

SJM:KVH/BC
F.#2010R00717

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

JESSE A. STOFF, M.D.,
BILLY N. GERIS, M.D.,
ILYA GERSHKOVICH,
PELAGEYA KOTELSKY,
EVGENY GIL,
VALENTINA MUSHINSKAYA,
MARIA NAKHBO,
SHELYA PINSKAYA and
VLADIMIR RUBIN,

Defendants.

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THE GRAND JURY CHARGES:

S U P E R S E D I N G
I N D I C T M E N T

Cr. No. 10-347 (S-4) (SJ)
(T. 18, U.S.C., §§ 371,
982(a)(7), 1347, 1349,
1001(a)(2), 2 and 3551 et
seq.)

INTRODUCTION

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

The Medicare Program

1. The Medicare program ("Medicare") was a federal health care program providing benefits to persons who were 65 and over 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. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. Medicare was subdivided into multiple Parts. Medicare Part B covered the costs of physicians' services and outpatient care, such as physical therapy, occupational therapy and diagnostic tests. Generally, Medicare Part B covered these costs if, among other requirements, they were medically necessary and ordered by a physician.

4. Medical providers certified to participate in Medicare, whether clinics or individuals, were assigned provider identification numbers ("PINs") for billing purposes. After a medical provider rendered a service, the provider used its PIN when submitting a claim for reimbursement to the Medicare contractor or carrier assigned to that provider's state.

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

6. To receive reimbursement from Medicare for a covered service, a medical provider was required to submit a claim, either electronically or in writing, through Form CMS-1500 or UB-92. The claim had to include information identifying the medical provider, the patient and the services rendered. By submitting the claim, the provider was certifying, among other

things, that the services rendered to the patient were medically necessary.

7. Dr. Jesse A. Stoff Medical, P.C., doing business as Solstice Wellness Center ("Solstice"), was a New York State corporation doing business in Rockaway Park, New York. Solstice was certified to participate in Medicare under its own PIN. It supposedly provided, among other things, physical therapy and diagnostic tests to Medicare beneficiaries and submitted claims to Medicare for such services.

The Defendants and Other Individuals

8. Defendant JESSE A. STOFF, M.D., was a physician who was certified to participate in Medicare under his individual PIN. He was the medical director at Solstice and purportedly treated Medicare beneficiaries there by providing, among other things, physical therapy and diagnostic tests. The medical services he purported to provide at Solstice were billed through Solstice's PIN.

9. Defendant BILLY N. GERIS, M.D., was a physician who was certified to participate in Medicare under his individual PIN. He purportedly treated Medicare beneficiaries at Solstice by providing, among other things, physical therapy and diagnostic tests. The medical services he purported to provide at Solstice were billed through his own individual PIN.

10. Defendants ILYA GERSHKOVICH and PELAGEYA KOTELSKY were Medicare beneficiaries who supposedly received medical services at Solstice and who recruited other Medicare beneficiaries to visit Solstice.

11. Defendants EVGENY GIL, VALENTINA MUSHINSKAYA, MARIA NAKHBO, SHELYA PINSKAYA and VLADIMIR RUBIN were Medicare beneficiaries who supposedly received medical services at Solstice.

12. MB1, MB2, MB3 and MB4 were Medicare beneficiaries whose identities are known to the Grand Jury.

The Fraudulent Scheme

13. The defendants JESSE A. STOFF, M.D., BILLY N. GERIS, M.D., ILYA GERSHKOVICH and PELAGEYA KOTELSKY, together with others, agreed to offer and pay cash kickbacks to EVGENY GIL, VALENTINA MUSHINSKAYA, MARIA NAKHBO, SHELYA PINSKAYA and VLADIMIR RUBIN, as well as other Medicare beneficiaries, to present to Solstice as legitimate patients and purportedly receive medical services there. Once the cash kickbacks were paid at Solstice, the Medicare beneficiaries, including ILYA GERSHKOVICH, PELAGEYA KOTELSKY, EVGENY GIL, VALENTINA MUSHINSKAYA, MARIA NAKHBO, SHELYA PINSKAYA and VLADIMIR RUBIN, were seen by various physicians at Solstice, including JESSE A. STOFF, M.D. and BILLY N. GERIS, M.D., who prescribed medically

unnecessary services, such as physical therapy and diagnostic tests.

14. The defendants JESSE A. STOFF, M.D., and BILLY N. GERIS, M.D., together with others, caused the submission of false and fraudulent claims to Medicare through Solstice's PIN and GERIS's individual PIN for services purportedly provided to Medicare beneficiaries at Solstice that were not rendered and for services that were not medically necessary.

COUNT ONE

(Conspiracy to Pay and Receive Health Care Kickbacks)

15. The allegations contained in paragraphs 1 through 14 are realleged and incorporated as if fully set forth in this paragraph.

16. In or about and between January 2009 and April 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JESSE A. STOFF, M.D., BILLY N. GERIS, M.D., ILYA GERSHKOVICH, PELAGEYA KOTELSKY, EVGENY GIL, VALENTINA MUSHINSKAYA, MARIA NAKHBO, SHELYA PINSKAYA and VLADIMIR RUBIN, together with others, did knowingly and willfully conspire to offer, pay, solicit and receive cash kickbacks directly and indirectly, overtly and covertly, in order to induce and in return for the referral of Medicare beneficiaries to physicians at Solstice for the furnishing and arranging for the furnishing of items and services for which payment may be made in whole and in part under Medicare, and to

induce and in return for Medicare beneficiaries purchasing, leasing, ordering and arranging for and recommending purchasing, leasing and ordering goods, services and items for which payment may be made in whole and in part under Medicare, contrary to Title 42, United States Code, Section 1320a-7b(b).

17. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants JESSE A. STOFF, M.D., BILLY N. GERIS, M.D., ILYA GERSHKOVICH, PELAGEYA KOTELSKY, EVGENY GIL, VALENTINA MUSHINSKAYA, MARIA NAKHBO, SHELYA PINSKAYA and VLADIMIR RUBIN, together with others, committed and caused to be committed, among others, the following:

OVERT ACTS

a. On or about February 17, 2010, co-conspirator Dmitry Shteyman offered to pay a cash kickback to MBl to induce MBl to supposedly receive medical services at Solstice, which services were billed to Medicare, and to refer other Medicare beneficiaries to supposedly receive medical services at Solstice.

b. On or about March 5, 2010, co-conspirator Aleksey Shteyman paid a cash kickback to MBl to induce MBl to supposedly receive medical services at Solstice, which services were billed to Medicare, and to refer other Medicare beneficiaries to supposedly receive medical services at Solstice.

c. On or about March 19, 2010, co-conspirator Maxsim Shvedkin paid a cash kickback to MB1 to induce MB1 to supposedly receive medical services at Solstice, which services were billed to Medicare, and to refer other Medicare beneficiaries to supposedly receive medical services at Solstice.

d. In or about and between January 2009 and April 2010, the defendant ILYA GERSHKOVICH recruited MB2 to visit Solstice so that MB2 could be paid a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

e. In or about and between January 2009 and April 2010, the defendant ILYA GERSHKOVICH, a Medicare beneficiary, solicited and received a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

f. In or about and between January 2009 and April 2010, the defendant PELAGEYA KOTELSKY recruited MB3 to visit Solstice so that MB3 could be paid a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

g. In or about and between January 2009 and April 2010, the defendant PELAGEYA KOTELSKY, a Medicare beneficiary, solicited and received a cash kickback to supposedly

receive medical services at Solstice, which services were billed to Medicare.

h. In or about and between January 2009 and April 2010, the defendant EVGENY GIL, a Medicare beneficiary, solicited and received a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

i. In or about and between January 2009 and April 2010, the defendant VALENTINA MUSHINSKAYA, a Medicare beneficiary, solicited and received a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

j. In or about and between January 2009 and April 2010, the defendant MARIA NAKHBO, a Medicare beneficiary, solicited and received a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

k. In or about and between January 2009 and April 2010, the defendant SHELYA PINSKAYA, a Medicare beneficiary, solicited and received a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

l. In or about and between January 2009 and April 2010, the defendant VLADIMIR RUBIN, a Medicare beneficiary,

solicited and received a cash kickback to supposedly receive medical services at Solstice, which services were billed to Medicare.

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

COUNT TWO
(Health Care Fraud Conspiracy)

18. The allegations contained in paragraphs 1 through 14 are realleged and incorporated as if fully set forth in this paragraph.

19. In or about and between January 2009 and April 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JESSE A. STOFF, M.D., and BILLY N. GERIS, M.D., together with others, did knowingly and willfully conspire to execute a scheme and artifice to defraud Medicare, 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, in connection with the delivery of and

payment for health care benefits, items and services, contrary to Title 18, United States Code, Section 1347.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNTS THREE THROUGH EIGHT
(Health Care Fraud)

20. The allegations contained in paragraphs 1 through 14 are realleged and incorporated as if fully set forth in this paragraph.

21. On or about the dates set forth below, within the Eastern District of New York and elsewhere, the defendants JESSE A. STOFF, M.D., and BILLY N. GERIS, M.D., together with others, did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud Medicare, 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, in connection with the delivery of and payment for health care benefits, items and services, as set forth below:

Count	Beneficiary	Approx. Date of Claim	Approx. Date of Service	Services Billed	Approx. Claim Amount
3	MB1	3/9/2010	2/17/2010	physical therapy	\$238.00
4	MB1	3/9/2010	2/22/2010	physical therapy	\$238.00
5	MB1	3/9/2010	2/24/2010	physical therapy	\$238.00

Count	Beneficiary	Approx. Date of Claim	Approx. Date of Service	Services Billed	Approx. Claim Amount
6	MB1	5/23/2010	3/24/2010	office visit	\$250.00
7	MB4	4/6/2010	3/26/2010	office visit	\$250.00
8	MB4	4/8/2010	4/5/2010	office visit	\$250.00

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

COUNT NINE
(False Statement)

22. The allegations contained in paragraphs 1 through 14 are realleged and incorporated as if fully set forth in this paragraph.

23. On or about June 15, 2011, within the Eastern District of New York, the defendant MARIA NAKHBO did knowingly and willfully make a materially false, fictitious and fraudulent statement and representation, in a matter within the jurisdiction of the Department of Health and Human Services, Office of the Inspector General ("HHS-OIG"), an agency of the executive branch of the Government of the United States, in that the defendant MARIA NAKHBO falsely stated to a Special Agent of HHS-OIG that she had never been paid money to attend Solstice, when in fact, as she then knew, she had been paid money to attend Solstice.

(Title 18, United States Code, Sections 1001(a)(2) and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION
(Counts Two through Eight)

24. The United States hereby gives notice to the defendants charged in Counts Two through Eight that, upon conviction of any such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(7), which requires any person convicted of such offenses to forfeit any property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offenses, including but not limited to a sum of money in United States currency, in an amount to be determined at trial, for which the defendants are jointly and severally liable.

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

(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;

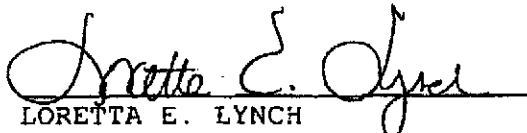
(d) has been substantially diminished in value;
or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(2) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 982(a)(7))

FOR PERSON


LORETTA E. LYNCH
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DENIS J. MCINERNEY
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U.S. DEPARTMENT OF JUSTICE