

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,) No. 10-00285-01-CR-W-FJG
)
Plaintiff,)
v.) COUNT ONE - (Conspiracy to Distribute
) OxyContin and oxycodone
) 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), 846
) NMT 20 Years Imprisonment
KEVIN MARTIN CUMMINGS,) NMT \$1,000,000 Fine
[DOB: 02/06/1961]) NLT 3 Years Supervised Release
) Class C Felony
Defendant.)
) COUNT TWO - (Money Laundering)
) 18 U.S.C. §§ 1956(a)(1)(B)(i), 1956(h)
) NMT 20 Years Imprisonment
) NMT \$500,000 Fine
) NMT 3 Years Supervised Release
) Class C Felony
)
) COUNT THREE - (Health Care Fraud)
) 18 U.S.C. § 1347
) NMT 10 Years Imprisonment
) NMT \$250,000 Fine
) NMT 3 Years Supervised Release
) Order of Restitution
) Class C Felony
)
) COUNT FOUR - (Theft of Government
) Property)
) 18 U.S.C. § 641
) NMT 10 Years Imprisonment
) NMT \$250,000 Fine
) NMT 3 Years Supervised Release
) Order of Restitution
) Class C Felony
)
) ALLEGATION OF FORFEITURE
) 21 U.S.C. §§ 853(a)(1) and (2)
) 18 U.S.C. § 982(a)(1)
) 18 U.S.C. § 982(a)(7)
) 18 U.S.C. § 981(a)(1)(C) and
) 28 U.S.C. § 2461
)
) \$100 Mandatory Special Assessment Each Count

I N F O R M A T I O N

THE UNITED STATES CHARGES THAT:

COUNT ONE
(Conspiracy to Distribute OxyContin and oxycodone)

On or about July 2006, through on or about January 2010, said dates being approximate, in the Western District of Missouri, KEVIN MARTIN CUMMINGS, defendant herein, did knowingly and intentionally combine, conspire, confederate, and agree with others, both known and unknown, to distribute a mixture or substance containing OxyContin and oxycodone, a Schedule II controlled substance.

Contrary to the provisions of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and Section 846.

COUNT TWO
(Money Laundering)

On or about July 2006, through on or about January 2010, said dates being approximate, in the Western District of Missouri, KEVIN MARTIN CUMMINGS, defendant herein, did knowingly and intentionally combine, conspire, confederate, and agree with others, both known and unknown, to conduct and attempt to conduct financial transactions affecting interstate or foreign commerce, as defined in Title 18, United States Code, Section 1956(c)(4), that is, the deposit, withdrawal, transfer of funds, and exchange of currency which involved the proceeds of a specified unlawful activity, that is, the unlawful distribution of OxyContin and oxycodone, a Schedule II controlled substance, with the intent to promote the carrying on of said specified unlawful activity and with the intent that the transactions were designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds of said

specified unlawful activity and that while conducting and attempting to conduct such financial transactions knew that the property involved in the financial transactions, that is, funds, represented proceeds of said specified unlawful activity.

Contrary to the provisions of Title 18, United States Code, Sections 1956(a)(1)(A)(i), 1956(a)(1)(B)(i), 1956(a)(1)(B)(ii) and 1956(h).

COUNT THREE
(Health Care Fraud)

During the period from on or about January 2006 to on or about June 2009, in the Western District of Missouri, KEVIN MARTIN CUMMINGS (hereinafter referred to as “CUMMINGS”) did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud federal health care benefit programs, in connection with the delivery of or payment for health care benefits, items, or services.

The substance of the scheme and artifice, and the manner and means of execution of the scheme and artifice, were as follows:

Prescriptions in CUMMINGS’ Name

1. From at least January 2006 through April 2009, CUMMINGS knowingly and willfully defrauded federal health care benefit programs by causing claims for illegal prescriptions issued in his name to be submitted to and paid by federal health care benefit programs. CUMMINGS obtained prescriptions for Schedule II controlled substances from an osteopathic physician. CUMMINGS obtained these prescriptions from the physician, knowing that he had no legitimate medical need for these prescriptions and that they would be filled and the drugs used for illegal purposes.

2. Medicare Part D is a health care benefit program under federal law. CUMMINGS was a Medicare Part D beneficiary and used his Medicare Part D benefits to, among other things, fill prescriptions. The pharmacies that filled the illegal prescriptions for CUMMINGS submitted claims for payment to Medicare Part D, and the pharmacies received payment. From September 14, 2006 through

March 4, 2009, CUMMINGS caused 97 claims for illegal prescriptions in his own name to be submitted to Medicare Part D. These claims were for 16,960 Schedule II pills. Medicare Part D paid \$57,437 on those claims for illegal prescriptions.

3. Medicaid (a/k/a Missouri HealthNet) is also a health care benefit program under federal law. CUMMINGS was a Medicaid beneficiary and used his Medicaid benefits to, among other things, fill prescriptions. The pharmacies that filled the illegal prescriptions for CUMMINGS submitted claims for payment to Medicaid, and the pharmacies received payment. From January 30, 2006 through April 1, 2009, CUMMINGS caused 62 claims for illegal prescriptions in his own name to be submitted to Medicaid. These claims were for 10,630 Schedule II pills. Medicaid paid \$8,367 on those claims for illegal prescriptions.

4. United Healthcare is also a health care benefit program under federal law. CUMMINGS was also a United Healthcare beneficiary and used his United Healthcare benefits to, among other things, fill prescriptions. The pharmacies that filled the illegal prescriptions for CUMMINGS submitted claims for payment to United Healthcare, and the pharmacies received payment. From February 14, 2006 through March 13, 2006, CUMMINGS caused three claims for illegal prescriptions in his own name to be submitted to United Healthcare. These claims were for 544 Schedule II pills. United Healthcare paid \$4,776 on those claims for illegal prescriptions.

Prescriptions in the Names of Other Individuals

1. In addition, from at least August 2007 through June 2009, CUMMINGS knowingly and willfully defrauded federal health care benefit programs by causing claims for illegal prescriptions issued in the names of other individuals –without their permission– to be submitted to and paid by federal health care benefit programs. CUMMINGS obtained prescriptions for Schedule II controlled substances from the physician in the name of other individuals, knowing that the prescriptions were not for their use, were not for a legitimate medical need, and would be filled and the drugs used for illegal purposes.

2. CUMMINGS caused prescriptions in the names of other individuals, who were Medicare Part D beneficiaries, to be filled at pharmacies using their Medicare Part D benefits. The pharmacies that filled the illegal prescriptions for CUMMINGS in the names of other individuals submitted claims for payment to Medicare Part D, and the pharmacies received payment. From August 13, 2007 through February 27, 2009, CUMMINGS caused a total of 32 claims for illegal prescriptions in the names of other individuals to be submitted to Medicare Part D. These claims were for 5,360 Schedule II pills. Medicare Part D paid \$27,372 on those claims for illegal prescriptions.

3. CUMMINGS caused prescriptions in another person's name to be filled at pharmacies using that person's Medicaid benefits. The pharmacies filled the illegal prescriptions for CUMMINGS in another person's name and submitted claims for payment to Medicaid, and the pharmacies received payment. From September 13, 2007 through December 6, 2008, CUMMINGS caused 16 claims for illegal prescriptions in another person's name to be submitted to Medicaid. These claims were for 2,880 Schedule II pills. Medicaid paid \$5 on those claims for illegal prescriptions.

4. Tricare is also a health care benefit program under federal law. CUMMINGS caused prescriptions in the name of a Tricare beneficiary to be filled at pharmacies using that person's Tricare benefits. The pharmacies that filled the illegal prescriptions for CUMMINGS in another person's name submitted claims for payment to Tricare, and the pharmacies received payment. From June 13, 2008 through June 25, 2009, CUMMINGS caused ten claims for illegal prescriptions in another person's name to be submitted to Tricare. These claims were for 1,379 Schedule II pills. Tricare paid \$1,289 on those claims for illegal prescriptions.

Prescriptions in the Names of Co-Conspirators

1. Furthermore, from at least October 2006 through May 2009, CUMMINGS knowingly and willfully defrauded federal health care benefit programs by causing claims for illegal prescriptions issued in the names of co-conspirators to be submitted to and paid by federal health care benefit programs. CUMMINGS introduced co-conspirators to the physician so that the co-conspirators could obtain prescriptions for Schedule II controlled substances from the physician. CUMMINGS caused the co-conspirators to obtain these prescriptions, knowing that the prescriptions were not for a legitimate medical need, and would be filled and the drugs used for illegal purposes. The co-conspirators filled the prescriptions and gave some or all of the Schedule II controlled substances to CUMMINGS who then illegally distributed them.

2. CUMMINGS enlisted several individuals who were Medicare Part D beneficiaries. CUMMINGS caused prescriptions in these co-conspirators' names to be filled at pharmacies using their Medicare Part D benefits. The pharmacies that filled the illegal prescriptions submitted claims for payment to Medicare Part D, and the pharmacies received payment. From March 20, 2007 through July 20, 2007, CUMMINGS caused at least 12 claims for illegal prescriptions to Medicare Part D to be submitted. These claims were for 1,800 Schedule II pills. Medicare Part D paid \$7,391 on those claims for illegal prescriptions.

3. CUMMINGS enlisted several individuals who were Medicaid beneficiaries. CUMMINGS caused prescriptions in the names of these co-conspirators to be filled at pharmacies using their Medicaid benefits. The pharmacies that filled the illegal prescriptions submitted claims for payment to Medicaid, and the pharmacies received payment. From September 24, 2007 through March 13, 2009, CUMMINGS caused these co-conspirators to submit 64 claims for illegal prescriptions to Medicaid. These claims were for 5,970 Schedule II pills. Medicaid paid \$3,376 on those claims for illegal prescriptions.

4. Blue Cross Blue Shield-Kansas City (BCBS-KC) is a health care benefit program under federal law. CUMMINGS enlisted several co-conspirators who were BCBS-KC beneficiaries. CUMMINGS caused prescriptions in the names of these co-conspirators to be filled at pharmacies using their BCBS-KC benefits. The pharmacies that filled the illegal prescriptions submitted claims for payment to BCBS-KC, and the pharmacies received payment. From October 16, 2006 through May 31, 2009, CUMMINGS caused these co-conspirators to submit 35 claims for illegal prescriptions to BCBS-KC. These claims were for 3,190 Schedule II pills. BCBS-KC paid \$7,725 on those claims for illegal prescriptions.

CUMMINGS' Medicare Part A and B Claims

1. Moreover, from at least 2007 through 2009, CUMMINGS knowingly and willfully defrauded federal health care benefit programs by submitting claims for Medicare Part A and B benefits in his name to which he has not entitled. Medicare Part A and B is a health care benefit program under federal law. CUMMINGS obtained Medicare Part A and B benefits because of his representations to the Social Security Administration that he was medically disabled. The Social Security Administration administers disability benefits under the Title II and Title XVI Programs. CUMMINGS falsely represented to the Social Security Administration that he had been unable to work since July 2001 as a result of his alleged disability. CUMMINGS was not entitled to receive Social Security disability benefits; therefore, he was not entitled to receive Medicare Part A and B benefits. From January 1, 2007 through December 31, 2009, CUMMINGS submitted 72 claims for Medicare Part A and B benefits to which he was not entitled. Medicare Part A and B paid \$18,642 for those benefits.

Contrary to the provisions of Title 18, United States Code, Sections 1347 and 2.

COUNT FOUR
(Theft of Government Property)

From February 9, 2004 and continuing without interruption until on or about January 19, 2010, within the Western District of Missouri, the defendant, CUMMINGS, as part of a single continuing scheme involving the Social Security Administration ("SSA"), an agency of the United States, and with intent to deprive the owner of the use and benefit of the money and property so taken, the defendant willfully and knowingly did embezzle, steal, convert and purloin goods, property and money of the United States having a value of approximately Sixty-seven Thousand Eight Hundred and One dollars (\$67,801), that is, defendant concealed and failed to disclose to the SSA, as he was required to do, his work activity and income derived from such work activities, knowing that his work activity affected his right to receive Social Security benefits, and he concealed his employment for the purpose of fraudulently obtaining monthly Social Security disability payments and Supplemental Security Income to which he was not eligible to receive. The defendant's actions constitute theft of money from the United States.

Contrary to the provisions of Title 18, United States Code, Section 641.

ALLEGATION OF FORFEITURE

Upon conviction of one or more of the offenses alleged in Counts One through Four of this Indictment, defendant KEVIN MARTIN CUMMINGS shall forfeit to the United States the following:

1. As to Count One of the Indictment, pursuant to Title 21, United States Code, Section 853(a)(1) and (2), any property constituting, or derived from, any proceeds Cummings obtained, directly or indirectly, as a result of violations of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and Section 846, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violations, including but not limited to:

real property located at 7601 Jefferson, Kansas City, Missouri; 8004 Flora, Kansas City, Missouri; 8012 Flora, Kansas City, Missouri; 119191 West 66th Street, Shawnee, Kansas; 31775 West 89th Street, DeSoto, Kansas; 7446 Jarboe, Kansas City, Missouri; and 2729 West 83rd Street, Leawood, Kansas; and United States Currency in the amount of at least \$557,600.00.

2. As to Count Two of the Indictment, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in violations of Title 18, United States Code, Sections 1956(a)(1)(A)(i), 1956(a)(1)(B)(i), 1956(a)(1)(B)(ii) and 1956(h), or any property traceable to such property, including but not limited to: real property located at 7601 Jefferson, Kansas City, Missouri; 8004 Flora, Kansas City, Missouri; 8012 Flora, Kansas City, Missouri; 119191 West 66th Street, Shawnee, Kansas; 31775 West 89th Street, DeSoto, Kansas; 7446 Jarboe, Kansas City, Missouri; and 2729 West 83rd Street, Leawood, Kansas; and United States Currency in the amount of at least \$624,109.00.

3. As to Count Three of the Indictment, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to violations of Title 18, United States Code, Sections 1347 and 2, including but not limited to: real property located at 7601 Jefferson, Kansas City, Missouri; 8004 Flora, Kansas City, Missouri; 8012 Flora, Kansas City, Missouri; 119191 West 66th Street, Shawnee, Kansas; 31775 West 89th Street, DeSoto, Kansas; 7446 Jarboe, Kansas City, Missouri; and 2729 West 83rd Street, Leawood, Kansas; and United States Currency in the amount of at least \$136,380.00.

4. As to Count Four of the Indictment, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, any property, real or personal, that is derived from proceeds traceable to a violations of Title 18, United States Code, Section 641, including but not limited to: real property located at 7601 Jefferson, Kansas City, Missouri; 8004 Flora, Kansas City, Missouri; 8012 Flora, Kansas City, Missouri; 119191 West 66th Street, Shawnee, Kansas; 31775 West 89th Street, DeSoto, Kansas; 7446 Jarboe, Kansas City, Missouri; and 2729 West 83rd Street, Leawood, Kansas; and United States Currency in the amount of at least \$67,801.00.

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 to seek forfeiture of any other property of said defendant(s) up to the value of the forfeitable property described above.

Respectfully submitted,

Beth Phillips
United States Attorney

By */s/ Gregg R. Coonrod*

Gregg R. Coonrod
Assistant United States Attorney

10/15/2010
Dated: _____
Kansas City, Missouri