

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

FRANK PLAIA,

Defendant.

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SUPERSEDING
INFORMATION

: S6 11 Cr. 1091 (VM)
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COUNT ONE

(Conspiracy to Defraud the United States Railroad Retirement Board ("RRB") and to Commit Health Care Fraud, Mail Fraud, and Wire Fraud)

The United States Attorney charges:

1. From at least in or about 2006, up to and including in or about 2012, in the Southern District of New York and elsewhere, FRANK PLAIA, the defendant, 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, 1343 and 1347.

2. It was a part and an object of the conspiracy that FRANK PLAIA, the defendant, 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 cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, a matter and thing, in violation of Title 18, United States Code, Section 1341.

3. It was a further part and object of the conspiracy that FRANK PLAIA, the defendant, 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, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

4. It was a further part and object of the conspiracy that FRANK PLAIA, the defendant, and others known and unknown, knowingly and willfully, 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, 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.

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

COUNT TWO

(Conspiracy to Defraud the United States RRB)

The United States Attorney further charges:

5. From at least in or about 2006, up to and including at least in or about 2012, in the Southern District of New York and elsewhere, FRANK PLAIA, the defendant, and others known and unknown, knowingly combined, conspired, confederated and agreed together and with each other to defraud the United States and an agency thereof, to wit, the RRB.

Overt Acts

6. In furtherance of the conspiracy and to effect the illegal object thereof, FRANK PLAIA, the defendant, and others

known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

- a. On or about July 6, 2007, a co-conspirator not named herein, signed a medical narrative regarding PLAIA.
- b. On or about July 20, 2007, PLAIA signed an application for RRB disability benefits.
- c. On or about March 5, 2011, PLAIA mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

(Title 18, United States Code, Section 371.)

COUNT THREE
(False Claims)

The United States Attorney further charges:

7. From at least in or about 2006, up to and including in or about 2012, in the Southern District of New York and elsewhere, FRANK PLAIA, the defendant, knowingly made and presented to a person and officer in the civil, military, and naval service of the United States, and to a department and agency thereof, a claim upon and against the United States and a department and agency thereof, knowing such claim to be false, fictitious, and fraudulent, to wit, PLAIA defrauded the RRB by

making false and fraudulent claims in order to obtain disability benefits.

(Title 18, United States Code, Sections 287 and 2.)

COUNT FOUR
(Health Care Fraud)

The United States Attorney further charges:

8. From at least in or about 2006, up to and including in or about 2012, in the Southern District of New York and elsewhere, FRANK PLAIA, the defendant, knowingly and willfully executed and attempted to execute a scheme and artifice to defraud health care benefit programs and to 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, PLAIA fraudulently billed, and caused to be billed, private insurance carriers for unnecessary medical treatments, services, and tests.

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

COUNT FIVE
(Mail Fraud)

The United States Attorney further charges:

9. On or about March 5, 2011, in the Southern District of New York and elsewhere, FRANK PLAIA, the defendant, 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, placed in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and deposited and caused to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and took and received therefrom, a matter and thing, and knowingly caused to be delivered by mail and such carrier according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, a matter and thing, to wit, the defendant, on or about March 5, 2011, for the purpose of executing the fraudulent scheme described in Count Six, mailed and caused to be mailed a Continuing Disability Update Report, known as a form

G-254A or a Disability Recertification, to the RRB's offices in Manhattan, New York.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT SIX
(Wire Fraud)

The United States Attorney further charges:

10. From at least in or about 2006, up to and including in or about 2012, in the Southern District of New York and elsewhere, FRANK PLAIA, the defendant, 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, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, PLAIA participated in a scheme to defraud the RRB by making false and fraudulent statements in order to obtain disability benefits, and, in the course of executing such scheme, caused the RRB to transmit by wire disability payments, through Manhattan, New York.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT SEVEN
(Perjury Before the Grand Jury)

The United States Attorney further charges:

11. On or about May 17, 2011, in the Southern District of New York, FRANK PLAIA, the defendant, having taken an oath to testify truthfully in a proceeding before a Court and Grand Jury of the United States, knowingly did make false material declarations, to wit, PLAIA falsely testified that he had gone to see a certain doctor because he was in pain and that at the time he had started to see that doctor, he was not thinking about retirement, whereas in truth and in fact, PLAIA had seen that doctor as part of a scheme to defraud the RRB into issuing disability benefits.

(Title 18, United States Code, Section 1623.)

FORFEITURE ALLEGATIONS WITH RESPECT TO COUNT ONE

12. As the result of committing the offense alleged in Count One of this Information, one or more of the wire fraud offenses in violation of 18 U.S.C. § 1343 as alleged in Count One of this Information, and one or more of the Federal health care offenses in violation of 18 U.S.C. § 24 and § 1347 as alleged in Count One of this Information, FRANK PLAIA, the defendant, shall forfeit to the United States, pursuant to 18

U.S.C. § 981(a)(1)(C) and § 982(a)(7), and 28 U.S.C § 2461, all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense.

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

FORFEITURE ALLEGATIONS WITH RESPECT TO COUNT FOUR

13. As the result of committing the federal health care offense alleged in Count Four of this Information, FRANK PLAIA, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense.

(Title 18, United States Code, Sections 982;
Title 21, United States Code, Section 853)

FORFEITURE ALLEGATION WITH RESPECT TO COUNTS FIVE AND SIX

14. As the result of committing one or more of the mail and wire fraud offenses alleged in Counts Five and Six of this Information, FRANK PLAIA, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C § 2461, all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission 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 defendant:

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

(3) has been placed beyond the jurisdiction of the Court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981(a)(1)(C);
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461)



PREET BHARARA
United States Attorney

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(18 U.S.C. §§ 2, 287, 371, 1341, 1343,
1347, 1349, 1623)

PREET BHARARA

United States Attorney.
