

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. : _____
	:	
v.	:	DATE FILED : _____
	:	
	:	VIOLATIONS: 18 U.S.C. § 1341
ABDUR RAZZAK TAI, M.D.	:	(mail fraud - 6 counts)
	:	18 U.S.C. § 1343
	:	(wire fraud - 7 counts)

INDICTMENT

COUNTS ONE THROUGH SIX
(Mail Fraud)

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

THE FEN-PHEN LITIGATION

1. Pondimin (also known as fenfluramine), and Redux (also known as dexfenfluramine), were prescription diet drugs that were distributed through doctors and weight loss clinics. When Pondimin and/or Redux were taken in combination with Phentermine, the combination was popularly referred to as Fen-Phen.

2. On or about September 15, 1997, American Home Products Corporation (“AHP”), later known as Wyeth (collectively “Wyeth”), withdrew the diet drugs Pondimin and Redux (the “Diet Drugs”) from the market. Prior to 1997, and continuing for many years afterwards, individuals who had ingested Pondimin and/or Redux, alone or in combination with Phentermine, filed individual lawsuits and class actions in federal and state courts against Wyeth and others, alleging that the use of the Diet Drugs had, or may have, adversely affected their

health. The alleged injuries included: heart valve regurgitation, valvular heart disease, primary pulmonary hypertension, and/or an increased risk of developing these conditions. The lawsuits sought remedies including monetary damages, reimbursement for medications, medical monitoring and screening.

3. On or about December 10, 1997, the Judicial Panel on Multidistrict Litigation transferred all federal Diet Drug cases to the United States District Court for the Eastern District of Pennsylvania (the “District Court”) for coordinated or consolidated pretrial proceedings.

4. Counsel for plaintiffs and Wyeth prepared and presented to the District Court a proposed Nationwide Class Action Settlement Agreement (“Settlement Agreement”) and related documents, seeking certification of a proposed settlement class. The District Court approved the Settlement Agreement.

5. Pursuant to the Settlement Agreement, on or about September 1, 2000, the AHP Settlement Trust (“Trust”) was established by order of the District Court. The Trust was a special purpose entity established to administer the provisions of the Settlement Agreement, and has, at all times, been located in the Eastern District of Pennsylvania.

6. The Trust administered and processed the claims of, and made payments of benefits to, members of the settlement class who registered pursuant to the terms of the Settlement Agreement and filed claims with the Trust in connection with their use of the Diet Drugs. These benefits, and associated administrative costs, were paid by the Trust with funds supplied by Wyeth.

7. The Settlement Agreement provided for a variety of benefits, including refunds for costs of the Diet Drugs, medical monitoring, and some medical treatment. The Settlement Agreement also provided for compensation for class members who could demonstrate the existence of certain defined valvular heart conditions. The amount of the financial compensation for such valvular heart conditions was determined under a pre-established Matrix. The so-called “Matrix Benefits” were determined by several factors, including the length of time the claimant used the Diet Drugs, the severity of the claimant’s valvular heart condition, and the claimant’s age.

8. To be eligible for any benefits under the Settlement Agreement, an individual must (a) have ingested the Diet Drugs, alone or in combination with any other substance, and (b) have "registered" with the Trust. Registration with the Trust was accomplished by filing a “Blue Form” or a “Pink Form” with the Trust by mailing, or otherwise delivering it to the Trust in the Eastern District of Pennsylvania.

9. Claimants eligible to receive “Matrix Benefits” under the Settlement Agreement were those individuals who had ingested the Diet Drugs and who could establish serious levels of valvular heart disease. In particular, to qualify for Matrix Benefits, the claimant was required to establish that he or she was “FDA Positive.” An individual was designated as “FDA Positive” when he or she had amounts of leakage from either their Aortic or Mitral valves as set forth in the Settlement Agreement. In each case, the Settlement Agreement set forth a formula based upon measurements obtained from an echocardiogram.

10. In order to establish the required leakage from a heart valve, each claimant for Matrix Benefits was required to submit, among other things, a recording of an

echocardiogram, and a cardiologist's echocardiogram report, based on such echocardiogram.

The physician's report, providing the interpretation of the echocardiogram, was required to be signed by a board-certified cardiologist or board-certified cardiothoracic surgeon with level 2 training in echocardiography. Level 2 training reflects a high degree of experience reading and interpreting echocardiograms.

11. Each claimant for Matrix Benefits also had to submit a Green Form. That form included a section, Part II, that was required to be completed by a board-certified cardiologist or a board-certified cardiothoracic surgeon. Part II was to be signed by the physician beneath a warning that stated, in bold type:

This form is an official Court document sanctioned by the Court that presides over the Diet Drug Settlement and submitting it to the AHP Settlement Trust is equivalent to filing it with a Court. I declare under penalty of perjury that the information provided in this form is correct to the best of my knowledge, information and belief.

12. Among other questions, Part II asked the physician to classify, based on the doctor's review of the recording of the claimant's echocardiogram, the valvular leakage from the claimant's aortic and mitral valves as mild, moderate, severe, or none of those. The Green Form provided the formulae and cited to the authorities that the physician was to use in making this determination.

13. The Green Form also required the certifying physician to answer a variety of questions about the claimant's present and past medical condition. Among other things, these questions were designed to determine whether the claimant's valvular leakage was due to causes other than the Diet Drugs.

14. By misreporting measurements from the echocardiogram, the severity of a claimant's medical condition could be exaggerated, thereby improperly qualifying the claimant for Matrix Benefits or substantially increasing the amount of the Matrix Benefits to be awarded to the claimant. For example, moving from Matrix level I to Matrix level II could increase a claimant's benefits by hundreds of thousands of dollars.

15. As originally designed, the Settlement Agreement provided the Trust with only limited audit rights. In particular, the Trust was entitled to audit only 10% of the Matrix Level claims submitted to it, while Wyeth was entitled to audit only 5%. Moreover, when claims were subject to audit, the claimant was entitled to withdraw his or her claim from consideration and re-submit that claim with the hope that it would not again be selected for audit.

16. The Trust did not require that a claimant for Matrix Benefits utilize a particular physician selected by the Trust. Instead, the claimant could choose his treating or another physician, including a physician selected by their lawyer to interpret the echocardiogram.

17. To verify the existence of actual qualifying heart damage, the Trust depended upon the fact that a licensed and board certified cardiologist or cardiothoracic surgeon with level 2 training in echocardiography had reviewed the claimant's echocardiogram and had prepared and signed a report attesting to the results of the claimant's echocardiogram. The Trust also relied upon Part II of the Green Form, which was signed under penalty of perjury by a board certified cardiologist or cardiothoracic surgeon.

18. On or about November 26, 2002, the District Court ordered that 100% of the claims submitted to the Trust would be subject to medical audit.

19. The average Matrix payment from the Trust was in excess of \$350,000.

20. To be timely for Matrix Benefits, a claimant was required to: (i) have had their echocardiogram taken on or before January 3, 2003; and (ii) filed their Blue Form or Pink Form with the Trust by May 3, 2003.

21. On or about March 15, 2005, the District Court approved an amendment to the Settlement Agreement, known as the "Seventh Amendment." Pursuant to the terms of that Amendment, Wyeth agreed to pay an additional \$1.275 billion to create a new Supplemental Class Settlement Fund ("Supplemental Fund") with a separate process for reviewing and paying claims. The claim processing was performed by the fund administrator, together with class counsel and a committee of lawyers. In addition, a medical committee of three cardiologists helped the fund administrator develop the rules, forms and procedures for the Medical Review.

22. Only claimants who had submitted documentation to the Trust which, on its face, would have qualified them for Level I or level II Matrix Benefits were eligible to have their claims transferred to the Supplemental Fund under the Seventh Amendment. Thus, the only claims that were eligible for transfer to the Seventh Amendment were those where the claimant had submitted to the Trust: (1) an echocardiogram; (2) a physician's report, signed by a licensed and board certified cardiologist or cardiothoracic surgeon with level 2 training in echocardiography, which interpreted that echocardiogram as FDA Positive; and (3) a Green Form signed by a licensed and board certified cardiologist or cardiothoracic surgeon with level 2 training in echocardiography certifying that the claimant had valvular regurgitation to such a degree that they were FDA Positive.

23. Under the Seventh Amendment, all claims were subject to medical review, which was conducted by outside medical experts who reviewed the echocardiograms of all claimants for benefits under the Seventh Amendment.

24. If the medical review under the Seventh Amendment established that the claimant's echocardiogram did not demonstrate that the claimant had valvular regurgitation to a degree that the claimant was FDA Positive, then the claimant would receive a payment of about \$2,000.

25. If the medical review under the Seventh Amendment established that the claimant would have qualified as FDA Positive under the Trust, then the claim would be assigned points based on factors such as the amount of valvular leakage, the severity of symptoms, and the age of the claimant. Based on the assigned points, all qualifying claims received a *pro rata* share of the Supplemental Fund.

26. An alternate route by which a claimant could receive substantial benefits as a consequence of having ingested the Diet Drugs was to file an "Orange Form" with the Trust. A claimant who filed an Orange Form preserved his or her right to file a lawsuit against Wyeth for his or her alleged Diet Drug related injuries. Because such claimants opted out of the Settlement Agreement, law suits resulting from the filing of Orange Forms were classified as "Opt Out Law Suits."

THE DEFENDANT

27. Defendant ABDUR RAZZAK TAI, M.D. was a resident of Florida and was a board-certified cardiologist with level 2 training in echocardiography.

28. Defendant ABDUR RAZZAK TAI, M.D. practiced cardiology under the name A. Razzak Tai, M.D., and through Tri-County Doctors, Inc. and Medical Legal Consultants, Inc.

THE SCHEME TO DEFRAUD

29. From in or about late 1997 to on or about February 9, 2009, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

ABDUR RAZZAK TAI, M.D.

devised and intended to devise a scheme to defraud the Seventh Amendment, the Trust and Wyeth, and to obtain money and property from them by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

30. Defendant ABDUR RAZZAK TAI, M.D. was approached by an individual who is identified here as T.H., in late 1997 or early 1998. T.H., who was not a medical doctor, proposed to have defendant TAI review recordings of echocardiograms of persons who claimed to have ingested Fen-Phen. These echocardiograms had been conducted by technologists employed by T.H. on behalf of attorneys retained to file legal claims by the persons who claimed to have ingested Fen-Phen.

31. T.H. also introduced defendant ABDUR RAZZAK TAI, M.D. to a number of attorneys who were, and planned to, represent persons who claimed to have been injured as a result of having ingested Fen-Phen. Among the attorneys that T.H. introduced to defendant TAI was an attorney who is identified here as S.V.

32. Defendant ABDUR RAZZAK TAI, M.D. agreed to read echocardiograms of persons who claimed to have ingested Fen-Phen in accordance with the requirements of the Settlement Agreement, and to produce the physician's reports of those echocardiograms required by the Settlement Agreement, in return for a payment of about \$100 per echocardiogram.

33. Defendant ABDUR RAZZAK TAI, M.D. agreed to sign Green Forms certifying that the named patient was FDA positive and qualified for Matrix Benefits in return for a payment of about \$1,500 per Green Form. The payment was to be made to defendant TAI when the claim corresponding to that patient's Green Form was paid by the Trust.

34. Defendant ABDUR RAZZAK TAI, M.D. reviewed many recordings of echocardiograms conducted by technologists working for T.H. or S.V. and the other attorneys representing Fen-Phen claimants. Despite knowing that the technologists that conducted the echocardiogram studies for the potential Fen-Phen claimants often over-read and over-measured the echocardiograms to show that patients were FDA Positive when, in fact, those patients were not FDA Positive, defendant TAI nonetheless prepared and signed physician's echocardiogram reports that falsely represented that he had relied on his own observations and medical judgment in reaching his conclusions.

35. Defendant ABDUR RAZZAK TAI, M.D. employed a technologist in his office, identified here as D.P., who was qualified to conduct echocardiograms, but who was not a physician, and who did not have level 2 training in echocardiography. In order to save his own time, and in abrogation of his obligation to exercise independent medical judgment, defendant ABDUR RAZZAK TAI, M.D. directed D.P. to read echocardiograms that had been submitted to him by T.H. or attorneys who represented persons who claimed to have been injured as a result

of having ingested Fen-Phen, and then prepared and signed physician's echocardiogram reports that falsely implied or asserted that his conclusions were the result of his own observations and conclusions.

36. Defendant ABDUR RAZZAK TAI, M.D. prepared and signed physician's echocardiogram reports and Green Forms that falsely stated that the patient was FDA Positive when defendant TAI knew that the patient was, in fact, not FDA Positive.

37. Defendant ABDUR RAZZAK TAI, M.D. prepared and signed physician's echocardiogram reports and Green Forms that falsely stated that the patient was FDA Positive when defendant TAI knew that he did not know, and deliberately avoided knowing, whether or not the patient was, in fact, FDA Positive.

38. Among the physician's echocardiogram reports signed by Defendant ABDUR RAZZAK TAI, M.D., and which determined that claimants were qualified to receive Matrix benefits, were reports that relied for their findings upon measurements that purported to be those of patients' hearts. These measurements were not consistent with the measurements of hearts of human beings.

39. Defendant ABDUR RAZZAK TAI, M.D. prepared and signed physician's echocardiogram reports and Green Forms that falsely stated that the echocardiograms were FDA Positive for his own financial benefit, for the financial benefit of the attorneys for whom he worked, and for the financial benefit of Fen-Phen claimants who had retained those attorneys.

40. Defendant ABDUR RAZZAK TAI, M.D. prepared and signed physician's echocardiogram reports and Green Forms that falsely stated that the echocardiograms were FDA Positive because he wanted to encourage T.H. and S.V. and the other attorneys who represented

persons who claimed to have been injured as a result of having ingested Fen-Phen to continue to send him echocardiograms to read and Green Forms to sign.

41. On or about March 4, 2003, defendant ABDUR RAZZAK TAI, M.D. executed a written agreement with attorney S.V. that memorialized their agreement concerning Fen-Phen related services concerning echocardiograms sent to defendant TAI in December 2002 and the year 2003. Under that agreement, S.V. promised to pay defendant TAI a fee of \$100 to \$150, depending upon the level of service required, for interpreting each echocardiogram, signing the physician's echocardiogram report, and signing the green form. In addition, S.V. promised to pay defendant TAI \$1,000 for each Green Form case settled by S.V. "[u]pon our payment of green form settlements"

42. On or about January 19, 2004, attorney S.V. wrote to defendant ABDUR RAZZAK TAI, M.D. to document "monies owed for services rendered and to be rendered on claimant's [sic] we represent." Enclosed with the letter from S.V. was a 34 page chart listing 1,419 names of claimants and their respective test dates, each of which reflected an amount paid of \$100 and an amount owed of \$1,400, with a total balance due of \$1,986,600.00.

43. On or about July 22, 2004, attorney S.V. wrote to defendant ABDUR RAZZAK TAI, M.D. about the Seventh Amendment, explaining that it would mean that additional payments to defendant TAI would be forthcoming.

44. On or about March 9, 2006, an attorney retained by defendant ABDUR RAZZAK TAI, M.D., identified here as B.D., wrote to attorney S.V. on defendant TAI's behalf demanding payment of \$1,986,600.00, plus interest, based on the agreement of March 4, 2003 and S.V.'s letter of January 19, 2004.

45. On or about March 21, 2006, defendant ABDUR RAZZAK TAI, M.D., along with attorney S.V., among others, signed an agreement resolving the dispute over payments owed by attorney S.V. to defendant TAI ("Payment Agreement"). Among other things, the Payment Agreement provided that defendant TAI was to receive a total of \$119,316.56 for echocardiogram reading services, of which \$15,000 was credited based on payments previously made by attorney or on behalf of attorney S.V. The Payment Agreement also provided that defendant TAI would be paid an additional \$1,400 for each Green Form claimant whose claim was paid either by the Trust, the Seventh Amendment, or Opt Out Lawsuit.

46. On or about March 21, 2006, attorney S.V. sent check number 1690 in the amount of \$75,000 to defendant ABDUR RAZZAK TAI, M.D. or his agent in partial payment of the fees due for echocardiogram reading services under the Payment Agreement.

47. On or about October 31, 2006, attorney B.D. wrote and sent, via U.S. mail and telefacsimile, a letter on behalf of defendant ABDUR RAZZAK TAI, M.D., to attorney S.V. reminding him that the final payment of \$44,316.56 for echocardiogram reading services was due on that day under the Payment Agreement.

48. On or about October 31, 2006, attorney S.V. sent an e-mail message to attorney B.D., in response to the letter of October 31, 2006, in which S.V. thanked B.D. for the reminder and stated that he was sending a check in the amount of \$44,316.56 by overnight delivery.

49. On or about October 31, 2006, attorney S.V. sent check number 1759 in the amount of \$44,316.56 to defendant ABDUR RAZZAK TAI, M.D. or his agent in partial

payment of the fees due for echocardiogram reading services under the Payment Agreement.

50. As a result of the false representations made by defendant ABDUR RAZZAK TAI, M.D. that certain echocardiograms were FDA Positive when, in fact, those echocardiograms were not FDA Positive, the Trust and the Seventh Amendment made payments to claimants and to attorney S.V. that would not have been made had defendant TAI not made those false representations. Checks representing such payments were mailed to the claimants and attorney S.V. from Philadelphia and Pittsburgh to, among other places, Vicksburg, Mississippi.

51. In order to cause checks to be mailed from Pittsburgh to, among other places, Vicksburg, Mississippi in payment by the Seventh Amendment to claimants, electronic mail messages were sent via the Internet from Philadelphia to Pittsburgh on or about, February 16, 2007; February 20, 2007; February 22, 2007; May 14, 2007; and May 5, 2008.

THE MAILINGS

52. On or about each of the dates set forth below, in the Eastern District of Pennsylvania, and elsewhere, defendant

ABDUR RAZZAK TAI, M.D.,

for the purpose of executing this scheme and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by the United States Postal Service or commercial interstate carrier, according to the directions thereon, to the persons described below, the documents listed below, on or about the dates listed below, each mailing constituting a separate count:

COUNT	DATE	TO	FROM	DESCRIPTION	DELIVERY
1.	3-9-06	Attorney S.V., in Mississippi	Attorney B.D., in Florida	Correspondence demanding payment.	U.S. Mail
2.	3-21-06	Attorney S.V., in Mississippi	Attorney B.D., in Florida	Correspondence enclosing Payment Agreement.	Federal Express
3.	3-21-06	Attorney B.D., in Florida	Attorney S.V., in Mississippi	Check number 1690 in the amount of \$75,000, in partial payment of fees for echocardiogram reading services	United Parcel Service
4.	10-31-06	Attorney S.V., in Mississippi	Attorney B.D., in Florida	Letter reminding of payment due for echocardiogram reading services	U.S. Mail
5.	2-9-09	Attorney S.V., in Mississippi	7 th Amend., in Phila., PA	Check nos. 50886752 and 53 in the amounts of \$1,350 and \$650 in payment of category 2 benefits for W.K.	U.S. Mail
6.	9-7-07	Attorney S.V., in Mississippi	Trust, in Phila., PA	Check no. 90036531 in the amount of \$3,000 in payment of benefits for J.G.	U.S. Mail

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

COUNTS SEVEN THROUGH THIRTEEN
(Wire Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 28 of Count One of this indictment are incorporated here.

THE SCHEME TO DEFRAUD

2. From on or about late 1997, to on or about February 9, 2009, defendant

ABDUR RAZZAK TAI, M.D.,

devised and intended to devise a scheme to defraud the Seventh Amendment, the Trust and Wyeth, and to obtain money and property from the Trust and Wyeth by means of knowingly false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

3. It was part of the scheme that defendant ABDUR RAZZAK TAI, M.D. engaged in the manner and means described in paragraphs 30 through 51 of Count One of this indictment.

4. On or about each of the dates set forth below, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere,

ABDUR RAZZAK TAI, M.D.,

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below, each transmission constituting a separate count:

COUNT	DATE	DESCRIPTION
7.	October 31, 2006	E-mail message via the Internet from attorney S.V. to attorney B.D. from Mississippi to Florida via the Internet concerning payment to defendant ABDUR RAZZAK TAI, M.D.
8.	February 16, 2007	E-mail message via the Internet from A.S. on behalf of the 7 th Amendment in Philadelphia, Pennsylvania, to the PNC Bank in Pittsburgh, Pennsylvania, enclosing cover letters for checks to particular claimants, including at least one claimant whose Green Form was certified by defendant ABDUR RAZZAK TAI, M.D., and authorizing the distribution of checks from the 7 th Amendment to those claimants.
9.	February 20, 2007	E-mail message via the Internet, at about 10:57 am, from A.S. on behalf of the 7 th Amendment in Philadelphia, Pennsylvania, to the PNC Bank in Pittsburgh, Pennsylvania, enclosing cover letters for checks to particular claimants, including at least one claimant whose Green Form was certified by defendant ABDUR RAZZAK TAI, M.D., and authorizing the distribution of checks from the 7 th Amendment to those claimants.
10.	February 20, 2007	E-mail message via the Internet, at about 1:28 pm, from A.S. on behalf of the 7 th Amendment in Philadelphia, Pennsylvania, to the PNC Bank in Pittsburgh, Pennsylvania, enclosing cover letters for checks to particular claimants, including at least one claimant whose Green Form was certified by defendant ABDUR RAZZAK TAI, M.D., and authorizing the distribution of checks from the 7 th Amendment to those claimants.
11.	February 22, 2007	E-mail message via the Internet from A.S. on behalf of the 7 th Amendment in Philadelphia, Pennsylvania, to the PNC Bank in Pittsburgh, Pennsylvania, enclosing cover letters for checks to particular claimants, including at least one claimant whose Green Form was certified by defendant ABDUR RAZZAK TAI, M.D., and authorizing the distribution of checks from the 7 th Amendment to those claimants.

12.	May 14, 2007	E-mail message via the Internet from A.S. on behalf of the 7 th Amendment in Philadelphia, Pennsylvania, to the PNC Bank in Pittsburgh, Pennsylvania, enclosing cover letters for checks to particular claimants, including at least one claimant whose Green Form was certified by defendant ABDUR RAZZAK TAI, M.D., and authorizing the distribution of checks from the 7 th Amendment to those claimants.
13.	May 5, 2008	E-mail message via the Internet from A.S. on behalf of the 7 th Amendment in Philadelphia, Pennsylvania, to the PNC Bank in Pittsburgh, Pennsylvania, enclosing cover letters for checks to particular claimants, including at least one claimant whose Green Form was certified by defendant ABDUR RAZZAK TAI, M.D., and authorizing the distribution of checks from the 7 th Amendment to those claimants.

All in violation of Title 18, United States Code, Section 1343.

A TRUE BILL:

FOREPERSON

ZANE DAVID MEMEGER
United States Attorney