

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 20-143
v. * SECTION: "A"
DONALD AUZINE *
* * *

FACTUAL BASIS

The Defendant, DONALD AUZINE (hereinafter, the "Defendant" or "AUZINE"), has agreed to enter a plea of guilty pursuant to a plea agreement. AUZINE has agreed to plead guilty to conspiracy to commit health care fraud in violation of Title 18, United States Code, Sections 1347 and 1349 as charged in Count One of the Indictment.

Should this matter have proceeded to trial, the Defendant stipulates that the Government would have proven, through the introduction of credible testimony from witnesses and from Special Agents from the United States Department of Defense – Office of the Inspector General and Homeland Security Investigations, and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Indictment now pending against the Defendant. Both the Government and the Defendant do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the Defendant is pleading guilty. Unless stated otherwise, the following acts occurred within the jurisdiction of the Eastern District of Louisiana.

Beginning in or around March 2014, and continuing through in or around October 2016, in the Eastern District of Louisiana and elsewhere, the Defendant did conspire to knowingly and willfully execute a scheme and artifice to defraud TRICARE, a federal health care benefit program

Fee
Process
X Dktd
CRmDep
Doc No

AUSA KM
Defendant DPA
Defense Counsel RW

affecting commerce, and other health care benefit programs in violation of Title 18, United States Code, Sections 1347 and 1349.

Prime Pharmacy was located in Slidell, Louisiana and was established on or around March 2014. Prime Pharmacy was primarily a closed-door pharmacy whose primary business focus was the production of compounded medication, which, when created properly, were drugs combined, mixed, or altered by licensed pharmacists or other practitioners to meet the specialized needs of individual patients.

The Defendant was the marketing manager of Prime Pharmacy. The Pharmacist-in-Charge (“PIC”) was responsible for supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to Prime Pharmacy’s pharmacy practice.

The owner, C.B., on behalf of Prime Pharmacy, contracted with various entities, including Pharmacy Benefit Managers (“PBMs”), obligating Prime Pharmacy to collect copayments from beneficiaries in order to be reimbursed by various health care benefit programs, including TRICARE. Additionally, C.B. worked with AUZINE to market the compounded medications produced by Prime Pharmacy. AUZINE found other marketers outside of the state to find beneficiaries that were willing to receive medically unnecessary compounds and doctors willing to prescribe compounds without medical necessity.

Beginning in or around March 2014, Defendant AUZINE and other co-conspirators, acting on behalf of Prime Pharmacy, selected formulas for compounded medications, not based on scientific evaluations of effectiveness or individualized patient need but rather, to maximize reimbursement from TRICARE and other health care benefit programs (“High-Yield Compounded Medications”). Defendant and other co-conspirators then produced significant volumes of these High-Yield Compounded Medications at Prime Pharmacy.

AUZINE would pressure the pharmacists to fill prescriptions for beneficiaries where no doctor-patient relationship existed. He also aided in the creation of the prescription pads that had the highest value prescription listed first, the second most expensive second, etc. AUZINE and/or his family members, collected over \$1,300,000 in commission/kickback fees for AUZINE serving as an illicit marketer.

At one point, AUZINE intentionally did not appear at the pharmacy on a particular day that inspectors from a licensing board were present. This was because AUZINE knew a marketer should not have been affiliated with the pharmacy due to a conflict of interest. One marketing meeting occurred in California, and Auzine was paid a \$50,000 check at the end of the meeting.

Defendant AUZINE and other co-conspirators created a series of preprinted prescription forms encouraging and directing prescribers (doctors) to prescribe these High-Yield Compounded Medications to TRICARE beneficiaries. These Medications were determined by the co-conspirators and others by running “soft adjudications” through the reimbursement software, to determine what Medications would provide the highest reimbursement rates and were therefore not what was medically necessary for a patient. Prime Pharmacy paid the co-conspirators and others when signed prescriptions from doctors were obtained that were reimbursed by TRICARE and other health care benefit programs.

Beginning in or around March 2014, and continuing through in or around April 2016, Prime Pharmacy dispensed prescriptions for High-Yield Compounded Medications to beneficiaries of TRICARE and other health care benefit programs that were not medically necessary, induced by kickback payments, or where copayments were either waived or credited by Prime Pharmacy, and accordingly, submitted or caused to be submitted false and fraudulent claims for reimbursement to TRICARE, other health care benefit programs, and PBMs.

AUSA KM
Defendant DTA
Defense Counsel DC

For example, on or about July 23, 2015, Prime dispensed a prescription for a High-Yield Compounded Medication to J.V., a TRICARE beneficiary, which was not medically necessary. J.V. never saw a doctor before receiving the compounded medications.

On or about July 23, 2015, Prime dispensed a prescription for a High-Yield Compounded Medication to C.M., a TRICARE beneficiary, which was not medically necessary. C.M. did not see a doctor.

TRICARE and other health care benefit programs, as well as PBMs, relied upon AUZINE's and other co-conspirators' false and fraudulent representations (a) that the medications dispensed were medically necessary; 2) not induced by kickback payments; or (c) that copayments were properly collected. In reliance on those and other false representations, TRICARE and other health care benefit programs reimbursed Prime Pharmacy approximately \$16 million for High-Yield Compounded Medications.

Defendant received a percentage of Prime Pharmacy's profits, including a percentage of the reimbursements paid by TRICARE and other health care benefit programs procured through fraud.

In sum, the evidence would establish that **AUZINE** conspired with C.B. and others to commit health care fraud.


Limited Nature of Factual Basis

This proffer of evidence is not intended to constitute a complete statement of all facts known by **AUZINE** and/or the Government. Rather, it is a minimum statement of facts intended to prove the necessary factual predicate for his/her guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for the plea of guilty to the charged offense by **AUZINE**.

AUSA KM
Defendant DTA
Defense Counsel DC

The above facts come from an investigation conducted by, and would be proven at trial by credible testimony from, *inter alia*, Special Agents from the United States Department of Defense – Office of the Inspector General and Homeland Security Investigations, other witnesses, and admissible, tangible exhibits.


READ AND APPROVED:



DONALD AUZINE
Defendant

9/23/21

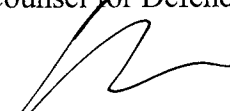
DATE



RALPH WHALEN
Counsel for Defendant

9/23/21

DATE



KATHRYN MCHUGH
Assistant United States Attorney

9/23/21

DATE