

ABS/JN:MGD
F. #2019R00454

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

I N F O R M A T I O N

- against -

HARRIS HUSSNAIN,

Defendant.

Cr. No. 20-280 (RPK)
(T. 18, U.S.C., §§ 982(a)(1), 982(a)(7),
982(b)(1), 1349, 1957(a), 1957(b), 2
and 3551 et seq.; T. 21, U.S.C.,
§§ 841(a)(1), 841(b)(1)(C), 853(a) and
853(p))

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THE UNITED STATES CHARGES:

INTRODUCTION

At all times relevant to this Information, unless otherwise indicated:

I. Background

A. The Medicaid Program and New York State Medicaid Rules

1. The Medicaid Program (“Medicaid”) in New York State was a federally and state-funded health care program providing benefits to individuals and families who met specified financial and other eligibility requirements and certain other individuals who lacked adequate resources to pay for medical care. The Centers for Medicare and Medicaid Services (“CMS”) together with the New York State Department of Health were responsible for overseeing the Medicaid program in participating states, including New York. Individuals who received benefits under Medicaid were referred to as “beneficiaries.”

2. In New York State, the Medicaid program provided coverage to its beneficiaries for prescription drugs. Medicaid beneficiaries could obtain their prescription

drug benefits from pharmacies either through “fee-for-service” enrollment or through Medicaid Managed Care plans, which were administered by private insurance companies that were paid by Medicaid.

3. To submit a claim for payment to Medicaid, pharmacies were required to maintain a standing certification (“Medicaid Standing Certification”), which applied to all claims submitted electronically or on paper using the pharmacy’s National Provider Identifier that stated, inter alia, “the persons providing services, care and supplies have the necessary licensing, certification, training and experience to perform the claimed services.”

4. The Medicaid Standing Certification further provided, in all capital letters, that:

All statements, data and information are true, accurate and complete to the best of my knowledge; no material fact has been omitted; I understand that payment and satisfaction of this claim will be from federal, state and local public funds and that I may be fined and/or prosecuted under applicable federal and state laws for any violation of the terms of this certification, including but not limited to false claims, statements or documents, or concealment of a material fact . . .

5. Medicaid was a “health care benefit program,” as defined by 18 U.S.C. § 24(b).

B. The Medicare Program

6. The Medicare program (“Medicare”) was a federal health care program providing benefits to persons who were at least 65 years old or disabled. Medicare was administered by CMS. Individuals who received benefits under Medicare were likewise referred to as Medicare “beneficiaries.”

7. Medicare was divided into multiple parts. Medicare Part D provided prescription drug coverage to persons who were eligible for Medicare.

8. Medicare was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

C. New York State Regulations Governing the Provision of Pharmacy Services

9. The provision of pharmacy services in New York State was governed by Article 137 of the New York Education Law, Article 33 of the New York Public Health Law and the Rules of Professionalism set by the New York State Board of Regents, among others.

10. Article 137 of the New York Education Law provided, inter alia, the following.

- (a) All prescription drugs must be dispensed by a licensed pharmacist;
- (b) Only a licensed person may practice pharmacy or use the title “pharmacist” (with a limited number of exceptions not applicable here); and
- (c) If the owner of a pharmacy is not a licensed pharmacist and thereby capable of personally supervising the pharmacy, the licensed pharmacist who has personal supervision of the pharmacy (the “Supervising Pharmacist”) must be named on the pharmacy registration. If such licensed pharmacist no longer has personal supervision of the pharmacy, the owner must notify the Department of Education of that fact and provide information for a new Supervising Pharmacist.

11. The New York State Public Health Law and the Board of Regents’ Rules of Professionalism provided that, among other responsibilities, a Supervising Pharmacist of a New York State-registered pharmacy, must:

(a) ensure that either the Supervising Pharmacist or another licensed pharmacist is physically on the premises of the pharmacy at all times that the pharmacy is open for business;

(b) not delegate professional responsibilities to a person whom the licensee knows is not qualified to perform them; and

(c) notify the New York State Board of Pharmacy (the “Board of Pharmacy”) within seven days of any change in the identity of the Supervising Pharmacist.

D. The Defendant and Relevant Entity

12. The defendant HARRIS HUSSNAIN was a resident of Queens, New York, and was a naturalized citizen of the United States. HUSSNAIN was not a licensed pharmacist. HUSSNAIN, together with others, operated New Moon Pharmacy Inc. (“New Moon”) and was its sole owner, President and Secretary/Treasurer.

13. New Moon was an active New York State corporation incorporated on or about October 24, 2013. New Moon was located at 109-14 Liberty Avenue, Richmond Hill, New York.

14. New Moon maintained at least three bank accounts: (i) an account at Financial Institution-1, an entity the identity of which is known to the United States, held in the name of New Moon, with an account number ending in 3157 (the “3157 Account”), for which the defendant HARRIS HUSSNAIN was the sole signatory; (ii) an account at Financial Institution-1, held in the name of New Moon, with an account number ending in 3264 (the “3264 Account”), for which HUSSNAIN was the sole signatory; and (iii) an account at Financial Institution-2, an entity the identity of which is known to the United

States, held in the name of New Moon, with an account number ending in 1516 (the “1516 Account”), for which HUSSNAIN was a joint signatory with his father.

II. The Unlawful Conduct

A. The Health Care Fraud Scheme

15. Between approximately July 2016 and December 2019, the defendant HARRIS HUSSNAIN knowingly and intentionally conspired with others to engage in a fraudulent scheme in which he sought unlawfully to enrich himself by submitting and causing the submission of false and fraudulent claims for reimbursement to Medicaid and Medicare for prescription drugs purportedly provided to patients by New Moon that were not, in fact, eligible for payment by Medicaid and Medicare because they were not dispensed by a licensed pharmacist.

16. On or about July 25, 2016, the defendant HARRIS HUSSNAIN and Nisha Diler (“Diler”), a licensed pharmacist, notified the Board of Pharmacy that Diler had become the Supervising Pharmacist of New Moon.

17. Both Diler and the defendant HARRIS HUSSNAIN were aware that the Board of Pharmacy required the Supervising Pharmacist to work at New Moon at least 32 hours per week and that New Moon was not permitted to operate outside the presence and supervision of a licensed pharmacist. Nevertheless, HUSSNAIN hired Diler with the understanding that she would work only part-time at New Moon, and paid her a commensurate salary that was significantly below the market rate for a licensed pharmacist.

18. Between approximately July 2016 and December 2019, Diler was normally present at New Moon for only a few hours per month. During some months, Diler

was not present at New Moon at all. There was no other licensed pharmacist working at New Moon during the time that Diler served as its nominal Supervising Pharmacist.

19. During the course of the scheme, the defendant HARRIS HUSSNAIN regularly filled and dispensed prescriptions to patients without the supervision of Diler or any other licensed pharmacist. During that time, HUSSNAIN held himself out to patients as the pharmacist at New Moon even though he was not a licensed pharmacist and notwithstanding the fact that he was aware that Board of Pharmacy regulations forbade him from holding himself out as a pharmacist.

20. During the course of the scheme, the defendant HARRIS HUSSNAIN and Diler filed paperwork with the Board of Pharmacy that falsely stated Diler was the Supervising Pharmacist at New Moon and that she worked 45 hours per week. HUSSNAIN also regularly renewed New Moon's Medicaid Standing Certification, in which he falsely certified that services at New Moon were being performed by a licensed pharmacist and omitted the fact that Diler was not personally supervising New Moon's operations.

21. New Moon was not entitled to bill Medicaid and Medicare for dispensing prescription drugs because it was operating without a Supervising Pharmacist, and therefore not in compliance with New York State law. New Moon's claims to Medicaid and Medicare for dispensed prescription drugs during the pendency of the scheme were therefore entirely false and fraudulent.

B. Unlawful Distribution of Controlled Substances

22. Between approximately July 2016 and December 2019, the defendant HARRIS HUSSNAIN dispensed nearly 14,000 doses of narcotics, including 12,000 pills

containing approximately 385 grams of Oxycodone, as well as 1800 pills containing approximately 10 grams of Hydrocodone, to Medicare and Medicaid patients.

23. The defendant HARRIS HUSSNAIN dispensed these narcotics without Diler's supervision or the supervision of any other licensed pharmacist, which he was not qualified or permitted to do.

C. The Money Laundering Scheme

24. New Moon was paid approximately \$1,612,259 in New York State Medicaid reimbursements stemming from approximately 26,300 claims submitted from in or about July 2016 to December 2019. The Medicaid reimbursement deposits constituted illegal proceeds of the above-described health care fraud scheme, to which neither the defendant HARRIS HUSSNAIN nor New Moon was entitled.

25. A review of Medicare claims data relating to New Moon revealed that New Moon was paid approximately \$1,384,342.64 in Medicare reimbursements stemming from approximately 7,500 claims submitted from in or about July 2016 to December 2019. The Medicare reimbursement deposits constituted illegal proceeds of the above-described health care fraud scheme, to which neither the defendant HARRIS HUSSNAIN nor New Moon was entitled.

26. Upon receiving reimbursement from Medicaid and Medicare for the false and fraudulent claims made by New Moon, the defendant HARRIS HUSSNAIN transferred those funds in various ways, including but not limited to: (a) between New Moon's bank accounts, including the 3157 Account, the 3264 Account and the 1516 Account; (b) to HUSSNAIN's personal bank account; (c) to accounts belonging to corporations owned by other members of HUSSNAIN's family, including tourism

companies and a clothing importation company; and (d) into cash and various forms of negotiable instruments. HUSSNAIN knew that such funds were the proceeds of the health care fraud scheme and made these transfers in order to conceal the proceeds.

COUNT ONE

(Conspiracy to Commit Health Care Fraud)

27. The allegations contained in paragraphs one through 26 are realleged and incorporated as if fully set forth in this paragraph.

28. In or about and between July 2016 and December 2019, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant HARRIS HUSSNAIN, together with others, did knowingly and intentionally conspire to execute a scheme and artifice to defraud one or more health care benefit programs, as defined in Title 18, United States Code, Section 24(b), to wit: Medicaid and Medicare, and to obtain, by means of one or more materially false and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services, contrary to Title 18, United States Code, Section 1347.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNT TWO

(Distribution and Possession with Intent to Distribute Oxycodone)

29. The allegations contained in paragraphs one through 26 are realleged and incorporated as if fully set forth in this paragraph.

30. In or about and between July 2016 and December 2019, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant HARRIS HUSSNAIN, together with others, did knowingly and intentionally distribute and possess with intent to distribute a controlled substance, to wit: Oxycodone, a Schedule II controlled substance.

(Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C); Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNTS THREE AND FOUR
(Engaging in Unlawful Monetary Transactions)

31. The allegations contained in paragraphs one through 26 are realleged and incorporated as if fully set forth in this paragraph.

32. In or about and between July 2016 and December 2019, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant HARRIS HUSSNAIN, together with others, did knowingly and intentionally engage and attempt to engage in monetary transactions, in and affecting interstate commerce, in criminally derived property that was of a value greater than \$10,000 and that was derived from specified unlawful activity, to wit: conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349, and health care fraud, in violation of Title 18, United States Code, Section 1347, knowing that the property involved in such monetary transactions represented the proceeds of some form of unlawful activity, to wit:

| Count | Approximate Date | Transaction |
|--------------|-------------------------|---|
| THREE | September 26, 2018 | A cashier's check in the amount of \$20,000 from the 3264 Account, made payable to the defendant HARRIS HUSSNAIN and deposited into a bank account at Summit Bank Ltd. in Pakistan. |
| FOUR | May 9, 2018 | An electronic fund transfer in the amount of \$50,000 from the 3264 Account to the bank account of a company controlled by a member of the defendant HARRIS HUSSNAIN's family. |

(Title 18, United States Code, Sections 1957(a), 1957(b), 2 and 3551 et seq.)

**CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT ONE**

33. The United States hereby gives notice to the defendant that, upon his conviction of the offense charged in Count One, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(7), which requires any person convicted of a federal health care offense to forfeit any property, real or personal, that constitutes, or is derived directly or indirectly from, gross proceeds traceable to the commission of such offense, including but not limited to:

- (i) approximately two thousand one hundred and nine dollars and twenty-six cents (\$2,109.26) on deposit at Financial Institution-1, account number 4345363264, held in the name of New Moon Pharmacy, Inc.;
- (ii) approximately nineteen thousand two hundred sixty-two dollars and seven cents (\$19,262.07) on deposit at Financial Institution-1, account number 4345363157, held in the name of New Moon Pharmacy, Inc.;
- (iii) approximately two hundred thirty-seven thousand dollars and zero cents (\$237,000.00) on deposit at Financial Institution-1, account number 4319876847, held in the name of Harris Hussnain & NFN Hashaam; and
- (iv) approximately twenty thousand four hundred forty-four dollars and ninety-nine cents (\$20,444.99) on deposit at Financial Institution-2,

account number 565231516, held in the name of New Moon Pharmacy, Inc.; all seized on or about January 6, 2020.

34. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (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

divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 982(a)(7) and 982(b)(1); Title 21, United States Code, Section 853(p))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT TWO

35. The United States hereby gives notice to the defendant that, upon his conviction of the offense charged in Count Two, the government will seek forfeiture in accordance with Title 21, United States Code, Section 853(a), which requires any person convicted of such offense to forfeit: (a) any property constituting, or derived from, any proceeds obtained directly or indirectly as the result of such offense; and (b) any property

used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offense.

36. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (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

divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 21, United States Code, Sections 853(a) and 853(p))

**CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS THREE AND FOUR**

37. The United States hereby gives notice to the defendant that, upon his conviction of the offenses charged in Counts Three and Four, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(1), which requires any person convicted of such offense to forfeit any property, real and personal, involved in such offense, or any property traceable to such property, including but not limited to:

- (i) approximately two thousand one hundred and nine dollars and twenty-six cents (\$2,109.26) on deposit at Financial Institution-1, account number 4345363264, held in the name of New Moon Pharmacy, Inc.;

- (ii) approximately nineteen thousand two hundred sixty-two dollars and seven cents (\$19,262.07) on deposit at Financial Institution-1, account number 4345363157, held in the name of New Moon Pharmacy, Inc.;
- (iii) approximately two hundred thirty-seven thousand dollars and zero cents (\$237,000.00) on deposit at Financial Institution-1, account number 4319876847, held in the name of Harris Hussnain & NFN Hashaam; and
- (iv) approximately twenty thousand four hundred forty-four dollars and ninety-nine cents (\$20,444.99) on deposit at Financial Institution-2, account number 565231516, held in the name of New Moon Pharmacy, Inc.; all seized on or about January 6, 2020.

38. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (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

divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any

other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(1) and 982(b)(1); Title 21, United States Code, Section 853(p))



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EASTERN DISTRICT OF NEW YORK

/s Daniel Kahn /mgd

DANIEL S. KAHN
ACTING CHIEF, FRAUD SECTION
CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE

No.

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

HARRIS HUSSNAIN,

Defendant.

INFORMATION

(T. 18, U.S.C., §§ 982(a)(1), 982(a)(7), 982(b)(1), 1349, 1957(a),
1957(b), 2 and 3551 et seq.; T. 21, U.S.C., §§ 841(a)(1), 841(b)(1)(C),
853(a) and 853(p))

A true bill.

Foreperson

Filed in open court this _____ day,

of _____ A.D. 20 _____

Clerk

Bail, \$ _____

Miriam L. Glaser Dauermann, Trial Attorney (718) 254-7575