

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No. 14-
	:	
GARY J. SEKULSKI	:	26 U.S.C. § 7206(1)

INDICTMENT

The Grand Jury, in and for the District of New Jersey, sitting at Newark, charges:

COUNTS 1 TO 3

(Filing of False Personal Income Tax Returns)

1. At all times relevant to Counts 1 to 3 of this Indictment:

A. Defendant GARY J. SEKULSKI (“defendant SEKULSKI”) was the Chief Executive Officer and President of Healthcare Corporation of America (“HCA”), which was incorporated in the State of New Jersey in or about February 2008 and based initially at defendant SEKULSKI’s residence in Flanders, New Jersey, and subsequently in Denville, New Jersey. HCA was the holding corporation of its wholly-owned subsidiaries, Prescription Corporation of America (“PCA”) and PCA Benefits. PCA was an entity that provided pharmacy dispensing services to public and non-profit entities and PCA Benefits was an entity that distributed commissions to individuals that marketed and sold PCA’s services. Defendant SEKULSKI also was a principal of Harmony Health Care (“Harmony”), a company that was intended to provide pharmacy dispensing services, but never became active.

B. There was a company that administered prescription drug programs that was incorporated by defendant SEKULSKI and another individual in or about 2002 (“Company 1”). In or about 2004, defendant SEKULSKI, who served as the President of Company 1,

solicited and received investments in Company 1 from two investors (“J.S.” and “N.S.”). Defendant SEKULSKI served as the President of Company 1 until he was terminated from that position. Following defendant SEKULSKI’s termination, Company 1, J.S., and N.S. filed a civil lawsuit against defendant SEKULSKI, and a settlement agreement was executed on or about October 24, 2007 (the “Settlement Agreement”).

C. Defendant SEKULSKI had personal bank accounts that were at all times under his control.

D. HCA had business bank accounts that were at all times under the control of defendant SEKULSKI.

2. From in or about 2007 to in or about 2009, defendant SEKULSKI received income in the form of settlement payments, loan forgiveness, investment payments, and HCA salary payments that he failed to report to the IRS on his IRS Forms 1040 for 2007, 2008, and 2009, as set forth below:

A. *Tax Year 2007*

i. From on or about May 16, 2006 to on or about March 13, 2007, defendant SEKULSKI received money loaned to him by Company 1 and a company controlled by J.S. (“Company 2”) totaling approximately \$35,000.

ii. On or about July 27, 2007, defendant SEKULSKI received a payment of approximately \$25,000 from a company controlled by N.S. (“Company 3”).

iii. As part of the Settlement Agreement and in exchange for the mutual release of certain claims, defendant SEKULSKI agreed that: (1) defendant SEKULSKI would receive an additional approximately \$65,000 in settlement payments from J.S. that were to be paid in 2007 and 2008; (2) defendant SEKULSKI would retain the \$25,000 payment received from Company 3, as specified above in paragraph 2.A.ii; (3) the loans to defendant SEKULSKI

from Company 1 and Company 2, as specified above in paragraph 2.A.i, would be forgiven, thereby releasing defendant SEKULSKI from his obligation to repay those loans; and (4) the settlement payments and forgiven loans were taxable to defendant SEKULSKI as income and defendant SEKULSKI would report the settlement payments and forgiven loans to the IRS as income to defendant SEKULSKI.

iv. After the Settlement Agreement was executed, defendant SEKULSKI received additional settlement payments from Company 2 in 2007 totaling approximately \$44,000.

v. In 2007, defendant SEKULSKI sold shares of HCA and Harmony stock to three individual investors for a total of approximately \$20,000. Defendant SEKULSKI received these investments in the form of checks made out to defendant SEKULSKI. Each of these investment checks were deposited by defendant SEKULSKI into his personal bank account. Defendant SEKULSKI used these funds that were deposited into his bank account to pay for his personal expenses and withdraw cash.

vi. In sum, as set forth in the table below, with respect to tax year 2007, defendant SEKULSKI received (1) \$35,000 in forgiven loans, (2) a \$25,000 payment from Company 2, (3) \$44,000 in settlement payments, and (4) \$20,000 in proceeds from stock sales:

APPROXIMATE PAYMENT DATE	PAYOR	PAYEE	AMOUNT	INCOME SOURCE
05/16/2006	COMPANY 2	SEKULSKI	\$5,000	FORGIVEN LOAN
06/20/2006	COMPANY 2	SEKULSKI	\$7,000	FORGIVEN LOAN
08/10/2006	COMPANY 1	SEKULSKI	\$1,500	FORGIVEN LOAN
08/30/2006	COMPANY 1	SEKULSKI	\$2,000	FORGIVEN LOAN

APPROXIMATE PAYMENT DATE	PAYOR	PAYEE	AMOUNT	INCOME SOURCE
10/10/2006	COMPANY 1	SEKULSKI	\$2,500	FORGIVEN LOAN
11/09/2006	COMPANY 1	SEKULSKI	\$2,500	FORGIVEN LOAN
12/06/2006	COMPANY 1	SEKULSKI	\$4,500	FORGIVEN LOAN
01/10/2007	COMPANY 1	SEKULSKI	\$2,500	FORGIVEN LOAN
02/12/2007	COMPANY 1	SEKULSKI	\$2,500	FORGIVEN LOAN
02/27/2007	COMPANY 1	SEKULSKI	\$2,500	FORGIVEN LOAN
03/13/2007	COMPANY 1	SEKULSKI	\$2,500	FORGIVEN LOAN
07/25/2007	COMPANY 3	SEKULSKI	\$25,000	PAYMENT
10/29/2007	COMPANY 2	SEKULSKI	\$30,000	SETTLEMENT PAYMENT
11/27/2007	COMPANY 2	SEKULSKI	\$7,000	SETTLEMENT PAYMENT
12/17/2007	COMPANY 2	SEKULSKI	\$7,000	SETTLEMENT PAYMENT
06/20/2007	J.G.	SEKULSKI	\$5,000	STOCK SALE
11/21/2007	S.M	SEKULSKI	\$5,000	STOCK SALE
12/17/2007	M.B.	SEKULSKI	\$10,000	STOCK SALE
TOTAL				\$124,000

vii. The U.S. Individual Income Tax Return, IRS Form 1040 that defendant SEKULSKI and his wife signed, filed, and caused to be filed for tax year 2007 reported total income of \$89,154, of which \$43,153 was attributed to wages paid to defendant SEKULSKI by an unrelated company and reported on Form W-2. The source of the balance of defendant SEKULSKI's reported total income—\$46,001—was not identified on the IRS Form 1040. Accordingly, defendant SEKULSKI failed to report to the IRS at least approximately \$77,999 in income on his IRS Form 1040 for tax year 2007.

B. *2008 Tax Year*

i. Pursuant to the Settlement Agreement, defendant SEKULSKI received an additional approximately \$21,000 in settlement payments from Company 2 in 2008.

ii. Following additional sales of HCA stock in 2008, from in or about March 2008 to in or about December 2008, defendant SEKULSKI withdrew approximately \$82,000 from the account of HCA, paid those funds to himself, and deposited those monies into his personal bank account.

iii. Defendant SEKULSKI deposited the settlement payments and HCA payments into his bank account and used those funds to pay for his personal expenses and withdraw cash.

iv. The U.S. Individual Income Tax Return, IRS Form 1040 that defendant SEKULSKI and his wife signed, filed, and caused to be filed for tax year 2008 reported total income of \$106,661. This reported income included approximately \$2,800 in unemployment compensation paid to defendant SEKULSKI that he received based on false claims made to the State of New Jersey, Department of Labor (“NJ DOL”), including that defendant SEKULSKI was not working part-time, not self-employed, and not a corporate officer. Defendant SEKULSKI failed to report any of the proceeds from the settlement agreement or the HCA payments on his IRS Form 1040 for tax year 2008. Accordingly, as set forth in the table below, defendant SEKULSKI failed to report to the IRS at least approximately \$103,000 on his IRS Form 1040 for tax year 2008:

APPROXIMATE PAYMENT DATE	PAYOR	PAYEE	AMOUNT	INCOME SOURCE
01/11/2008	COMPANY 2	SEKULSKI	\$7,000	SETTLEMENT PAYMENT
02/15/2008	COMPANY 2	SEKULSKI	\$7,000	SETTLEMENT PAYMENT
03/13/2008	COMPANY 2	SEKULSKI	\$7,000	SETTLEMENT PAYMENT

APPROXIMATE PAYMENT DATE	PAYOR	PAYEE	AMOUNT	INCOME SOURCE
03/07/2008	HCA	SEKULSKI	\$5,000	HCA PAYMENT
03/13/2008	HCA	SEKULSKI	\$5,000	HCA PAYMENT
03/24/2008	HCA	SEKULSKI	\$7,000	HCA PAYMENT
04/05/2008	HCA	SEKULSKI	\$10,000	HCA PAYMENT
06/20/2008	HCA	SEKULSKI	\$2,500	HCA PAYMENT
07/03/2008	HCA	SEKULSKI	\$2,500	HCA PAYMENT
07/15/2008	HCA	SEKULSKI	\$5,000	HCA PAYMENT
09/12/2008	HCA	SEKULSKI	\$5,000	HCA PAYMENT
10/08/2008	HCA	SEKULSKI	\$15,000	HCA PAYMENT
11/14/2008	HCA	SEKULSKI	\$5,000	HCA PAYMENT
11/26/2008	HCA	SEKULSKI	\$5,000	HCA PAYMENT
12/08/2008	HCA	SEKULSKI	\$10,000	HCA PAYMENT
12/30/2008	HCA	SEKULSKI	\$5,000	HCA PAYMENT
TOTAL				\$103,000

C. *2009 Tax Year*

i. Following additional sales of HCA stock in 2009, as set forth in the table below, defendant SEKULSKI withdrew \$172,800 from the accounts of HCA, paid those funds to himself, and deposited those monies into his personal bank account:

APPROXIMATE PAYMENT DATE	PAYOR	PAYEE	AMOUNT	INCOME SOURCE
01/14/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
01/31/2009	HCA	SEKULSKI	\$3,000	HCA PAYMENT
02/14/2009	HCA	SEKULSKI	\$4,500	HCA PAYMENT
04/05/2009	HCA	SEKULSKI	\$15,000	HCA PAYMENT
04/27/2009	HCA	SEKULSKI	\$4,800	HCA PAYMENT
05/14/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT

APPROXIMATE PAYMENT DATE	PAYOR	PAYEE	AMOUNT	INCOME SOURCE
05/26/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
06/11/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
06/24/2009	HCA	SEKULSKI	\$2,000	HCA PAYMENT
06/29/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
07/08/2009	HCA	SEKULSKI	\$3,500	HCA PAYMENT
07/25/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT
07/30/2009	HCA	SEKULSKI	\$7,500	HCA PAYMENT
08/16/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
08/25/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT
09/02/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
09/14/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
09/28/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT
10/09/2009	HCA	SEKULSKI	\$5,000	HCA PAYMENT
10/20/2009	HCA	SEKULSKI	\$4,500	HCA PAYMENT
10/28/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT
11/10/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT
11/25/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT
12/11/2009	HCA	SEKULSKI	\$10,000	HCA PAYMENT
12/28/2009	HCA	SEKULSKI	\$8,000	HCA PAYMENT
TOTAL				\$172,800

ii. Defendant SEKULSKI made a \$700 payment to HCA on or about July 20, 2009. Defendant SEKULSKI used the balance of the funds from HCA that were deposited into his bank account—\$172,100—to pay for his personal expenses and withdraw cash.

iii. The U.S. Individual Income Tax Return, IRS Form 1040 that defendant SEKULSKI and his wife signed, filed, and caused to be filed for tax year 2009

reported total income of \$15,896, consisting entirely of unemployment compensation paid to defendant SEKULSKI by the NJ DOL. Accordingly, defendant SEKULSKI failed to report to the IRS approximately \$172,100 in income on his IRS Form 1040 for tax year 2009.

3. On or about the dates set forth below, in Morris County, in the District of New Jersey and elsewhere, defendant

GARY J. SEKULSKI

did knowingly and willfully make and subscribe the following U.S. Individual Income Tax Returns, IRS Forms 1040, for tax years 2007, 2008, and 2009, signed under penalties of perjury, which he did not believe to be true and correct as to every material matter in that they intentionally failed to disclose income received by defendant SEKULSKI during those years in the approximate amounts set forth below:

COUNT	RETURN AND TAX YEAR	APPROXIMATE UNREPORTED TAXABLE INCOME	DATE OF OFFENSE
1	IRS Form 1040—2007	\$77,999	10/23/2008
2	IRS Form 1040—2008	\$103,000	10/19/2009
3	IRS Form 1040—2009	\$172,100	11/01/2010

In violation of Title 26, United States Code, Section 7206 (1).

A TRUE BILL

Paul J. Fishman/rah

PAUL J. FISHMAN
UNITED STATES ATTORNEY

CASE NUMBER: 14-_____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

GARY J. SEKULSKI

INDICTMENT

26 U.S.C. § 7206(1)

PAUL J. FISHMAN

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