4. On or about April 9, 2001, the State of Washington Department of Financial
2 Institutions, Securities Division, issued a Summary Order to Cease and Desist against
3 HMC and an individual known to the United States Attorney. The Cease and Desist
4 Order, among other things, barred HMC (and its employees, officers and directors,
5 including defendant DONAVON C. CLAFLIN) from selling securities through
6 fraudulent representations and material omissions, and in violation of the State of
7 Washington's securities registration statute.

8 5. Cascade Pointe LLC was a limited liability company formed in Washington
9 State on or about May 2, 2001. Cascade Pointe of Arizona LLC was a limited liability
10 company formed in Arizona in or about July 2001. Cascade Pointe of Nevis LLC was a
11 limited liability company established in the Carribean nation of Nevis on or about July 26,
12 2001.¹ From on or about May 2, 2001, through in or about January 2002, Cascade Pointe,
13 through various sales agents and at the direction of persons known and unknown to the
14 United States Attorney, solicited and received in excess of \$12 million from investors.
15 During at least a portion of this period, defendant DONAVON C. CLAFLIN maintained
16 bank accounts that received deposits of over \$7 million raised by Cascade Pointe from
17 investors. At no time were the offers and sales of securities issued by Cascade Pointe and
18 affiliated entities registered with the United States Securities and Exchange Commission,
19 the State of Washington Department of Financial Institutions, Securities Division, or with
20 the securities regulatory authorities in any other state

21 B. OBJECTS OF THE CONSPIRACY

22 The objects of the conspiracy were as follows:

23 1. To knowingly and willfully obtain money and property by means of
24 omissions to state material facts necessary in order to make the statements, in light of the
25 circumstances under which they were made, not misleading, and engage in acts, practices,
26 and courses of business that operated and would operate as a fraud or deceit upon
27

28 ¹ Cascade Pointe LLC, Cascade Pointe of Arizona LLC, and Cascade Pointe of Nevis
LLC are collectively referenced in this Information as "Cascade Pointe."

1 purchasers in the offer and sale of securities issued by HMC, Project X, Znetix, Cascade
2 Pointe, and affiliated entities by the use of the means and instruments of transportation
3 and communication in interstate commerce and of the mails, in violation of Title 15,
4 United States Code, Sections 77q(a) and 77x;

5 2. To knowingly and willfully cause to be carried through the mails and in
6 interstate commerce, for the purpose of sale or delivery after sale, securities for which no
7 registration statement was in effect, in violation of Title 15, United States Code,
8 Sections 77e(a)(2) and 77x;

9 3. To knowingly and willfully participate in using and causing the
10 United States mail and interstate couriers to be used in furtherance and execution of a
11 scheme and artifice to defraud investors in HMC, Project X, Znetix, Cascade Pointe, and
12 affiliated entities, and a scheme and artifice for obtaining money and property of said
13 investors by means of false and fraudulent pretenses, representations and promises, in
14 violation of Title 18, United States Code, Section 1341;

15 C MANNER AND MEANS OF THE CONSPIRACY

16 1. The essence of the conspiracy and scheme to defraud was that investors in
17 HMC, Project X, Znetix, and Cascade Pointe were falsely promised that if they purchased
18 securities issued by these companies for one dollar per share, they would be greatly
19 enriched at the point when Znetix engaged in an initial public offering ("IPO") and had its
20 shares traded on public exchanges such as NASDAQ. Investors who purchased HMC
21 stock were told that they would receive four shares of Znetix for every share of HMC.
22 Investors were led to believe that the IPO was imminent and that after the IPO the stock
23 would be traded at prices substantially above one dollar per share, but at no time did
24 Znetix have any ability to engage in an IPO, and at no time did Znetix have any
25 relationship with investment banking or underwriting firms who were working on an IPO
26 for Znetix

27 2. It was a part of the conspiracy and scheme to defraud that in the offer and
28 sale of the securities issued by HMC, Project X, Znetix, and Cascade Pointe, defendant

1 DONAVON C. CLAFLIN and others known and unknown to the United States Attorney
2 knowingly and willfully failed to truthfully and accurately disclose in a registration
3 statement, prospectus, private placement memorandum or in any other form material
4 facts, including but not limited to:

5 a. the uses to which investors' money would be put, including that the
6 investors' money had been and would be used to purchase millions of dollars worth of
7 luxury cars, boats, homes, jewelry, and other items;

8 b. the financial condition of HMC, Project X, Znetix, and Cascade Pointe;

9 c. the lack of financial controls at HMC, Project X, Znetix, and Cascade
10 Pointe;

11 d. the compensation to be received by defendant DONAVON C.
12 CLAFLIN and others associated with HMC, Project X, Znetix, and Cascade Pointe;

13 e that HMC, Project X, Znetix, and Cascade Pointe were under
14 common management and control;

15 f that HMC had sold more than its authorized amount of shares.

16 3. It was a part of the conspiracy and scheme to defraud that the
17 coconspirators used millions of dollars of investor funds to promote the scheme by
18 sponsoring hydroplane and offshore racing boats, the Seattle Mariners major league
19 baseball team, and other prominent organizations and events, by hosting lavish parties in
20 Los Angeles and elsewhere, and by paying professional sports stars to wear items
21 imprinted with the Znetix logo.

22 4. It was a part of the conspiracy and scheme to defraud that defendant
23 DONAVON C. CLAFLIN and others known and unknown to the United States Attorney
24 paid employees, consultants and sales agents of Znetix, HMC, Cascade Pointe, and
25 related entities unreasonably high salaries, commissions, and other compensation to work,
26 wittingly or unwittingly, in furtherance of the conspiracy and scheme to defraud.

27 5. It was a part of the conspiracy and scheme to defraud that the
28 coconspirators employed multi-level marketing techniques and various sales agents to sell

1 the securities of HMC, Znetix, and Cascade Pointe to over five thousand investors
2 throughout the United States.

3 6. It was a part of the conspiracy and scheme to defraud that defendant
4 DONAVON C. CLAFLIN and others known and unknown to the United States Attorney
5 signed and issued thousands of stock certificates and promissory notes to investors, some
6 of which were backdated.

7 D. OVERT ACTS

8 In furtherance of the conspiracy, and to promote the objects thereof, defendant
9 DONAVON C. CLAFLIN and others known and unknown to the United States Attorney
10 committed and caused to be committed, among others, the overt act described in Count 2
11 of this Information, and the following:

12 1. On or about April 10, 1998, defendant CLAFLIN signed check number
13 1661 in the amount of \$5,830.34, drawn on a U.S. Bank account in the name of American
14 HMC LLC, payable to "Brothers" for the purchase of a 1997 Bombardier jet ski
15 watercraft.

16 2. On or about December 10, 1999, defendant CLAFLIN signed a "Corporate
17 Resolution & Stock Certificate" reflecting a \$5,000 investment in HMC by an investor
18 with the initials M.S. located in Kirkland, Washington.

19 3. On or about January 13, 2000, defendant CLAFLIN signed a "Corporate
20 Resolution & Stock Certificate" reflecting a \$4,000 investment in HMC by an investor
21 with the initials M.S. located in Kirkland, Washington.

22 4. On or about June 26, 2000, a cashier's check was purchased in the amount
23 of \$25,000, drawn on a U.S. Bank account in the name of Health Maintenance Centers,
24 Inc., payable to Europa for a 2000 Mercedes Benz 500CV automobile.

25 5. On or about July 28, 2000, defendant CLAFLIN signed check number 1103
26 for the amount of \$10,000, drawn on a U.S. Bank account in the name of National
27 Alliance, payable to Phil Smart for a 2000 Mercedes ML55 automobile.
28

1 6. On or about September 29, 2000, defendant CLAFLIN authorized a wire
2 transfer in the amount of \$53,178.82 with funds from a U.S. Bank account in the name of
3 Health Maintenance Centers, Inc., payable to Transnation Title Insurance Company for
4 the purchase of a condominium in Redmond, Washington, for his own personal use.

5 7. On or about December 15, 2000, defendant CLAFLIN authorized check
6 number 1201 in the amount of \$18,983.72, drawn on a U.S. Bank account in the name of
7 National Alliance, Inc., payable to Nuvel Financial Services for the payoff purchase of a
8 1994 Landrover ROV

9 8. On or about December 27, 2000, defendant CLAFLIN purchased cashier's
10 check number 5021882717 in the amount of \$25,000, using funds from a U.S. Bank
11 account in the name of Project X, Inc., payable to Executive Auto Consultants for the
12 purchase of a 2000 Mercedes G500 automobile.

13 9. On or about February 9, 2001, defendant CLAFLIN signed an unnumbered
14 counter check in the amount of \$20,000, drawn on a First Mutual Bank account in the
15 name of Health Maintenance Centers, Inc - American Integrated Health, payable to Title
16 Guaranty Escrow Services for the purchase of property in Princeville, Hawaii.

17 10. On or about March 7, 2001, defendant CLAFLIN signed a "Corporate
18 Resolution & Stock Certificate" reflecting a \$7,000 investment in HMC by an investor
19 with the initials N.S. located in Aliso Viejo, California, and backdated such Corporate
20 Resolution & Stock Certificate to December 31, 2000.

21 11. On or about March 23, 2001, defendant CLAFLIN authorized a wire
22 transfer in the amount of \$725,000 with funds from a First Mutual Bank account in the
23 name of Health Maintenance Centers, Inc.- American Integrated Health, payable to Title
24 Guaranty Escrow Services for the purchase of property in Princeville, Hawaii.

25 12. On or about March 26, 2001, defendant CLAFLIN authorized a wire
26 transfer in the amount of \$90,000, with funds from a First Mutual Bank account in the
27 name of Health Maintenance Centers, Inc.- American Integrated Health, payable to Hall
28 Pantera, Inc. for the purchase of a 1972 DeTomaso Pantera automobile.

1 13. On or about April 3, 2001, defendant CLAFLIN authorized a wire transfer
2 in the amount of \$24,635.29, with funds from a U.S. Bank account in the name of
3 National Alliance, Inc., payable to Knight & Fraser Capital LTD.

4 14. On or about April 6, 2001, defendant CLAFLIN authorized a wire transfer in
5 the amount of \$174,698.75, with funds from a First Mutual Bank account in the name of
6 Health Maintenance Centers, Inc.- American Integrated Health, to The Bank of Nova Scotia,
7 Nassau, Bahamas, for account number 6077-18 in the name of Graham, Thompson & Co.

8 15. On or about April 17, 2001, defendant CLAFLIN signed check number
9 1096 in the amount of \$330,000, drawn on a First Mutual Bank account in the name of
10 Health Maintenance Centers, Inc.- American Integrated Health, payable to Lido Jewelry;
11 the money was used for the purchase of a seven carat diamond ring.

12 16. On or about June 29, 2001, defendant CLAFLIN signed a Promissory Note
13 in the amount of \$10,000, payable from HMC, Inc., to an investor with the initials D.N.
14 located in Houston, Texas.

15 17. On or about July 24, 2001, defendant CLAFLIN signed a Promissory Note
16 in the amount of \$901,500, payable from HMC, Inc., to an investor with the initials N.S.
17 located in Aliso Viejo, California

18 18. On or about August 10, 2001, defendant CLAFLIN signed check number
19 11063 in the amount of \$50,000, drawn on a Wells Fargo account in the name of Health
20 Maintenance Centers, Inc., dba HPC, payable to Nightwind Enterprises.

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

22 COUNT 2
23 (Securities Fraud)

24 1. All paragraphs set forth under Count 1 of this Information are incorporated
25 by reference in this paragraph as if fully set forth herein.

26 2. On or about July 30, 1999, within the Western District of Washington, and
27 elsewhere, the defendant, DONAVON C. CLAFLIN, in the offer and sale of shares of
28 stock in Health Maintenance Centers, Inc. ("HMC"), securities within the meaning of
Title 15, United States Code, Section 77b(a)(1), did knowingly and willfully obtain

1 money and property by means of omissions to state material facts necessary in order to
2 make the statements, in light of the circumstances under which they were made, not
3 misleading; and engage in acts, practices, and courses of business that operated and
4 would operate as a fraud or deceit upon the purchaser, in that defendant CLAFLIN did
5 knowingly and willfully use and cause to be used the mails and means and instruments of
6 transportation and communication in interstate commerce to issue a "Corporate
7 Resolution & Stock Certificate" reflecting the purchase of 5,000 shares of
8 HMC stock by investors with the initials D.K. and D.K. located in Antelope, Oregon, and
9 to send such document from a place within the Western District of Washington to
10 Antelope, Oregon.

11 All in violation of Title 15, United States Code, Sections 77q(a) and 77x.

12 DATED this 29th day of July, 2002.

13
14 
MARK BARTLETT
Acting United States Attorney

15
16 
FLORENT SHORT
Assistant United States Attorney

17
18 
JEFFREY B. COOPERSMITH
Assistant United States Attorney

19
20 
YE TING WOO
Assistant United States Attorney

21
22 
RICHARD E. COHEN
Assistant United States Attorney