

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2022 MAR -1 PM 1:42

FLORIDA
TAMPA

UNITED STATES OF AMERICA

v.

CASE NO. 8:22 cr 77 CEH -JSS

18 U.S.C. § 371

42 U.S.C. § 1320a-7b(b)(1)

THOMAS MOLLICK and
MARTIN KRYTUS

INDICTMENT

~~SEALED~~

The Grand Jury charges:

COUNT ONE
(Conspiracy)

A. Introduction

At times material to this Indictment:

1. The Department of Labor (“DOL”) was an agency of the United States which established the Office of Workers’ Compensation Programs (“OWCP”). The DOL/OWCP, through the Federal Employees Compensation Act (“FECA”), was a federal health care program, as defined by 42 U.S.C. § 1320a-7b(f)(1), which was funded directly, in whole or in part, by the government and which provided compensation benefits, including payments for health care services to civilian employees of the United States for injuries sustained while in the performance of their duties. Benefits available to injured employee claimants included coverage of rehabilitation, medical, surgical, and other necessary related expenses.

~~SEALED~~

2. RX DEVELOPMENT ASSOCIATES, INC. (“RXD”), a Florida corporation, with its principal place of business in Seminole County, Florida, provided medication dispensing management services to doctors as an in-office pharmaceutical program. RXD was enrolled with DOL/OWCP as a billing agent.

3. THOMAS MOLLICK, a resident of Hillsborough County, Florida, co-founded and served as President of RXD, and as President and Director of MOLLICK ENTERPRISES, INC. (“MEI”). MOLLICK, who was responsible for overseeing the creation and operation of RXD’s in-office drug dispensing program, selected the company’s wholesale drug supplier, Business #1, and solicited and caused said supplier to make kickback payments to MEI.

4. MARTIN KRYTUS, a resident of Orange County, Florida, co-founded and served as Vice President of RXD, and as President, Secretary, Treasurer, and Director of EASTWOOD & ASSOC., INC (“EW”). KRYTUS, who was also responsible for overseeing the creation and operation of RXD’s in-office drug dispensing program, received a portion of kickback payments made by Business #1 to MEI.

5. MOLLICK ENTERPRISES, INC., a Florida corporation, with its principal place of business in Pinellas County, Florida, was incorporated and controlled by MOLLICK, who served as its President and Director. MOLLICK used MEI to receive unlawful kickback payments from RXD’s wholesale drug supplier, Business #1.

6. EASTWOOD & ASSOC., INC., a Florida corporation, with its principal place of business in Seminole County, Florida, was controlled by KRYTUS, who served as its President, Secretary, Treasurer, and Director. KRYTUS used EW to indirectly receive illegal kickback payments from RXD's wholesale drug supplier, Business #1.

7. Business #1, a California corporation, with its principal place of business in Los Angeles County, California, operated as a wholesaler, repackager, and relabeler of drug products that catered to physicians who dispensed drugs in the office setting. At the solicitation and direction of MOLLICK and KRYTUS, Business #1 made illegal kickback payments directly to MEI. MEI then paid a portion of the illegal kickback payments to EW.

B. Conspiracy

8. Beginning as early as in or around January 2012, and continuing through at least in or about March 2017, in the Middle District of Florida and elsewhere, the defendants,

THOMAS MOLLICK
and
MARTIN KRYTUS,

did knowingly and willfully combine, conspire, confederate, and agree with each other and with others, both known and unknown the Grand Jury, to commit an offense against the United States, that is, to solicit and receive illegal remuneration (kickbacks and bribes), in violation of 42 U.S.C. § 1320a-7b(b)(1).

C. Manner and Means of the Conspiracy

9. The manner and means by which the defendants sought to accomplish the object and purposes of the conspiracy included, among others, the following:

a. It was a part of the conspiracy that a conspirator would and did identify the wholesale drug supplier from which RXD purchased prescription drugs on behalf of its health care provider clients.

b. It was a further part of the conspiracy that a conspirator would and did enter into an informal arrangement, and later a contract, with a principal of the wholesale drug supplier to create an RXD account, through which RXD's health care provider clients would and did order drugs to be dispensed to said clients' patients, and for the wholesale drug supplier to transmit invoices to RXD for all of the drugs so ordered.

c. It was a further part of the conspiracy that a conspirator would and did solicit illegal kickbacks by representing to a principal of Business #1 that RXD's account would be significant and profitable for the wholesale drug supplier, provided said supplier agreed to certain specified conditions.

d. It was a further part of the conspiracy that a conspirator would and did tell a principal of Business #1 that securing and maintaining the RXD account required the wholesale drug supplier to pay the conspirator a kickback of 10 percent of the total cost of drugs ordered by RXD's health care provider clients.

e. It was a further part of the conspiracy that conspirators would and did recommend and arrange for RXD's health care provider clients to order prescription drugs for their patients from Business #1.

f. It was a further part of the conspiracy that conspirators would and did recommend, arrange for, and cause Business #1 to receive orders for prescription drugs from RXD's health care provider clients, ship prescription drugs to RXD's health care provider clients in satisfaction of said orders, and transmit invoices for all such orders to RXD for payment.

g. It was a further part of the conspiracy that conspirators would and did cause RXD to submit claims for the prescription drugs dispensed by its health care provider clients to DOL/OWCP claimants for reimbursement by the DOL/OWCP.

h. It was a further part of the conspiracy that conspirators would and did cause DOL/OWCP to pay claims submitted by RXD for prescription drugs dispensed to DOL/OWCP claimants by RXD's health care provider clients.

i. It was a further part of the conspiracy that conspirators would and did cause RXD to pay Business #1's invoices for prescription drugs shipped to RXD's health care provider clients.

j. It was a further part of the conspiracy that conspirators would and did cause the wholesale drug supplier to track all sales to RXD's health care provider clients and to calculate the amounts of illegal kickback payments due.

k. It was a further part of the conspiracy that conspirators would and did instruct the wholesale drug supplier how and where to make the kickback payments.

l. It was a further part of the conspiracy that a conspirator would and did cause the wholesale drug supplier to generate checks made payable to an entity controlled by the conspirator in the amounts of kickback payments due, and to mail said checks to a specified location.

m. It was a further part of the conspiracy that MOLLICK, who controlled MEI to which Business #1 made the illegal kickback payments payable, would and did cause checks to be written against MEI's account and made payable to EW, which was controlled by KRYTUS. In this manner, KRYTUS indirectly received a portion of the illegal kickback payments.

n. It was a further part of the conspiracy that conspirators would and did perform acts and make statements and representations to hide, misrepresent, and conceal, and cause to be hidden, misrepresented, and concealed, the object of the conspiracy and the acts committed in furtherance of same.

D. Overt Acts

10. In furtherance of and to effect the object of the conspiracy, the following overt acts, among others, were committed by one or more conspirators in the Middle District of Florida and elsewhere:

a. On or about January 25, 2012, a Business #1 official sent an email with the subject line: "is rx development set up with 10%" to a Business #1

sales representative and stated “all rx development are up 10% starting today. will be sending money on monthly basis.”

b. On or about February 29, 2012, MOLLICK emailed KRYTUS and other Business #1 personnel and provided instructions to RXD personnel to switch accounts from another repackager to Business #1.

c. On or about March 20, 2012, a Business #1 official emailed MOLLICK with the subject line: “your 10% ck this month \$3903.77 in the mail.” MOLLICK later forwarded the email to KRYTUS.

d. On or about April 11, 2012, KRYTUS emailed a Business #1 official and instructed: “Please void any check you have wrote and make them out to Eastwood and Assoc, Inc. I will just shred this one unless you want it back. Call me if you need further explanation but trust me there is a reason. Im not trying to be a pain in the ass I promise.”

e. On or about May 9, 2012, MOLLICK emailed a Business #1 official and instructed said Business #1 official to issue checks to MEI.

f. On or about May 24, 2012, MOLLICK emailed KRYTUS and MOLLICK’s tax accounting firm and instructed his accountant in part to: “Please cut a check for Eastwood and Assoc. for \$41,741.19 and put in the mail today.”

g. On or about June 7, 2012, KRYTUS sent an email with the subject line: “Business #1” stating, “We have not received anything from them yet.” MOLLICK responded to KRYTUS stating, “Received all into MEI. Was part of the 41K ck you just received from me.”

h. On or about July 1, 2013, MOLLICK, in his capacity as managing partner of RXD, signed an agreement with Business #1, which omitted the illegal kickbacks Business #1 provided, and was to provide, to MOLLICK and KRYTUS.

i. On or about the dates set forth below, each of which constitutes a separate overt act, MOLLICK retained a share of the illegal kickbacks and bribes paid, and caused to be paid a portion of the kickbacks and bribes to EW, which was controlled by KRYTUS, in the approximate amounts specified:

OVERT ACT	ON OR ABOUT DATE	ENTITY TO WHICH MEI MADE CHECK PAYABLE IN SPECIFIED AMOUNT
i.1	June 22, 2015	Check to EW for \$90,001.51
i.2	December 21, 2015	Check to EW for \$79,444.50

j. On or about the dates set forth below, each of which constitutes a separate over act, Business #1 paid, and caused to be paid, illegal kickbacks and bribes to MEI, which was controlled by MOLLICK, in the approximate amounts specified:

OVERT ACT	ON OR ABOUT DATE	ENTITY TO WHICH BUSINESS #1 MADE CHECK PAYABLE IN SPECIFIED AMOUNT
j.1	June 10, 2016	Check to MEI for \$55,903.79
j.2	July 11, 2016	Check to MEI for \$48,065.49
j.3	August 10, 2016	Check to MEI for \$48,020.54

OVERT ACT	ON OR ABOUT DATE	ENTITY TO WHICH BUSINESS #1 MADE CHECK PAYABLE IN SPECIFIED AMOUNT
j.4	September 14, 2016	Check to MEI for \$47,495.43
j.5	October 10, 2016	Check to MEI for \$44,929.75
j.6	November 9, 2016	Check to MEI for \$51,104.58
j.7	December 9, 2016	Check to MEI for \$41,820.63
j.8	January 11, 2017	Check to MEI for \$41,944.42
j.9	February 10, 2017	Check to MEI for \$40,544.83
j.10	March 13, 2017	Check to MEI for \$42,682.57

In violation of 18 U.S.C. § 371.

COUNT TWO

(Soliciting and Receiving Illegal Remunerations—Kickback and Bribes)

1. The allegations contained in Section A and Section C of Count One of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. On or about March 13, 2017, in the Middle District of Florida, and elsewhere, the defendants,

THOMAS MOLLICK
and
MARTIN KRYTUS,

aided and abetted by each other and others, did knowingly and willfully solicit and receive remuneration (including any kickback, bribe, and rebate) in the approximate amount of \$42,682.57 from Business #1, directly and indirectly, overtly and covertly,

in cash and in kind, to induce such person (A) to refer an individual to a person for the furnishing and arranging for the furnishing of an item and service, and (B) to purchase, order, and arrange for, and recommend purchasing and ordering a good, service, and item, for which payment may be made, in whole and in part, under a federal health care program, that is, DOL/OWCP.

In violation of 42 U.S.C. § 1320a-7b(b)(1) and 18 U.S.C. § 2.

FORFEITURE

1. The allegations contained in Counts One and Two of this Indictment are incorporated by reference for the purpose of alleging forfeitures pursuant to 18 U.S.C. § 982(a)(7).

2. Upon conviction of a violation of 42 U.S.C. § 1320a-7b(b)(1), or a conspiracy to violate 42 U.S.C. § 1320a-7b(b)(1) (18 U.S.C. § 371), the defendants shall forfeit to the United States of America, pursuant to 18 U.S.C. § 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

3. The property to be forfeited includes, but is not limited to, an order of forfeiture in the amount of proceeds obtained from the offense.


4. If any of the property described above, 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


the United States shall be entitled to forfeiture of substitute property under the provisions of 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1).

A TRUE BILL.


Foreperson


ROGER B. HANDBERG
United States Attorney

By:



Gregory D. Pizzo
Assistant United States Attorney

By:



Rachelle DesVaux Bedke
Assistant United States Attorney
Chief, Economic Crimes Section

FORM OBD-34

March 22

No.

UNITED STATES DISTRICT COURT
Middle District of Florida
Tampa Division

THE UNITED STATES OF AMERICA


vs.

THOMAS MOLLICK, and
MARTIN KRYTUS

INDICTMENT

Violations: 18 U.S.C. § 371 and 42 U.S.C. § 1320a-7b(b)(1)

A true bill.


Foreperson

Filed in open court this 1st day of March, 2022.

Clerk

Bail \$ _____
