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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:23-CR-381-E

GARY MARTIN (02)

INDICTMENT

The Grand Jury charges:

At all times material to this Indictment:

Introduction

1. Defendant **Gary Martin** was the owner and operator of medical clinics located in the Northern District of Texas and elsewhere.

2. SVAL, LLC (SVAL) D/B/A Aim Diagnostic Laboratory, was a limited liability company with a principal place of business in McKinney, Texas. SVAL purported to offer, among other items, “no cost” COVID-19 home tests that could be shipped to individuals nationwide. **Martin** was a managing member of SVAL.

3. JDS LABS, LLC (JDS Labs) was a limited liability company with a principal place of business in the Northern District of Texas owned by Damon Heath Roberts. JDS Labs also purported to offer “no cost” COVID-19 home tests.

4. Beginning in or around February 2023 and continuing to at least in or around May 2023, **Martin**, Roberts, and others known and unknown to the Grand Jury engaged in an unlawful conspiracy whereby they offered to pay and did pay, or solicited

and received, illegal kickbacks and bribes based on the amount Medicare reimbursed for over-the-counter COVID-19 tests. As part of the conspiracy, **Martin** and others known and unknown to the Grand Jury also purchased, sold, distributed, and arranged for the purchase, sale, and distribution of Medical beneficiary identification numbers that could be used to bill for over-the-counter COVID-19 tests that were never requested and, in many instances, never received.

The Medicare Program

5. The Medicare Program (“Medicare”) was a federally funded health insurance program, affecting commerce, that provided benefits to individuals who were 65 years and older and to certain disabled persons. 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”). Medicare was a “health care benefit program” as defined in 18 U.S.C. § 24(b) in that it was a public plan or contract affecting commerce, and a “Federal health care program” as defined by 42 U.S.C. § 1320a-7b(f).

6. Individuals who qualified for Medicare benefits were referred to as Medicare “beneficiaries.” Medicare beneficiaries were issued beneficiary identification cards that certified eligibility for Medicare and identified each beneficiary by a unique number.

7. Medicare included coverage under component parts. Medicare Part A was a hospital insurance program that covered beneficiaries for, among other types of care, inpatient care in hospitals and other facilities. Medicare Part B was a medical insurance program that covered doctors' services, outpatient care, diagnostic testing, durable medical equipment, and other medical items and services not covered under Medicare Part A.

8. Laboratories, pharmacies, physicians, nurse practitioners, and other health care providers that furnished items and services to Medicare beneficiaries were referred to as Medicare "providers." To participate in Medicare, providers were required to submit a Medicare enrollment application, which required providers to certify that they would abide by Medicare laws, regulations, and program instructions, including the Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b).

9. Medicare paid for claims only if the items or services were medically necessary for the treatment or diagnosis of the beneficiary's illness or injury, documented, and actually provided as represented. Medicare would not pay for items or services that were procured through kickbacks and bribes.

Medicare Beneficiary Identification Numbers

10. Each Medicare beneficiary was identified with a unique beneficiary identification number. These beneficiary identification numbers were used to determine a beneficiary's eligibility for Medicare benefits and to submit claims to Medicare seeking reimbursement for covered benefits, items, and services. Health Insurance Claim Numbers (HICNs) and Medicare Beneficiary Identifiers (MBIs) were two types of

Medicare beneficiary identification numbers.

11. In 2015, CMS began to assign Medicare beneficiaries MBIs, which were comprised of a unique series of eleven randomly generated numbers and letters. MBIs, like HICNs, were used to identify qualifying beneficiaries in all Medicare transactions, such as billing and claim submissions. One purpose of using this randomly generated series of numbers and letters was to improve patient identity protection and prevent identity theft. According to CMS, personal identity theft affected a large and growing number of senior citizens. CMS implemented the new MBIs in an effort to combat identity theft and safeguard taxpayer dollars.

Over-the-Counter COVID-19 Tests

12. Starting on April 4, 2022, and continuing through the duration of the COVID-19 public health emergency, Medicare covered and paid for over-the-counter COVID-19 tests (“OTC COVID-19 tests”) at no cost to beneficiaries with Medicare Part B and those with Medicare Advantage plans. This program was intended to ensure Medicare beneficiaries had access to COVID-19 tests they needed to stay safe and healthy during the COVID-19 pandemic. Eligible providers were permitted to distribute to Medicare beneficiaries OTC COVID-19 tests that were approved, authorized, or cleared by the U.S. Food and Drug Administration.

13. Medicare would not pay for more than eight OTC COVID-19 tests, per calendar month, per Medicare beneficiary. Providers could distribute OTC COVID-19 tests only to Medicare beneficiaries who requested them. Providers were required to keep documentation showing a Medicare beneficiary’s request for the tests.

Count One

Conspiracy to Solicit or Receive Kickbacks
for Referrals to a Federal Health Care Program
(Violation of 18 U.S.C. § 371 (42 U.S.C. § 1320a-7b(b)(1))

14. The Grand Jury realleges and incorporates by reference all preceding paragraphs of this Indictment as if fully set herein.

15. Beginning in or around February 2023 and continuing to at least in or around August 2023, in the Northern District of Texas and elsewhere, the defendant, **Gary Martin**, knowingly and willfully conspired, confederated, and agreed with Damon Heath Roberts and others known and unknown to the Grand Jury, to commit offenses against the United States, that is by knowingly and willfully soliciting and receiving remuneration, specifically kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring individuals for the furnishing of items and services, namely OTC COVID-19 tests, for which payment may be made in whole or in part under a federal health care program, that is, Medicare; and for the purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing and ordering of any good, item, and service for which payment may be made in whole and in part by a federal health care program, that is, Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(1).

Object and Purpose of the Conspiracy

16. It was an object and purpose of the conspiracy for **Martin** and his coconspirators to unlawfully enrich themselves through the submission of false and fraudulent claims to Medicare for OTC COVID-19 tests that were procured by kickbacks

and bribes, and in many instances, never requested or not received.

Manner and Means of the Conspiracy

17. The manner and means by which **Martin** and his coconspirators sought to accomplish the purpose of the conspiracy included, among other things:

18. In or around 2023, **Martin** and others began sharing Medicare beneficiary information so that JDS Labs could bill Medicare for OTC COVID-19 tests. In exchange, **Martin** and other health care providers and individuals with access to patient information solicited and received a kickback or bribe based on the reimbursement from Medicare for OTC COVID-19 tests JDS Labs billed to the beneficiary's Medicare insurance. **Martin** and his coconspirators provided the Medicare patient information notwithstanding that, at the time the information was provided, as **Martin** and his coconspirators knew, the patients had not consented to the sharing of their information and/or had not requested any OTC COVID-19 tests. In fact, in numerous instances, the Medicare beneficiary was deceased.

19. Upon receipt of the patient information, Roberts, through JDS Labs, would submit a claim to Medicare for the maximum amount of OTC COVID-19 tests allowable. Once Medicare reimbursed JDS Labs for the claim, Roberts directly or indirectly paid a kickback or bribe to the referring medical provider or individual, including to **Martin**. Roberts kept track of the Medicare payouts and corresponding kickback amounts that were due to each referring medical provider or individual and kept them updated of the same.

20. At some point, the exact date being unknown to the Grand Jury, **Martin** agreed to use SVAL to fraudulently bill Medicare for OTC COVID-19 tests using Medicare patient information unlawfully provided by his coconspirators. Similar to JDS Labs, **Martin** agreed to pay kickbacks and bribes based on the amount of reimbursement from Medicare for the tests.

21. Ultimately, as a result of the illegal kickbacks and bribes, SVAL was able to submit over \$69 million, and JDS Labs was able to submit nearly \$4 million, in false and fraudulent claims for OTC COVID-19 tests to Medicare.

22. Additionally, because **Martin**, Roberts, and their coconspirators knew that it violated the Federal Anti-Kickback Statute to pay or offer to pay kickbacks or to solicit or receive the kickbacks, and that any such payments would be subject to heightened scrutiny, they sought to conceal the kickback payments through the use of passthrough arrangements and payments in cash to conceal the true source and recipient of the kickbacks and bribes.

Overt Acts in Furtherance of the Conspiracy

23. In furtherance of the conspiracy, and to accomplish its object and purposes, **Martin**, Roberts, and/or their coconspirators committed and caused to be committed, in the Northern District of Texas and elsewhere, the following overt acts, among others:

24. On or about March 2, 2023, **Martin**, as managing member on behalf of SVAL, and Roberts, as managing member on behalf of JDS Labs, executed a sham “Laboratory Services Agreement” whereby JDS Labs agreed to pay SVAL \$34 for each set of OTC COVID-19 tests sent to Medicare beneficiaries.

25. On or about March 8, 2023, **Martin** sent Roberts an Excel file containing patient demographic information, which consisted of patient information from his medical clinics, so that Roberts could submit insurance claims for OTC COVID-19 tests.

26. On April 3, 2023, Roberts sent an email to **Martin** stating: “We also got paid on the 50 patients for [a home health agency], so we are making another payment to you today for \$1,700 (50 patients x 34). We already shipped their tests to them, but we need phone #s for these 50 patients. Please tell them to send the phone #s asap. And tell them they can send more patients too.”

27. On April 3, 2023, Roberts made an ACH transfer in the amount of \$1,700 from Account Number 9855 to **Martin’s** bank account for payment of a kickback.

28. On April 17, 2023, Roberts sent an email to **Martin** and other coconspirators calculating kickback amounts owed to certain individuals and advised that \$8,296, which was the total amount of kickbacks, would be sent via wire.

29. On April 17, 2023, Roberts made an ACH transfer in the amount of \$8,296 from Account Number 9855 to **Martin’s** bank account for payment of kickbacks.

30. On May 5, 2023, Roberts made an ACH transfer in the amount of \$80,000 from Account Number 9855 to **Martin’s** bank account for payment of kickbacks.

All in violation of 18 U.S.C. § 371 (42 U.S.C. § 1320a-7b(b)(2)).

Counts Two through Four
Solicitation and Receipt of Kickbacks
(Violations of 42 U.S.C. § 1320a-7b(b)(1))

31. The Grand Jury realleges and incorporates by reference all preceding paragraphs of this Indictment as if fully set herein.

32. On or about the date listed below, in the Dallas Division of the Northern District of Texas, and elsewhere, **Gary Martin**, did knowingly and willfully solicit and receive remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, for referring an individual for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part under a federal health care program, that is, Medicare; and for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program, that is, Medicare:

Count	Approximate Date of Payment	Approximate Amount of Kickback Payment and Details
2	04/03/2023	ACH transfer in the amount of \$1,700 from Account Number 9855 to Martin's bank account
3	04/17/2023	ACH transfer in the amount of \$8,296 from Account Number 9855 to Martin's bank account
4	05/05/2023	ACH transfer in the amount of \$80,000 from Account Number 9855 to Martin's bank account

All in violation of Title 42, United States Code, Sections 1320a-7b(b)(1).

Forfeiture Notice
(18 U.S.C. § 982(a)(7))

33. Pursuant to 18 U.S.C. § 982(a)(7), upon conviction of the offense alleged in Count One, the defendant, **Gary Martin**, 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.

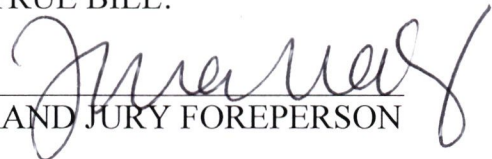
34. The above-referenced property subject to forfeiture includes, but is not limited to, a “money judgment” in the amount of U.S. currency constituting the gross proceeds traceable to the offense.

35. Pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), if any of the property described above, as a result of any act or omission of the defendants:

- 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,

the United States intends to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described above.

A TRUE BILL:


GRAND JURY FOREPERSON

NANCY E. LARSON
ACTING UNITED STATES ATTORNEY


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FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THE UNITED STATES OF AMERICA

v.

GARY MARTIN (02)

INDICTMENT

18 U.S.C. § 371 (42 U.S.C. § 1320a-7b(b)(1))
Conspiracy to Solicit or Receive Kickbacks
for Referrals to a Federal Health Care Program
(Count 1)

42 U.S.C. § 1320a-7b(b)(1)
Solicitation and Receipt of Kickbacks
(Counts 2-4)

18 U.S.C. § 982(a)(7)
Forfeiture Notice

4 Counts

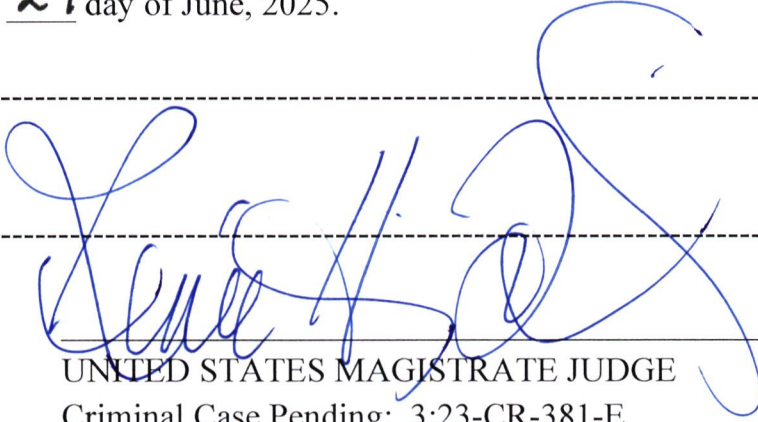
A true bill rendered

DALLAS


FOREPERSON

Filed in open court this 24th day of June, 2025.

Warrant to be Issued



UNITED STATES MAGISTRATE JUDGE
Criminal Case Pending: 3:23-CR-381-E