

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 13-
 :
 v. :
 :
 :
 : 18 U.S.C. §1952(a)(3) and 2
CLAUDIO DICOVSKY, M.D. :

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

a. The defendant CLAUDIO DICOVSKY was a medical doctor licensed to practice medicine in the State of New Jersey, who maintained a medical office in Paterson, New Jersey.

b. Biodiagnostic Laboratory Services, LLC ("BLS") was a clinical blood laboratory headquartered in Parsippany, New Jersey that, among other things, performed tests on the blood specimens of patients referred to BLS by doctors, and then billed payors and others for those tests and related services.

c. David Nicoll was an owner and the President of BLS, and generally directed and supervised William Dailey's activities at BLS.

d. William Dailey worked for BLS.

e. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare was a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f) and a "health care benefit program" as defined in Title 18, United States Code, Section 24(b). Individuals who receive benefits under Medicare are commonly referred to as "beneficiaries."

f. The Medicare Part B program was a federally funded supplemental insurance program that provided supplementary Medicare insurance benefits for individuals aged sixty-five or older, and certain individuals who are disabled. The Medicare Part B program paid for various medical services for beneficiaries, including blood tests and related services.

g. BLS was an approved Medicare provider, and Medicare paid BLS for performing blood tests and related services on beneficiaries who were referred to BLS by physicians participating in Medicare.

h. Private health insurance companies (hereafter, "Private Payors"), including Horizon Blue Cross/Blue Shield ("Blue Cross/Blue Shield"), were corporations in the business of providing health care insurance to individuals and entities under various insurance policies (the "insureds"), pursuant to which Blue Cross/Blue Shield and other Private Payors paid BLS for blood tests and related services performed for insureds who had

been referred to BLS by physicians participating in their provider networks.

2. From at least in or about November 2006 until in or about August 2009, in Passaic County, in the District of New Jersey, and elsewhere, defendant

CLAUDIO DICOVSKY

knowingly and intentionally used and caused to be used the mail and any facility in interstate commerce with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of an unlawful activity, that is, commercial bribery, contrary to N.J.S.A. §2C:21-10 and Title 18, United States Code, Section 1952(a)(3) and, thereafter, did perform and attempt to perform acts to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of such unlawful activity, to include, as follows:

a. In or about November 2006, David Nicoll offered, and defendant CLAUDIO DICOVSKY accepted, bribes paid to induce defendant CLAUDIO DICOVSKY to refer the blood specimens of his patients to BLS for testing and related services. To disguise those bribes, BLS and defendant CLAUDIO DICOVSKY entered into a sham lease agreement and, thereafter, a sham service agreement, pursuant to which the monthly bribe payments to defendant CLAUDIO DICOVSKY from BLS were characterized as "lease" and "service" payments, respectively.

b. Among other things, under the sham lease agreement, BLS paid defendant CLAUDIO DICOVSKY \$1,900 per month during the 2006-2009 period for the purported use of 1,000 square feet in defendant CLAUDIO DICOVSKY's medical office when, in fact, little or no space was allocated to BLS in that office. This agreement was not determined in a manner consistent with the fair market value of the space actually used by BLS.

c. Under the sham service agreement, BLS paid defendant CLAUDIO DICOVSKY \$3,200 per month to perform basic blood drawing tasks. This monthly fee was also not determined in a manner consistent with the fair market value of those blood drawing services.

d. Between in or about November 2006 and in or about August 2009, BLS used the sham lease agreement and sham service agreement to pay defendant CLAUDIO DICOVSKY bribes that, in the aggregate, exceeded \$224,000. In return, defendant CLAUDIO DICOVSKY, among other things, referred patient blood specimens to BLS that BLS used to submit claims to Medicare and the Private Payors and to collect from those payors at least in or about \$800,000.

e. The claims BLS submitted for blood testing and other services to Medicare and the Private Payors included charges for tests on blood specimens referred to BLS by defendant CLAUDIO DICOVSKY in return for bribe payments.

f. On or about November 13, 2009, Medicare paid BLS - by an electronic transfer of funds that originated outside of the State of New Jersey and was received by BLS inside the State of New Jersey - a sum of money for claims and related items submitted by BLS for blood testing on Medicare beneficiaries. A portion of the money paid by Medicare to BLS was for tests performed by BLS on blood specimens referred to BLS by or at the direction of defendant CLAUDIO DICOVSKY in return for bribe payments.

g. On or about December 1, 2009, David Nicoll caused a check to be delivered to defendant CLAUDIO DICOVSKY to induce defendant CLAUDIO DICOVSKY to refer the blood specimens of patients to BLS for testing and related services. The check, bearing #21191, was drawn on a BLS account in the amount of \$3,200 and signed by David Nicoll.

h. On or about December 3, 2009, defendant CLAUDIO DICOVSKY caused check #21191 to be deposited into a bank account that he controlled.

In violation of Title 18, United States Code, Section 1952(a)(3) and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

2. Upon conviction of the offense in violation of Title 18, United States Code, Sections 1952(a)(3) and 2, the defendant, CLAUDIO DICOVSKY, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all right, title, and interest in the sum of \$222,425, which constitutes or is derived, directly or indirectly, from gross proceeds traceable to the offense of conviction.

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

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 shall be entitled, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section

982(a)(7), to forfeiture of any other property of the defendant,
CLAUDIO DICOVSKY, up to the value of the property described in
the preceding paragraph.

A handwritten signature in blue ink, reading "Paul J. Fishman". The signature is written in a cursive style with a horizontal line underneath it.

PAUL J. FISHMAN
UNITED STATES ATTORNEY

CASE NUMBER: _____

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UNITED STATES OF AMERICA

v.

CLAUDIO DICOVSKY

INFORMATION

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