

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

CR 17 358

SCJ/ABS: DJ/RAP  
F. #2016R00468

★ JUL 07 2017 ★

BRODIE, J.

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TISCIONE, M.J.

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UNITED STATES OF AMERICA

- against -

SVETLANA SHARGORODSKAYA,

Defendant.

INDICTMENT

Cr. No. \_\_\_\_\_  
(T. 18, U.S.C., §§ 287, 371,  
982(a)(7), 982(b)(1),  
1347, 2 and 3551 et seq.; T. 21,  
U.S.C., § 853(p))

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THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

I. Background

A. The Medicare and Medicaid Programs

1. The Medicare program (“Medicare”) was a federal health care program providing benefits to persons who were at least 65 years of age or disabled. 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. Individuals who received benefits under Medicare were referred to as Medicare “beneficiaries.”

2. The New York State Medicaid program (“Medicaid”) was a federal and state health care program providing benefits to individuals and families who met specified financial and other eligibility requirements, and certain other individuals who lacked

adequate resources to pay for medical care. CMS was responsible for overseeing the Medicaid program in participating states, including New York. Individuals who received benefits under Medicaid were referred to as Medicaid “beneficiaries.” Medicaid managed care plans contracted with Medicaid for a set payment per member per month for providing Medicaid health benefits to Medicaid beneficiaries.

3. Medicare and Medicaid were “health care benefit programs,” as defined by Title 18, United States Code, Section 24(b).

4. Medicare was divided into multiple parts. Medicare Part B covered the costs of physicians’ services and outpatient care, including diagnostic testing. Generally, Medicare Part B covered these costs only when, among other requirements, the services were medically necessary and ordered by a physician.

5. Medicaid covered the costs of medical services and products ranging from routine preventive medical care for children to institutional care for the elderly and disabled. Among the specific medical services and products provided by Medicaid and Medicaid managed care plans were diagnostic tests. Generally, Medicaid covered these costs only if, among other requirements, the services and products were medically necessary and ordered by a physician.

6. Medical providers and suppliers that sought to participate in Medicare Part B and Medicaid and to bill Medicare and Medicaid for the cost of their treatment of Medicare and Medicaid beneficiaries and related benefits, items and services were required to apply for and receive a provider identification number (“PIN”) or provider transaction access number (“PTAN”) from each program. The PIN/PTAN allowed medical providers and suppliers to submit bills, known as claims, to Medicare and Medicaid, respectively, to

obtain reimbursement for the cost of treatment and related health care benefits, items and services that they had supplied and provided to beneficiaries.

7. A medical provider was required to be enrolled in Medicare in order to submit claims to Medicare. In order to enroll in the Medicare program, a medical provider was required to enter into an agreement with CMS in which the provider agreed to comply with all applicable statutory, regulatory and program requirements for reimbursement from Medicare. By signing the Medicare enrollment application, the provider certified that the provider understood that payment of a claim was conditioned on the claim and the underlying transaction complying with Medicare regulations, Medicare program instructions, and the law, and on the provider's compliance with all applicable conditions of participation in Medicare.

8. Medical providers were authorized to submit claims to Medicare and Medicaid only for services they actually rendered and were required to maintain patient records verifying the provision of services.

9. To receive reimbursement from Medicare for covered services and items, medical providers were required to submit claims, either electronically or in writing, through Forms CMS-1500 or Forms UB-92. To receive reimbursement from Medicaid for covered services and items, medical providers were required to submit claims, either electronically or in writing, through New York State eMedNY-150003 Claim Forms. Each claim form required certain information identifying the medical provider submitting the claim, the medical provider rendering the service, the referring physician, the patient, and the services rendered. Both claim forms required the provider to certify, among other things,



that the services were not induced by kickbacks, were rendered to the patient and were medically necessary.

10. Providers submitted claims to Medicare and Medicaid using billing codes, also called current procedural terminology or “CPT” codes, which specifically identified the medical services provided to beneficiaries.

11. An independent diagnostic testing facility (“IDTF”) was a type of medical provider that was independent both of an attending or consulting physician’s office and of a hospital. An IDTF operated from either a fixed location or a mobile entity. An IDTF typically performed diagnostic tests ordered by physicians.

12. As with other medical providers, an IDTF was required to apply and be enrolled in Medicare in order to submit claims for reimbursement to Medicare. In an IDTF’s enrollment application to CMS, the IDTF was required to disclose, among other information, the identity of any person having an ownership, financial, or control interest of five percent or greater, or any other legal interest in the IDTF. The IDTF was also required to provide identifying information, such as social security number, date of birth, licensure, certification, credentialing and hospital employment information, for all supervising physicians, interpreting physicians and non-physician personnel who perform tests billed to Medicare, such as technicians. Additionally, an IDTF was required to provide CMS with a list of CPT codes identifying the specific tests that the IDTF would provide to Medicare beneficiaries. If accepted, an enrolled IDTF was required to notify CMS of any changes to the IDTF’s enrollment information.

13. All procedures performed by an IDTF were required to be ordered by the physician or practitioner who was treating the beneficiary, that is, the physician who was

furnishing a consultation or treating a beneficiary for a specific medical problem and who used the results of the tests in the management of the beneficiary's specific medical problem.

B. The Defendant and Relevant Individuals and Entities

14. From at least as early as April 2010, the defendant SVETLANA SHARGORODSKAYA was a sonographer who provided diagnostic testing services within the Eastern District of New York.

15. LUVR Diagnostic Services, Inc. ("LUVR") was a New York professional corporation located at 2449 E. 21st Street, Brooklyn, New York 11235, among other locations. LUVR was an IDTF enrolled as a provider in the Medicare program and with several Medicaid managed care plans. LUVR purported to provide medically necessary diagnostic testing services to Medicare and Medicaid beneficiaries at medical clinics located in Brooklyn and Queens and submitted claims to Medicare, Medicaid managed care plans, and other health care benefit programs for such services.

16. The defendant SVETLANA SHARGORODSKAYA was the owner and president of LUVR from approximately August 2013 through July 2016. In or around November 2013, after acquiring LUVR, SHARGORODSKAYA submitted a Medicare enrollment application notifying CMS that she was the new owner. SHARGORODSKAYA signed LUVR's Medicare enrollment application, attesting to the accuracy and completeness of the information contained therein.

17. From approximately August 2013 through July 2016, Co-conspirator-1 ("CC-1"), an individual whose identity is known to the Grand Jury, worked closely with the defendant SVETLANA SHARGORODSKAYA at LUVR and acted on her behalf at times in dealing with others.

18. Co-conspirator-2 (“CC-2”), an individual whose identity is known to the Grand Jury, was the owner of IDTF-1 and IDTF-2, each of which acted as IDTFs during part of the relevant period, and the identities of which are known to the Grand Jury. Neither IDTF-1 nor IDTF-2 were enrolled as a provider in the Medicare program or identified by LUVR on its Medicare enrollment application as an associated IDTF as was required by CMS. CC-2 was not listed on LUVR’s Medicare enrollment application as a technician performing services on behalf of LUVR.

19. Co-conspirator-3 (“CC-3”) and Co-conspirator-4 (“CC-4”), individuals whose identities are known to the Grand Jury, were co-owners of IDTF-3, IDTF-4 and IDTF-5, which acted as IDTFs during the relevant period, and the identities of which are known to the Grand Jury. Neither IDTF-3, IDTF-4, nor IDTF-5 were identified by LUVR on its Medicare enrollment application as associated IDTFs as was required by CMS.

20. CW-1, an individual whose identity is known to the Grand Jury, was a licensed occupational therapist authorized to participate in the Medicare and Medicaid programs. In approximately August 2010, CW-1 incorporated Company-1, a New York State professional corporation, the identity of which is known by the Grand Jury. CW-1, through Company-1, purported to provide occupational therapy services to Medicare and Medicaid beneficiaries.

## II. The Fraudulent Scheme

21. Between approximately April 2010 and July 2016, the defendant SVETLANA SHARGORODSKAYA, together with others, including CC-1, agreed to execute a fraudulent scheme to enrich themselves whereby they: (a) submitted and caused to be submitted fraudulent claims to Medicare, Medicaid managed care plans, and other health



care benefit programs; (b) engaged in deceptive acts and contrivances intended to hide information, mislead, avoid suspicion and avert further inquiry into the nature of the services provided by LUVR; (c) used the identity of multiple medical providers to submit false and fraudulent claims without lawful authority; and (d) artificially and corruptly increased demand for medical services by providing Medicare and Medicaid beneficiaries with cash kickback payments to induce those beneficiaries to subject themselves to medically unnecessary services.

22. Specifically, the defendant SVETLANA SHARGORODSKAYA, together with others, including CC-1, submitted and caused to be submitted to Medicare, Medicaid managed care plans, and other health care benefit programs, false and fraudulent claims for diagnostic testing that were not medically necessary, were not provided, or otherwise did not qualify for payment under the Medicare and Medicaid programs. For example:

(a) SHARGORODSKAYA, together with others, represented that LUVR had conducted the diagnostic testing when, in fact, IDTF-1, IDTF-2, IDTF-3, IDTF-4 or IDTF-5 purportedly performed the services;

(b) SHARGORODSKAYA, together with others, transferred, possessed, and used without lawful authority the PIN for certain medical providers in submitting claims to health benefit programs for reimbursement. This identifying information was required by Medicare, Medicaid managed care plans, and other health care benefit programs on documentation seeking reimbursement; and

(c) SHARGORODSKAYA, together with others, including CC-1, made and caused to be made cash kickback payments to beneficiaries to induce those beneficiaries to submit themselves to medically unnecessary services.

23. In or about and between August 2013 and July 2016, LUVR submitted and caused to be submitted, and subsequently received payment for, millions of dollars in claims to multiple health care benefit programs, including approximately \$13.2 million in claims to Medicare. Medicare paid LUVR approximately \$5.4 million for these claims.

COUNT ONE  
(Health Care Fraud)

24. The allegations contained in paragraphs one through 23 are realleged and incorporated as if fully set forth in this paragraph.

25. In or about and between April 2010 and July 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant SVELTLANA SHARGORODSKAYA, together with others, did knowingly and intentionally execute and attempt to execute a scheme and artifice to defraud one or more health care benefit programs, as defined in Title 18, United States Code, Section 24(b), to wit: Medicare and Medicaid, and to obtain, by means of materially false and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, Medicare and Medicaid, in connection with the delivery of and payment for health care benefits, items and services.

(Title 18, United States Code, Sections 1347, 2 and 3551 et seq.)



**COUNTS TWO AND THREE**

(False Claims)

26. The allegations contained in paragraphs one through 23 are realleged and incorporated as if fully set forth in this paragraph.

27. On or about the dates identified below, within the Eastern District of New York and elsewhere, the defendant SVETLANA SHARGORODSKAYA, together with others, did knowingly and intentionally make and present the claims set forth below upon and against an agency of the United States, to wit: the United States Department of Health and Human Services, knowing such claims to be false, fictitious and fraudulent:

<b>Count</b>	<b>Claim Date</b>	<b>Beneficiary</b>	<b>Claim Number</b>	<b>Paid Amount</b>
TWO	September 29, 2015	A.V., an individual whose identity is known to the Grand Jury	****1920	\$281
THREE	October 12, 2015	R.M., an individual whose identity is known to the Grand Jury	****2220	\$470.79

(Title 18, United States Code, Sections 287, 2 and 3551 et seq.)

**COUNT FOUR**

(Conspiracy to Receive and Pay Health Care Kickbacks)

28. The allegations contained in paragraphs one through 23 are realleged and incorporated as if fully set forth in this paragraph.

29. In or about and between July 2015 and July 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant SVETLANA SHARGORODSKAYA, together with others, did knowingly and willfully conspire: (1) to solicit and receive kickbacks, directly and indirectly, overtly and covertly, in return for referring Medicare and Medicaid beneficiaries to LUVR, Company-1, and other medical clinics for the furnishing of and arranging for the furnishing of items and

services for which payment may be made in whole and in part under Medicare and Medicaid, contrary to Title 42, United States Code, Section 1320a-7b(b)(1); and (2) to offer and pay kickbacks, directly and indirectly, overtly and covertly, to induce the referral of Medicare and Medicaid beneficiaries to LUVR, Company-1, and other medical clinics for the furnishing of and arranging for the furnishing of items and services for which payment may be made in whole and in part under Medicare and Medicaid, contrary to Title 42, United States Code, Section 1320a-7b(b)(2).

30. In furtherance of the conspiracy and to effect its objectives, within the Eastern District of New York and elsewhere, the defendant SVETLANA SHARGORODSKAYA, together with orders, committed and caused to be committed, among others, the following:

OVERT ACT

(a) On or about October 22, 2015, SHARGORODSKAYA cashed check number 1668 in the approximate amount of \$8,045 payable to Freeborn Diagnostic and drawn on JP Morgan Chase Bank account number ending in 0021, held in the name of Company-1.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION  
AS TO COUNTS ONE THROUGH FOUR

31. The United States hereby gives notice to the defendant that, upon her conviction of any of the offenses charged herein, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(7), which requires any person convicted of a federal health care offense to forfeit property, real or personal, that constitutes,

or is derived directly or indirectly from, gross proceeds traceable to the commission of such offenses.

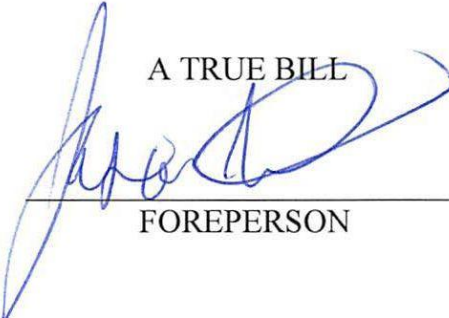
32. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

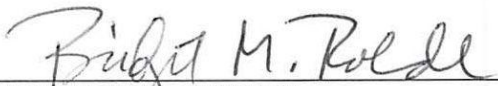
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

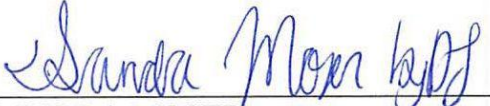


it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Sections 982(b)(1), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(7) and 982(b)(1); Title 21, United States Code, Section 853(p))

A TRUE BILL  
  
FOREPERSON

  
BRIDGET M. ROHDE  
ACTING UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

  
SANDRA MOSER  
ACTING CHIEF, FRAUD SECTION  
CRIMINAL DIVISION  
U.S. DEPARTMENT OF JUSTICE

F. #2016R00468  
FORM DBD-34  
JUN. 85

No.

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**UNITED STATES DISTRICT COURT**

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

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THE UNITED STATES OF AMERICA

vs.

*SVETLANA SHARGORODSKAYA,*

Defendant.

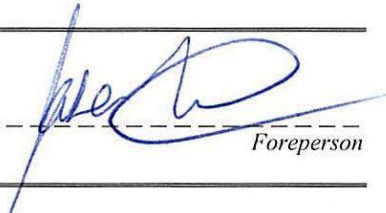
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**INDICTMENT**

(T. 18, U.S.C., §§ 287, 371, 982(a)(7), 982(b)(1), 1347, 2 and 3551  
et seq.; T. 21, U.S.C., § 853(p))

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*A true bill.*

  
Foreperson

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Filed in open court this \_\_\_\_\_ day,

of \_\_\_\_\_ A.D. 20\_\_\_\_

\_\_\_\_\_  
Clerk

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Bail, \$ \_\_\_\_\_

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*Debra Jaroslawicz, Trial Attorney, (718)-254-6377*

CR 17

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BRODIE, J.  
TISCIONE, M.

INFORMATION SHEET

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- 1. Title of Case: United States v. Svetlana Shargorodskaya
- 2. Related Magistrate Docket Number(s): \_\_\_\_\_
- 3. Arrest Date: n/a
- 4. Nature of offense(s):  Felony  
 Misdemeanor
- 5. Related Cases - Title and Docket No(s). (Pursuant to Rule 50.3.2 of the Local E.D.N.Y. Division of Business Rules):
- 6. Projected Length of Trial: Less than 6 weeks   
More than 6 weeks
- 7. County in which crime was allegedly committed: Kings  
(Pursuant to Rule 50.1(d) of the Local E.D.N.Y. Division of Business Rules)
- 8. Was any aspect of the investigation, inquiry and prosecution giving rise to the case pending or initiated before March 10, 2012.<sup>1</sup>  Yes  No
- 9. Has this indictment/information been ordered sealed?  Yes  No
- 10. Have arrest warrants been ordered?  Yes  No
- 11. Is there a capital count included in the indictment?  Yes  No

ROBERT L. CAPERS  
United States Attorney

By:   
Debra Jaroslawicz  
Trial Attorney  
718-254-6377

<sup>1</sup> Judge Brodie will not accept cases that were initiated before March 10, 2012.