

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

-v.-

MARGARET KINDER, and
JAY SEITZ,

Defendants.
-----X

:
: SEaled
: INDICTMENT

:
: 12 Cr.

:
: **12 CRIM921**
:

COUNT ONE

(Mail Fraud and Health Care Fraud Conspiracy)

The Grand Jury charges:

BACKGROUND

1. At all times relevant to this Indictment, New York State Law required every vehicle registered in New York State to have no-fault automobile insurance, which enabled the driver and passengers of a vehicle registered and insured in New York State to obtain benefits of up to \$50,000 per person for injuries sustained in an automobile accident, regardless of fault (the "No-Fault Law"). The No-Fault Law required payments for medical treatments to be made promptly, thereby obviating the need for vehicle occupants (the "Patients") to file personal injury lawsuits in order to be reimbursed for medical treatment. Under the No-Fault Law, the Patients could assign their right to reimbursement from an insurance company to others, including, but not limited to, medical clinics that provided medical services to treat their injuries. If such an assignment were made, the medical clinics, or their agents, would bill the insurance

company directly for services rendered and receive payments directly from the insurance company. Typically, insurance companies compensate the medical practitioners at a fixed rate for various medical services performed on these accident victims. In order to obtain damages separate from the \$50,000 allowed by the No-Fault Law, a Patient could file a personal injury claim and/or lawsuit in order to show that the occupant sustained a "serious injury," as defined by New York State Law, as a result of the accident.

2. In order to take advantage of the patient-friendly provisions of the No-Fault Law, numerous medical clinics were created solely to defraud insurance companies under the No-Fault Law (the "No-Fault Clinics"). While purporting to be legitimate medical care clinics specializing in treating the Patients, the No-Fault Clinics were, in fact, medical fraud mills that routinely billed automobile insurance companies under the No-Fault Law for medical treatments that were either (i) never provided and/or (ii) unnecessary, because the Patient did not medically need the treatments.

3. Among the services provided at No-Fault Clinics was psychological screening and counseling services for accident victims. The No-Fault Law required that such services be provided either by a licensed physician or psychologist, or by a licensed social worker acting under the supervision of a licensed physician or psychologist. The No-Fault Law provided for a set

rate of reimbursement for psychological services based on the duration of psychological services performed and whether the services were performed by a licensed psychologist or by a licensed social worker.

THE DEFENDANTS

4. At all times relevant to this Indictment, MARGARET KINDER was a psychologist who was licensed to practice in the State of New York. KINDER operated a professional corporation named Sigma Psychological, P.C. ("SIGMA") through which she purported to provide psychological services to Patients at No-Fault Clinics located in the Bronx and Brooklyn, New York.

5. At all times relevant to this Indictment, JAY SEITZ was a psychologist who was licensed to practice in the State of New York. SEITZ operated professional corporations named Jay Psychological, P.C. ("JAY"), and Omega Psychological, P.C. ("OMEGA"), through which he purported to provide psychological services to Patients at No-Fault Clinics located in the Bronx and Brooklyn, New York.

THE SCHEME TO DEFRAUD

6. In or about 2004, MARGARET KINDER and JAY SEITZ, the defendants, were recruited to participate in the no-fault insurance fraud scheme (the "Scheme") by the principals of a company that provided claims administration services to doctors associated with No-Fault Clinics (the "Claims Administrator").

7. From at least in or about 2004, up to and including in or about December 2008, MARGARET KINDER and JAY SEITZ, the defendants, purported to provide psychological services to Patients at No-Fault Clinics located in the Bronx and Brooklyn, New York. KINDER and SEITZ signed treatment notes that described the diagnoses they purportedly made and the services they purportedly provided to various Patients treated at the No-Fault Clinics. These treatment notes were provided to the Claims Administrator, which used the treatment notes to generate claims that were submitted to no-fault insurance companies for reimbursement. These claims were coded to reflect that the psychological services for which reimbursement was sought were provided by either KINDER or SEITZ, both of whom were licensed psychologists. These claims were also coded to reflect the duration for which psychological services were provided to Patients. No-fault insurance providers reimbursed over \$2 million of claims submitted by the Claims Administrator on behalf of SIGMA, the professional corporation associated with KINDER, and, collectively, over \$2 million of claims submitted on behalf of JAY and OMEGA, the professional corporations associated with SEITZ.

8. In fact, MARGARET KINDER and JAY SEITZ, the defendants, did not provide the psychological services reflected on the claims forms. KINDER and SEITZ did not diagnose or treat the Patients on whose behalf claims were submitted to no-fault

insurance providers. Although the Patients at the No-Fault Clinics with which KINDER and SEITZ were associated sometimes received psychological screening and treatment, this treatment was provided by staff members employed by KINDER's and SEITZ's professional corporations, who were recruited to these positions by staff of the Claims Administrator. These staff members were not licensed psychologists or licensed social workers and did not act under the supervision of KINDER or SEITZ. In addition, the treatment duration reflected on the claims forms often exceeded the actual duration of services provided by the No-Fault Clinic staff members.

9. The treatment notes signed by JAY SEITZ, the defendant, were not written by SEITZ. In fact, these treatment notes were generated by a staff member of the Claims Administrator, who is cooperating with the Government ("CW-1"). According to CW-1, a staff member of the Claims Administrator provided CW-1 with a compact disc containing pre-written treatment notes. Based on diagnoses made by the No-Fault Clinic staff members who sometimes provided psychological screening and treatment to Patients, CW-1 would select certain pre-written treatment notes, to which SEITZ then appended his signature.

10. MARGARET KINDER and JAY SEITZ, the defendants, kept approximately 20% of the amount reimbursed by no-fault insurance companies for the psychological services they purportedly provided, and paid the Claims Administrator the

remaining portion of the amount reimbursed. The Claims Administrator used a portion of the amounts it received from the no-fault insurance reimbursements to pay a kickback to the operators of the No-Fault Clinics for each Patient seen at the No-Fault Clinics.

THE MAIL FRAUD AND HEALTH CARE FRAUD CONSPIRACY

11. From at least in or about 2004, up to and including in or about December 2008, in the Southern District of New York and elsewhere, MARGARET KINDER and JAY SEITZ, the defendants, and others known and unknown, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Sections 1341 and 1347.

12. It was a part and an object of the conspiracy that MARGARET KINDER and JAY SEITZ, 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, such 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, such matter and thing, in violation of Title 18, United States Code, Section 1341.

13. It was further a part and an object of the conspiracy that MARGARET KINDER and JAY SEITZ, the defendants, and others known and unknown, willfully and knowingly would and did execute and attempt 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, in violation of Title 18, United States Code, Section 1347.

(Title 18 United States Code, Section 1349.)

COUNT TWO

(Mail Fraud)

The Grand Jury further charges:

14. From at least in or about 2004, up to and including in or about December 2008, in the Southern District of New York and elsewhere, MARGARET KINDER, the defendant, 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, to wit, a scheme to defraud insurance companies and other entities by, among other things, submitting fraudulent insurance claims for psychological services provided to persons purportedly injured in automobile accidents, for the purpose of executing such scheme and artifice and attempting so to do, 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 did deposit and cause to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and did take and receive therefrom, such matter and thing, 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, such matter and thing, to wit, correspondence in furtherance of fraudulent insurance claims mailed to insurers in New York and elsewhere.

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

COUNT THREE

(Health Care Fraud)

The Grand Jury further charges:

15. From at least in or about 2004, up to and including in or about December 2008, in the Southern District of

New York and elsewhere, MARGARET KINDER, the defendant, and others known and unknown, willfully and knowingly did execute, and attempt 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 defendant executed a scheme to defraud insurance companies and other entities by, among other things, causing fraudulent insurance claims to be generated for psychological services purportedly provided to persons allegedly injured in automobile accidents.

(Title 18, United States Code, Sections 1347 and 2.)

COUNT FOUR

(Mail Fraud)

The Grand Jury further charges:

16. From at least in or about 2004, up to and including in or about December 2008, in the Southern District of New York and elsewhere, JAY SEITZ, the defendant, 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, to wit, a scheme to defraud insurance companies and other entities by, among other

things, submitting fraudulent insurance claims for psychological services provided to persons purportedly injured in automobile accidents, for the purpose of executing such scheme and artifice and attempting so to do, 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 did deposit and cause to be deposited a matter and thing to be sent and delivered by a private and commercial interstate carrier, and did take and receive therefrom, such matter and thing, 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, such matter and thing, to wit, correspondence in furtherance of fraudulent insurance claims mailed to insurers in New York and elsewhere.

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

COUNT FIVE

(Health Care Fraud)

The Grand Jury further charges:

17. From at least in or about 2004, up to and including in or about December 2008, in the Southern District of New York and elsewhere, JAY SEITZ, the defendant, and others known and unknown, willfully and knowingly did execute, and attempt 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 defendant executed a scheme to defraud insurance companies and other entities by, among other things, causing fraudulent insurance claims to be generated for psychological services purportedly provided to persons allegedly injured in automobile accidents.

(Title 18, United States Code, Sections 1347 and 2.)

FORFEITURE ALLEGATION AS TO DEFENDANT MARGARET KINDER

18. As a result of committing one or more of the offenses alleged in Counts One, Two, and Three, of this Indictment, MARGARET KINDER, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offenses.

Substitute Asset Provision

19. If any of the above-described forfeitable property, as a result of any act or omission of MARGARET KINDER, the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

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 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 MARGARET KINDER, the defendant, up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 982, 1341, 1347;
Title 21, United States Code, Section 853.)

FORFEITURE ALLEGATION AS TO DEFENDANT JAY SEITZ

20. As a result of committing one or more of the offenses alleged in Counts One, Four, and Five, of this Indictment, JAY SEITZ, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offenses.

Substitute Asset Provision

21. If any of the above-described forfeitable property, as a result of any act or omission of JAY SEITZ, the defendant:


- a. cannot be located upon the exercise of due diligence;
 - b. has been transferred or sold to, or deposited with, a third person;
 - 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 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 JAY SEITZ, the defendant, up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 982, 1341, 1347;
Title 21, United States Code, Section 853.)


FOREPERSON


PREET BHARARA
United States Attorney

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12 Cr.

(Title 18, United States Code, Sections
1349, 1341, 1347, and 2.).

PREET BHARARA
United States Attorney.

A TRUE BILL

 Foreperson. 
