

UNITED STATES DISTRICT COURT

Eastern District of New York

AMENDED AMENDED AMENDED

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

BORIS SACHAKOV

Case Number: CR11-120 (JBW)

USM Number: 78495-053

Albert Dayan 80-02 Kew Gardens Rd. Kew Gardens NY
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s)
pleaded nolo contendere to count(s) which was accepted by the court.
was found guilty on count(s) 1 through 6 of the superseding indictment after a plea of not guilty. AUSA-Sarah Hall

The defendant is adjudicated guilty of these offenses:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Rows include 18 USC 1347 (Health Care Fraud) and 18 USC 1035 (a) (False statements relating to health care matters).

The defendant is sentenced as provided in pages 2 through P of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
Count(s) remaining is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

12/10/2012 (amended 5/23/13)
Date of Imposition of Judgment

Signature of Judge (Handwritten signature)

JACK B. WEINSTEIN SR. U.S.D.J.
Name of Judge Title of Judge

5/23/2013
Date

DEFENDANT: BORIS SACHAKOV  
CASE NUMBER: CR11-120 (JBW)

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

30 MONTHS.

The defendant is to be given credit for time already served.

The court makes the following recommendations to the Bureau of Prisons:

That the defendant participate in the psychiatric and alcohol treatment (500 hours) residential program.  
That the defendant be considered for service in a medical prison institution where he can help other prisoners.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

- at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_
- as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- before 2 p.m. on \_\_\_\_\_
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: BORIS SACHAKOV  
CASE NUMBER: CR11-120 (JBW)

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of:  
3 years on each count to run concurrent.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment; notification is not possible, then within forty eight hours after such change;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 600.00	\$	\$ 1,103,069.62

The determination of restitution is deferred until \_\_\_\_\_. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
HHS Center for Medicare and Medicaid Services		\$446,500.30	
GHI/HIP (Emblem Health)		\$86,961.71	
Fidelis		\$85,659.37	
Aetna		\$30,438.80	
<del>United Health</del>		<del>\$179,567.00</del>	
1199 SEIU		\$50,355.40	
Empire Plan		\$8,626.93	
Oxford		\$59,133.77	
Humana		\$0.00	
Wellpoint		\$75,789.39	
Cigna		\$6,928.08	
<b>TOTALS</b>	\$ 0.00	\$	1,103,065.42

Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the  fine  restitution.

the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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**ADDITIONAL RESTITUTION PAYEES**

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Optum Insight		\$59,133.77	
Health Net		\$11,782.27	
Guardian		\$2,188.63	

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$ 600.00 due immediately, ~~balance due~~
  - not later than \_\_\_\_\_, or
  - in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:  
Restitution and forfeiture is payable \$100.00 per month beginning 6 months after release from prison subject to application by the probation department and the government.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

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**ADDITIONAL FORFEITED PROPERTY**

SEE ORDER OF FORFEITURE ATTACHED TO THIS JUDGMENT.

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ DEC 20 2012 ★

**BROOKLYN OFFICE**

UNITED STATES OF AMERICA,

PRELIMINARY  
ORDER OF FORFEITURE

v.

No. 11-CR-0120 (JBW)

BORIS SACHAKOV,

Defendant.

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WHEREAS, on June 13, 2012, a jury returned a verdict of guilty convicting the defendant, BORIS SACHAKOV on all six counts charged in the Superseding Indictment, to wit, executing a scheme to defraud Medicare and Private Benefit Programs in violation of 18 U.S.C. § 1347 (Count 1), and making false statements in connection with the delivery of and payment for health care benefits in violation of 18 U.S.C. § 1035(a) (Counts 2 through 6);

WHEREAS SACHAKOV has waived his right to have the jury consider whether forfeiture should be entered in this case, and, instead, has consented to have the Court determine forfeiture; and

WHEREAS the United States seeks the entry of a forfeiture money judgment in the amount of one million, one hundred three thousand, sixty nine dollars and sixty-two cents (\$1,103,069.62) in United States currency, pursuant to 18 U.S.C. § 982(a)(7), as property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense;

*pl*



WHEREAS, the United States seeks the forfeiture, pursuant to 18 U.S.C. § 982(a)(7), of the specific property identified in the Superseding Indictment, as property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense (collectively, the "Seized Assets"), to wit:

(a) Approximately \$144,231.49 seized on or about September 28, 2010, from HSBC account number 691756490, held in the name of Colon and Rectal Care of New York, P.C., and all proceeds traceable thereto;

(b) Approximately \$102,535.77 seized on or about September 27, 2010, from JPMorgan Chase account number 1962272000, held in the name of Colon and Rectal Care of New York, P.C., and all proceeds traceable thereto;

(c) Approximately \$300,960.46 seized on or about September 28, 2010, from HSBC account number 691661421, held in the name of Colon and Rectal Care of New York, P.C., and all proceeds traceable thereto;

(d) Approximately \$52,000 seized on or about October 1, 2010, from TD Ameritrade account number 781348302, held in the name of BORIS SACHAKOV, and all proceeds traceable thereto; and

(e) Approximately \$245,978.48 seized on or about September 27, 2010, from ING Direct account number 18084452, held in the name of BORIS SACHAKOV, and all proceeds traceable thereto;

WHEREAS, the United States has demonstrated by a preponderance of the evidence its entitlement to the aforementioned forfeiture and the amount thereof, \$1,103,069.62.

IT IS NOW, THEREFORE, HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. Pursuant to 18 U.S.C. § 982(a)(7), a forfeiture money judgment in the amount of one million, one hundred three thousand, sixty nine dollars and sixty-two cents (\$1,103,069.62) in United States currency (the "Forfeiture Money Judgment") shall be, and the same hereby is, entered against the Defendant, and the Defendant shall forfeit to the United States all of his right, title, and interest in any and all payments, including future payments, in the Forfeiture Money Judgment.

2. Pursuant to 18 U.S.C. § 982(a)(7), the Defendant by this Order finally and irrevocably forfeits all of his right, title, and interest in all of the Seized Assets, the value of which shall be credit towards the payment of the Forfeiture Money Judgment.

3. Upon the entry of this Order, the United States Attorney General, or his designee, is authorized to conduct any proper discovery in accordance with Fed. R. Crim. P. 32.2(b)(3) and (c) and to commence any applicable proceeding to comply with statutes governing third party rights, including giving notice of this Order.

4. Upon entry of this Order, The United States Attorney's Office shall publish notice of this Order, in accordance with the custom and practice in this district, on the government website [www.forfeiture.gov](http://www.forfeiture.gov), of its intent to dispose of the Seized

Assets in such a manner as the Attorney General or his designee may direct. The United States may, to the extent practicable, provide direct written notice to any person known or alleged to have an interest in the Seized Assets as a substitute for published notice as to those persons so notified.

5. Upon entry of this Order, the United States Attorney General is authorized to commence any applicable proceedings necessary to comply with the statutes governing the rights of third parties, including giving notice of this Preliminary Order of Forfeiture.

6. Any person, other than the defendant, asserting a legal interest in the Seized Assets may, within thirty (30) days of the final publication of notice or receipt of notice, or no later than sixty (60) days after the first day of publication on an official government website, whichever is earlier, petition the court for a hearing without a jury to adjudicate the validity of his or her alleged interest in the property, for an amendment of the order of forfeiture, pursuant to 21 U.S.C. § 853(n)(6). Any petition filed in response to notice of the forfeiture of the Seized Assets must be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

7. The defendant knowingly and voluntarily waives his right to any required notice concerning the forfeiture of the monies and/or properties forfeited hereunder.

8. The United States shall have clear title to the Seized Assets following the Court's disposition of all third-party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853(n)(2).

9. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

10. All payments made towards the Forfeiture Money Judgment shall be made by certified or bank check, payable to "U.S. Marshals Service." The Defendant shall cause said check[s] to be sent by overnight mail to F. Franklin Amanat, Senior Counsel, United States Attorney's Office, Eastern District of New York, 271 Cadman Plaza East, 7<sup>th</sup> Floor, Brooklyn, New York 11201, with the criminal docket number noted on the face of each check.

11. The Forfeiture Money Judgment shall be paid no later than thirty (30) days after the date of the Defendant's sentencing (the "Due Date"). If the Forfeiture Money Judgment is not paid in full on or before the Due Date, interest shall accrue from the Due Date on any unpaid portion thereof at the judgment rate of interest.

12. If the Forfeiture Money Judgment is not received as provided above, the Defendant shall forfeit any other property up to the amount of the Forfeiture Money

Judgment, pursuant to 18 U.S.C. § 982(b)(2), the Federal Debt Collection Procedure Act, or any other applicable law. The Defendant shall fully assist the government in effectuating the payment of the Forfeiture Money Judgment. The Defendant shall not file or interpose any claim or assist others to file or interpose any claim to any property against which the government seeks to execute the Forfeiture Money Judgment in any administrative or judicial proceeding.

13. The terms contained herein shall be final and binding only upon the Court's "so ordering" of this Order.

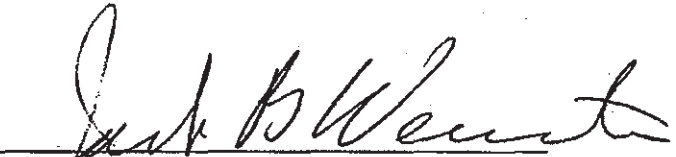
14. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(a), this Order shall become final as to the Defendant at the time of sentencing and shall be made part of the sentence and included in the judgment. This Order shall become the Final Order of Forfeiture, as provided by Fed. R. Crim. P. 32.2(c)(2).

15. This Order shall be binding upon the Defendant and the successors, administrators, heirs, assignees and transferees of the Defendant, and shall survive the bankruptcy of any of them.

16. The Court shall retain jurisdiction over this action to enforce compliance with the terms of this Order.

17. The Clerk of the Court is directed to send, by inter-office mail, four (4) certified copies of this executed Order to the United States Attorney's Office, Eastern District of New York, Attn: Maritza Arroyo, FSA Paralegal, 271 Cadman Plaza East, 7<sup>th</sup> Floor, Brooklyn, New York 11201.

Dated: Brooklyn, New York  
December 10, 2012

  
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HONORABLE JACK B. WEINSTEIN  
UNITED STATES DISTRICT JUDGE