



## U.S. ATTORNEY'S QUARTERLY

### Phony Psychiatrist Guilty of Distributing Controlled Substances To Minors

In June, a federal jury convicted Jo Benoit, a.k.a. Elissa Jo Benoit, 77, of King of Prussia, PA, of 76 counts of health care fraud, aggravated identity theft, distribution of controlled substances, and distribution of controlled substances to minors. Benoit was the CEO and founder of a mental health clinic called Transition Phase III. She opened the clinic in 2008 and advertised it as a Trauma-Specific mental health clinic, directed at victims of trauma, children, and members of the military and their

families. Benoit fraudulently portrayed herself as a psychiatrist to clinic patients and provided them with forged prescriptions. She also wrote prescriptions to children, one as young as four years old. In furtherance of her crime, she used the name and identifying information of an actual psychiatrist to bill insurance companies for patient visits. From February 4, 2009, until the clinic was closed after a search warrant was executed in July 2011, the defendant submitted

thousands of bills to insurance companies, charging them more than \$500,000, as if the patients were being seen by a psychiatrist. Benoit faces in excess of 100 months in prison and mandatory restitution when sentenced September 19, 2012. The case was investigated by the U.S. Dept. of Health and Human Services Office of Inspector General, Defense Criminal Investigative Service and the FBI.

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### A Message From the U.S. Attorney for the Eastern District of Pennsylvania

Summertime is family time. School is out and many of us are hoping that the lessons learned during the year will guide our kids safely into the next phase of their lives. Needless to say, most of us are not thinking about the dangers of prescription drug use for non-medical reasons. According to the 2010 National Survey on Drug Use and Health, one in six high school seniors obtained and used prescription drugs of some kind ( sedative, amphetamine, or narcotic pain killer) for non-medical reasons during the prior year. Second only to marijuana, prescription drugs are abused by Americans more than cocaine, hallucinogens, heroin, and inhalants combined.

We regularly focus on keeping our kids away from street drugs but often fail to realize that the medicine cabinets in our homes hold a potentially more enticing and dangerous attraction. According to the Centers for Disease Control (CDC), the increase in unintentional drug overdose death rates in recent years has been driven by increased use of a class of prescription drugs called opioid analgesics. These drugs are more commonly known by their brand names: Oxycodone, Vicodin, Demerol, just to name a few. Since 2003, more overdose deaths have involved

opioid analgesics than heroin and cocaine combined. Worse yet, your average high school or college-age student need not venture to some dark alley or other dangerous place to find these drugs. Even if the drugs aren't in your medicine cabinet, they could be in the medicine cabinet of someone that your child knows or someone they encounter on their school campus. You might be thinking "not my child" or "we don't have those drugs in our house" but consider this, according to the CDC, 76% of non-medical prescription drug users acquired drugs that had been prescribed to someone else.

Since coming into office two years ago, I have observed an unsettling trend in the medical profession. In the past two years, we have prosecuted at least four medical doctors who were abusing their medical licenses, not to mention the Hippocratic Oath to "do no harm," by selling prescriptions and/or prescription drugs to anyone who asked. Their 'medical offices' became pill mills where drug addicts would drop off an order, pay a fee and then pick up their drug of choice. You can find media reports of doctors prescribing Adderall and Ritalin – both stimulants – to any student who is

able to fake the symptoms of attention deficit hyperactivity disorder (ADHD). Doctors like these give the medical profession a black eye, and while they are the exception rather than the rule, they do exist.

Because I believe that we must do a better job of teaching our young people about the dangers of prescription drug abuse, my office joined in a discussion about those dangers on June 4th. The conversation at Villanova University's campus included members of the academic community, the Office of National Drug Control Policy (ONDCP), and Security on Campus. But conversation needs to happen between parents and their children, in every home, on every school campus. All of us need to be more aware of the dangers and wide-spread abuse of prescription medication to keep our kids safe.

-Zane David Memeger



## Fraud Scheme Targets Small Business Owners

In April, six men were charged with using an advance fee fraud scheme to defraud hundreds of victims searching for commercial financing. Andrew Bogdanoff, Matthew McManus, Shayne Fowler, Joel Nathanson, Frank Vogel, and Aaron Bogdanoff, allegedly defrauded more than 800 victims out of more than \$10 million. The indictment alleges that Andrew Bogdanoff was running Remington Financial Group when he and his co-defendants induced hundreds of people to pay fees in excess of \$10,000 in order to secure financing for their business ventures. The promise of financing was allegedly based on false representations, including a "letter of interest" that stated Remington had a lender or investor interested in financing the victim's project. Additionally, the financing terms Remington included in the letter were unrealistic and were used solely to induce customers to pay Remington's advance fees. After a customer paid Remington's fee, McManus and Andrew Bogdanoff instructed Remington employees to find problems with the projects so that Remington could blame its failure to provide financing on the victim. The defendants are awaiting trial and face substantial prison terms if convicted.

## Civil Settlements In Health Care Matters

In May, Express Scripts, Inc. (ESI) and Express Scripts Pharmacy Services, Inc. agreed to pay the United States \$2.75 million to resolve alleged violations under the Controlled Substances Act regarding diversion of controlled substances and use of phony DEA numbers at its mail order pharmaceutical facilities. The Controlled Substances Act requires that pharmacies have security practices in place to prevent diversion of controlled substances that are subject to abuse and have significant street value. From 2002 through 2006 drug diversion occurred at several ESI mail order facilities, including facilities in Bensalem and Harrisburg. ESI experienced theft by employees of controlled substances, had inventory discrepancies, and failed to report in-transit losses to the DEA. From 2004 through 2009, ESI employees utilized invalid DEA numbers in ESI's computerized prescription processing system in order to process certain controlled substances prescriptions at all of its mail order facilities. This practice risks filling prescriptions for drugs that were not legitimately prescribed by doctors. ESI agreed to cease use of phony DEA numbers and will also set up an automated system to check the validity of prescribers' DEA and NPI (National Physician Identifier) numbers against a national registry. This precedent-setting requirement is applicable not only to controlled substances, but to all prescriptions.

In May, Dr. Joseph Kubacki and Temple University agreed to pay the United States a combined \$1,088,574.93, resolving Temple's voluntary disclosure that it improperly billed the United States for medical services provided by residents but that Temple billed as though they had been performed by attending physicians. Kubacki, formerly the Chair of Temple's Ophthalmology Dept., was convicted in 2011 of health care fraud for billing the U.S. for services that were performed by residents. The settlement with Temple pertains both to this fraud and to other fraud discovered in Temple's plastic surgery department, where attending physicians were present in the hospital at the time services were performed but were not actually present for the critical portions of the services for which they submitted claims. Temple voluntarily disclosed the discrepancies.

## False Claims Act Trial Win

In May, the U.S. Attorney's Office won a bench trial in a civil suit filed under the False Claims Act. The case arose from the fraudulent use of credit cards with which the United States Navy purchases fuel for various government vehicles. Anthony Upchurch, a carpenter for the Navy, had access to such cards and used them to buy gas for private vehicles owned by various friends and acquaintances in exchange for which he received cash.

## Tort Claim Trial Win

In April, the United States successfully defended against a Federal Tort Claim Act matter which arose out of a car accident involving a Department of Veterans Affairs employee. The plaintiffs claimed permanent injuries and over \$1 million in damages as a result of a minor accident. The Government hired a private investigator who was able to obtain video footage of plaintiffs engaged in activities like throwing a ball with the family dog, carrying a refrigerator the length of one city block, playing with their child in the community pool, and carrying their child and lifting their child on multiple occasions. Judge Robert F. Kelly found the plaintiffs to be not credible.

## Restaurant Chain Owners Charged With Tax Evasion Conspiracy

In May, the owners and managers of the "Nifty Fifty's" restaurant chain were charged in a \$2.2 million tax evasion conspiracy that cheated the Internal Revenue Service by failing to properly account for more than \$15 million in gross receipts that the restaurant earned since opening in 1986. The defendants allegedly paid employees and suppliers with unreported cash and had false tax returns prepared that under-reported income and falsely inflated expenses and deductions. Robert Mattei, Leo McGlynn, Brian Welsh, Joseph Donnelly, and Elena Ruiz are charged with conspiracy to commit tax evasion and tax evasion. The information alleges that the defendants also filed income tax returns claiming they were due refunds based on the erroneous reporting of their incomes. In the course of their alleged conspiracy, Mattei, McGlynn, Donnelly, and Welsh allegedly committed bank fraud by submitting bogus income tax returns in order to secure several business loans. If convicted, Mattei and Welsh face a maximum sentence of 40 years of imprisonment and full restitution to the IRS; McGlynn and Donnelly face a maximum sentence of 50 years of imprisonment and full restitution to the IRS; Ruiz faces a maximum sentence of ten years of imprisonment and full restitution to the IRS.

## CRIMEBUSTERS: IRS Criminal Investigation Division

### An interview with Special Agent-in-Charge Eric Hylton for the Internal Revenue Service Criminal Investigation Division:

**-What is the mission of IRS?** The mission of IRS, Criminal Investigation is to serve the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law.

**-How did you decide to join IRS?** I was an accounting major and had the opportunity to meet the Assistant Special Agent in Charge of IRS, Criminal Investigation in Atlanta, GA. He really emphasized the importance of being a public servant and giving back to this country. Growing up in Washington, D.C., I was surrounded by excellent public servants, which solidified my desire to pursue the special agent career.

**-What do you like best about your position as Special Agent-in-Charge?** I really enjoy the diversity we experience regularly in both our case work and in our daily activities. Our agency investigates a variety of illegal activities including tax evasion, money laundering, corporate fraud, identity theft and international tax fraud. Furthermore, the techniques we utilize to prove the criminal acts we are investigating vary widely. We might meet with the CEO of a Fortune 500 company one day and the next day interview an individual on public assistance. It is challenging and rewarding to develop a skill set that allows us to deal appropriately with whomever we are meeting.

**-What is the most important function of the agency?** I really enjoy the diversity we regularly experience in both our case work and in our daily activities. Our agency investigates a variety of illegal activities including tax evasion, money laundering, corporate fraud, identity theft and international tax fraud. Furthermore, the techniques we utilize to prove the criminal acts we are investigating vary widely. We might meet with the CEO of a Fortune 500 company one day and the next day interview an individual on public assistance. It is challenging and rewarding to develop a skill set that allows us to deal appropriately with whomever we are meeting.

### **-What types of crimes or civil remedies does the (agency) pursue that the general public might not know?**

Obviously, as IRS-Criminal Investigators, the public is very familiar with our tax investigations. This financial background is also invaluable when we partner with other federal agencies in narcotics related money laundering investigations as well as terrorist financing cases.

### **-How does the general public reach the agency if they have a question or they want to report an activity for investigation?**

The offices of IRS, Criminal Investigation are located in the William Green Federal Building at 600 Arch Street, Room 6224, Philadelphia, PA 19106. We can also be reached via telephone at (215) 861-1058.

## Outreach This Quarter

In April, the U.S. Attorney's Office partnered with the Philadelphia Eagles Youth Partnership to implement a 10-week violence and bullying prevention program in Germantown High School. The program included multiple assemblies of the entire student body throughout April and May, as well as an assembly for parents. These assemblies were followed by discussions involving the entire 9th grade in separate classes with a focus on issues of bullying and violence in and outside of school. The U.S. Attorney's Office worked with City Year - a group of AmeriCorps volunteers assigned to the school - to assist in providing additional training and technical assistance so that its members could implement a curriculum designed to follow up on the assemblies. Further, speakers from law enforcement agencies participated in classes in an effort to bridge the gap of misunderstanding between youth and law enforcement.

In May, the U.S. Attorney's Office partnered with the Philadelphia Eagles Youth Partnership to implement a similar anti-bullying/anti-violence prevention program at Kensington Culinary Arts High School. Two-time World-Cruiser Weight Champion Steven Cunningham attended the program and shared with the students his story of growing up in the Philadelphia area and being bullied. As an outlet for his frustration and anger, Cunningham turned to boxing and turned the negative in his life into a positive.

On June 4, 2012, the U.S. Attorney's Office partnered with the Cleary Center for Security on Campus and Villanova University at a summit to discuss non-medical prescription drug abuse among college-age students. The informational session was designed to encourage resource sharing, prevention tactics, and ideas for addressing the issue, should it arise on a college campus. Participants included the U.S. Department of Education's Higher Education Center, the Drug Enforcement Administration (DEA), and the Office of National Drug Control Policy.



U.S. Attorney Zane David Memeger (back row, center) joins participants at Germantown High for program focused on violence prevention and discouraging bullying.



## CRIME & PUNISHMENT:



### CHARGED:

#### April 2012:

Patricia Fountain, of Philadelphia, was indicted in a tax refund scam. At the time, Fountain was an IRS employee. Her boyfriend, Larry Ishmael, was also charged. Fountain allegedly solicited taxpayers to file false tax returns claiming the Telephone Excise Tax Refund and received a kick-back of \$400. Fountain is also alleged to have filed false tax returns for herself and Ishmael.

#### May 2012:

Istvan Merchenthaler, a/k/a "Steve," of Downingtown, PA, was charged with wire fraud, aggravated identity theft and money laundering in a prepaid phone scam. Merchenthaler claimed to be the founder of PhoneCard USA, a company that was purportedly a "premier distribution source" for prepaid phone cards and cell phones. In reality, Merchenthaler was allegedly stealing more than \$2 million from over 200 investors.

#### June 2012:

An indictment was returned charging Nathaniel Coleman, 34, Tyjuan Waters, 35, and Stein Scruggs, 33, all of Philadelphia, PA, with the gunpoint robbery of the McDonald's located on South Broad Street in Philadelphia. The defendants are charged with one count of conspiracy to commit robbery which interferes with interstate commerce, one count of robbery which interferes with interstate commerce, and one count of using and carrying a firearm during. Nathaniel Coleman was also charged with one count of being a convicted felon in possession of a firearm.

### CONVICTED:

#### April 2012:

Janette Perez, of Philadelphia, was convicted of all charges stemming from a conspiracy to steal over \$1 million in fraudulent

tax refund checks from the United States mail. Perez was part of an illegal enterprise involving the fraudulent use of Puerto Rican identities to file false tax returns claiming an entitlement to a refund. Using the stolen identities of residents of Puerto Rico, Perez caused false tax returns to be filed with the Internal Revenue Service which generated bogus tax refund checks. In all, Perez caused to be filed approximately 182 false tax returns claiming \$1,051,345 in fraudulent refunds. Perez operated Arturo Rojas Multiservice, Inc. ("ARM"), which was located at 1417 East Lycoming Street, Philadelphia, and 147 West Dauphin Street, Philadelphia. Her co-defendants, Latasha Jackson, a former United States Postal Service letter carrier, and Jose Rivera, pleaded guilty to their involvement. Perez will be sentenced on July 19, 2012.

#### May 2012:

Mohammad Hassan Khalid, a Pakistani citizen and U.S. lawful permanent resident, pleaded guilty to conspiracy to provide material support to terrorists. Khalid participated in a scheme to support, recruit and coordinate members of a conspiracy in their plan to wage violent jihad in and around Europe. Additionally, Khalid and others recruited women who had passports and the ability to travel to and around Europe in support of violent jihad and solicited funds online for terrorists.

Emmanuel Duran, Raheem Brown, and John Bowie, all of Philadelphia, were convicted of conspiring to commit the armed robberies of several city pharmacies and an auto body shop. In two of the robberies, the defendants fired shots, injuring a customer. Earlier this month, Bowie and Duran were convicted of home invasion robberies and other offenses. As a result of all

of these convictions, Bowie and Duran face a mandatory prison term of 207 years; Brown faces a mandatory 107 year prison term for the weapon counts. Sentencing hearings are scheduled for October.

#### June 2012:

Joseph Fareri, 51, of Philadelphia, pled guilty today in federal court to charges of trafficking oxycodone pills. Fareri admitted selling 30 mg. oxycodone pills to a person who was working with PAGO agents in an undercover capacity. Fareri sold drugs to the undercover operative on five separate occasions between November 2010 and February 2011. Fareri also obtained oxycodone pills from Andrews which he distributed to another person. Sentencing is scheduled for September.

### SENTENCED:

#### April 2012:

Robert Stinson Jr., of Berwyn, PA, was sentenced to 400 months in prison for a Ponzi scheme, involving his company "Life's Good, Inc.," that defrauded more than 260 investors of more than \$17 million. In addition to the prison term, Stinson was ordered to pay full restitution - \$14 million - to his 263 victims and complete three years supervised release.

Austin Ayers Winther, of Philadelphia, was sentenced to 88 months in prison after admitting he attempted to entice a mother and her 13-year old daughter to travel to Pennsylvania from Idaho to engage in illegal sexual activity and attempted to send obscene images to a minor. The "mother" and "child" were actually an undercover detective with the Boise Idaho Police Department.

#### May 2012:

John Gassew, of Philadelphia, was sentenced to 37 years in prison for armed robberies he committed in Philadelphia in December of 2007 and October of 2009. Gassew threatened employees and customers when he robbed Danny Boy's Bar on Torresdale Avenue. He stole cash and cigarettes when he robbed the 7-Eleven convenience store on Oxford Avenue. Gassew has a long criminal history and lied at his trial. In addition to prison, he was ordered to pay restitution to his victims.

#### June 2012:

Jon J. Lackner, of Cherry Hill, NJ, was sentenced to 15 years in prison for traveling from NJ to Pennsylvania to have sex with a minor and for manufacturing and possessing child pornography. Lackner was a practicing dentist when he used his computer, a web camera, the internet, the mail, and a cell phone in his attempt to persuade a minor to engage in illegal sexual activity. He also transferred obscene material of himself to a minor in Pennsylvania.

#### Sidenote:

You can find press releases about the cases we charge on our website:

[www.justice.gov/usao/pae](http://www.justice.gov/usao/pae)