

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO. 15-153
VERSUS	*	SECTION: "L" (5)
GEOFFREY RICKETTS	*	
MARLA RICKETTS		
SAMUEL KIM	*	
SUNYUP KIM		

* * *

FACTUAL BASIS

GEOFFREY RICKETTS, (G.RICKETTS), MARLA RICKETTS (M.RICKETTS), SAMUEL KIM (SAM KIM), and SUNYUP KIM (SUNNY KIM) (collectively "THE DEFENDANTS") have agreed to plead guilty to Count One (1) of the Indictment herein. Count 1 charges a violation of 18 U.S.C. § 1349, conspiracy to commit health care fraud. Should this matter proceed to trial, the United States of America would prove beyond a reasonable doubt, through the introduction of relevant, competent, and admissible testimonial, physical, and demonstrative evidence, the following facts to support the allegations against **THE DEFENDANTS**.

1. **Introduction:** Corporate documentation obtained from the States of Louisiana and California would establish that Care Concepts Louisiana, Inc., also d/b/a Choice Home Medical Equipment and Supplies, (hereafter "Care Concepts"), was a Louisiana corporation engaged in the nationwide business of selling durable medical equipment (DME). Care Concepts had its principal place of business in Chatsworth, California. Evidence would establish that from about Spring 2012 until January 2013, Care Concepts' sales, customer service, and document retrieval departments were all located in Chatsworth on the same floor. Testimony from a Care Concepts employee would establish that in about April 2013, a business known as 5in Brands, LLC (5in)

was registered and, thereafter, Care Concepts moved most of its computers, personnel documents, and servers to another California location under the name 5in.

2. Care Concepts also had an office located at 3901 Houma Boulevard, Metairie, Louisiana, within the Eastern District of Louisiana. In the initial Medicare supplier enrollment form that Care Concepts completed in December 2007 in order to obtain supplier number 6086060001, and updated on December 29, 2011, Care Concepts indicated that it kept Medicare beneficiary medical records at their office on Houma Blvd., in Metairie, Louisiana.

3. Corporate and Medicare enrollment documentation would establish that **G.RICKETTS** was an officer and president of Care Concepts as well as the owner, managing employee and director/officer of Care Concepts. Further, in about June 2011, **M.RICKETTS** was added as a director/officer of Care Concepts under her maiden name, Marla Gomez.

Evidence would also establish that **G.RICKETTS** and **M.RICKETTS** were married.

4. The Government would further establish, through documentary evidence and the testimony of Sheila Knox (Knox), an employee of Care Concepts from about July 2012 through August 2013, that **SAM KIM** was the Chief Operating Officer at Care Concepts. Craig Kakita (Kakita), Operations Manager (handling billing, audits, shipping) at Care Concepts from about June 2012 through October 2013, would testify that **SUNNY KIM** was the Director of Operations at Care Concepts. Care Concepts employee Angela Mendez Barrigan (Barrigan) would testify that **SUNNY KIM** managed the call center and document retrieval and reported to **SAM KIM**.

5. **Blood Glucose Monitors/DME:** A witness knowledgeable on Medicare coding and coverage of those codes would testify that blood glucose monitors, which constitute durable medical equipment (DME), are meter devices individuals use to obtain glucose readings in their blood. Home blood glucose monitors enable patients to better control their blood glucose levels by frequently checking and appropriately contacting their physician for advice and treatment. Medicare pays for a portion of the cost of home blood glucose monitors under the following conditions: (1) if the Medicare beneficiary has diabetes (ICD-9 (diagnosis) codes 249.00-250.93) that is being treated by a physician; (2) the glucose monitor and related accessories and supplies have been ordered by the physician treating the beneficiary's diabetes; (3) the treating physician maintains records reflecting the care provided including, but not limited to, evidence that the prescribed frequency of testing is reasonable and necessary; (4) the beneficiary/caregiver has scheduled or successfully completed training in the use of the monitor, test strips, and lancing devices; and (5) the beneficiary or a caregiver is capable of using the test results to assure the beneficiary's appropriate glycemic control.

6. Wendy Naquin (Naquin), Senior Analyst with AdvanceMed, the Zone Program Integrity Contractor (ZPIC) for Medicare, would testify that DME suppliers used the Healthcare Common Procedure Coding System (HCPCS) to identify various types of goods, services, and items. Naquin would testify that a standard home glucose monitor identified by HCPCS E0607 displays the glucose test results on a screen monitor and stores the results in the device's memory. Naquin would testify that the HCPCS E2100 identifies a "talking" glucose monitor (TGM), which Medicare covers for beneficiaries who otherwise satisfy the coverage criteria for a screen monitor and have a specific severe visual impairment that prevents them from being able to read the test results on a screen.

7. Documentary evidence would establish that to qualify for the TGM the treating physician had to certify that the Medicare beneficiary had a severe visual impairment (*i.e.*, best corrected visual acuity of 20/200 or worse in both eyes) such that the standard screen monitor would be insufficient.

8. Data obtained concerning billing by Care Concepts and from the Medicare Regional Contractors (DMERCS) would establish that the nationwide reimbursement rate for the E0607 (standard screen monitor) was between approximately \$72 and \$82 while the reimbursement rate for the E2100 (TGM) was approximately \$700 per monitor.

9. Deloris Keeler would testify that she began billing for Care Concepts in about 2009, and eventually became the billing coordinator. Her testimony and Medicare billing data would establish that Care Concepts began billing Medicare for large quantities of TGMs in June 2011. Prior to that time, from May 2008 through May 2011, when Care Concepts' business model focused on DME products unrelated to diabetic supplies, it billed Medicare for only 59 TGMs. When Medicare amended its requirements on certain products unrelated to diabetic supplies, Care Concepts and **G.RICKETTS** refocused its business on diabetic supplies, and its billing to Medicare for home blood glucose monitors grew exponentially. The vast majority of home glucose monitors Care Concepts billed for were the TGM, instead of the standard meter.

10. **The Fraud:** The Government would establish, through the testimony of Cheri Turcios-Gamez (Turcios-Gamez), an employee at Care Concepts in Louisiana until approximately March 2012, that Care Concepts' business was primarily devised as a power wheelchair supplier and that at some point business slowed down because Medicare began requiring providers to rent power wheel chairs. Turcios-Gamez would testify that **G.RICKETTS** did not want to rent power wheelchairs so Care Concepts began to increase

the amount of diabetic supplies that they provided to beneficiaries. Turcios-Gamez would testify that **G.RICKETTS** told employees that they would be receiving orders for glucose meters and that such meters should be billed as HCPCS code E2100 (*i.e.*, TGMs).

11. The Government would introduce evidence seized during the execution of search warrants at Care Concepts offices in California and Metairie, Louisiana and the Google email accounts of several Care Concepts executives and employees. Keeler would testify that she was knowledgeable in Medicare DME billing and that she explained to Care Concepts executives, including **THE DEFENDANTS**, the documentation and procedures Medicare required to reimburse the cost of home blood glucose monitors, including TGMs. Specifically, Medicare required a doctor's detailed order or prescription to reimburse the cost of a home blood glucose monitor. Keeler read Medicare guidelines for E2100 for one of the DMERCS to **G.RICKETTS** and showed a Medicare-generated chart of regulations related to E2100 to **SAM KIM**.

12. Additionally, the Government would introduce a document Keeler provided to **G.RICKETTS** on February 15, 2012, that **G.RICKETTS** forwarded to **SAM KIM**. The document described the basic eligibility for home glucose monitors and the higher priced TGM. The document further explained that to be eligible for TGM, a treating physician had to certify that the patient had a severe visual impairment or best corrected visual acuity of 20/200 or worse. The Government would also introduce at least four additional documents exchanged between **G.RICKETTS**, **M.RICKETTS**, and **SAM KIM** in late February and March 2012 that discussed the specifics of the visual impairment requirement for a Medicare beneficiary to be eligible for a TGM.

13. Keeler would further testify that she received daily spreadsheets from Turcios-Gamez that contained lists of patient names, dates of service and codes of what DME was to be

billed. Some of those spreadsheets would be introduced into evidence. Keeler would testify that, after she had received the spreadsheet, **G.RICKETTS** often called and explained that the codes on the spreadsheets sent by Turcios-Gamez were incorrect and needed to be changed.

Specifically, **G.RICKETTS** instructed Keeler to change the code E0607 to the higher priced E2100 TGM. Turcios-Gamez would testify that when she later saw the spreadsheets she created she observed that some E0607-coded meters had been changed to the E2100 TGMs.

14. The Government would further introduce testimony and evidence that **SAM KIM**, **SUNNY KIM**, and others created phone scripts for sales personnel to use when calling prospective patients to facilitate the fraudulent sale of TGMs. For example, Barrigan would testify that Care Concepts purchased “leads” that contained information they used to make sales calls and that Care Concepts’ sales department was in charge of calling all patients. The Government would further introduce a document dated December 8, 2011, found in **SAM KIM’S** office at 5in. during the execution of the search warrant. The document was entitled “Phone Script for Care Concepts” and included the following statements/questions:

- After determining that the individual has been diagnosed with diabetes, “Great, looks like you will qualify for this plan. Again, this is completely NO COST program....”
- “Are you vision impaired, wear glasses?”

15. Barrigan and Keeler would provide testify confirming that they frequently overheard sales members telling potential patients if they had vision problems or if they wore reading glasses they would qualify for a free TMGs. As a result of his fraudulent conduct at Care Concepts, **SAM KIM** received approximately \$988,592.81.

16. The Government would further introduce evidence and testimony that **SUNNY KIM** distributed the scripts to sales members. **SUNNY KIM** also set daily goals for the sales

members, which were later incentivized with commissions and cash payments. **SUNNY KIM** directed sales members to rely on the misleading phone scripts when speaking with prospective patients. The sales team was instructed to tell patients that they had already been approved for blood glucose monitors or related diabetic supplies and that the product was being shipped to them.

17. Naquin would testify that Care Concepts' claim that the DME equipment was free violated Medicare regulations because DME providers are required to collect, and cannot waive, copayments.

18. The Government would further introduce testimony and documentary evidence that **SUNNY KIM** was aware of, complicit in, and facilitated the perpetuation of the fraud. For example, Angel Lee would testify that in about June 2012, **SUNNY KIM** informed the sales staff that a government agency was coming to visit Care Concepts, and he took them out of the building as a means of hiding the patient solicitation activities of Care Concepts. Similarly, Barrigan and Knox would testify, and documentary evidence would be admitted to establish, that in about October 2012 employees were told that Accreditation Commission evaluators were coming to their office to visit. On the day of the visit, **SUNNY KIM** told the sales staff to take the day off or take an extended lunch and go to the movies so that the evaluators would not see Care Concepts' solicitation operation. Further, **SUNNY KIM** regularly told the employees not to mention the sales department while the representatives were present. As a result of his fraudulent conduct at Care Concepts, including the conduct detailed above, **SUNNY KIM** received approximately \$93,927.00.

19. The Government would further introduce evidence and testimony that beginning not later than February 21, 2012, as a means of obtaining physician authorization for TGMs for

ineligible patients, **G.RICKETTS** and others arranged for patients who suffered from any sort of “poor vision” to appear to their treating physicians as though they qualified for TGMs.

Specifically, Keeler would testify that she overheard members of the sales team tell patients that if they wore glasses they would qualify for a talking blood glucose monitor. Further, Turcios-Gamez would testify that **G.RICKETTS** told her that if the diabetic order supply form had a diagnosis code of 369.9 marked (reflecting that a patient/beneficiary has “poor vision,” and not that he specifically had a severe visual impairment or best corrected visual acuity of 20/200 or worse), it should be billed using E2100, even though **G.RICKETTS** was already aware that this was contrary to Medicare regulations. The Government would establish that, as a result of his fraudulent conduct at Care Concepts, **G.RICKETTS** received approximately \$1,338,210.03.

20. The Government would also introduce Physician Orders which, among other documents, Care Concepts sent to physicians to show that Care Concepts routinely pre-selected “Section 1, Vision Impaired, 369.9 – Poor Vision.” The form indicated that a large screen monitor was necessary but did not explain the difference between the unspecified term “poor vision” and Medicare’s explicit requirement that a TGM recipient suffer from a severe visual impairment or best corrected visual acuity of 20/200 or worse. Nothing on the Physician Order forms suggested to the physicians who were receiving this documentation that their signing of the form was in any way approving the E2100 TGM or that their patient had a medical condition that would necessitate the need for an E2100. Barrigan would testify and confirm that the vision portion of the Physician Orders sent by Care Concepts to doctors’ offices were filled out before they were transmitted.

21. Similarly, Knox, who worked in a department responsible for responding to Medicare claim audits, also known as additional documentation requests (ADRs), would testify

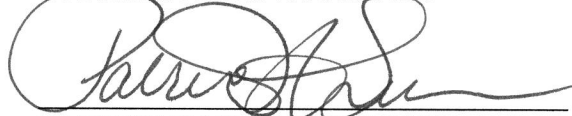
that **M.RICKETTS** was initially responsible for responding to ADRs until she trained Knox and Kakita on how to answer the ADRs.

22. The Government would admit evidence that **M.RICKETTS** attempted to hide the fraudulent scheme from Medicare auditors. Knox would testify that in replying to DMERCS' ADR requests, **M.RICKETTS** directed the audit response team to redact text on physician prescription/orders, including, but not limited to, the Care Concepts' logo in the header of the form and the toll free number for Care Concepts at the bottom of the form page, before providing them to the DMERCS so that the DMERCS would not know that Care Concepts originated the DME order and created and faxed the forms to physicians. The Government would establish that, as a result of her fraudulent conduct at Care Concepts, **M.RICKETTS** received approximately \$39,880.00.

23. For sentencing purposes, the defendants and the Government agree that each defendant is responsible for their respective loss amount. These amounts relate to each defendant's readily provable conduct.

- a. G. Ricketts - \$1,338,210.03
- b. Sam Kim - \$988,592.81
- c. Sonny Kim - \$93,927.00
- d. M. Ricketts - \$39,880.00

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SUNYUP KIM
Defendant
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SAMUEL KIM
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