

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v. - :

SEALED INDICTMENT

LAURA PERRYMAN, :

23 Cr. __ (__)

Defendant. :

23 CRIM 117

----- X

COUNT ONE

(Conspiracy to Commit Health Care Fraud and Wire Fraud)

The Grand Jury charges:

OVERVIEW

1. LAURA PERRYMAN, the defendant, is the former Chief Executive Officer ("CEO") of Stimwave Technologies Incorporated and Stimwave LLC (together, "Stimwave" or the "Company"). From at least in or about 2017 up to and including in or about 2020, PERRYMAN, as the Company's CEO, engaged in a multi-year scheme (the "Scheme") to design, create, manufacture, and market an inert, non-functioning component of a medical device that served no medical purpose, but was implanted into patients, in order to make the product more profitable by billing doctors and medical providers, who in turn would unwittingly submit fraudulent claims for reimbursement to Medicare and private insurance for the implantation of this medical device.

Background on PERRYMAN

2. At all relevant times, LAURA PERRYMAN, the defendant, claimed to have multiple degrees, including a PhD in Bioengineering and Biomedical Engineering, and claimed over 30 years of engineering development experience creating innovative, state of the art, artificial intelligence wireless transmission systems for micro-sized, nanotechnology-based medical devices. In or about 2010, PERRYMAN and others founded Stimwave in Arizona. PERRYMAN served as CEO of the Company from in or about 2010 through in or about November 2019, when she was terminated by the Company.

Background on Stimwave

3. Stimwave was founded on the premise that its products would provide non-opioid alternatives to chronic pain management.

4. In or about 2013, Stimwave relocated from Arizona to Florida. The Company ultimately grew from several employees to over 100 personnel. Despite its growth, the Company remained a closely-held company that was controlled by LAURA PERRYMAN, the defendant.

5. At all relevant times, Stimwave was primarily a device manufacturer and provider of implantable neurostimulation products that treated chronic pain. As the founder and CEO of Stimwave, LAURA PERRYMAN, the defendant, oversaw the design of the

StimQ PNS System (the "Device"), a neurostimulator medical device that treated chronic pain by producing electrical currents to target peripheral nerves outside the spinal cord.

The Fraud Scheme

6. Beginning in or about 2017, Stimwave designed, manufactured, and distributed the Device, which was cleared by the U.S. Food and Drug Administration ("FDA")

7. LAURA PERRYMAN, the defendant, was, at all relevant times, extensively involved in overseeing all aspects of the Company, including product design and manufacture, hiring and firing of employees, marketing of the Device to doctors, training regarding the implantation of the Device into patients (including by approving training materials and by participating in cadaver labs where a trainer demonstrated implantation of the Device by performing the procedure on a cadaver), research into and development of improvements to the Device, and the billing and reimbursement coding associated with the sale of the Device to doctors and medical providers.

8. When Stimwave brought the Device to market in or about 2017, the Device contained three primary components: (i) an implantable electrode array (the "Lead") that stimulated the nerve; (ii) an externally worn battery that sat outside the body and wirelessly provided power to the Lead through the patient's

skin (the "Battery"); and (iii) a separate implantable receiver measuring approximately 23 cm in length with a distinctive pink handle (the "Pink Stylet").

9. The Pink Stylet contained copper that functioned like an antenna to transmit energy from the Battery to the Lead under circumstances where, because of the location of the implant of the Lead, the Battery could not be placed directly on or next to the Lead.

10. Stimwave sold the Device to doctors and medical providers for over approximately \$16,000. Medical insurance providers, including Medicare, would reimburse medical practitioners for implanting the Device into patients through two separate reimbursement codes, known as CPT codes¹ - one for implantation of the Lead, and a second for implantation of the Pink Stylet. The billing code for implanting the Lead, CPT code 64555, provided for reimbursement at a rate of between approximately \$4,000 and \$6,000, while the billing code for implanting the Pink Stylet, CPT code 64590, provided for

¹ Current Procedural Terminology, or "CPT," codes offer doctors and health care professionals a uniform language for coding medical services and procedures to streamline reporting to entities such as Medicare and private insurance companies. Among other things, CPT codes are used for administrative management purposes such as claims processing, and for developing guidelines for medical care review.

reimbursement at a rate of between approximately \$16,000 and \$18,000.

11. Soon after the Device was released, physicians informed Stimwave that they were having trouble implanting the Pink Stylet in certain patients because the Pink Stylet was too long. At all relevant times, LAURA PERRYMAN, the defendant, knew that the Pink Stylet could not be cut or trimmed to shorten it without interfering with the functionality of the Pink Stylet as a receiver. PERRYMAN also knew that the Device could function without a receiver, so long as the Battery was placed close enough to the Lead.

12. LAURA PERRYMAN, the defendant, nevertheless insisted that the Device ship with two implantable components, because without a second component for doctors to implant and seek reimbursement for, the Device would likely not be profitable for doctors and medical providers, thereby making it far more difficult for Stimwave to sell the Device to doctors and medical providers.

13. LAURA PERRYMAN, the defendant, did not lower the price of the Device so that its cost to doctors and medical providers could be covered by reimbursement for the implantation of only the Lead - by utilizing CPT code 64555, which provided for reimbursement at a rate of between \$4,000 and \$6,000 - nor did PERRYMAN recommend that doctors not implant the Device or its

receiver component in cases where the Pink Stylet could not fit comfortably. Instead, PERRYMAN directed that Stimwave create a new stylet - known as the "White Stylet" - that served no medical purpose, but could be cut to size by the doctor, so that doctors and medical providers would continue to purchase and use the Device in smaller anatomical spaces and continue to bill for the implantation of a receiver component using the reimbursement CPT code 64590.

14. LAURA PERRYMAN, the defendant, oversaw all relevant aspects of the design and creation of the White Stylet. For example, PERRYMAN personally approved the design of the White Stylet, which showed that it contained no copper or other conductive material, and therefore could not function as a receiver.

15. Further, LAURA PERRYMAN, the defendant, lied directly to doctors, and directed Company staff to lie to doctors, falsely stating that the White Stylet was a receiver and therefore purportedly provided some functionality. In fact, the White Stylet was non-functional, and had no receiver capabilities at all. PERRYMAN also told doctors, and directed Company staff to tell doctors, that the White Stylet should be implanted in patients for whom the Pink Stylet was too long. In addition, PERRYMAN directed other employees at the company to "vouch" for the efficacy of the

White Stylet, when she knew that the White Stylet was non-functional.

16. While CPT code 64590 may have been appropriate for implantation of a functioning receiver such as the Pink Stylet, it would not have covered the implantation of a component with no receiver or other medical functionality, such as the White Stylet. Nonetheless, LAURA PERRYMAN, the defendant, instructed doctors and other medical personnel, and directed Company staff to instruct doctors and other medical personnel, to use the second billing code, CPT 64590, when implanting the White Stylet, resulting in a reimbursement rate of approximately \$16,000 by Medicare and private insurers.

17. As a result of these misrepresentations regarding the functionality of the White Stylet, LAURA PERRYMAN, the defendant, caused doctors and medical providers to unwittingly submit fraudulent reimbursement claims for implantation of the White Stylet to Medicare, resulting in millions of dollars in losses to the federal government.

STATUTORY ALLEGATIONS

18. From at least in or about 2017, up to and including 2020, in the Southern District of New York and elsewhere, LAURA PERRYMAN, the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed

together and with each other to commit wire fraud and health care fraud, in violation of Title 18, United States Code, Sections 1343 and 1347.

19. It was a part and an object of the conspiracy that LAURA PERRYMAN, the defendant, and others known and unknown, 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, to wit, PERRYMAN and others agreed to and did make material misrepresentations in the course of the Scheme, namely the White Stylet, which served no medical purpose, thereby causing doctors and medical providers to purchase the Device and seek fraudulent reimbursement payments from insurance providers, including federal healthcare payors, such as Medicare, and, for the purpose of executing such Scheme, transmitted and caused to be transmitted wire transfers and wire communications in interstate commerce.

20. It was a further a part and an object of the conspiracy that LAURA PERRYMAN, the defendant, 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, to wit, PERRYMAN and others agreed to and did make material misrepresentations in the course of the Scheme, thereby causing doctors and medical providers to purchase the Device and seek fraudulent reimbursement payments from insurance providers, including federal healthcare payors, such as Medicare.

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

COUNT TWO
(Health Care Fraud)

The Grand Jury further charges:

21. The allegations contained in paragraphs 1 through 17 of this Indictment are repeated and realleged as if fully set forth herein.

22. From at least on or about 2017, up to and including 2020, in the Southern District of New York and elsewhere, LAURA PERRYMAN, the defendant, knowingly and willfully executed, and

attempted 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, to wit, PERRYMAN made material misrepresentations in the course of the Scheme, thereby causing doctors and medical providers to purchase the Device and seek unlawful reimbursement payments from insurance providers, including federal healthcare payors, such as Medicare.

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

FORFEITURE ALLEGATIONS

23. As a result of committing the wire fraud offense charged in Count One of this Indictment, LAURA PERRYMAN, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981 (a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

24. As a result of committing the health care fraud offenses charged in Counts One and Two of this Indictment, LAURA

PERRYMAN, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any and all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of said offenses, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offenses.

Substitute Assets Provision

25. If any of the above-described forfeitable property, as a result of any act or omission of 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;

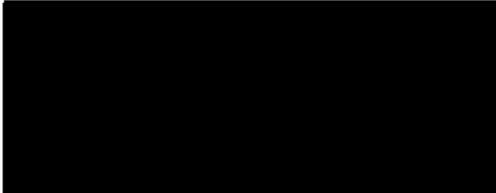
(d) has been substantially diminished in value; or

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

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the

defendant up to the value of the above forfeitable property described above.

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



Damian Williams

DAMIAN WILLIAMS
United States Attorney