

ORIGINAL

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

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

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DEPUTY CLERK _____ *[Signature]*

UNITED STATES OF AMERICA

v.

NO. **3-17 CR - 370 - M**

| | |
|------------------|------|
| ERIK BUGEN | (01) |
| JODY SHEFFIELD | (02) |
| MATTHEW HAWRYLAK | (03) |
| BRITT HAWRYLAK | (04) |

INFORMATION

The United States Attorney charges:

General Allegations

At all times material to this information:

The TRICARE Program (Generally)

1. Title 18, United States Code, Section 24(b) defined a health care benefit program as any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service was provided to any individual and included any individual or entity who provided a medical benefit, item, or service for which payment may be made under the plan or contract.
2. TRICARE was a healthcare program of the United States Department of Defense (DoD) Military Health System that provided coverage for DoD beneficiaries world-wide, including active duty service members, National Guard and Reserve members, retirees,

their dependents, and survivors. The Defense Health Agency (DHA), an agency of the DoD, was the military entity responsible for overseeing and administering the TRICARE program. TRICARE was a “Federal healthcare program” as defined in 18 U.S.C. § 24(b). Individuals who received benefits through TRICARE were referred to as TRICARE “beneficiaries.”

3. TRICARE would pay for medically necessary services and supplies required in the diagnosis and treatment of illness or injury. Benefits included specified medical services and supplies provided to eligible beneficiaries from authorized civilian sources such as prescription drugs and laboratory testing.

Laboratory Testing (Generally)

4. In general, toxicology testing was a diagnostic service that was required to be ordered by a primary care manager (PCM) which included a Medical Doctor, Doctor of Osteopathic Medicine, Physician’s Assistant, or a Nurse Practitioner. Once ordered, the tests were performed in a Clinic Laboratory Improvement Amendments (CLIA) certified facility. Toxicology tests were a covered TRICARE benefit when prescribed by a licensed physician and medically necessary.

5. In general, DNA cancer screenings were required to be ordered by a PCM and were performed by a CLIA certified facility. DNA cancer screenings looked for specific inherited changes (mutations) in a person’s chromosomes, genes, or proteins. The screenings were done with a small sample of bodily fluid or tissue. The tissues were collected from a patient and transported to a laboratory where the testing took place.

DNA cancer screenings were a covered TRICARE benefit when prescribed by a licensed physician, medically necessary, and either FDA approved or non-FDA approved with certain restrictions.

The Defendants and Related Companies

6. Prolixus Financial, LLC, dba ADAR Group, LLC (ADAR Group) was an outpatient toxicology testing facility doing business at 1003 W 10th Street, Killeen, Texas. ADAR stands for Alcoholism & Drug Addiction Recovery.
7. Xpress Laboratories, Inc. (Xpress Laboratories) was a clinical laboratory doing business at 1000 W. Weatherford Street, Fort Worth, Texas. Xpress Laboratories was never a TRICARE provider.
8. Cockerell Dermatopathology (Cockerell) was a laboratory specializing in the evaluation of dermatologic disorders and doing business at 2110 Research Row, Dallas, Texas. Cockerell held a CLIA license, which allowed it to perform laboratory tests at its facility and submit claims for those tests to TRICARE. Cockerell was an authorized TRICARE provider.
9. Origen Laboratories and Progen Lab Systems, LLC (collectively, Progen Lab) were laboratory companies purportedly doing business at 2110 Research Row, Dallas, Texas. Origen Laboratories and Progen Lab submitted laboratory test claims to TRICARE using Cockerell's TRICARE provider number and license.
10. Tiger Racing Team was a shell company purportedly doing business at 4725 Harley Avenue, Fort Worth, Texas.

11. Zorin Holdings LLC was a shell company purportedly doing business at 6744 Kirkwood Road, Fort Worth, Texas.
12. Defendant **Erik Bugen**, a resident of Travis County, Texas, was an owner and managing partner of ADAR Group.
13. Defendant **Jody Sheffield**, a resident of Travis County, Texas, was the operations manager of ADAR Group.
14. Defendant **Matthew Hawrylak**, a resident of Tarrant County, Texas, was the owner of Zorin Holdings and a marketer for Xpress Laboratories, Progen Lab, and ADAR Group.
15. Defendant **Britt Hawrylak**, a resident of Tarrant County, Texas was the owner of Tiger Racing Team and a marketer for Xpress Laboratories, Progen Lab, and ADAR Group.
16. From in or about May 2014 continuing to in or about July 2017, the exact dates being unknown, **Erik Bugen, Jody Sheffield, Matthew Hawrylak, and Britt Hawrylak** submitted and caused the submission of more than approximately \$36 million in false and fraudulent claims to TRICARE.

Count One
Conspiracy to Commit Health Care Fraud
(Violation of 18 U.S.C. § 371 (18 U.S.C. § 1347))

17. The United States Attorney re-alleges and incorporates by reference as if fully alleged herein paragraphs 1 through 16 of this information.

The Conspiracy

18. From in or about May 2014 and continuing to in or about July 2017, the exact dates being unknown, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants, **Erik Bugen, Jody Sheffield, Matthew Hawrylak, and Britt Hawrylak**, did knowingly, and willfully combine, conspire, confederate, and agree with each other and with other persons known and unknown, to violate 18 U.S.C. § 1347, that is, to knowingly and willfully devise and execute, and attempt to execute a scheme and artifice to defraud TRICARE, a health care benefit program as defined in 18 U.S.C. § 24(b), and to obtain money and property owned by, and under the custody and control of TRICARE, by means of materially false and fraudulent pretenses, representations, and promises, in connection with the delivery of, and payment for, health care benefits, items, and services, in violation of 18 U.S.C. § 1347.

Object of the Conspiracy

19. It was the object of the conspiracy for the defendants and others known and unknown to unlawfully enrich themselves, by submitting, and causing the submissions of false and fraudulent claims for health care benefits. The false and fraudulent claims were

for toxicology and DNA cancer screening tests that were not legitimately prescribed, not needed, not provided as billed, and which were the product of kickbacks.

Manner and Means of the Conspiracy

20. The manner and means by which the defendants sought to accomplish the object of the conspiracy included, among other things:

The Scheme to Defraud

21. Defendants **Erik Bugen, Jody Sheffield, Matthew Hawrylak, and Britt Hawrylak** operated ADAR Group solely to achieve the objective of their scheme to defraud: to unlawfully enrich themselves by submitting false and fraudulent claims for health care benefits.

22. Defendant **Britt Hawrylak** operated Tiger Racing Team and defendant **Matthew Hawrylak** operated Zorin Holdings to receive payments from Xpress Laboratories and Progen Lab for referring testing orders for TRICARE beneficiaries. Defendants **Britt Hawrylak** and **Matthew Hawrylak** split payments from Xpress Laboratories and Progen Lab between themselves and defendants **Erik Bugen** and **Jody Sheffield**.

23. Defendants **Erik Bugen** and **Jody Sheffield** induced TRICARE beneficiaries with Wal-Mart gift cards to provide urine and saliva specimens. These specimens were then mailed to Xpress Laboratories and Progen Lab for unnecessary toxicology and DNA cancer screening tests and billed to TRICARE by Cockerell.

24. Defendants **Erik Bugen** and **Jody Sheffield** disguised the gift card inducements as a food assistance program for low-income beneficiaries. Beneficiaries provided samples for the sole purpose of receiving the gift cards.

25. Defendants **Erik Bugen** and **Jody Sheffield** and other ADAR Group employees collected urine and saliva samples from as many as 200 beneficiaries per day.

26. Defendants **Erik Bugen** and **Jody Sheffield** paid doctors a flat fee per month to sign orders for toxicology and DNA cancer screening tests. The doctors never saw the patients and had no doctor-patient relationship with the patients. Beneficiaries did not receive the results of their tests.

27. ADAR employees obtained signature stamps from the doctors and stamped the doctors' signatures on testing orders before sending the forms to Xpress Laboratories and Progen Lab.

28. ADAR employees submitted urine samples for toxicology testing for any person, without regard for whether the testing was necessary or whether the person had a history of drug or alcohol use.

29. ADAR Group placed false diagnosis codes on TRICARE claim submissions to make it appear that the beneficiary needed the testing. For example, employees at ADAR Group placed "Malignant Neoplasm of Lip" and "Alcohol Abuse, Uncomplicated" for patient S.M. who had neither a history of cancer nor alcohol abuse. This was done to ensure that TRICARE would accept, and pay, the claim.

30. Defendants **Erik Bugen, Jody Sheffield, Matthew Hawrylak, and Britt Hawrylak** and others caused to be submitted to TRICARE, at least approximately \$36 million in false and fraudulent claims. TRICARE paid Cockerell approximately \$4.8 million as payment for those claims.

31. All in violation of 18 U.S.C. § 371 (18 U.S.C. § 1347).

Forfeiture Notice
(18 U.S.C. §982(a)(7) and 28 U.S.C. § 2461(c))

32. Pursuant to 18 U.S.C. § 982(a)(7), and 28 U.S.C. 2461(c), upon conviction of Count One, the defendants, **Erik Bugen, Jody Sheffield, Matthew Hawrylak, and Britt Hawrylak** shall forfeit to the United States, any property, real or personal, which constitutes or is derived from proceeds traceable to these counts.

33. The property subject to forfeiture includes, but is not limited to:

- a. 2000 Ferrari 360 Modena, VIN ZFFYU51A7Y0121410

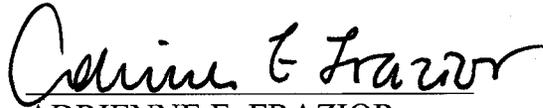
34. Gross proceeds in an amount of at least \$4.8 million and the defendants are notified that upon conviction, a money judgment may be imposed equal to said amount.

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 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 intends to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

CHAD MEACHAM
ATTORNEY FOR THE UNITED STATES,
ACTING UNDER AUTHORITY
CONFERRED BY 28 U.S.C. § 515

A handwritten signature in black ink that reads "Adrienne E. Frazier". The signature is written in a cursive style with a large initial 'A'.

ADRIENNE E. FRAZIOR
Assistant United States Attorney
Texas State Bar No. 24059546
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214-659-8600
Facsimile: 214-659-8805
Email: adrienne.frazier@usdoj.gov