

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

~~FILED~~
2012 JUN 28 P 12:19
CLERK OF DISTRICT COURT
SAN FRANCISCO, CALIFORNIA

UNITED STATES OF AMERICA,
v.

CR12-251JW

ALI SEDGHI VAZIRI

DEFENDANT(S).

SUPERSEDING INDICTMENT

VIOLATIONS:

- 18 U.S.C. § 1347 – Health Care Fraud;
- 26 U.S.C. § 7206(1) – Willfully Subscribing False Tax Return;
- 18 U.S.C. § 982 and 21 U.S.C. § 853 – Criminal Forfeiture

A true bill.

[Signature]
Foreman

Filed in open court this 28th day of

JUNE, 2012
[Signature]
Clerk

Bail, \$ NO PROCEEDS REQUIRED

[Signature]
Nathanael Cousins
United States Magistrate Judge

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CLERK OF DISTRICT COURT
SAN FRANCISCO, CALIFORNIA

1 MELINDA HAAG (CABN 132612)
2 United States Attorney

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,) No. CR 12-00251 JW
12 Plaintiff,)
13 v.) VIOLATIONS: 18 U.S.C. § 1347 – Health
14 ALI SEDGHI VAZIRI,) Care Fraud; 26 U.S.C. § 7206(1) – Willfully
15 Defendant.) Subscribing False Tax Return; 18 U.S.C. §
16) 982 and 21 U.S.C. § 853 – Criminal
17) Forfeiture
18)
19) SAN FRANCISCO VENUE

18 SUPERSEDING INDICTMENT

19 The Grand Jury charges:
20 At all times relevant to this Superseding Indictment, unless otherwise indicated:
21 I. INTRODUCTION
22 A. The Defendant
23 1. From January 1, 2005, to the present, defendant Ali Sedghi Vaziri (VAZIRI) was
24 a medical doctor who solely owned and operated a medical practice located at 935 Trancas Street
25 in Napa, California. A board-certified gastroenterologist licensed in the State of California,
26 VAZIRI was enrolled as a participating provider in Medicare and various private health
27 insurance companies.
28 //

1 **B. The Health Care Benefit Programs**

2 2. The Medicare program, as established by the Social Security Act, 42 U.S.C. §
3 301, et seq., provided medical insurance benefits for individuals, typically aged 65 years or older,
4 and for certain disabled persons. Medicare Part A (“Part A”), the Basic Plan of Hospital
5 Insurance, covered the cost of inpatient hospital services and post-hospital nursing facility care.
6 Medicare Part B (“Part B”), the Voluntary Supplemental Insurance Plan, covered the cost of
7 physician services, including visits at doctors’ offices, if the services were medically necessary
8 and directly or personally provided by a physician. Persons who received benefits under
9 Medicare were commonly referred to as Medicare “beneficiaries.”

10 3. The Medicare program was administered by the Centers of Medicaid and
11 Medicare Services (“CMS”), an agency within the United States Department of Health and
12 Human Services (“HHS”). The Medicare Part B program was administered in California by
13 Palmetto GBA (“Palmetto”) which, pursuant to its contract with HHS, received, adjudicated, and
14 paid claims submitted by physicians and suppliers of medical services.

15 4. Medicare Part B reimbursed 80 percent of the reasonable charges of most
16 medically necessary services personally performed by a licensed medical doctor. Medicare Part
17 B services performed by licensed doctors and other health care providers in California were
18 submitted for payment to Palmetto on a “Health Insurance Claim Form” (known as “HCFA
19 1500”) or electronically. Both methods of filing Medicare Part B claims required the submission
20 of certain information relating to the services provided, including patient information, the type of
21 services provided, a modifier to further describe such services (if applicable), the dates for
22 services, the charge for such services, the diagnosis or diagnoses, a certification by the physician
23 or provider as to the medical necessity for the services provided, and the name and provider
24 identification number of the performing provider.

25 5. Medical providers were authorized to submit claims to Medicare only for services
26 they actually rendered, and they were required to maintain patient records verifying the provision
27 of these services. Medical providers agreed to abide by all Medicare laws, regulations, and
28 program instructions and not to present or cause to be presented a false or fraudulent claim for

1 payment by Medicare or to submit claims with deliberate ignorance or reckless disregard of their
2 truth or falsity.

3 6. Medicare was a “health care benefit program” as defined by 18 U.S.C. § 24(b) and
4 referenced in 18 U.S.C. § 1347.

5 7. Aetna, Blue Cross of California, Blue Shield of California, CIGNA, Health Net,
6 Humana, PacificCare, Partnership Health Plan (PHP), Tricare, United Healthcare (UHC), and
7 UniCare were private health insurance plans that provided medical benefits, items, and services
8 to their insureds. Each of these private plans was a “health care benefit program” as defined by
9 18 U.S.C. § 24(b) and referenced in 18 U.S.C. § 1347. These private health insurance plans
10 provided coverage for medical services that were actually rendered and were medically
11 necessary. To receive reimbursement from the private health insurance plans, medical service
12 providers submitted or caused to be submitted claims, either electronically or in writing, to the
13 private health insurance plans. Those claims were either submitted directly by the provider or
14 through a billing company.

15 **C. Billing Codes and Procedures**

16 8. The Medicare program, as well as virtually every other health care benefit
17 program, required that claims for services report the type of service using the American Medical
18 Association’s Current Procedural Terminology (“CPT”) Codes. CPT Codes were intended to
19 accurately identify, simplify, and standardize billing for medical services. Related services were
20 assigned sequential CPT Codes with differing levels of complexity. Among the most commonly
21 billed codes were two series of five evaluation and management (“E&M”) codes that applied to
22 office or certain other outpatient visits. CPT Codes 99201, 99202, 99203, 99204, and 99205
23 were used for new patients, and 99211, 99212, 99213, 99214, and 99215 were used for
24 established patients. Another common set of codes, 99241, 99242, 99243, 99244, and 99245
25 were used for new or established patient consultations when a physician’s opinion was requested
26 by another physician or appropriate source. For each of these series of CPT Codes, a higher code
27 number corresponded to a more in-depth and time-consuming level of service, with a
28 correspondingly higher reimbursement amount. The American Medical Association annually

1 published a CPT Manual, which set forth the criteria to be considered in selecting the proper
2 codes to represent the services rendered.

3 **II. THE SCHEME AND ARTIFICE TO DEFRAUD**

4 9. Beginning at a date uncertain, but no later than 2007, and continuing until on or
5 about October 21, 2011, in the Northern District of California, VAZIRI devised and intended to
6 devise a scheme and artifice to defraud health care benefit programs in connection with the
7 payment for health care benefits and services by knowingly submitting and causing to be
8 submitted false, fraudulent, and fictitious claims to health care benefit programs.

9 10. It was part of the scheme to defraud that VAZIRI regularly submitted and caused
10 to be submitted claims that reflected a higher level of service than he had actually provided to
11 patients, a practice known as “upcoding.”

12 11. It was further a part of the scheme to defraud that VAZIRI “unbundled” services,
13 that is, he billed Medicare and the private health insurance plans separately for services that were
14 intended to be billed together, by fraudulently billing separately for office visits, screenings, and
15 colonoscopies.

16 COUNTS ONE THROUGH NINE: (18 U.S.C. § 1347 - Health Care Fraud)

17 12. Paragraphs 1-11 of this Indictment are realleged and incorporated as if fully set
18 forth here.

19 13. On or about the dates set forth below, in the Northern District of California, the
20 defendant,

21 **ALI SEDGHI VAZIRI,**

22 did knowingly and intentionally execute and attempt to execute a scheme and artifice (1) to
23 defraud a health care benefit program affecting commerce, as defined in 18 U.S.C. § 24(b), and
24 (2) to obtain, by means of materially false and fraudulent pretenses, representations, and
25 promises, money owned by and under the custody and control of a health care benefit program,
26 all in connection with the delivery of and payment for health care benefits, items, and services,
27 and, for the purpose of executing and attempting to execute said fraudulent scheme, did
28 knowingly and willfully submit and cause to be submitted to Medicare and private health

1 insurance plans the following false and fraudulent claims for medical services:

2 Count	Patient	Date of Service	Health Care Program	Fraudulent Claim	Approx. Amount Paid
3 1	M.O.	5/30/07	Delta Health Systems	99214-upcoded	\$104.00
4 2	D.C.	10/22/08	PHP/Medi-Cal	99244- upcoded	\$98.90
5 3	S.M.	10/22/08	Anthem Blue Cross	99204-upcoded	\$131.41
6 4	S.S.	12/17/08	Anthem Blue Cross	99244-upcoded	\$159.59
7 5	G.B.	1/28/09	Anthem Blue Cross	99243- upcoded	\$88.61
8 6	D.D.	1/28/09	United Health Care	99214- upcoded	\$157.40
9 7	C.I.	1/28/09	United Health Care	99243- upcoded	\$96.15
10 8	T.W.	1/28/09	Blue Shield of CA	99243- upcoded	\$107.86
11 9	D.Da.	6/1/2011	Anthem Blue Cross	99243- upcoded	\$129.44

12 All in violation of Title 18, United States Code, Section 1347.

13 COUNT TEN: (26 U.S.C. § 7206(1) - Willfully Subscribing a False Income Tax Return)

14 14. Paragraph 1 is realleged and incorporated as if fully set forth here.

15 15. For the tax years 2005 and 2006, VAZIRI reported the income from his medical
16 practice on the Schedule C (Profit or Loss from Business) portion of his 1040 individual income
17 tax return.

18 16. On or about April 14, 2006, in the Northern District of California and elsewhere,
19 the defendant,

20 ALI SEDGHI VAZIRI,

21 a resident of Napa, California, did willfully make and subscribe a false U.S. Individual Income
22 Tax Return (Form 1040), for the calendar year 2005, which was verified by a written declaration
23 that it was made under the penalties of perjury, and which he did not believe to be true and
24 correct as to every material matter. That tax return, which was filed with the Internal Revenue
25 Service, stated that VAZIRI's business expenses totaled \$751,258, whereas, as he then and there
26 well knew and believed, his business expenses were substantially less than the amount stated in
27 the return.

28 All in violation of Title 26, United States Code, Section 7206(1).

1 COUNT ELEVEN: (26 U.S.C. § 7206(1) - Willfully Subscribing a False Income Tax Return)

2 17. Paragraph 1 is realleged and incorporated as if fully set forth here.

3 18. On or about April 7, 2007, in the Northern District of California and elsewhere,
4 the defendant,

5 ALI SEDGHI VAZIRI,

6 a resident of Napa, California, did willfully make and subscribe a false U.S. Individual Income
7 Tax Return (Form 1040), for the calendar year 2006, which was verified by a written declaration
8 that it was made under the penalties of perjury, and which he did not believe to be true and
9 correct as to every material matter. That tax return, which was filed with the Internal Revenue
10 Service, stated that VAZIRI's business expenses totaled \$697,077, whereas, as he then and there
11 well knew and believed, his business expenses were substantially less than the amount stated in
12 the return.

13 All in violation of Title 26, United States Code, Section 7206(1).

14 COUNT TWELVE: (26 U.S.C. § 7206(1) - Willfully Subscribing a False Income Tax Return)

15 19. Paragraph 1 is realleged and incorporated as if fully set forth here.

16 20. In 2006, VAZIRI filed an election with the United States Internal Revenue Service
17 (IRS) to treat his medical practice, "Ali S. Vaziri MD, Inc.," as an "S Corporation."
18 Accordingly, VAZIRI was required yearly both (1) to file a U.S. Income Tax Return for an S
19 Corporation (Form 1120S), and (2) to disclose his ownership in Ali S. Vaziri MD, Inc., and to
20 report any income or loss from his S Corporation on his personal income tax return. For the tax
21 years 2007 and 2008, as the sole shareholder and president of Ali S. Vaziri MD, Inc., VAZIRI
22 was required to file federal income tax returns for this business.

23 21. On or about October 10, 2008, in the Northern District of California and
24 elsewhere, the defendant,

25 ALI SEDGHI VAZIRI,

26 a resident of Napa, California, did willfully make and subscribe a false U.S. Individual Income
27 Tax Return (Form 1040), for the calendar year 2007, which was verified by a written declaration
28 that it was made under the penalties of perjury, and which he did not believe to be true and

1 correct as to every material matter. That tax return, which was filed with the Internal Revenue
2 Service, reported a non-passive loss of \$86,060, whereas, as VAZIRI then and there well knew
3 and believed, his non-passive loss for calendar year 2007 was incorrect as a result of his
4 overstating the total deductions for Ali S. Vaziri MD, Inc., in the Form 1120S filed for the 2007
5 calendar year.

6 All in violation of Title 26, United States Code, Section 7206(1).

7 COUNT THIRTEEN: (26 U.S.C. § 7206(1) - Willfully Subscribing a False Income Tax Return)

8 22. Paragraphs 1 and 20 are realleged and incorporated as if fully set forth here.

9 23. On or about October 9, 2009, in the Northern District of California and elsewhere,
10 the defendant,

11 ALI SEDGHI VAZIRI,

12 a resident of Napa, California, did willfully make and subscribe a false U.S. Individual Income
13 Tax Return (Form 1040), for the calendar year 2008, which was verified by a written declaration
14 that it was made under the penalties of perjury, and which he did not believe to be true and
15 correct as to every material matter. That tax return, which was filed with the Internal Revenue
16 Service, reported non-passive income of \$167,335, whereas, as VAZIRI then and there well
17 knew and believed, his non-passive income for calendar year 2008 was incorrect as a result of his
18 overstating the total deductions for Ali S. Vaziri MD, Inc., in the Form 1120S filed for the 2008
19 calendar year.

20 All in violation of Title 26, United States Code, Section 7206(1).

21 COUNT FOURTEEN: (26 U.S.C. § 7206(1) - Willfully Subscribing a False Income Tax Return)

22 24. Paragraphs 1 and 20 are realleged and incorporated as if fully set forth here.

23 25. On or about September 15, 2008, in the Northern District of California and
24 elsewhere, the defendant,

25 ALI SEDGHI VAZIRI,

26 a resident of Napa, California, did willfully make and subscribe a false 2007 U.S. Income Tax
27 Return for an S Corporation (Form 1120S) for Ali S. Vaziri MD, Inc., which was verified by a
28 written declaration that it was made under the penalties of perjury, and which he did not believe

SUPERSEDING INDICTMENT (VAZIRI)

1 to be true and correct as to every material matter. That tax return, which was filed with the
2 Internal Revenue Service, stated that VAZIRI's total deductions totaled \$1,766,891, whereas, as
3 he then and there well knew and believed, his total deductions were substantially less than the
4 amount stated in the return.

5 All in violation of Title 26, United States Code, Section 7206(1).

6 COUNT FIFTEEN: (26 U.S.C. § 7206(1) - Willfully Subscribing a False Income Tax Return)

7 26. Paragraphs 1 and 20 are realleged and incorporated as if fully set forth here.

8 27. On or about September 14, 2009, in the Northern District of California and
9 elsewhere, the defendant,

10 ALI SEDGHI VAZIRI,

11 a resident of Napa, California, did willfully make and subscribe a false 2008 U.S. Income Tax
12 Return for an S Corporation (Form 1120S) for Ali S. Vaziri MD, Inc., which was verified by a
13 written declaration that it was made under the penalties of perjury, and which he did not believe
14 to be true and correct as to every material matter. That tax return, which was filed with the
15 Internal Revenue Service, stated that VAZIRI's total deductions totaled \$1,577,380, whereas, as
16 he then and there well knew and believed, his total deductions were substantially less than the
17 amount stated in the return.

18 All in violation of Title 26, United States Code, Section 7206(1).

19 **CRIMINAL FORFEITURE ALLEGATION RELATING TO COUNTS 1 - 9**

20 **A. Forfeiture Allegation for Health Care Fraud Offenses**

21 28. Paragraphs 1-13 of this Superseding Indictment are realleged and incorporated
22 herein by reference for the purpose of alleging forfeiture to the United States pursuant to Title 18,
23 Section 982(a)(7).

24 29. Upon a conviction of one or more of the health care fraud offenses charged in
25 Counts 1 through 6 above, VAZIRI shall forfeit to the United States of America, pursuant to
26 Title 18, United States Code, Section 982(a)(7), any and all property, real or personal, that
27 constitutes, or is derived from, directly or indirectly, from gross proceeds traceable to the
28 commission of the offense, including but not limited to a sum of money equal to the gross

SUPERSEDING INDICTMENT (VAZIRI)

1 proceeds obtained as a result of the offense. The property to be forfeited includes, but is not
2 limited to the following:

3 a. Money Judgment. A sum of money representing the proceeds obtained as
4 a result of the offenses charged in Counts 1 through 6 of this Indictment.

5 **B. Substitute Assets**

6 30. If any of the forfeitable property, as a result of any act or omission of VAZIRI:

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

13 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title
14 21, United States Code, section 853(p), as incorporated by Title 18, United States Code, Section
15 982(b)(1) and Title 28, United States Code, Section 2461(c).

A True Bill

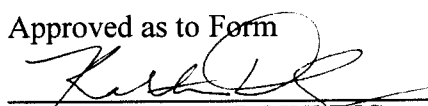
17
18
19 Dated: June 28, 2012


FOREPERSON

21 MELINDA HAAG
United States Attorney

22 
23 MIRANDA KANE
Chief, Criminal Division

24
25 Approved as to Form

26 
27 KATHERINE B. DOWLING
Assistant United States Attorney