

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,
V.

CR 12-0054 JSW

PATRICK ADEBOWALE SOGBEIN, ADEBOLA
ADEFUNKE ADEBIMPE, EDNA CALAUSTRO,
EDUARDO ABAD, and MELE SAAVEDRA,

DEFENDANT(S).

INDICTMENT

18 U.S.C. §§ 1349 and 2 - Conspiracy to Commit Health Care Fraud;
18 U.S.C §§ 371 and 2 - Conspiracy to Receive and Pay Health Care Kickbacks;
18 U.S.C. §§ 1347 and 2 - Health Care Fraud; Aiding and Abetting;
18 U.S.C. § 982 and 21 U.S.C. § 853 - Criminal Forfeiture Allegation

A true bill.

Nancy J. Peterson
Foreman

Filed in open court this 19th day of

September, 2013.
Jmyae
Clerk

[Signature]
Bail, \$ _____

Maria Elena James
United States Chief Magistrate Judge

FILED
MAR 26 10 43 26
U.S. DISTRICT COURT
SAN FRANCISCO, CALIF.

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

CNT 1, 18 U.S.C. § 1349 - Conspiracy to Engage in Health Care Fraud; CNT 2, 18 U.S.C. § 371 - Consp. to Receive and Pay Health Care Kickbacks; CNTS 3-11, 18 U.S.C §§1347 and 2 - Health Care Fraud; Aiding and Abetting

Petty
 Minor
 Misdemeanor
 Felony

PENALTY:
See Attachment A

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
Federal Bureau of Investigation / Office of Inspector General, Department of Health and Human Services

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:
 U.S. Att'y Defense } SHOW DOCKET NO.
 this prosecution relates to a pending case involving this same defendant }
 prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under } MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM
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 U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)
Denise Marie Barton/Randy Luskey

Name of District Court, and/or Judge/Magistrate Location
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DEFENDANT - U.S.

PATRICK ADEBOWALE SOGBEIN

DISTRICT COURT NUMBER
CR 12-0054 JSW

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- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
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Northern District of California

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If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

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10 years imprisonment, fine of twice the gross gain/loss, 3 years supervised release, \$100 special assessment

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FILED
JUL 19 P 3:25
[Signature]

1 MELINDA HAAG (CABN 132612)
United States Attorney

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
PATRICK ADEBOWALE SOGBEIN,)
ADEBOLA ADEFUNKE ADEBIMPE,)
EDNA CALAUSTRO,)
EDUARDO ABAD, and)
MELE SAAVEDRA,)
)
Defendants.)

CR No. 12-0054 JSW

VIOLATIONS: 18 U.S.C. §§ 1349 and 2–
Conspiracy to Commit Health Care Fraud;
18 U.S.C. §§ 371 and 2 – Conspiracy to
Receive and Pay Health Care Kickbacks; 18
U.S.C. §§ 1347 and 2 – Health Care Fraud;
Aiding and Abetting; 18 U.S.C. § 982 and
21 U.S.C. § 853 – Criminal Forfeiture
Allegation

SAN FRANCISCO VENUE

SUPERSEDING INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Superseding Indictment:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were prescribed by statute and by federal regulations under the auspices of the United States Department of Health and Human Services (“HHS”),

SUPERSEDING INDICTMENT

1 through its agency, the Center for Medicare and Medicaid Services (“CMS”). Individuals who
2 received benefits under Medicare were commonly referred to as Medicare “beneficiaries.” Each
3 Medicare beneficiary is issued a unique Medicare claim number.

4 2. Medicare was a “health care benefit program,” as defined by Title 18, United
5 States Code, Section 24(b).

6 3. Part B of the Medicare Program was a medical insurance program that covered,
7 among other things, certain durable medical equipment (“DME”), including power wheelchairs
8 (“PWCs”).

9 4. For California beneficiaries, Medicare Part B insurance covering DME and related
10 health care benefits, items, and services was administered by Noridian Administrative Services,
11 LLC (“Noridian”), pursuant to a contract with CMS. Among Noridian’s responsibilities, it
12 received, evaluated, and paid the claims submitted to it by Medicare beneficiaries and suppliers
13 of health care items and services.

14 5. Under Medicare’s rules and regulations, a licensed medical professional or entity
15 seeking to participate in and bill the Medicare program (a Medicare provider) had to apply for a
16 national provider identifier (“NPI”). DME companies, physicians, and other health care
17 providers that sought to participate in Medicare Part B and bill Medicare for the cost of DME and
18 related benefits, items, and services, were required to obtain a supplier number. The supplier
19 number allowed a DME company to submit claims for reimbursement to Medicare for the cost of
20 DME and related items and services it supplied to beneficiaries.

21 6. To receive payment from Medicare, a DME company, using its supplier number,
22 would submit a health insurance claim form to a Medicare contractor. Medicare permitted DME
23 companies to submit a claim electronically or in hard copy. Medicare required DME companies
24 to provide certain information, including: (a) the Medicare beneficiary’s name; (b) the Medicare
25 beneficiary’s identification number; (c) the name and identification number of the doctor who
26 ordered the item or service that was the subject of the claim; (d) the health care benefits, items, or
27 services provided to the beneficiary; (e) the billing codes for those benefits, items, or services;
28 and (f) the date upon which the benefits, items, or services were provided.

1 7. Medicare, through Noridian, would generally pay a portion, usually 80%, of the
2 cost of the DME and related health care items and services if they were deemed medically
3 necessary and ordered by a licensed doctor or other qualified health care provider. The
4 remaining cost, generally 20%, known as the “co-pay,” was typically paid by a secondary
5 insurance plan, by state health care programs, or by the Medicare beneficiary. Payments under
6 Medicare Part B were often made directly to the DME company. For this to occur, the
7 beneficiary would assign the right of payment to the DME company or other health care provider.
8 Once such an assignment took place, the DME company or other health care provider would
9 assume the responsibility for submitting claims to, and receiving payments from, Medicare.

10 8. Medicare providers agreed to abide by all Medicare laws, regulations, and
11 program instructions, and not to present or cause to be presented a false or fraudulent claim for
12 payment by Medicare or to submit claims with deliberate ignorance or reckless disregard of their
13 truth or falsity. Medicare providers also agree that payment of a claim by Medicare is
14 conditioned upon the claim and the underlying transaction complying with such Medicare laws,
15 regulations, and program instructions, including but not limited to, the Federal anti-kickback
16 statute, and on the provider’s compliance with all the applicable conditions of participation in
17 Medicare.

Background of the Defendants

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19 9. PATRICK ADEBOWALE SOGBEIN (SOGBEIN) and ADEBOLA ADEFUNKE
20 ADEBIMPE (ADEBIMPE) were married and lived together in Santa Clarita, California.
21 SOGBEIN was the owner and operator of Debs Medical Distributors, Inc. (Debs), a DME
22 company located in Van Nuys, California. ADEBIMPE was the owner and operator of Dignity
23 Medical Supply LLC (Dignity), a DME company located in Santa Clarita, California. Both Debs
24 and Dignity had Medicare PINs and supplier numbers and were eligible to receive payments from
25 Medicare for DME supplied to beneficiaries. SOGBEIN, on behalf of Debs, and ADEBIMPE,
26 on behalf of Dignity, supplied PWCs and accessories, including armrests, elevating leg rests, and
27 reclining back rests to Medicare beneficiaries in the San Francisco area and billed and received
28 payment from Medicare for those PWCs and accessories.

1 10. Dr. EDNA CALAUSTRO, a resident of San Francisco, California, was a licensed
2 physician in the state of California who owned and worked at the Health Haven Medical Clinic
3 in San Francisco, California. CALAUSTRO was enrolled as a Medicare physician, was assigned
4 a PIN, and was eligible to receive payments from Medicare. CALAUSTRO wrote prescriptions
5 for PWCs and accessories for Medicare beneficiaries in the San Francisco area and provided
6 those prescriptions to SOGBEIN and ADEBIMPE, knowing that SOGBEIN and ADEBIMPE,
7 acting on behalf of Debs and Dignity, billed and received payments from Medicare based on
8 those prescriptions.

9 11. EDUARDO ABAD and MELE SAAVEDRA were residents of San Francisco,
10 California. ABAD and SAAVEDRA worked as recruiters for CALAUSTRO, SOGBEIN, and
11 ADEBIMPE to find Medicare beneficiaries who would be eligible to receive a PWC.

12 OVERVIEW OF THE CONSPIRACIES AND SCHEME TO DEFRAUD

13 12. Beginning no later than on or about December 9, 2006, and continuing through at
14 least July 26, 2011, the defendants conspired to defraud Medicare by fraudulently prescribing
15 PWCs to Medicare beneficiaries who did not need them, and in many cases, who did not even
16 want them, in order to enrich themselves. As part of the conspiracies and scheme to defraud, the
17 defendants (1) recruited Medicare beneficiaries to receive the PWCs; (2) prepared false and
18 fraudulent documentation to support claims to Medicare for PWCs and accessories; (3) paid and
19 received cash kickbacks for identification of Medicare beneficiaries and for writing prescriptions
20 for PWCs and accessories (4) submitted over \$2.4 million in false and fraudulent claims to
21 Medicare for PWCs and accessories that were based on transactions that did not comply with the
22 Medicare laws, regulations, and program instructions and that were not eligible for payment
23 under Medicare rules and regulations; and (5) received and used the proceeds of the fraud for
24 their own personal benefit and for the use and benefit of others.

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1 MANNER AND MEANS OF THE CONSPIRACIES AND SCHEME TO DEFRAUD

2 13. SOGBEIN, as a sole proprietor and on behalf of Debs, and ADEBIMPE, on behalf
3 of Dignity, enrolled as Medicare providers and obtained NPIs and supplier numbers to submit
4 claims for payment to Medicare.

5 14. SOGBEIN paid and CALAUSTRO accepted cash in exchange for her preparation
6 of prescriptions for PWCs for Medicare beneficiaries and other documents required by Medicare.
7 CALAUSTRO knew that SOGBEIN and ADEBIMPE needed those prescriptions in order to
8 submit false and fraudulent claims to Medicare on behalf of the beneficiaries receiving PWCs.

9 15. SOGBEIN and CALAUSTRO paid ABAD and SAAVEDRA cash for referring
10 Medicare beneficiaries in whose names SOGBEIN and ADEBIMPE submitted false and
11 fraudulent claims to Medicare for PWCs.

12 16. SOGBEIN and ADEBIMPE knowingly prepared, and caused to be prepared, false
13 and fraudulent documentation in support of the claims submitted to Medicare for PWCs and
14 accessories.

15 17. SOGBEIN and ADEBIMPE knowingly submitted claims to Medicare for PWCs
16 and accessories knowing that the claims did not did not comply with the Medicare laws,
17 regulations, and program instructions, including but not limited to, the Federal anti-kickback
18 statute.

19 18. Between December 9, 2006, and July 26, 2011, SOGBEIN and ADEBIMPE
20 submitted over \$2.4 million in false and fraudulent Medicare claims for PWCs.

21 19. Between January 17, 2007, and July 26, 2011, SOGBEIN, in his individual
22 capacity and on behalf of Debs, and ADEBIMPE, on behalf of Dignity, received over of \$1.2
23 million in payments from Medicare as a result of the false and fraudulent claims they submitted.

24 COUNT ONE: (18 U.S.C. §§ 1349 and 2 — Conspiracy to Commit Health Care Fraud)

25 20. The allegations of Paragraphs One through Nineteen of this Indictment are
26 re-alleged and incorporated as if set forth fully here.

1 21. Beginning on a date unknown to the Grand Jury, but no later than on or about
2 December 9, 2006, and continuing through at least July 26, 2011, both dates being approximate
3 and inclusive, in the Northern District of California and elsewhere, the defendants,

4 PATRICK ADEBOWALE SOGBEIN,
5 ADEBOLA ADEFUNKE ADEBIMPE,
6 EDNA CALAUSTRO,
7 EDUARDO ABAD, and
8 MELE SAAVEDRA,

9 and others known and unknown to the Grand Jury, did knowingly conspire and agree with one
10 another to execute, and to attempt to execute, a material scheme and artifice (1) to defraud a
11 health care benefit program affecting commerce, as defined in Title 18, United States Code,
12 Section 24(b), namely, Medicare, and (2) to obtain, by means of materially false and fraudulent
13 pretenses, representations, and promises, money owned by and under the custody and control of
14 Medicare, all in connection with the delivery of and payment for health care benefits, items, and
15 services, in violation of Title 18, United States Code, Section 1347.

16 All in violation of Title 18, United States Code, Sections 1349 and 2.

17 COUNT TWO: (18 U.S.C. §§ 371 and 2 — Conspiracy to Solicit and Receive Kickbacks
18 Involving a Federal Health Care Program)

19 22. The allegations of Paragraphs One through Nineteen of this Indictment are
20 re-alleged and incorporated as if set forth fully here.

21 23. Beginning on a date unknown to the Grand Jury, but no later than on or about
22 December 9, 2006, and continuing through at least July 26, 2011, both dates being approximate
23 and inclusive, in the Northern District of California and elsewhere, the defendants

24 PATRICK ADEBOWALE SOGBEIN,
25 EDNA CALAUSTRO,
26 EDUARDO ABAD, and
27 MELE SAAVEDRA,

28 and others known and unknown to the Grand Jury, did willfully and knowingly conspire and
agree to commit an offense against the United States by knowingly and willfully soliciting,
receiving, offering, and paying remuneration, specifically cash kickbacks, directly and indirectly,
overtly and covertly, in return for referring an individual to a person for the furnishing and

1 arranging for the furnishing of any item and service for which payment may be made in whole or
2 in part by a federal health care program, namely Medicare, in violation of 42 U.S.C. § 1320a-
3 7b(b)(1)(A) and 42 U.S.C. § 1320a-7b(b)(2)(A).

4 All in violation of Title 18, United States Code, Sections 371 and 2.

5 OVERT ACTS COMMITTED IN FURTHERANCE OF THE CONSPIRACY

6 24. In furtherance of the conspiracy alleged in Count Two and to accomplish its
7 purpose and object, at least one of the conspirators committed, or caused to be committed, in the
8 Northern District of California, the following overt acts, among others:

9 25. On dates between December 9, 2006, and continuing through at least July 26,
10 2011, SOGBEIN offered to pay and did pay CALAUSTRO, ABAD, and SAAVEDRA
11 remuneration, specifically cash kickbacks, in return for locating Medicare beneficiaries and
12 preparing and providing prescriptions for PWCs and preparing other documents required by
13 Medicare for which payment was made in whole or in part by Medicare.

14 26. On dates between December 9, 2006 and continuing through at least July 26,
15 2011, CALAUSTRO, SAAVEDRA, and ABAD did solicit and receive remuneration,
16 specifically cash kickbacks, from SOGBEIN in return for locating Medicare beneficiaries and
17 preparing and providing prescriptions for PWCs and preparing other documents required by
18 Medicare for which payment was made in whole or in part by Medicare.

19 27. On or about December 16, 2011, CALAUSTRO and SAAVEDRA met with C.R.
20 and F.R., husband and wife, and obtained their Medicare identification numbers, numbers that
21 are used to submit claims to Medicare.

22 28. On or about December 20, 2011, CALAUSTRO signed prescriptions for PWCs
23 for C.R. and F.R. that were supplied by Dignity.

24 29. On or about January 4, 2011, SOGBEIN delivered the PWCs to C.R. and F.R.

25 30. On or about March 30, 2011, CALAUSTRO and ABAD met with L.H. and
26 obtained her Medicare identification number.

27 31. On or about April 4, 2011, CALAUSTRO signed a prescription for a PWC for
28 L.H. that was supplied by Dignity.

1 32. On or about April 28, 2011, ABAD delivered the PWC to L.H.'s home.

2 33. On or about April 25, 2011, CALAUSTRO met with C.L. and obtained his
3 Medicare identification number.

4 34. On or about April 30, 2011, CALAUSTRO signed prescriptions for a PWC for
5 C.L. that was supplied by Dignity.

6 35. On or about May 7, 2011, ABAD received C.L.'s PWC from SOGBEIN and
7 ABAD thereafter gave C.L. the PWC.

8 36. On or about April 26, 2011, CALAUSTRO met with Z.L. and obtained her
9 Medicare claim number.

10 37. On or about April 30, 2011, CALAUSTRO signed prescriptions for a PWC for
11 Z.L. that was supplied by Dignity.

12 38. On or about May 7, 2011, SOGBEIN delivered the PWC to Z.L.

13 COUNTS THREE THROUGH TWELVE: (18 U.S.C. §§ 1347 and 2 — Health Care Fraud &
14 Aiding and Abetting)

15 39. The allegations of Paragraphs One through Nineteen of this Indictment are re-
16 alleged and incorporated herein as if set forth fully here.

17 40. On or about the dates set forth below, in the Northern District of California, the
18 defendants specified below did knowingly and intentionally execute and attempt to execute a
19 material scheme and artifice (1) to defraud a health care benefit program affecting commerce, as
20 defined in Title 18, United States Code, Section 24(b), namely, Medicare, and (2) to obtain, by
21 means of materially false and fraudulent pretenses, representations, and promises, money owned
22 by and under the custody and control of Medicare, all in connection with the delivery of and
23 payment for health care benefits, items, and services, and did for the purpose of executing and
24 attempting to execute said fraudulent scheme, knowingly and willfully submit and cause to be
25 submitted to Medicare, and to be paid by Medicare, the following false and fraudulent claims for
26 PWCs:

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| Claim No. | Plaintiff(s) | Defendant(s) | Provider | Amount Claimed | Date of Claim | Amount Paid |
|-----------|---|--------------|------------------------|---|-------------------------|---|
| 3 | SOGBEIN, ADEBIMPE, CALAUSTRO, SAAVEDRA | A.V. | Dignity | \$4,500 | 11/20/08 | \$3,218.96 |
| 4 | SOGBEIN, ADEBIMPE, CALAUSTRO, ABAD | M.C. | Dignity and Debs | \$4,500 | 4/14/10 | \$2,913.12 |
| 5 | SOGBEIN, ADEBIMPE, CALAUSTRO, ABAD | V.C. | Dignity and Debs | \$4,500 | 2/19/10 | \$2,894.16 |
| 6 | SOGBEIN, ADEBIMPE, CALAUSTRO, SAAVEDRA | J.V. | Dignity | \$4,500 | 8/21/09 | \$2,913.12 |
| 7 | SOGBEIN, ADEBIMPE, CALAUSTRO, SAAVEDRA | E.M. | Dignity | \$4,500 | 3/5/2010 | \$2,789.12 |
| 8 | SOGBEIN, ADEBIMPE, CALAUSTRO, SAAVEDRA | C.R. | Dignity | \$6,160 (total) / 7 claims for \$880 | 3/11/2011- 7/22/2011 | \$2,005.13 (total) / 3 payments of \$435.55 and 4 payments of \$174.62 |
| 9 | SOGBEIN, ADEBIMPE, CALAUSTRO, SAAVEDRA | F.R. | Dignity | \$6,125 (total) / 7 claims for \$875 | 2/8/11- 7/22/11 | \$1,995.02 (total) / 3 payments of \$433.70 and 4 payments of \$173.48 |
| 10 | SOGBEIN, ADEBIMPE, CALAUSTRO, ABAD | L.H. | Dignity | \$2,640 (total) / 3 claims for \$880 | 5/19/11- 7/20/11 | \$1,637.07 (total) / 3 payments of \$545.69 |

| Count | Defendant | Insurance Company | Policy Number | Settlement Amount | Payment Period | Settlement Total |
|-------|---|----------------------|------------------|---|---------------------|--|
| 11 | SOGBEIN, ADEBIMPE, CALAUSTRO, ABAD | C.L. | Dignity | \$2,640 (total) / 3 claims for \$880 | 5/23/11- 7/20/11 | \$1,637.07 (total) / 3 payments of \$545.69 |
| 12 | SOGBEIN, ADEBIMPE, CALAUSTRO, ABAD | Z.L. | Dignity | \$2,625 (total) / 3 claims for \$875 | 5/23/11- 7/20/11 | \$1,301.10 (total) / 3 payments of \$433.70 |

Each in violation of Title 18, United States Code, Section 1347 and 2.

FORFEITURE ALLEGATION: (18 U.S.C. § 982(a)(7) – Health Care Fraud Forfeiture)

41. The factual allegations contained in Paragraphs One through Forty are realleged and incorporated as if fully set forth here for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

42. Upon a conviction of any of the offenses alleged in Counts One through Twelve, the defendants,

PATRICK ADEBOWALE SOGBEIN,
ADEBOLA ADEBIMPE,
EDNA CALAUSTRO,
EDUARDO ABAD, and
MELE SAAVEDRA,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all right, title and interest in property, real and personal, that constitutes or is derived from, directly or indirectly, from gross proceeds traceable to the commission of the offense, including but not limited to a sum of money equal to the gross proceeds obtained as a result of the offense.

43. If any of the property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- 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 divided without difficulty,

1 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title
2 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section
3 982(b)(1).

4 All in violation of Title 18, United States Code, Sections 982(a)(7), 1347, 1349; Title 28,
5 United States Code, Section 2461; and Rule 32.2 of the Federal Rules of Criminal Procedure.

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8 DATED:

9 *September 19, 2013*

A TRUE BILL

10
11 *Nancy J. Peterson*
12 FOREPERSON

13 MELINDA HAAG
14 United States Attorney

15 *Eli Dint, for*
16 J. DOUGLAS WILSON
17 Chief, Criminal Division

18 (Approved as to form: *Denise M. Barton*
19 AUSA Denise Marie Barton
20 AUSA Randy Luskey
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