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JUL 18 2022

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK

UNITED STATES OF AMERICA

Hon. *Peter G. Sheridan*

v.

Crim. No. 22- *484 (PGS)*

18 U.S.C. § 371

SIAMAK SAMOOHI

**INFORMATION**

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

**(Conspiracy to Pay and Receive Kickbacks)**

1. Unless otherwise indicated, at all times relevant to this Information:

**The Defendant**

a. Defendant SIAMAK SAMOOHI was a resident of New Jersey and a co-owner of Suretox Laboratory LLC (“Suretox”), a New Jersey limited liability company, located in Elmwood Park, New Jersey, that purported to serve as a diagnostic testing laboratory. Suretox submitted claims to Medicare for diagnostic testing, including claims for beneficiaries residing in Mercer County. SAMOOHI maintained signatory authority on a bank account held in the name of Suretox (the “Suretox Bank Account”).

**Relevant Individuals and Entities**

b. Individual 1, a co-conspirator not charged in this Information, was a resident of New Jersey and the owner and operator of Company 1, a

marketing company that generated referrals for diagnostic testing, including toxicology and cancer genetic testing.

c. Individual 2, a co-conspirator not charged in this Information, was a resident of Florida and the owner and operator of Company 2, a marketing company that generated referrals for diagnostic testing, including toxicology and cancer genetic testing.

d. Doctor 1, a co-conspirator not charged in this Information, was a resident of New York and a medical doctor licensed to practice medicine in New York.

#### **The Medicare Program**

e. The Medicare Program (“Medicare”) was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare was administered by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency under the United States Department of Health and Human Services (“HHS”). Individuals who received benefits under Medicare were referred to as Medicare “beneficiaries.”

f. Medicare was a “Federal health care program” as defined in Title 42, United States Code, Section 1320a-7b(f), and a “health care benefit program” as defined in Title 18, United States Code, Section 24(b).

g. Medicare was divided into multiple parts with separate coverages: Part A covered hospital inpatient care; Part B covered physicians’

services and outpatient care; Part C covered Medicare Advantage Plans; and Part D covered prescription drugs.

h. Physicians, clinics, laboratories, and other health care providers (collectively, “providers”) that provided services to Medicare beneficiaries were able to apply for and obtain a provider number. Providers that received a Medicare provider number were able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries.

i. Claims submitted to Medicare seeking reimbursement were required to contain certain important information, including: (i) the Medicare beneficiary’s name and Health Insurance Claim Number (“HICN”); (ii) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (iii) the billing codes for the benefit, item, or service; (iv) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (v) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number (“UPIN”) or National Provider Identifier (“NPI”). Claims seeking reimbursement from Medicare were submitted in hard copy or electronically.

j. Medicare only paid for services that were medically necessary and reasonable and which were actually provided as represented. Medicare did not pay claims that were procured through the payment or receipt of kickbacks and bribes.

### **Genetic Testing**

k. Genetic tests were laboratory tests designed to identify specific inherited mutations in a patient's genes. These genetic variations affected a patient's risk of developing certain diseases or how the patient responded to medications.

l. Genetic tests related to a patient's hereditary predisposition to cancer were commonly referred to as cancer genetic testing or "CGx" tests. These tests used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. CGx testing was not a method of diagnosing whether an individual presently had cancer.

m. To conduct CGx tests, a laboratory was required to obtain a DNA sample from the patient ("specimens"). Such specimens were typically obtained from the patient's saliva by using a cheek (buccal) swab to collect sufficient cells to provide a genetic profile. The specimens were then submitted to the laboratory to conduct a CGx test.

n. Specimens were submitted along with requisitions that identified the patient, the patient's insurance, and the specific test to be performed, such as a comprehensive panel of genes to test for risks of multiple cancers. In order for laboratories to submit claims to Medicare for CGx tests, the requisitions had to be signed by a doctor or other authorized medical professional who attested to the medical necessity of the test.

o. Medicare did not cover diagnostic testing, including CGx testing, that was “not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.” 42 U.S.C. § 1395y(a)(1)(A). Except for certain statutory exceptions, Medicare did not cover “examinations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint or injury.” 42 C.F.R. § 411.15(a)(1). Among the statutory exceptions Medicare covered were cancer screening tests such as “screening mammography, colorectal cancer screening tests, screening pelvic exams, [and] prostate cancer screening tests.” *Id.*

p. If diagnostic testing was necessary for the diagnosis or treatment of illness or injury, or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a) provided, “all diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary’s specific medical problem.” “Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary.” *Id.*

q. Applicable Medicare Local Coverage Determinations deemed genetic testing to be medically necessary only in limited circumstances, namely, when a beneficiary had clinical features of an associated disease, the result of the test would directly impact the treatment being delivered to the beneficiary,

and a definitive diagnosis remained uncertain after other methods of diagnosis had been performed.

**The Kickback Conspiracy**

2. From in or around November 2018, and continuing through in or around June 2021, in the District of New Jersey, and elsewhere, defendant

**SIAMAK SAMOOHI**

did knowingly and willfully conspire and agree with Individual 1, Individual 2, Doctor 1, and others to commit certain offenses against the United States, that is,

a. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by soliciting and receiving any remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program; and

b. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by offering and paying any remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program.

**Goal of the Conspiracy**

3. It was the goal of the conspiracy for defendant SIAMAK SAMOOHI and his co-conspirators to unlawfully enrich themselves by, among other things, soliciting, receiving, offering, and paying kickbacks and bribes in return for recruiting and referring Medicare beneficiaries to Suretox for diagnostic testing, including CGx testing.

**Manner and Means of the Conspiracy**

4. The manner and means by which defendant SIAMAK SAMOOHI and his co-conspirators sought to accomplish the goal of the conspiracy included, among other things, the following:

a. Defendant SIAMAK SAMOOHI agreed to and did offer and pay illegal kickbacks and bribes to Individual 1 and Individual 2 in exchange for specimens and signed requisition forms for diagnostic tests that were sent to Suretox for the purpose of performing tests that were billed to Medicare.

b. Defendant SIAMAK SAMOOHI agreed to and did pay Individual 1 and Individual 2 a percentage of the Medicare reimbursement for specimens and signed requisition forms that Individual 1 and Individual 2 referred to Suretox.

c. Individual 1 and Individual 2 worked together to generate referrals for CGx testing by participating in health fairs in New York and New Jersey. Specifically, Individual 1 set up booths at these fairs to persuade Medicare beneficiaries to submit to genetic testing, including CGx, by providing

specimens. Doctor 1 signed the genetic testing requisition forms generated by Individual 1 and Individual 2 at the health fairs.

d. To disguise the scheme, defendant SIAMAK SAMOOHI, Individual 1, and Individual 2 created sham documentation, including hourly timesheets, to conceal and disguise the illegal kickbacks and bribes paid by defendant SIAMAK SAMOOHI in exchange for specimens and signed requisition forms.

e. Defendant SIAMAK SAMOOHI and others, through Suretox, submitted and caused the submission of approximately \$7,900,000 in claims to Medicare, including claims for beneficiaries residing in Mercer County, which resulted in reimbursement by Medicare of approximately \$4,700,000 for genetic tests that were generated by Individual 1 and Individual 2, ordered by Doctor 1, and procured by the payment of illegal kickbacks and bribes.

f. Defendant SIAMAK SAMOOHI paid Individual 1 and Individual 2 approximately \$3,300,000 in exchange for diagnostic testing referrals, including CGx testing and toxicology referrals, that Individual 1 and Individual 2 caused to be referred Suretox.

#### **Overt Acts**

5. In furtherance of the conspiracy and to accomplish its goals, defendant SIAMAK SAMOOHI and his co-conspirators committed, and caused to be committed, the following acts in the District of New Jersey and elsewhere:

a. On or about November 7, 2018, defendant SIAMAK SAMOOHI wrote a check in the approximate amount of \$8,269.52, payable to Company 2,



and drawn on the Suretox Bank Account, in exchange for specimens and requisition forms referred by Individual 1 and Individual 2.

b. On or about August 1, 2019, defendant SIAMAK SAMOOHI wrote a check in the approximate amount of \$100,000, payable to Company 1, and drawn on the Suretox Bank Account, in exchange for specimens and requisition forms referred by Individual 1 and Individual 2.

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

**FORFEITURE ALLEGATIONS**

6. The allegations contained in this Information are re-alleged here for the purpose of alleging forfeiture against defendant SIAMAK SAMOOHI.

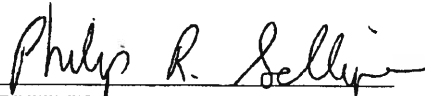
7. Pursuant to Title 18, United States Code, Section 982(a)(7), upon being convicted of the crime charged in this Information, defendant SIAMAK SAMOOHI shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

**Substitute Assets Provision**

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

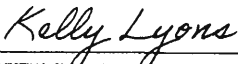
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided 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), to seek forfeiture of any other property of defendant SIAMAK SAMOOHI up to the value of the forfeitable property described above.

  
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United States Attorney

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Criminal Division, Fraud Section  
United States Department of Justice

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KELLY LYONS  
Trial Attorney  
Criminal Division, Fraud Section  
United States Department of Justice

CASE NUMBER: 22-484 (PGS)

**UNITED STATES DISTRICT COURT  
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**UNITED STATES OF AMERICA**

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**Siamak Samoohi**

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**18 U.S.C. § 371**

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PHILIP R. SELLINGER  
UNITED STATES ATTORNEY  
FOR THE DISTRICT OF NEW JERSEY

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