### UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF LOUISIANA

#### INDICTMENT FOR

# CONSPIRACY TO DEFRAUD THE UNITED STATES AND TO PAY AND RECEIVE KICKBACKS, OFFER AND PAYMENT OF KICKBACKS, SOLICITATION AND RECEIPT OF KICKBACKS, AND NOTICE OF FORFEITURE

UNITED STATES OF AMERICA CRIMINAL NO. 21-63-SDD-SDI

18 U.S.C. § 371

versus

42 U.S.C. § 1320a-7b(b)(1)(B) 42 U.S.C. § 1320a-7b(b)(2)(B)

18 U.S.C. § 2

TERRY STEVEN WILKS, JR. and LESLIE AMANDA MCHUGH

18 U.S.C. § 982(a)(7)

21 U.S.C. § 853(p)

#### THE GRAND JURY CHARGES:

#### **BACKGROUND**

### Health Care Benefit Programs

- The Medicare Program ("Medicare") was a federal health care program that 1. provided free or below-cost health care benefits to individuals who were 65 years of age and older or disabled. Medicare was administered by the United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS").
- 2. The TRICARE program ("TRICARE") was a comprehensive health care program that provided benefits to United States military personnel, retirees, and their families. TRICARE was administered by the United States Department of Defense ("DoD"), through the Defense Health Agency ("DHA").

- 3. Medicare and TRICARE were each a "health care benefit program," as defined by Title 18, United States Code, Section 24(b), and a "Federal health care program," as defined by Title 42, United States Code, Section 1320a-7b(f).
- 4. Individuals who received benefits under Medicare and TRICARE were referred to as "beneficiaries."
- 5. Medical service providers, including physicians, clinics, and laboratories, could enroll with health care benefit programs, including Medicare and TRICARE, and provide medical services to beneficiaries. Such providers could then submit claims to the health care benefit programs seeking reimbursement for the cost of items and services provided.
- 6. Medicare required providers to complete a provider application to become enrolled as providers. The Medicare provider enrollment application, CMS Form 855B, was required to be signed by an authorized representative of the provider. CMS Form 855B contained a certification that the provider would abide by the Medicare laws, regulations, and program instructions, including but not limited to the Federal Anti-Kickback Statute. In executing CMS Form 855B, providers further certified that they "w[ould] not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare and w[ould] not submit claims with deliberate ignorance or reckless disregard of their truth or falsity."
- 7. Medicare and TRICARE covered various types of benefits. For example, Medicare benefits were separated into different program "parts." Medicare "Part B" covered medical services such as outpatient visits and laboratory testing that were medically necessary and ordered by qualified health care providers.

- 8. When seeking reimbursement from Medicare or TRICARE for services rendered to beneficiaries, providers were required to include the beneficiary's name and identification number, the cost of services, the procedure codes, and the name and identification number of the provider or providers who ordered and rendered the service.
- 9. Medicare and TRICARE did not pay for claims procured through the payment of kickbacks and bribes.

#### **Exclusion Process for Federal Health Care Benefit Programs**

- 10. The U.S. Department of Health and Human Services, Office of Inspector General ("HHS-OIG") was required to exclude providers from Medicare and other federal health care benefit programs upon conviction of certain offenses. In addition, HHS-OIG was permitted to exclude providers upon the loss of a health care license.
- 11. Reinstatement was not automatic. An excluded provider was required to apply for reinstatement after the period of exclusion.
- 12. HHS-OIG maintained an online Exclusion Database that allowed members of the public to search for providers by name to determine if a provider had been excluded.

# **Defendants and Relevant Entities**

13. Acadian Diagnostic Laboratories, LLC ("Acadian") was a Louisiana limited liability company with its principal place of business at 11842 Justice Avenue, Baton Rouge, Louisiana, within the Middle District of Louisiana. Acadian was a clinical laboratory that provided diagnostic testing services, including urine drug testing, blood testing, and genetic testing. Acadian applied for and was enrolled as both a Medicare provider and a TRICARE provider. Acadian held account no. x9458 at Bank 1 in Baton Rouge, Louisiana.

- 14. LJMedical LLC ("LJMedical"), formed in or around August 2015, was a Florida limited liability company that maintained its principal office in Manatee County, Florida. LJMedical held account nos. x5412 and x0588 at Bank 2.
- 15. Onsite Healthcare Group, LLC ("Onsite"), formed in or around September 2017, was a Louisiana limited liability that maintained its principal office in East Baton Rouge Parish, Louisiana. Onsite held account no. x5906 at Bank 1 in Baton Rouge, Louisiana.
- 16. Defendant **TERRY STEVEN WILKS**, **JR.** ("WILKS"), a resident of East Baton Rouge Parish, Louisiana, was the owner and Chief Executive Officer of Acadian and an officer of Onsite.
- 17. Defendant **LESLIE AMANDA MCHUGH** ("MCHUGH"), formerly known as Leslie Routhier, a resident of Manatee County, Florida, was a registered nurse licensed in the State of Florida. MCHUGH was contracted as the Director of Marketing for Acadian and formed and managed LJMedical. In addition to LJMedical's accounts at Bank 2, **MCHUGH** held personal account no. x4335 at Bank 2.

#### COUNT 1

# Conspiracy to Defraud the United States and to Pay and Receive Kickbacks (18 U.S.C. § 371)

- 18. Paragraphs 1 through 17 of the Indictment are re-alleged and incorporated by reference as though fully set forth herein.
- 19. Beginning in or around August 2015, and continuing through in or around April 2018, in the Middle District of Louisiana and elsewhere, the defendants,

# TERRY STEVEN WILKS, JR. and LESLIE AMANDA MCHUGH,

did knowingly and willfully, that is, with the intent to further the objects of the conspiracy, combine, conspire, confederate, and agree with each other and others, known and unknown to the Grand Jury, to:

- a. defraud the United States by cheating the United States government or any of its agencies out of money and property, and by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of CMS, through HHS, in its administration and oversight of Medicare and the lawful government functions of DoD, through DHA, in its administration and oversight of TRICARE, in violation of Title 18, United States Code, Section 371, and to commit certain offenses against the United States, that is:
- b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(B), by soliciting and receiving any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part by a Federal health care program, that is, Medicare and TRICARE; and
- c. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(B), by offering to pay, and offering and paying, any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing,

and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare and TRICARE.

#### Purpose of the Conspiracy

- 20. It was a purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves and others by:
- a. offering, paying, soliciting, and receiving kickbacks and bribes in return for arranging for and recommending the ordering of laboratory testing services by referring physicians' orders and specimens for testing by Acadian;
- b. submitting and causing the submission of false and fraudulent claims to Medicare and TRICARE for laboratory testing services that were procured through the payment of kickbacks and bribes;
- c. concealing **MCHUGH's** referrals to Acadian, including during the time period of her exclusion from participation in Medicare and TRICARE and purported termination by Acadian;
- d. concealing kickback and bribe payments made to **MCHUGH**, including during the time period of her exclusion and purported termination; and
- e. diverting proceeds of the conspiracy for the personal use and benefit of the defendants.

# Manner and Means of the Conspiracy

21. The manner and means by which the defendants sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

- a. Beginning in or around August 2015, **MCHUGH**, as an independent contractor, through LJMedical, solicited providers in Florida and elsewhere to order laboratory testing services for patients, including beneficiaries, from Acadian.
- b. **MCHUGH** referred these solicited physicians' orders and specimens of patients, including beneficiaries, to Acadian for laboratory testing, in exchange for payments by Acadian per referral made.
- c. On or about December 22, 2015, the Florida Board of Nursing permanently revoked **MCHUGH's** nursing license.
- d. In or around April 2016, **WILKS** directed Acadian to convert **MCHUGH** from an independent contractor to a purported W-2 employee. Despite this purported conversion to a W-2 employee, **MCHUGH** did not have a bona fide employment relationship with Acadian, and Acadian continued to pay **MCHUGH** per referral made.
- e. Based on the revocation of **MCHUGH's** nursing license, on or about November 30, 2016, HHS-OIG notified **MCHUGH** by letter ("Exclusion Letter") that she was excluded from participation in any capacity in all Federal health care programs, including Medicare and TRICARE.
- f. MCHUGH, despite being excluded from Medicare and TRICARE in or around November 2016, continued to refer doctors' orders and specimens to Acadian for testing in exchange for payments by Acadian per referral made, and caused claims to be submitted to Medicare and TRICARE for reimbursement.
- g. In or around August 2017, WILKS and MCHUGH, knowing that MCHUGH was excluded from Medicare and TRICARE and in an effort to conceal MCHUGH's ongoing

financial relationship with Acadian, caused Acadian's records to indicate that **MCHUGH's** employment as a purported W-2 employee with Acadian had been terminated.

- h. Despite this purported termination, beginning in or around August 2017, WILKS made and caused to be made cash and wire payments to MCHUGH in exchange for referrals to Acadian made by MCHUGH.
- i. To conceal Acadian's payment of kickbacks and bribes to **MCHUGH**, on or about September 28, 2017, **WILKS** formed Onsite.
- j. Following **WILKS**' formation of Onsite, **WILKS** withdrew cash and initiated wire transfers from account no. x5906, held by Onsite at Bank 1, to **MCHUGH** personally, to account nos. x5412 and x0588 held by LJMedical at Bank 2, and to account no. x4335 held by **MCHUGH** at Bank 2.
- k. When confronted about his continued payments to MCHUGH despite MCHUGH's purported termination, WILKS told an Acadian employee, "it's my company, I'll do whatever the f--- I want."
- 1. Despite having certified to Medicare and TRICARE that it would not procure orders for services through the payment of kickbacks and bribes, and knowing that kickbacks and bribes were paid to MCHUGH in exchange for referrals of physicians' orders and specimens, Acadian submitted claims to Medicare and TRICARE for reimbursement based on MCHUGH's referrals.
- m. During the time period of MCHUGH's purported termination, from in or around August 2017 through April 2018, WILKS and MCHUGH caused Acadian to submit approximately \$549,580 in claims to Medicare for laboratory testing services that were referred by MCHUGH, of which Medicare reimbursed Acadian approximately \$124,329.10.

In addition, during the same time period, **WILKS** and **MCHUGH** caused Acadian to submit approximately \$17,612 in claims to TRICARE for laboratory testing services that were referred by **MCHUGH**, of which TRICARE reimbursed Acadian approximately \$3,673.66.

n. In submitting and causing the submission of these claims, neither WILKS nor MCHUGH disclosed to Medicare or TRICARE that the doctors' orders and specimens were referred for testing by MCHUGH, who was excluded by Medicare and TRICARE and purportedly terminated by Acadian, or that kickbacks and bribes were paid by WILKS, through Acadian, to MCHUGH.

#### **Overt Acts**

- 22. In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one co-conspirator committed and caused to be committed, in the Middle District of Louisiana and elsewhere, at least one of the following overt acts, among others:
- a. On or about October 3, 2017, **MCHUGH** sent a text message to **WILKS**, writing, "Hey, I need to get paid today before I leave if at all possible." The same day, **WILKS** responded, "On it."
- b. On or about October 3, 2017, **WILKS** caused a cash withdrawal to be made from account no. x9458, held by Acadian at Bank 1, in the approximate amount of \$5,000.
- c. On or about October 4, 2017, **MCHUGH** made two cash deposits into account no. x0588, held by LJMedical at Bank 2, in the approximate amounts of \$2,800 and \$2,200.
- d. On or about October 9, 2017, MCHUGH sent a text message to WILKS, writing, "Also, forgot to even ask at the boat show but will you have last Friday's envelope for me tomorrow?" The same day, WILKS responded, "Yes."

- e. On or about October 10, 2017, **WILKS** caused a cash withdrawal to be made from account no. x9458, held by Acadian at Bank 1, in the approximate amount of \$5,000.
- f. On or about October 11, 2017, **MCHUGH** made a deposit into account no. x5412, held by LJMedical at Bank 2, in the approximate account of \$4,986.
- g. On or about October 18, 2017, **MCHUGH** sent a text message to Person 1, an employee of Acadian, writing that a physician's office was "[r]eady for contract. They have all top payers and we will fill out the questionnaire today."
- h. On or about December 13, 2017, **WILKS** caused an electronic wire payment in the approximate amount of \$10,000 to be made from account no. x5906, held by Onsite at Bank 1, to **MCHUGH** through account no. x5412, held by LJ Medical at Bank 2.
- i. On or about February 2, 2018, **WILKS** caused a cash withdrawal to be made from account no. x9458, held by Acadian at Bank 1, in the approximate amount of \$3,100.
- j. On or about February 5, 2018, **WILKS** caused a cash withdrawal to be made from account no. x9458, held by Acadian at Bank 1, in the approximate amount of \$1,500.
- k. On or about February 5, 2018, **MCHUGH** made a cash deposit into account no. x5412, held by LJMedical at Bank 2, in the approximate amount of \$4,400.

All in violation of Title 18, United States Code, Section 371.

#### **COUNTS 2-4**

Offer and Payment of Kickbacks and Bribes in Connection with a Federal Health Care Program (42 U.S.C. § 1320a-7b(b)(2)(B))

23. Paragraphs 1 through 17 and 20 through 22 of the Indictment are re-alleged and incorporated by reference as though fully set forth herein.

24. On or about the dates set forth below, with respect to each count, in the Middle District of Louisiana and elsewhere, the defendant,

#### TERRY STEVEN WILKS, JR.,

did knowingly and willfully offer and pay remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare, as set forth below:

COUNT	Approximate Date of Payment	Approximate Amount	Description	
2	12/13/2017	\$10,000	Electronic wire transfer by WILKS from account no. x5906, held by Onsite at Bank 1, to MCHUGH, through account no. x5412, held by LJMedical at Bank 2	
3	2/2/2018	\$3,100	Cash withdrawal by WILKS, from account no. x9458, held by Acadian at Bank 1, paid to MCHUGH	
4	2/5/2018	\$1,500	Cash withdrawal by WILKS, from account no. x9458, held by Acadian at Bank 1, paid to MCHUGH	

Each of the above is a violation of Title 42, United States Code, Section 1320a-7b(b)(2)(B) and Title 18, United States Code, Section 2.

#### COUNTS 5-7

# Solicitation and Receipt of Kickbacks and Bribes in Connection with a Federal Health Care Program (42 U.S.C. § 1320a-7b(b)(1)(B))

- 25. Paragraphs 1 through 17 and 20 through 22 of the Indictment are re-alleged and incorporated by reference as though fully set forth herein.
- 26. On or about the dates set forth below, with respect to each count, in the Middle District of Louisiana and elsewhere, the defendant,

#### LESLIE AMANDA MCHUGH,

did knowingly and willfully solicit and receive remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by wire transfer, in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service and item for which payment can be made in whole and in part under a Federal health care program, that is, Medicare, as set forth below:

COUNT	Approximate Date of Deposit	Approximate Amount	Description
5	12/13/2017	\$10,000	Electronic wire transfer by WILKS from account no. x5906, held by Onsite at Bank 1, to MCHUGH, through account no. x5412, held by LJMedical at Bank 2
6	1/9/2018	\$7,500	Electronic wire transfer by <b>WILKS</b> from account no. x5906, held by Onsite at Bank 1, to <b>MCHUGH</b> , through account no. x5412, held by LJMedical at Bank 2
7	2/5/2018	\$4,400	Deposit of cash withdrawal from WILKS, from account no. x9458, held by Acadian at Bank 1, by MCHUGH into account no. x5412, held by LJMedical at Bank 2

Each of the above is a violation of Title 42, United States Code, Section 1320a-7b(b)(1)(B) and Title 18, United States Code, Section 2.

#### **FORFEITURE ALLEGATIONS**

- 27. Paragraphs 1 through 26 of the Indictment are re-alleged and incorporated by reference as though fully set forth herein.
- STEVEN WILKS, JR. and LESLIE AMANDA MCHUGH, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the violations including, but not limited to, gross proceeds of the offenses held in Bank 1 account no. x9458 in the name of Acadian Diagnostic Laboratories, LLC. Furthermore, the United States intends to seek a forfeiture money judgment equal to the amount of such gross proceeds if these proceeds are not available.
- 29. If any of the above-described forfeitable 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;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described above.

UNITED STATES OF AMERICA, by

A TRUE BILL

# REDACTED PER PRIVACY ACT

GRAND JURY FOREPERSON

ELLISON C. TRAVIS

ACTING UNITED STATES ATTORNEY

KRISTEN L. CRAIG

ASSISTANT UNITED STATES ATTORNEY

9 9 21

DATE

JOSEPH S. BEEMSTERBOER

**ACTING CHIEF** 

CRIMINAL DIVISION, FRAUD SECTION

JUSTIN M. WOODARD

TRIAL ATTORNEY

CRIMINAL DIVISION, FRAUD SECTION

UNITED STATES DEPARTMENT OF JUSTICE

	Criminal Cover Sheet	U.S. District Cour
Place of Offense:	Matter to be sealed: Yes	✓No
City: Baton Rouge	Related Case Information:	
County/Parish: East Baton Rouge	Superseding BOI Docket Number Same Defendant New Defendant	<u>;</u>
*Investigating Agency: HHS-O	Magistrate Case Number:  Search Warrant Case No.:	
*Agent: Wes Root	R 20/ R 40 from District of:  Any Other Related Cases:	
<b>Defendant Information:</b>		
Defendant Name: TERRY STEVEN		
Address:		
	Sex: Race:	Nationality:
U.S. Attorney Information:  AUSA: Kristen L. Craig  Interpreter: Yes No  Location Status:  Arrest Date Already in Federal Cust Already in State Custod On Pretrial Release  U.S.C. Citations:  Total # of Counts: 7	•	
	of Offense Charged Co	Petty/ Dunt(s) Misdemeanor/ Felony
18 U.S.C. § 371 Conspiracy to Defra	ud the United States and to Pay and Receive Kickbacks	1 F
42 U.S.C. § 1320a-7b(b)(2)(B) Offer and Payment of Kid	ckbacks and Bribes in Connection with a Federal Health Care Program	2-4 F
42 U.S.C. § 1320a-7b(b)(1)(B) Solicitation and Receipt of	Kickbacks and Bribes in Connection with a Federal Health Care Program	5-7 F
(May	be continued on second sheet)	<del></del>

OFFENSES (Continued)

Signature of AUSA: Kry Sten Cour

# **Criminal Cover Sheet U.S. District Court √** No Yes Place of Offense: Matter to be sealed: City: Baton Rouge Related Case Information: County/Parish: East Baton Rouge Superseding BOI \_\_\_\_\_ Docket Number \_\_\_\_ Same Defendant New Defendant \*Investigating Agency: HHS-OIG Magistrate Case Number: \_\_\_\_\_ Search Warrant Case No.: \*Agent: Wes Root R 20/R 40 from District of: Any Other Related Cases: **Defendant Information:** Defendant Name: LESLIE AMANDA MCHUGH Alias: Address: Birthdate: \_\_\_\_\_\_ SS #: \_\_\_\_\_ Sex: \_\_\_\_ Race: \_\_\_\_\_ Nationality: \_\_\_\_\_\_ **U.S. Attorney Information:** AUSA: Kristen L. Craig Bar#: LBN 32565 **✓** No Interpreter: Yes List language and/or dialect: **Location Status:** Arrest Date Already in Federal Custody as of Already in State Custody On Pretrial Release **U.S.C.** Citations: Total # of Counts: 7 Petty/ Description of Offense Charged Misdemeanor/ Code Count(s) Felony 18 U.S.C. § 371 Conspiracy to Defraud the United States and to Pay and Receive Kickbacks 1 F 42 U.S.C. § 1320a-7b(b)(2)(B) Offer and Payment of Kickbacks and Bribes in Connection with a Federal Health Care Program 2-4 42 U.S.C. § 1320a-7b(b)(1)(B) 5-7

(May be continued on second sheet)

Signature of AUSA: 1990 Cpr

# UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF LOUISIANA

# GRAND JURY RETURN

Date: September 9, 2021

UNITED STATES OF AMERICA

CRIMINAL

**VERSUS** 

NO. 21-63-SDD-SDJ

TERRY STEVEN WILKS, JR. and LESLIE AMANDA MCHUGH

PRESENT: Paul L. Pugliese, Counsel for U.S.A.

Indictment filed.

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