UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	**Case No.**
	)	
TANYA MENTZER,	)	
	)	
Defendant.	)	

INFORMATION

The United States Attorney for the Northern District of Alabama charges:

General Allegations

At times material to this Information, unless otherwise specified:

THE DEFENDANT

1. PHYSICIAN 1 was licensed by the State of Alabama to practice medicine and maintained a Controlled Substance Registration, a DEA Registration Number, and a Medicare provider number. PHYSICIAN 1 was the owner and sole physician at a family medicine clinic, CLINIC 1, located in Hoover, in the Northern District of Alabama. PHYSICIAN 1 owned and operated a pharmacy within CLINIC 1, DISPENSARY 1.

2. PERSON 1 was the practice manager at CLINIC 1 and PHYSICIAN 1's husband. PERSON 1 held no medical licensure or certification. PERSON 1 was

responsible for billing insurance companies for purported office visits and procedures at CLINIC 1.

3. PERSON 2 was a pharmacy technician at CLINIC 1.

4. Defendant **TANYA MENTZER** was CLINIC 1's office manager. **TANYA MENTZER** had no medical education, licensure, or experience.

CLINIC 1 AND DISPENSARY 1

5. CLINIC 1 was a medical clinic, operating at 3421 S. Shades Crest Rd. Suite 111. CLINIC 1 purported to be a family medicine clinic, offering general medical services, addiction treatment, and pain management treatment. CLINIC 1 kept irregular hours, often staying open past midnight.

6. PHYSICIAN 1 dispensed controlled substances and other prescription drugs directly from a dispensary at CLINIC 1 (DISPENSARY 1).

STATUTES AND CONTROLLING REGULATIONS

7. The Controlled Substances Act ("CSA") governed the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions for medical professionals, the CSA made it unlawful for any person to knowingly or intentionally manufacture, distribute, or dispense a controlled substance or conspire to do so.

8. Medical practitioners, such as physicians and nurse practitioners, who were authorized to prescribe controlled substances by the jurisdiction in which they were licensed to practice medicine, were authorized under the CSA to prescribe, or otherwise distribute, controlled substances, if they were registered with the Attorney General of the United States. 21 U.S.C. § 822(b); 21 C.F.R. § 1306.03. Upon application by the practitioner, the Drug Enforcement Administration (DEA) assigned a unique registration number to each qualifying medical practitioner including physicians and nurse practitioners.

9. The CSA and its implementing regulations set forth which drugs and other substances were defined by law as "controlled substances," and assigned those controlled substances to one of five schedules (schedule I, II, III, IV, or V) depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

10. A controlled substance assigned to schedule II meant that the drug had a high potential for abuse, was highly addictive, and that the drug had a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions. Abuse of a schedule II controlled substance

could lead to severe psychological and/or physical dependence. Pursuant to the CSA and its implementing regulations:

a. Hydrocodone was classified as a schedule II controlled substance after October 2014, before which time it was classified as a schedule III controlled substance. It was an opioid pain medication.

b. Oxycodone was classified as a schedule II controlled substance. Oxycodone was sold generically and under a variety of brand names, including OxyContin®, Roxicodone®, Endocet®, and Percocet. Oxycodone, an opioid pain medication, is about fifty percent stronger than Morphine.

c. Hydrocodone and Oxycodone were among the schedule II opioid controlled substances that had the highest potential for abuse and associated risk of fatal overdose.

d. Amphetamines, including Vyvanse and Adderall (dextroamp-amphetamin), were classified as schedule II controlled substances. Amphetamines were used to treat attention deficit hyperactivity disorder or narcolepsy, as well as for weight loss.

11. A controlled substance assigned to schedule III meant that the drug or other substance had a lower potential for abuse than schedule II drugs or other substances, the drug or other substance had a currently accepted medical use in the United States, and abuse of the drug or other substances may lead to moderate or low physical dependence or high psychological dependence. Pursuant to the CSA and its implementing regulations:

a. Suboxone was a schedule III partial opioid agonist/opioid antagonist combining buprenorphine and naloxone, used in opiate use disorder treatment to curb opioid dependence and to help treat withdrawal symptoms for opiate drugs.

12. A controlled substance assigned to schedule IV meant that the drug or other substance had a lower potential for abuse than schedule III drugs or other substances, the drug or other substance had a currently accepted medical use in the United States, and abuse of the drug or other substances may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in the higher schedules. Pursuant to the CSA and its implementing regulations:

a. Alprazolam was classified as a schedule IV controlled substance. Alprazolam, sometimes prescribed under brand name Xanax, was a medication used to treat anxiety.

b. Clonazepam was classified as a schedule IV controlled substance. Clonazepam, sometimes prescribed under brand name Klonopin, was a medication used to treat anxiety and seizures.

c. Carisoprodol was classified as a schedule IV controlled substance. Carisoprodol, sometimes prescribed under brand name Soma, was a muscle relaxant.

13. A controlled substance assigned to schedule V meant that the drug or other substance had a low potential for abuse relative to schedule IV substances, the drug or substance had a currently accepted medical use in treatment in the United States, and abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to schedule IV drugs or other substances. Pursuant to the CSA and its implementing regulations:

a. Promethazine with codeine was classified as a schedule V controlled substance. Promethazine with codeine, sometimes prescribed under brand name Robitussin AC or Phenergan with codeine, was a medication used to treat coughs and upper respiratory symptoms.

14. Chapter 21 of the Code of Federal Regulations, Section 1306.04 governed the issuance of prescriptions and provided, among other things, that a prescription for a controlled substance "must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional

practice." It was well known that the combination of high-dose opioids and benzodiazepines (*e.g.*, alprazolam) in any dose had a significant impact upon the risk of patient intoxication and overdose. The risk of intoxication and overdose was increased when treatment included other central nervous system depressants, muscle relaxants (*e.g.*, carisoprodol), anticonvulsants, and short-acting opioid analgesics. For a treating physician to prescribe these combinations for a legitimate medical purpose, the physician needed to determine, at a minimum, that the benefits of the drugs outweighed the risk(s) to the patient's life.

15. Chapter 21 of the Code of Federal Regulations, Section 1306.04, also directed that "[a]n order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [the CSA] and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances."

16. Federal law prohibited physicians from pre-signing prescriptions, because "all prescriptions for controlled substances had to be "dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner." 21 C.F.R. §

1306.05(a). "The refilling of a prescription for a controlled substance listed in Schedule II is prohibited." 21 C.F.R. § 1306.12(a); 21 U.S.C. § 829(a).

17. The Alabama Board of Medical Examiners Administrative Code similarly prohibited physicians from pre-signing prescriptions: "It is improper, under any circumstances, for a physician to pre-sign blank prescription pads or forms and make them available to employees or support personnel." Alabama Administrative Code Chapter 540-X-4-.06(8).

18. Urine drug screens were relied upon in the pain-management industry as a means of identifying a patient's non-compliance with the patient's treatment plan. Urine drug screens were used to identify abuse of illicit and controlled substances not prescribed to a patient, and to identify a patient's failure to take drugs prescribed for the patient's treatment of pain.

19. Alabama's prescription drug monitoring program ("PDMP") was a means of detecting a pain management patient's non-compliance with the patient's treatment plan. A PDMP report contained prescription data for all controlled substances dispensed by pharmacies in the State of Alabama. Pharmacies were required to report the patient's name, the particular controlled substance and dosage dispensed, the quantity dispensed, the number of days supplied, the prescribing physician's name, the date the prescription was issued, the dispensing pharmacy's name, the type of payment, and the date the controlled substances were dispensed.

20. Under the Drug Addiction Treatment Act of 2000, physicians treating addiction to opioid narcotics could apply for and receive a "DATA waive" certification, which authorized the physician to conduct maintenance and detoxification treatment using specifically approved schedule III, IV, or V narcotic medications, including Suboxone.

COUNT ONE:
CONSPIRACY TO COMMIT A CRIME AGAINST THE UNITED STATES
[18 U.S.C. § 371]

21. All previous paragraphs of this Information are incorporated here.

22. From in or around June 1, 2015, through in or around May 31, 2018, the exact dates being unknown to the Grand Jury, in Jefferson County, within the Northern District of Alabama and elsewhere, Defendant

TANYA MENTZER,

knowingly, willfully and unlawfully combined, conspired, confederated and agreed with PHYSICIAN 1, PERSON 1, PERSON 2, and others known and unknown to commit a crime against the United States, that is, to knowingly and intentionally distribute and dispense, and cause to be distributed and dispensed, mixtures and substances containing a detectable amount of controlled substances, including schedule II-V controlled substances, not with a legitimate medical purpose and outside the usual scope of professional practice, in violation of United States Code, Section 841(a)(1).

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

PURPOSE OF THE CONSPIRACY

23. It was the purpose and object of the conspiracy for PHYSICIAN 1, PERSON 1, PERSON 2, **TANYA MENTZER**, and their co-conspirators, known and unknown, to unlawfully enrich themselves by, among other things: (a) prescribing controlled substances without a legitimate medical purpose and outside the usual scope of professional practice; (b) filling those prescriptions at DISPENSARY 1; and (c) using the proceeds from these activities for the personal benefit of PHYSICIAN 1, PERSON 1, PERSON 2, **TANYA MENTZER**, and their co-conspirators known and unknown.

OVERT ACTS

In furtherance of the conspiracy and to affect the objects of the conspiracy, the following overt acts, among others, were committed in Jefferson County, in the Northern District of Alabama, and elsewhere:

24. Despite some aspects of legitimate medical practice at CLINIC 1, PHYSICIAN 1, PERSON 1, PERSON 2, **TANYA MENTZER**, and their co-conspirators primarily operated CLINIC 1 as a pill mill, frequently providing dangerous, addictive, powerful opioid cocktails, for no legitimate medical purpose and outside the usual scope of professional practice.

25. PHYSICIAN 1 would occasionally see patients during office visits. More frequently, however, PHYSICIAN 1 was absent from CLINIC 1. PHYSICIAN 1 went weeks at a time without visiting CLINIC 1 or seeing patients, but prescriptions continued to be issued. Often, **TANYA MENTZER** was the only employee at CLINIC 1 during business hours.

26. PHYSICIAN 1, with PERSON 1, PERSON 2, **TANYA MENTZER**, and others, distributed and dispensed controlled substances at CLINIC 1 and from DISPENSARY 1, including, but not limited to: hydrocodone, oxycodone, and amphetamines, all schedule II controlled substances; buprenorphine, a schedule III controlled substance; alprazolam, clonazepam, and carisoprodol, all schedule IV controlled substances; and promethazine with codeine, a schedule V controlled substance.

27. PHYSICIAN 1, PERSON 1, PERSON 2, **TANYA MENTZER**, and their co-conspirators provided these drugs to cash-paying patients and to patients with health insurance. As the owner and operator of both CLINIC 1 and DISPENSARY 1, PHYSICIAN 1 received most of the proceeds.

28. PHYSICIAN 1 and PERSON 1 enlarged their profits by directing **TANYA MENTZER** or other unlicensed, unqualified, and generally unsupervised staff to perform medical tasks, such as opioid medication maintenance.

PHYSICIAN 1 and PERSON 1 often employed patients with substance-abuse conditions as employees at CLINIC 1.

29. PHYSICIAN 1, aided and abetted by PERSON 1 and others, routinely provided **TANYA MENTZER** and others with blank, pre-signed prescriptions to be used for distributing and dispensing controlled substances in PHYSICIAN 1's absence.

30. PHYSICIAN 1 directed PERSON 1, PERSON 2, **TANYA MENTZER**, and others to distribute and dispense controlled substances to patients, via prescription and directly from DISPENSARY 1, while PHYSICIAN 1 was absent and without PHYSICIAN 1 examining the patient or reviewing the patient's medical file.

31. PHYSICIAN 1 and PERSON 1 increased their profits by pressuring or requiring CLINIC 1 patients to purchase many of their prescription drugs, including controlled substances, from DISPENSARY 1 for cash.

32. PHYSICIAN 1, PERSON 1, PERSON 2, **TANYA MENTZER**, and their co-conspirators routinely ignored signs that CLINIC 1's patients were drug seeking, abusing the drugs prescribed, and were otherwise critically compromising their health and safety. Red flags routinely ignored included, but were not limited to:

a. aberrant urine drug screens, including screens reflecting patients' illicit drug use, their use of controlled pharmaceutical drugs not prescribed by PHYSICIAN 1, and their abstention from pain-treatment drugs prescribed by PHYSICIAN 1;

b. pleas and warnings from patients' families and friends about patients' drug abuse and deteriorating conditions;

c. self-reporting by patients suggesting that their medication regimens were too strong (*e.g.*, car accidents), and self-reporting that patients had previously abused alcohol and drugs, including the narcotics they were prescribed by PHYSICIAN 1; and

d. communications from insurance companies warning of the dangers of prescribing specific drugs or combinations of drugs.

33. PHYSICIAN 1 sought to obstruct the investigation into her criminal conduct by instructing **TANYA MENTZER** and other co-conspirators to lie, including, but not limited to telling **TANYA MENTZER** to lie about: whether PHYSICIAN 1 provided blank, pre-signed prescriptions, whether dispensing from DISPENSARY 1 occurred in PHYSICIAN 1's absence, whether PHYSICIAN 1 had examined a particular patient on the day he overdosed, and whether PHYSICIAN 1 examined all new patients.

34. PHYSICIAN 1 and PERSON 1 paid their co-conspirators, including PERSON 2 and **TANYA MENTZER**, with proceeds from prescribing controlled substances without a legitimate medical purpose and outside the usual scope of professional practice, and from the money they made billing insurance companies for services that were not medically necessary, not provided, or both. Ultimately, however, PHYSICIAN 1 and PERSON 1 kept the vast majority of the proceeds.

All in violation of Title 18, United States Code, Section 371; and Title 21, United States Code, Section 841(a)(1).

NOTICE OF CRIMINAL FORFEITURE
(18 U.S.C. § 981 with 28 U.S.C. § 2461(c))

35. The allegations contained in Count 1 of this Information are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

36. Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), the United States of America gives notice to Defendant

TANYA MENTZER,

that upon conviction for an offense in violation of Title 18, United States Code, Section 371, the following is subject to forfeiture:

a. all property which constitutes or is derived from proceeds traceable to the violations alleged above.

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 of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

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ROBERT ZINK
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Criminal Division, Fraud Section
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United States Department of Justice
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/s/ Electronic Signature

_____

DEVON HELFMEYER
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United States Department of Justice

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JOHN B. WARD
Assistant United States Attorney