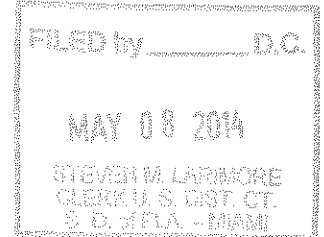


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **14-20323** CR-ALTONAGA

JOHN J. O'SULLIVAN

18 U.S.C. § 1349
18 U.S.C. § 1343
18 U.S.C. § 1347
18 U.S.C. § 1035
18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(2)(A)
18 U.S.C. § 2
18 U.S.C. § 982



UNITED STATES OF AMERICA

vs.

BARRY KAPLOWITZ,
CHRISTOPHER GABEL,
MELVIN HUNTER,
and

TIFFANY FOSTER,
a/k/a "Tiffany Coleman,"
"Tiffany Lee,"
"Tiffany Smith," and
"Tiffany Coleman Smith,"

Defendants.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment,

1. The Medicare Program ("Medicare") was a federal health care program providing benefits to persons who are age sixty-five or older, or disabled.
2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b), and a "Federal health care program," as defined by Title 42, United

States Code, Section 1320-7b(f).

3. Medicare was administered by the United States Department of Health and Human Services (“HHS”) through its agency, the Centers for Medicare and Medicaid Services (“CMS”). Individuals who received benefits under Medicare were referred to as Medicare “beneficiaries.”

4. The Medicare program covered reimbursement for inpatient hospitalization treatment for mental illness (“Inpatient Treatment”) and also covered billings for outpatient psychiatric treatment for mental illness (“Outpatient Treatment”) that is provided in connection with a psychiatric hospital.

5. For a psychiatric hospital to properly bill and be paid by Medicare for Inpatient Treatment and/or Outpatient Treatment, the patient must, among other things, qualify for the treatment under Medicare’s established rules and regulations. The treatment must be rendered according to Medicare’s rules and regulations, and certain documents must be completed before a claim is submitted for reimbursement to Medicare.

6. For a psychiatric hospital to properly bill and be paid by Medicare for Inpatient Treatment, among other things: (1) the patient must: (a) not be able to be actively managed at a lower level of care; and (b) the patient must require 24-hour, active treatment; (2) the treatment: (a) must be tailored to the specific needs of the individual patient through a written treatment plan developed by the treating physician and staff; (b) must be administered on a 24-hour basis; (c) must be structured and intensive; (d) requires the treating physician to have periodic consultations and conferences with the treating therapists about the patient; (e) requires the treating physician to review the patient’s medical record; (f) requires the treating physician to see the patient, face-to-face, at least once a week and typically five times per week; and (g) requires

the physician to supervise the patient's treatment on a daily basis; and (3) the documentation must include: (a) a physician's certification justifying the patient's admission to a psychiatric hospital; (b) a qualifying psychiatric diagnosis; (c) an initial psychiatric evaluation; (d) progress notes from treating personnel, including the treating physician; (e) physician's orders; (f) a treatment plan; and (g) a physician recertification, if applicable.

7. For a psychiatric hospital to properly bill and be paid by Medicare for Outpatient Treatment, among other things: (1) the patient must have a qualifying psychiatric diagnosis; (2) the treatment: (a) must be tailored to the specific needs of the individual patient through a written treatment plan developed by the treating physician; (b) must be periodically evaluated by the treating physician; (c) requires the treating physician to periodically consult with the treating therapists and staff; (d) requires the treating physician to review the patient's medical records; (e) requires the treating physician to supervise and direct the treating therapists; and (f) requires the treating physician to periodically see the patient; and (3) the documentation must state: (a) the patient's symptoms; (b) the patient's medical history; (c) the results of procedures and tests; and (d) the patient's ability to participate in, and benefit from, treatment.

8. If any of the requirements identified in paragraphs 6 and 7 of the General Allegations section of this Indictment were not satisfied, Medicare would not pay the claim.

9. In addition, Medicare would not pay claims procured through bribes or kickbacks. Nor would Medicare pay claims where the required documentation for the purported service rendered was not completed at the time the claim was submitted to Medicare for payment.

10. Inpatient Treatment was billed to Medicare's Part A Trust Fund ("Medicare Part A"). Medicare Part A is administered in Florida by a contractor which, pursuant to contract with HHS, receives, adjudicates, and pays Medicare Part A claims submitted to it by psychiatric

hospitals for Inpatient Treatment.

11. Outpatient Treatment was billed to Medicare's Part B Trust Fund ("Medicare Part B"). Medicare Part B is administered in Florida by a contractor, which, pursuant to contract with HHS, receives, adjudicates and pays Medicare Part B claims submitted to it by psychiatric hospitals for Outpatient Treatment.

12. Medicare regulations required certified billing entities providing Inpatient Treatment and Outpatient Treatment to Medicare patients to maintain, for at least six years, complete and accurate medical records reflecting the medical assessment and diagnoses of their patients, as well as records documenting actual treatment of the patients to whom services were provided and for whom claims for reimbursement were submitted.

RELEVANT ENTITIES AND DEFENDANTS

13. Hollywood Pavilion, LLC ("HP") was a Florida corporation established in at least 2001 and headquartered in Hollywood, Florida. HP maintained at least two different locations – one purporting to offer Inpatient Treatment (the "Inpatient Facility") and the other purporting to offer Outpatient Treatment (the "Outpatient Facility"). From 2003 to September 2012, HP billed Medicare for mental health services, including, but not limited to, Inpatient Treatment and Outpatient Treatment, at various times.

14. Defendant **BARRY KAPLOWITZ**, a resident of Miami-Dade County, Florida, was a physician licensed in the State of Florida, and served as Medical Director of HP's Outpatient Facility between approximately in or about 2008 and in or about 2011.

15. Defendant **CHRISTOPHER GABEL**, a resident of Broward County, Florida, was HP's Chief Operating Officer.

16. Defendant **MELVIN HUNTER**, a resident of Broward County, Florida, was

responsible for admitting patients to HP's Inpatient Facility.

17. Defendant **TIFFANY FOSTER**, a/k/a "Tiffany Coleman," "Tiffany Lee," "Tiffany Smith," and "Tiffany Coleman Smith," a resident of Covington County, Alabama, was paid money by HP to refer Medicare beneficiaries to HP (a "Patient Broker").

18. Co-conspirator Karen Kallen-Zury, a resident of Broward County, Florida, was the Chief Executive Officer and a registered agent of HP.

19. Co-conspirator Daisy Miller, a resident of Broward County, Florida, was the Chief Clinical Officer at HP's Inpatient Facility.

20. Co-conspirator Christian Coloma, a resident of Broward County, Florida was a physical therapy director associated with HP and also handled certain administrative matters for HP.

21. Co-conspirator Michele Petrie, a resident of Broward County, was the Director of HP's Outpatient Facility.

22. Co-conspirator Keith Humes, a Patient Broker, was paid money by HP to refer Medicare Beneficiaries to HP.

23. Co-conspirator Gloria Himmons, a Patient Broker, was paid money by HP to refer Medicare Beneficiaries to HP.

24. Co-conspirator Mathis Moore, a Patient Broker, was paid money by HP to refer Medicare Beneficiaries to HP.

COUNT 1
Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around at least April 2003 and continuing through in or around at least September 2012, in Miami-Dade and Broward Counties, in the Southern District of Florida and elsewhere, defendants,

**BARRY KAPLOWITZ,
CHRISTOPHER GABEL,
and
MELVIN HUNTER,**

did knowingly and willfully that is, with the intent to further the objects of the conspiracy, combine, conspire, confederate, and agree with each other and with Karen Kallen-Zury, Daisy Miller, Michele Petrie, and others known and unknown to the Grand Jury to commit certain offenses against the United States, namely:

a. to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, 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, said health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347; and

b. to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting false and fraudulent claims to Medicare through HP for claims based on bribes and kickbacks; (b) submitting false and fraudulent claims to Medicare through HP for services that were medically unnecessary, that were not eligible for Medicare reimbursement, and that were never provided; (c) offering and paying kickbacks and bribes to individuals who referred Medicare beneficiaries to attend HP's Inpatient Facility and Outpatient Facility who were not eligible to receive such services under Medicare's guidelines; (d) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks and bribes to Patient Brokers; and (e) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators in the form of compensation and other remuneration.

Manner and Means of the Conspiracy

The manner and means by which the defendants and their co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

4. **CHRISTOPHER GABEL, MELVIN HUNTER**, and others devised and participated in a scheme to pay illegal bribes and kickbacks to Patient Brokers in return for referring Medicare beneficiaries to HP so that HP could bill Medicare for Inpatient Treatment and/or Outpatient Treatment on behalf of those Medicare beneficiaries.

5. **BARRY KAPLOWITZ, CHRISTOPHER GABEL, MELVIN HUNTER**, and others submitted and caused to be submitted false and fraudulent claims to Medicare through HP based upon beneficiaries who were procured through bribes and kickbacks.

6. In order to conceal the payment of bribes and kickbacks at HP from Medicare and

state regulators, **CHRISTOPHER GABEL** and others created and caused to be created false and fraudulent contracts between HP and certain co-conspirator Patient Brokers. In these false and fraudulent contracts, the Patient Brokers purported to provide legitimate services to HP, including but not limited to “case management” services and “marketing” services. In fact, however, the Patient Brokers did not provide these legitimate services and were paid illegal bribes and kickbacks by HP to refer Medicare beneficiaries to HP for mental health treatment.

7. In order to further conceal the payment of bribes and kickbacks at HP from Medicare and state regulators, and at the direction of **CHRISTOPHER GABEL, MELVIN HUNTER**, and others, certain Patient Brokers were instructed to create false and fraudulent invoices and reports which were submitted to HP for payment.

8. **CHRISTOPHER GABEL, MELVIN HUNTER**, and others at HP billed, and caused to be billed, Medicare for Inpatient Treatment for services that were never rendered and for services that did not qualify for reimbursement by Medicare.

9. **BARRY KAPLOWITZ, CHRISTOPHER GABEL**, and others at HP billed, and caused to be billed, Medicare for Outpatient Treatment for services that were never rendered and for services that did not qualify for reimbursement by Medicare.

10. **BARRY KAPLOWITZ** and others signed patient records, files, and related documents for Medicare beneficiaries which documents: (a) contained false, inaccurate, and misleading information; (b) authorized the unnecessary treatment, or the continued unnecessary treatment, of patients that did not qualify for Outpatient Treatment; and (c) were signed without examining the patients and/or the documents themselves.

11. **BARRY KAPLOWITZ, CHRISTOPHER GABEL, MELVIN HUNTER**, and others caused the submission of false and fraudulent claims to Medicare for mental health

treatment purportedly provided by HP in an amount exceeding \$67 million.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-5
Wire Fraud
(18 U.S.C. §§ 1343 and 2)

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around at least April 2003 and continuing through in or around at least September 2012, in Miami-Dade and Broward Counties, in the Southern District of Florida and elsewhere, defendants,

BARRY KAPLOWITZ,
CHRISTOPHER GABEL,
and
MELVIN HUNTER,

did knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice.

Purpose of the Scheme and Artifice

3. It was a purpose of the scheme and artifice for the defendants and their accomplices to unlawfully enrich themselves by, among other things: (a) submitting false and fraudulent claims to Medicare through HP for claims based on bribes and kickbacks; (b) submitting false and fraudulent claims to Medicare through HP for services that were medically unnecessary, that were not eligible for Medicare reimbursement, and that were never provided;

(c) offering and paying kickbacks and bribes to individuals who referred Medicare beneficiaries to attend HP's Inpatient Facility and Outpatient Facility who were not eligible to receive such services under Medicare's guidelines; (d) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks and bribes to Patient Brokers; and (e) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators in the form of compensation and other remuneration.

The Scheme and Artifice

4. The allegations contained in paragraphs 4-11 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

5. On or about the dates set forth below, in Miami-Dade and Broward Counties, in the Southern District of Florida and elsewhere, the defendants **BARRY KAPLOWITZ**, **CHRISTOPHER GABEL**, and **MELVIN HUNTER** did knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud, as described above, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, as set forth below:

Count	<u>Defendants</u>	<u>Approximate Date</u>	<u>Description of Wire Communication</u>
2	BARRY KAPLOWITZ and CHRISTOPHER GABEL	Oct. 18, 2010	Electronic funds transfer of approximately \$126,693 to Bank Atlantic in Fort Lauderdale, Florida, and processed in Omaha, Nebraska.
3	BARRY KAPLOWITZ and CHRISTOPHER GABEL	Feb. 22, 2011	Electronic funds transfer of approximately \$192,690 to Bank Atlantic in Fort Lauderdale, Florida, and processed in Omaha, Nebraska.
4	MELVIN HUNTER	May 5, 2010	Email transmission of Monthly Report from MELVIN HUNTER in Florida to Gloria Himmons in Alabama.
5	MELVIN HUNTER	June 18, 2012	Email transmission of document tracking patients by referral source from Florida through Virginia.

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS 6-7
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.
2. From in or around at least April 2003 and continuing through in or around at least September 2012, in Miami-Dade and Broward Counties, in the Southern District of Florida and elsewhere, defendants,

**BARRY KAPLOWITZ
and
CHRISTOPHER GABEL,**

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, 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, said health care benefit program.

Purpose of the Scheme and Artifice

3. It was a purpose of the scheme and artifice for the defendants and their accomplices to unlawfully enrich themselves by, among other things: (a) submitting false and fraudulent claims to Medicare through HP for claims based on bribes and kickbacks; (b) submitting false and fraudulent claims to Medicare through HP for services that were medically unnecessary, that were not eligible for Medicare reimbursement, and that were never provided; (c) offering and paying kickbacks and bribes to individuals who referred Medicare beneficiaries to attend HP's Inpatient Facility and Outpatient Facility who were not eligible to receive such services under Medicare's guidelines; (d) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks and bribes to Patient Brokers; and (e) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators in the form of compensation and other remuneration.

The Scheme and Artifice

4. The allegations contained in paragraphs 4-11 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of or Attempted Execution of the Scheme and Artifice

5. On or about the dates set forth below as to each count, in Miami-Dade and Broward Counties, in the Southern District of Florida and elsewhere, defendants **BARRY KAPLOWITZ** and **CHRISTOPHER GABEL**, in connection with the delivery of and payment

for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, 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, said health care benefit program, in that the defendants submitted and caused the submission of false and fraudulent Medicare claims, as further described below, representing that HP had provided qualifying psychiatric services to Medicare beneficiaries, as follows:

<u>Count</u>	<u>Defendants</u>	<u>Approximate Claim Receipt Date</u>	<u>Bene-ficiary Name</u>	<u>Services Billed</u>	<u>Approximate Amount Billed</u>	<u>Claim Number</u>
6	BARRY KAPLOWITZ and CHRISTOPHER GABEL	May 13, 2010	L.B.	Outpatient Psychiatric Services	\$3,780	21013300189002NTA01
7	BARRY KAPLOWITZ and CHRISTOPHER GABEL	Oct. 19, 2010	T.P.	Outpatient Psychiatric Services	\$540	21029203173302NTA01

In violation of Title 18, United States Code, Sections 1347 and 2.

COUNT 8
False Statements Relating to Health Care Matters
(18 U.S.C. § 1035)

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. In or about late January, 2011, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendant,

BARRY KAPLOWITZ,

in any matter involving a health care benefit program, knowingly and willfully made a materially false, fictitious, and fraudulent writing and document, knowing the same to contain a materially

false, fictitious, and fraudulent statement and entry, in connection with the delivery and payment for health care benefits, items, and services, that is, the defendant signed a document falsely certifying that, beginning on January 13, 2011, intensive outpatient services would be furnished under his care with a written plan to be reviewed every thirty days, when in truth and in fact, and as the defendant then and there well knew, such services would not be and were not furnished under his care beginning on January 13, 2011 with a written plan to be reviewed every thirty days.

In violation of Title 18, United States Code, Sections 1035(a)(2) and 2.

COUNT 9

**Conspiracy to Defraud the United States and Pay and Receive Health Care Kickbacks
(18 U.S.C. § 371)**

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around at least April 2003 and continuing through at least in or around September 2012, in Miami-Dade and Broward Counties, in the Southern District of Florida and elsewhere, the defendants,

**CHRISTOPHER GABEL,
MELVIN HUNTER,
and
TIFFANY FOSTER,
a/k/a "Tiffany Coleman,"
"Tiffany Lee,"
"Tiffany Smith," and
"Tiffany Coleman Smith,"**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with each other and with Karen Kallen-Zury, Daisy Miller, Christian Coloma, Michele Petrie, Keith Humes, Gloria Himmons, Mathis Moore, and

others known and unknown to the Grand Jury, to commit certain offenses against the United States, namely:

a. To defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program;

b. To violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare; and

c. To violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by: (1) offering, paying, soliciting, and receiving kickbacks and bribes in return for referring Medicare beneficiaries to HP to serve as patients; and (2) submitting and causing the submission of claims to Medicare for mental health services that HP purported to

provide to those beneficiaries.

Manner and Means of the Conspiracy

The manner and means by which the defendants and their co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

4. **CHRISTOPHER GABEL, MELVIN HUNTER**, and their co-conspirators offered and paid bribes and kickbacks to Patient Brokers in return for referring Medicare beneficiaries to HP for mental health treatment.

5. **TIFFANY FOSTER** solicited and received bribes and kickbacks from co-conspirators at HP in return for referring Medicare beneficiaries to HP for mental health treatment.

6. **CHRISTOPHER GABEL, MELVIN HUNTER**, and their co-conspirators instructed and caused the Patient Brokers to create false and fraudulent invoices and reports in order to disguise the true nature of the bribes and kickbacks paid to Patient Brokers.

7. **CHRISTOPHER GABEL, MELVIN HUNTER, TIFFANY FOSTER**, and others caused HP to submit claims to Medicare for mental health treatment purportedly rendered to the recruited Medicare beneficiaries.

8. **CHRISTOPHER GABEL, MELVIN HUNTER, TIFFANY FOSTER**, and others caused Medicare to pay HP for mental health services purportedly provided to the recruited beneficiaries.

Overt Acts

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the conspirators committed and caused to be committed in the Southern District of Florida at least one of the following overt acts, among others:

1. On or about September 6, 2005, **TIFFANY FOSTER** negotiated a check, numbered 15280, in the approximate amount of \$5,000, written from HP's corporate bank account to Angels Outreach LLC, an entity owned and controlled by **TIFFANY FOSTER**.

2. On or about September 6, 2005, **TIFFANY FOSTER** negotiated a check, numbered 15172, in the approximate amount of \$9,500, written from HP's corporate bank account to Angels Outreach LLC, an entity owned and controlled by **TIFFANY FOSTER**.

3. In or around late 2006, **CHRISTOPHER GABEL** met with co-conspirator Mathis Moore and discussed the payment of kickbacks and bribes to him in return for referring patients to HP.

4. In or around early 2008, **CHRISTOPHER GABEL** met with co-conspirator Gloria Himmons, and discussed the payment of kickbacks and bribes to her in return for referring patients to HP.

5. In or around 2008, **CHRISTOPHER GABEL** instructed co-conspirator Keith Humes to create false and fraudulent invoices in order to disguise the true nature of Keith Humes's relationship with HP.

6. In or around 2008, co-conspirator Keith Humes delivered false and fraudulent invoices to **CHRISTOPHER GABEL**.

7. In or around 2010, **MELVIN HUNTER** instructed co-conspirator Gloria Himmons to create false and fraudulent monthly reports in order to disguise the true nature of Gloria Himmons's relationship with HP.

8. On or about April 16, 2010, co-conspirator Gloria Himmons received a payment in the approximate amount of \$1,948 from ADP, Inc., HP's payroll processor.

9. On or about May 5, 2010, **MELVIN HUNTER** emailed co-conspirator Gloria

Himmons a false and fraudulent monthly report.

10. On or about March 18, 2011, co-conspirator Gloria Himmons received a payment in the approximate amount of \$1,973 from ADP, Inc., HP's payroll processor.

11. On or about June 8, 2012, **MELVIN HUNTER** emailed co-conspirator Karen-Kallen Zury a document tracking certain HP patients by the Patient Broker that referred each patient to HP.

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

COUNTS 10-11

**Payment of Kickbacks in Connection with a Federal Health Care Benefit Program
(42 U.S.C. § 1320a-7b(b)(2)(A))**

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates set forth below, in Miami-Dade and Broward Counties, in Southern District of Florida and elsewhere, defendants,

CHRISTOPHER GABEL
and
MELVIN HUNTER,

did knowingly and willfully offer and pay remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, as set forth below, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare, as set forth below:

<u>Count</u>	<u>Defendants</u>	<u>Approximate Date of Payment</u>	<u>Approximate Amount</u>
10	CHRISTOPHER GABEL and MELVIN HUNTER	April 16, 2010	\$1,948
11	CHRISTOPHER GABEL and MELVIN HUNTER	March 18, 2011	\$1,973

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A) and Title 18, United States Code, Section 2.

FORFEITURE
(18 U.S.C. §§ 982)

1. All the preceding paragraphs of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

2. Upon conviction of any count of Counts 1 through 3 or Counts 6 through 8, as alleged in this Indictment, defendant **BARRY KAPLOWITZ**, shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense pursuant to Title 18, United States Code, Section 982(a)(7).

3. Upon conviction of Counts 1 through 3, Counts 6 through 7, or Counts 9 through 11, as alleged in this Indictment, defendant **CHRISTOPHER GABEL** shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense pursuant to Title 18, United States Code, Section 982(a)(7).

4. Upon conviction of Count 1 or any of Counts 3 through 4 or Counts 9 through 11, as alleged in this Indictment, defendant **MELVIN HUNTER** shall forfeit to the United States

any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense pursuant to Title 18, United States Code, Section 982(a)(7).

5. Upon conviction of Count 9, as alleged in this Indictment, defendant **TIFFANY FOSTER** shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense pursuant to Title 18, United States Code, Section 982(a)(7).

6. The property which is subject to forfeiture includes, but is not limited to, the sum of at least \$39 million, which represents the gross proceeds the offenses alleged in the Indictment. Such forfeiture shall include, but is not be limited to, a money judgment in the amount of the gross proceeds of the count(s) of conviction.

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

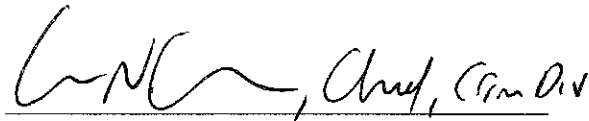
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be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

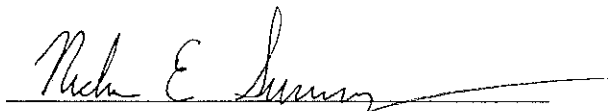
the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

All pursuant to Title 18, United States Code, Section 982 and Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON

fa 
WIFREDO A. FERRER
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA


NICHOLAS E. SURMACZ
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE