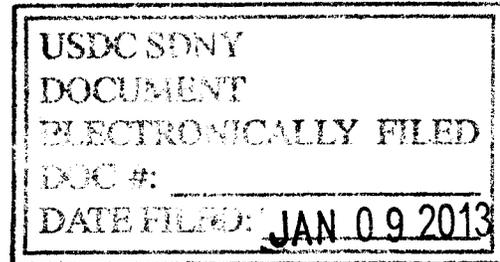


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
UNITED STATES OF AMERICA
:
-v-
:
PETER J. AJEMIAN,
MARIA RUSIN,
MARIE BARAN,
REGINA WALSH,
BRIAN DELGIORNO,
GREGORY BIANCHINI, and
KARL BRITTELL,
:
Defendants.
:
-----X

INDICTMENT
S9 11 Cr. 1091 (VM)



COUNT ONE

(Conspiracy to Commit Mail Fraud, Wire Fraud
and Health Care Fraud)

The Grand Jury charges:

The Defendants

1. PETER J. AJEMIAN, the defendant, at all times relevant to this Indictment, was a Board-certified orthopedist who, from at least in or about the 1990s up to and including in or about 2011, assisted retirees from the Long Island Rail Road Company ("LIRR") in applying for occupational disability benefits from the United States Railroad Retirement Board ("RRB"). From in or about January 2008 until his termination on or about September 29, 2008, AJEMIAN was employed at a medical practice based in Rockville Centre, New York (the "Ajemian Practice"). AJEMIAN previously had worked at other Long Island-based practices. From 1998 through 2008, AJEMIAN created medical reports for submission

to the RRB recommending hundreds of LIRR employees for disability benefits.

2. MARIA RUSIN, the defendant, was the office manager for PETER J. AJEMIAN, the defendant, in a succession of practices, including at the Ajemian Practice, starting at least in or about 2000. RUSIN retired and began receiving disability benefits in or about late 2009, based upon injuries she claimed to have sustained while working for AJEMIAN and based, in part, upon medical documentation submitted by AJEMIAN.

3. MARIE BARAN, the defendant, worked as an RRB district office manager, based in Westbury, New York, until her retirement in or about December 2006. No later than upon her retirement, BARAN began working as a "facilitator" who purported to advise and assist LIRR workers in planning for post-retirement disability and in preparing disability applications for submission to the RRB.

4. REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the defendants, are all former LIRR employees who have retired on LIRR pensions. After their retirement, they each applied for and received RRB disability benefits.

Overview Of The Premeditated Disability Fraud

5. The defendants and their co-conspirators committed a fraud in which LIRR workers who were ready to retire falsely claimed to be disabled, including occupationally disabled, in order to receive extra benefits to which they were not entitled.

Specifically, LIRR employees, who were eligible to retire as early as age 50 with an LIRR pension, sought to supplement their LIRR pension with a separate RRB disability annuity which, when combined with their LIRR pension, resulted in a total income level that often approximated their pre-retirement, working income. This fraud was perpetrated with the knowing and intentional involvement of PETER J. AJEMIAN, the defendant (along with his employee, MARIA RUSIN, the defendant), who falsely declared retiring LIRR workers to be disabled when in truth and in fact the workers were not disabled. Typically, AJEMIAN claimed that his LIRR patients suffered from various musculoskeletal impairments, which can involve claims of soft tissue injury that are more difficult to confirm by objective criteria than are other impairments, and are often diagnosed clinically, based upon pain as subjectively reported by the patient. This fraud was also aided by "facilitators," such as MARIE BARAN, the defendant, who served as liaisons between the retiring workers and participating doctors. The foreseeable loss to the RRB disability funds, if the fraudulent claims were paid out in full, would be at least hundreds of millions of dollars.

6. Participants in the fraud typically took some or all of the following steps, among others:

a. In anticipation of filing an RRB disability application, employees saw a doctor. PETER J. AJEMIAN, the defendant, personally accounted for approximately 47% of the LIRR

disability applications filed during the four-year period from in or about 2004 through in or about 2008. AJEMIAN was one of three well-known "disability doctors" who collectively accounted for approximately 86% of the LIRR disability applications filed during this same time period.

b. AJEMIAN prescribed for the LIRR employees – and billed to their insurer – a series of unnecessary medical tests and visits, including at times rounds of x-rays, MRI scans, and nerve conduction tests, as well as purported treatments, including physical therapy, in order to pad the patients' medical files.

c. The LIRR employees generally paid AJEMIAN and RUSIN between approximately \$800 and \$1200, often in cash, to prepare a medical assessment and illness narrative, or both, for submission to the RRB.

d. AJEMIAN then prepared fabricated or exaggerated medical assessments and illness narratives, or both, in which he recommended a set of restrictions that, if bona fide, would have prevented the LIRR employees from continuing in their occupations.

e. Sometime after retiring on an LIRR pension, the LIRR employees submitted to the RRB disability applications that falsely claimed an inability to work, even though the employees were performing their jobs up until the time they retired and could have continued to perform them beyond retirement, if they had chosen to do so.

f. The LIRR employees paid one of a small group of

so-called "facilitators," including MARIE BARAN, the defendant, to assist with the disability process by, among other things, working with AJEMIAN's office and the offices of other disability doctors, coordinating the disability benefit applications of LIRR employees, and either filling out the applications or coaching the LIRR employees to fill out their disability applications in such a way as to maximize the likelihood that such employees would receive disability benefits. In exchange for this service, BARAN was paid a fee of approximately \$1000, typically in cash, for the disability application, as well as additional cash fees for her meetings with clients.

g. AJEMIAN, RUSIN, BARAN, and other participants did all of this knowing that the LIRR employees were not, in fact, disabled as claimed - that is, they were not, in fact, unable to perform their jobs because of medical impairments; rather, the employees were simply planning to retire and wished to supplement their LIRR pension benefits with RRB occupational disability payments. In fact, AJEMIAN, RUSIN, BARAN, and other participants knew full well that the LIRR employees, who were generally working full-time (and, indeed, who were often working overtime), had pre-planned the date on which they would declare themselves disabled, and that this scheduled date was contemporaneous with their projected retirement date. AJEMIAN - with the assistance of MARIA RUSIN, the defendant, and others - ordered and billed for unnecessary medical tests and wrote exaggerated medical narratives

to conceal the fact that the LIRR employees were paying them to prepare disability applications when the employees were not in fact disabled as claimed.

7. Before applying for RRB occupational disability benefits, certain LIRR employees applied for various forms of private disability insurance. Benefits under those private insurance policies were triggered if the employees were later determined to be disabled. After obtaining RRB disability benefits, these individuals then made claims on these private insurance policies. PETER J. AJEMIAN, the defendant, together with MARIA RUSIN, the defendant, charged approximately \$50 per page to fill out forms required by these private insurers in which AJEMIAN and the individual policy holder falsely claimed that the policy holder was disabled.

8. PETER J. AJEMIAN, the defendant, profited by charging fees for preparing disability narratives and medical assessment forms, by obtaining new patient referrals from other LIRR employees and facilitators, and by billing private health insurers for unnecessary tests and visits. From in or about September 2004 to in or about September 2008, the total such revenue for AJEMIAN was at least hundreds of thousands of dollars. This revenue provided financial motivation for AJEMIAN to participate in the fraud.

The Defendants' Exploitation Of The Overlap Between The LIRR Pension And The Railroad Retirement Board Disability Programs

9. The RRB is an independent agency within the executive branch of the Federal Government that was created in the 1930s. The RRB administers comprehensive retirement, survivor, and benefit programs, including disability benefits, for the nation's railroad workers and their families, under the Railroad Retirement and Railroad Unemployment Insurance Acts. LIRR employees participate in the RRB disability program and in the RRB pension program. The RRB disability and pension programs are primarily funded by federal employment taxes paid by railroad employers and railroad employees nationwide and by certain federal income taxes paid by recipients of RRB pensions.

10. Retired LIRR workers can receive two pensions, but the minimum eligibility age is different for the two programs. First, LIRR workers are eligible for a pension paid by the LIRR. LIRR workers hired before 1988 may draw the LIRR pension at the age of 50, provided they have been employed for at least 20 years. Second, LIRR workers are eligible for a pension paid by the RRB, but most workers only become eligible for the full RRB pension at the age of 65. Thus, a 65-year old LIRR retiree receives two pension payments - one from LIRR and one from RRB. But qualifying 50-year old retirees receive only an LIRR pension, and generally must wait 15 years before receiving their full second, RRB pension.

11. An LIRR employee may obtain an RRB disability award after he or she has retired and stopped working, notwithstanding the fact that the employee collects an LIRR pension, if the employee convinces the RRB that he or she is disabled. This enables an LIRR worker to receive both the LIRR pension as well as RRB payments prior to the time he or she would be eligible to receive an RRB pension. For example, an LIRR worker who retired at age 50 would be eligible only for an LIRR pension, and would have to wait 15 years until her 65th birthday to begin collecting a supplemental RRB pension, thereby drawing a substantially lower income upon retirement. However, if that worker was deemed occupationally disabled after she retired at the age of 50, then she could immediately begin collecting both her LIRR pension and RRB disability payments. That retiree - who would receive both her LIRR pension, as well as RRB disability payments - could then receive a combined disability/pension income that approximated her pre-retirement, working income.

12. The RRB provides two types of disability annuities. First, a total disability annuity is based upon guidelines similar to those for Social Security disability; in other words, it requires a showing of a permanent and total disability. Second, the RRB provides for "occupational disability" annuities for railroad workers who have permanent physical or mental impairments that prevent them from performing their specific railroad jobs, regardless of whether they might be capable of performing other

work. See 20 C.F.R. § 220.10(a). A railroad worker is eligible to apply for an occupational disability at age 60 if he or she has 10 years of employment, or at any age with at least 20 years of employment.

13. At all times relevant to this Indictment, the RRB has required medical findings to support a claim of occupational disability, including "objective" tests and reports. See 20 C.F.R. § 220.46. Among other things, these medical findings must be complete and detailed enough to allow the RRB to make a determination about whether a claimant's disability is a legitimate impairment, including "(1) [t]he nature and limiting effects of the claimant's impairment(s) for any period in question; (2) the probable duration of the claimant's impairment(s); and (3) the claimant's residual functional capacity to do work-related physical and mental activities." Id. A "functional capacity test" is defined as "one of a number of tests which provide objective measures of a claimant's maximal work ability and includes functional capacity evaluations which provide a systematic comprehensive assessment of a claimant's overall strength, mobility, endurance and capacity to perform physically demanding tasks, such as standing, walking, lifting, crouching, stooping or bending, climbing or kneeling." 20 C.F.R. § 220.11.

14. Pursuant to federal regulations, the RRB must take into account an applicant's statement concerning the intensity of pain that he or she is suffering, as well as the treating

physician's descriptions of those symptoms. While applicable regulations require that the RRB determine that subjective symptoms such as pain be consistent with objectively demonstrable medical evidence, the regulations provide:

Since symptoms sometimes suggest a greater severity of impairment than can be shown by objective medical evidence alone, the Board will carefully consider any other information the claimant may submit about his or her symptoms. The information that the claimant, the claimant's treating or examining physician or psychologist, or other persons provide about the claimant's pain or other symptoms (e.g., what may precipitate or aggravate the claimant's symptoms, what medications, treatments or other methods he or she uses to alleviate them, and how the symptoms may affect the claimant's pattern of daily living) is also an important indicator of the intensity and persistence of the claimant's symptoms. Because symptoms, such as pain, are subjective and difficult to quantify, any symptom-related functional limitations and restrictions which the claimant, his or her treating or examining physician or psychologist, or other persons report, which can reasonably be accepted as consistent with the objective medical evidence and other evidence, will be taken into account

See 20 C.F.R. § 220.114(c)(3).

15. The regulations further provide that, if the treating physician gives an opinion that is inconsistent with other medical evidence, including opinions obtained by RRB medical consultants, the RRB must resolve those inconsistencies based on all the evidence in the case record. In doing so, however, the RRB must "give some extra weight to the treating source's supported opinion(s) which interprets the medical findings about

the nature and severity of the impairment(s)." 20 C.F.R.

§ 220.112(d). Thus, the regulatory system is vulnerable to abuse by employees and treating physicians who falsify and exaggerate symptoms, as the RRB is required to give their statements extra weight.

16. Typically, a treating physician completes and signs an RRB Medical Assessment filing, known as a G-250 form (hereinafter referred to as a "Medical Assessment"). The Medical Assessment sets forth the doctor's view of objective medical tests, medical findings, and required medical restrictions.

17. As a critical part of the RRB disability process, every applicant also must file an Application for Determination of Employee's Disability, known as a Form AA-1d (hereinafter referred to as a "Disability Application.") On the form, applicants must describe in detail the limitations resulting from their impairment and state when they could no longer work because of their conditions. The signature page of the Disability Application reminds an applicant that he or she must answer these questions truthfully, as follows:

I know that if I make a false or fraudulent statement in order to receive benefits from the RRB or if I fail to disclose earnings or report employment of any kind to the RRB, I am committing a crime which is punishable under Federal law.

At times, annuitants receiving disability payments are directed to file a Continuing Disability Update Report, known as a form G-254

or a form G-254A (collectively hereinafter referred to as a "Disability Recertification"), in which they have to certify, under penalty of prosecution, certain facts about their physical condition and employment.

18. At all times relevant to this Indictment, RRB claims examiners reviewing applications for disability generally:

a. assumed that the doctor who provided a Medical Assessment and the applicant who submitted a Disability Application were telling the truth about the applicant's medical condition;

b. relied on the applicant when the applicant stated, in response to a required question on the RRB Disability Application, that he or she was unable to continue working because of his or her medical condition;

c. relied on the treating physician's statements about the medical condition of the applicant, including the doctor's opinion of exertional and environmental restrictions necessitated by the patient's medical condition; and

d. relied on applicants' descriptions of their job requirements, set out in a Form G-251, to determine whether the applicants' medical conditions made them unable to fulfill their occupational duties.

19. Prior to September 2008, the RRB generally requested review by an outside medical consultant or medical examiner only when the patient's application was incomplete or

unclear in some manner, not as a method for detecting fraud. Because the RRB examiners were not medical experts, they could request that a contracted consultant review medical records if the examiner believed that he or she could not interpret the disability medical evidence without expert advice.

The Pattern Of Disability Claims
At The Long Island Railroad

20. Between 2004 and 2008, approximately 61% of LIRR employees who stopped working and began receiving some type of benefits from the RRB were between the ages of 50 and 55 years old. By contrast, at Metro-North Railroad (a comparable commuter railroad which did not share LIRR's unique contract allowing for retirement as early as age 50), only approximately 7% of the employees who stopped working and started receiving RRB benefits were between the ages of 50 and 55. Over 75% of LIRR workers receiving RRB occupational disability first retired while in their early fifties. Given the way that the LIRR and RRB pensions work, as described above, absent a disability award, these retirees - who could retire as early as age 50 under a unique LIRR contract - would generally have had to rely only upon their LIRR pensions until the age of 65.

21. During the period from 1995 through 2011, the percentage of former LIRR employees who obtained RRB disability benefits far exceeded the percentage of former Metro North Railroad employees who obtained RRB disabilities. A year-by-year

analysis of employees terminating their employment during this period showed that overall, more than 75% of LIRR former employees obtained RRB disability benefits, while less than 25% of Metro North former employees obtained RRB disability benefits. In addition, according to this analysis, at least 60% of LIRR employees who terminated their employment in that year obtained RRB disability benefits, while the number of Metro North employees never exceeded approximately 30% of the employees terminating employment in any particular year. Indeed, in the peak year, 2004, approximately 88% of LIRR employees who terminated their employment in that year went on to obtain an RRB disability annuity.

22. For the period August 2004 through August 2008, PETER J. AJEMIAN, the defendant, was the treating physician for approximately 47% of the RRB disability applications filed by LIRR employees younger than 65.

23. PETER J. AJEMIAN, the defendant, declared disabled the vast majority of the LIRR employees he saw as patients who were eligible to retire with an LIRR pension.

Statutory Allegations

24. From at least in or about the 1990s, up to and including in or about 2011, in the Southern District of New York and elsewhere, PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN, REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the defendants, and others known and unknown, willfully and knowingly,

combined, conspired, confederated and agreed together and with each other to violate Title 18, United States Code, Sections 1341, 1343 and 1347.

25. It was a part and an object of the conspiracy that PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN, REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and would and did deposit and cause to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and would and did take and receive therefrom, a matter and thing, and would and did knowingly cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, a matter and thing, in violation of Title 18, United States Code, Section 1341.

26. It was a further part and object of the conspiracy that PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN, REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the

defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign 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.

27. It was a further part and object of the conspiracy that PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN, REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the defendants, and others known and unknown, knowingly and willfully, would and did execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a 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.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Conspiracy to Defraud the United States RRB)

The Grand Jury further charges:

28. The allegations contained in Paragraphs 1 through 23 are repeated and realleged as if fully stated herein.

29. From at least in or about the 1990s, up to and including in or about 2011, in the Southern District of New York and elsewhere, PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN, REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the defendants, and others known and unknown, willfully and knowingly, combined, conspired, confederated and agreed together and with each other to defraud the United States and an agency thereof, to wit, the RRB.

Overt Acts

30. In furtherance of the conspiracy and to effect the illegal object thereof, PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN, REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the defendants, and their co-conspirators, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about September 5, 2006, PETER J. AJEMIAN signed a narrative regarding REGINA WALSH.

b. On or about January 25, 2007, REGINA WALSH signed an application for RRB disability benefits.

c. On or about June 1, 2007, PETER J. AJEMIAN signed a

narrative regarding Gregory Noone, a co-conspirator not named as a defendant herein.

d. On or about August 8, 2007, Gregory Noone signed an application for RRB disability benefits.

e. On or about October 1, 2007, PETER J. AJEMIAN signed a narrative regarding Sharon Falloon, a co-conspirator not named as a defendant herein.

f. On or about November 14, 2007, Sharon Falloon signed an application for RRB disability benefits.

g. On or about July 29, 2008, MARIE BARAN instructed an LIRR employee to contact MARIA RUSIN and obtain an appointment with PETER J. AJEMIAN.

h. On or about March 3, 2011, REGINA WALSH mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

i. On or about March 5, 2011, Sharon Falloon mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

j. On or about March 11, 2011, Gregory Noone mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

k. On or about September 3, 2008, PETER J. AJEMIAN signed a narrative relating to BRIAN DELGIORNO.

l. On or about September 23, 2008, BRIAN DELGIORNO signed an application for RRB disability benefits.

m. On or about March 3, 2011, BRIAN DELGIORNO mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

n. On or about July 16, 2003, PETER J. AJEMIAN signed a narrative relating to GREGORY BIANCHINI.

o. On or about September 25, 2003, GREGORY BIANCHINI signed an application for RRB disability benefits.

p. On or about March 12, 2011, GREGORY BIANCHINI mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

q. On or about July 6, 2007, PETER J. AJEMIAN signed a medical assessment relating to Frank Plaia, a co-conspirator not named as a defendant herein.

r. On or about July 20, 2007, Frank Plaia signed an application for RRB disability benefits.

s. On or about March 5, 2011, Frank Plaia mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

t. On or about December 1, 2003, PETER J. AJEMIAN signed a narrative relating to KARL BRITTELL.

u. On or about December 12, 2003, KARL BRITTELL signed an application for RRB disability benefits.

v. On or about March 30, 2011, KARL BRITTELL mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

w. On or about November 1, 2006, PETER J. AJEMIAN signed a narrative relating to Kevin Nugent, a co-conspirator not named as a defendant herein.

x. On or about December 18, 2006, Kevin Nugent signed an application for RRB disability benefits.

y. On or about March 21, 2011, Kevin Nugent mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

z. In or about December 2008, PETER J. AJEMIAN provided to the RRB medical documentation relating to Thomas DeLalla, a co-conspirator not named as a defendant herein.

aa. On or about December 9, 2008, Thomas DeLalla signed an application for RRB disability benefits.

bb. On or about March 15, 2011, Thomas DeLalla mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

cc. On or about July 1, 2005, PETER J. AJEMIAN signed a narrative regarding Gary Satin, a co-conspirator not named as a defendant herein.

dd. On or about July 25, 2005, Gary Satin signed an application for RRB disability benefits.

ee. On or about March 7, 2011, Gary Satin mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

ff. On or about April 28, 2011, Gary Satin made false

statements under oath in the Southern District of New York.

gg. On or about May 1, 2008, PETER J. AJEMIAN signed a narrative relating to Philip Pulsonetti, a co-conspirator not named as a defendant herein.

hh. On or about June 23, 2008, Philip Pulsonetti signed an application for RRB disability payments.

ii. On or about March 12, 2011, Philip Pulsonetti mailed and caused to be mailed to the RRB's office in Manhattan, New York, a Disability Recertification.

jj. On or about July 1, 2006, PETER J. AJEMIAN signed narrative regarding James Reiser, a co-conspirator not named as a defendant herein.

kk. On or about August 16, 2006, James Reiser signed an application for RRB disability benefits.

ll. On or about March 24, 2011, James Reiser mailed and caused to be mailed to the RRB's offices in Manhattan, New York a Disability Recertification.

mm. On or about August 11, 2006, PETER J. AJEMIAN signed narrative regarding Michael Dasaro, a co-conspirator not named as a defendant herein.

nn. On or about January 8, 2007, Michael Dasaro signed an application for RRB disability benefits.

oo. On or about March 7, 2011, Michael Dasaro mailed and caused to be mailed to the RRB's offices in Manhattan, New York a Disability Recertification.

pp. On or about April 14, 2011, BRIAN DELGIORNO testified before a Grand Jury in the Southern District of New York.

qq. On or about April 28, 2011, KARL BRITTELL testified before a Grand Jury in the Southern District of New York.

(Title 18, United States Code, Section 371.)

COUNTS THREE THROUGH SIXTEEN
(Health Care Fraud)

The Grand Jury further charges:

31. The allegations contained in Paragraphs 1 through 23 and 30 are repeated and realleged as if fully stated herein.

32. From on or about the approximate first visit date set forth below, through in or about the approximate last claim paid date set forth below, in the Southern District of New York and elsewhere, the defendants named below, knowingly and willfully executed and attempted to execute a scheme and artifice to defraud health care benefit programs and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services, to wit, the defendants fraudulently billed, and caused to be billed, private insurance carriers for unnecessary medical treatments, services, and tests relating to the LIRR retiree named below.

COUNT	Charged Defendants	LIRR Retiree	Approx. Date of First Visit	Approx. Last Claim Paid Date
THREE	PETER J. AJEMIAN MARIA RUSIN	Gregory Noone	07/06/06	06/12/07
FOUR	REGINA WALSH PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	REGINA WALSH	10/10/05	06/19/07
FIVE	PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	Sharon Falloon	10/17/06	12/31/09
SIX	BRIAN DELGIORNO PETER J. AJEMIAN MARIA RUSIN	BRIAN DELGIORNO	12/12/07	12/11/08
SEVEN	GREGORY BIANCHINI PETER J. AJEMIAN MARIA RUSIN	GREGORY BIANCHINI	03/19/03	02/26/08
EIGHT	PETER J. AJEMIAN MARIA RUSIN	Frank Plaia	10/30/06	12/05/08
NINE	MARIE BARAN	Michael Stavola	05/06/04	05/15/08
TEN	PETER J. AJEMIAN MARIA RUSIN	Michael Dasaro	09/23/03	12/05/08
ELEVEN	KARL BRITTELL PETER J. AJEMIAN MARIA RUSIN	KARL BRITTELL	01/18/02	11/12/08
TWELVE	PETER J. AJEMIAN MARIA RUSIN	Kevin Nugent	01/19/06	09/16/08
THIRTEEN	PETER J. AJEMIAN MARIA RUSIN	Thomas DeLalla	03/20/08	01/14/09
FOURTEEN	PETER J. AJEMIAN MARIA RUSIN	Gary Satin	02/04/05	09/10/07
FIFTEEN	PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	Philip Pulsonetti	09/13/07	12/06/08

SIXTEEN	PETER J. AJEMIAN MARIA RUSIN	James Reiser	05/19/05	06/21/08
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(Title 18, United States Code, Sections 1347 and 2.)

COUNTS SEVENTEEN THROUGH THIRTY

(Mail Fraud)

The Grand Jury further charges:

33. The allegations contained in Paragraphs 1 through 23 and 30 are repeated and realleged as if fully stated herein.

34. On or about the dates listed below, in the Southern District of New York and elsewhere, the following defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, placed in a post office and authorized depository for mail matter, a matter and thing to be sent and delivered by the Postal Service, and deposited and caused to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and took and received therefrom, a matter and thing, and knowingly caused to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, a matter and thing, to wit, the conspirator listed below as "Mailing Conspirator," on the approximate dates listed below, for the

purpose of executing the fraudulent scheme and in furtherance of a conspiracy with the other defendants listed below as "Charged Defendants," mailed and caused to be mailed a Disability Recertification, to the RRB's offices in Manhattan, New York:

COUNT	Charged Defendants	Mailing Conspirator	Approx. Date of mailing
SEVENTEEN	PETER J. AJEMIAN MARIA RUSIN	Gregory Noone	March 12, 2011
EIGHTEEN	REGINA WALSH PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	REGINA WALSH	March 7, 2011
NINETEEN	PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	Sharon Falloon	March 16, 2011
TWENTY	BRIAN DELGIORNO PETER J. AJEMIAN MARIA RUSIN	BRIAN DELGIORNO	March 3, 2011
TWENTY-ONE	GREGORY BIANCHINI PETER J. AJEMIAN MARIA RUSIN	GREGORY BIANCHINI	March 12, 2011
TWENTY-TWO	PETER J. AJEMIAN MARIA RUSIN	Frank Plaia	March 5, 2011
TWENTY-THREE	MARIE BARAN	Michael Stavola	March 21, 2011
TWENTY-FOUR	PETER J. AJEMIAN MARIA RUSIN	Michael Dasaro	March 7, 2011
TWENTY-FIVE	KARL BRITTELL PETER J. AJEMIAN MARIA RUSIN	KARL BRITTELL	March 30, 2011
TWENTY-SIX	PETER J. AJEMIAN MARIA RUSIN	Kevin Nugent	March 21, 2011

TWENTY-SEVEN	PETER J. AJEMIAN MARIA RUSIN	Thomas DeLalla	March 15, 2011
TWENTY-EIGHT	PETER J. AJEMIAN MARIA RUSIN	Gary Satin	March 7, 2011
TWENTY-NINE	PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	Philip Pulsonetti	March 12, 2011
THIRTY	PETER J. AJEMIAN MARIA RUSIN	James Reiser	March 24, 2011

(Title 18, United States Code, Sections 1341 and 2.)

COUNTS THIRTY-ONE THROUGH FORTY-FOUR
(Wire Fraud)

The Grand Jury further charges:

35. The allegations contained in Paragraphs 1 through 23 and 30 are repeated and realleged as if fully stated herein.

36. Beginning no later than the annuity beginning date set forth below, through at least in or about 2012, in the Southern District of New York and elsewhere, the following defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, the defendants participated in a scheme to

defraud the RRB by making false and fraudulent statements in order to obtain disability benefits, and in the course of executing such scheme, caused RRB disability payments to be transmitted by wire and radio through the Southern District of New York:

COUNT	Charged Defendants	Disability Annuitant	Annuity Beginning Date
THIRTY-ONE	PETER J. AJEMIAN MARIA RUSIN	Gregory Noone	11/01/07
THIRTY-TWO	REGINA WALSH PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	REGINA WALSH	02/01/07
THIRTY-THREE	PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	Sharon Falloon	03/01/08
THIRTY-FOUR	BRIAN DELGIORNO PETER J. AJEMIAN MARIA RUSIN	BRIAN DELGIORNO	02/01/09
THIRTY-FIVE	GREGORY BIANCHINI PETER J. AJEMIAN MARIA RUSIN	GREGORY BIANCHINI	01/01/04
THIRTY-SIX	PETER J. AJEMIAN MARIA RUSIN	Frank Plaia	12/01/07
THIRTY-SEVEN	MARIE BARAN	Michael Stavola	11/01/08
THIRTY-EIGHT	PETER J. AJEMIAN MARIA RUSIN	Michael Dasaro	05/01/07
THIRTY-NINE	KARL BRITTELL PETER J. AJEMIAN MARIA RUSIN	KARL BRITTELL	05/01/04
FORTY	PETER J. AJEMIAN MARIA RUSIN	Kevin Nugent	04/01/07
FORTY-ONE	PETER J. AJEMIAN MARIA RUSIN	Thomas DeLalla	04/01/09

FORTY-TWO	PETER J. AJEMIAN MARIA RUSIN	Gary Satin	12/01/05
FORTY-THREE	PETER J. AJEMIAN MARIA RUSIN MARIE BARAN	Philip Pulsonetti	10/01/08
FORTY-FOUR	PETER J. AJEMIAN MARIA RUSIN	James Reiser	10/01/06

(Title 18, United States Code, Sections 1343 and 2.)

COUNT FORTY-FIVE

(Obstruction of a Health Care Fraud Investigation)

The Grand Jury further charges:

37. The allegations contained in Paragraphs 1 through 23 and 30 are repeated and realleged as if fully stated herein.

38. On or about August 30, 2010, MARIA RUSIN, the defendant, willfully prevented, obstructed, misled, delayed and attempted to prevent, obstruct, mislead, and delay the communication of information and records relating to a violation of a federal health care offense to a criminal investigator participating in a Southern District of New York investigation, to wit, MARIA RUSIN, the defendant, during a voluntary interview with criminal investigators participating in a Southern District of New York investigation of a federal health care fraud offense:

a. falsely denied knowing that almost all of PETER J. AJEMIAN's patients were retiring at the same time that they were claiming occupational disability from the RRB;

b. falsely claimed that she was never told that an LIRR patient was planning to retire except when the patient was

directed to see her to pay for a narrative; and falsely claimed that this usually occurred at the end of the process of seeing AJEMIAN, about two weeks to one month prior to the worker's retirement; and

c. falsely claimed that she had no understanding about how an occupational disability would affect the payout for a worker who was retiring.

(Title 18, United States Code, Section 1518.)

COUNT FORTY-SIX

(Perjury Before the Grand Jury)

The Grand Jury further charges:

39. The allegations contained in Paragraphs 1 through 23 and 30 are repeated and realleged as if fully stated herein.

40. On or about April 14, 2011, in the Southern District of New York, BRIAN DELGIORNO, the defendant, having taken an oath to testify truthfully in a proceeding before a Court and Grand Jury of the United States, knowingly made false material declarations, to wit, DELGIORNO gave the following underlined material false testimony:

Q. Since you retired, have you traveled on a plane?

(a) A. No, sir.

. . . .

Q. Since retirement, where have you gone for vacation?

(b) A. Nowhere. . . .

(Title 18, United States Code, Section 1623.)

COUNT FORTY-SEVEN

(Perjury Before the Grand Jury)

The Grand Jury further charges:

41. The allegations contained in Paragraphs 1 through 23 are repeated and realleged as if fully stated herein.

42. On or about April 14, 2011, in the Southern District of New York, KARL BRITTELL, the defendant, having taken an oath to testify truthfully in a proceeding before a Court and Grand Jury of the United States, knowingly made false material declarations, to wit, BRITTELL gave the following underlined material false testimony:

Q. Did you have any conversations with anyone prior to your retirement about applying for disability?

(a) A. No, ma'am.

. . . .

Q. Based on what you have told us, are you testifying that there's absolutely no job that you can hold? For example, could you do a desk job?

(b) A. No.

. . . .

Q. Could you drive a car for three hours a day as a job?

(c) A. No ma'am.

. . . .

Q. And were you aware, as well, that Dr. Ajemian certified other employees of the railroad as disabled in

connection with disability benefits?

(d) A. I didn't go to Dr. Ajemian for that. I went to him because I was injured. I wasn't aware of that no.

. . . .

Q. No you had not heard that he had found anybody else to be disabled?

(e) A. No.

(Title 18, United States Code, Section 1623.)

**FORFEITURE ALLEGATIONS WITH RESPECT TO COUNT ONE
AND COUNTS SEVENTEEN THROUGH FORTY-FOUR**

43. As the result of committing one or more of the mail fraud offenses in violation of 18 U.S.C. § 1341 as alleged in Counts One and Seventeen through Thirty of this Indictment, and one or more of the wire fraud offenses in violation of 18 U.S.C. § 1343 as alleged in Counts One and Thirty-One through Forty-Four of this Indictment, PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN, REGINA WALSH, BRIAN DELGIORNO, GREGORY BIANCHINI, and KARL BRITTELL, the defendants, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C), and 28 U.S.C § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of one and more of these offenses.

Substitute Assets Provision

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

directly and indirectly, from gross proceeds traceable to the commission of the offenses.

Substitute Assets Provision

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

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

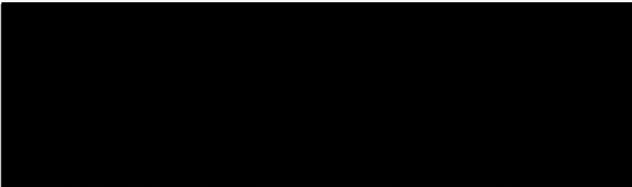
(3) has been placed beyond the jurisdiction of the Court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b) and 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981, 982;
Title 21, United States Code, Section 853;
Title 28, United States Code, Section 2461)



Preet Bharara

PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

- v. -

**PETER J. AJEMIAN, MARIA RUSIN, MARIE BARAN,
REGINA WALSH, BRIAN DELGIORNO,
GREGORY BIANCHINI, and KARL BRITTEL,**

Defendants.

INDICTMENT

S9 11 Cr. 1091 (VM)

(Title 18, United States Code, Section 2, 371,
1341, 1343, 1347, 1349, 1518, and 1623)

PREET BHARARA
United States Attorney.

A TRUE BILL



1/9/13 Fld. Superseding Indictment.

Pitman, USMJ

(Signature)