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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ALABAMA

SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)
	)
v.	)
	)
VINCENT NICO,	)
Defendant.	)

INFORMATION

The United States Attorney charges that at all times material to this Indictment:

COUNT ONE
Wire Fraud
Title 18, United States Code, Sections 1343, 1346

INTRODUCTION

1. Defendant **VINCENT NICO** was employed at HealthSouth Corporation ("HealthSouth") beginning in January 1990 and eventually rose to the level of Vice President.

2. HealthSouth was a corporation organized under the laws of the State of Delaware with its headquarters in Birmingham, Alabama. HealthSouth claimed to be the nation's largest provider of outpatient surgery, diagnostic imaging and rehabilitative healthcare services with approximately 1,800 locations in all 50 states, Puerto Rico, the United Kingdom, Australia, and Canada.

3. The "Saudi Foundation" was a private, not for profit organization funded by members of the Saudi Royal Family. In or about 1998, the Saudi Foundation began construction of a 450 bed rehabilitation hospital in Saudi Arabia ("the Saudi Hospital").

4. The "Foundation's Director General" was a Saudi national who exercised administrative control over certain of the Saudi Foundation's administrative activities, including the negotiation and execution of certain contracts.

THE SCHEME

The Negotiation and Execution of the Saudi Contract

5. In or around January 2000, HealthSouth and the Foundation began negotiating an agreement under which HealthSouth was to provide staffing and management services for the Saudi Hospital. The proposed contract ("the Saudi Contract") called for the Foundation to pay HealthSouth $10,000,000 annually over a five-year term.

6. The Foundation's Director General acted as the lead negotiator for the Saudi Foundation. A group of HealthSouth officers ("the HealthSouth Officers"), including NICO and several other members of HealthSouth's senior management, negotiated on behalf of HealthSouth.

7. In or around June 2000, the Foundation's Director General requested a "finder's fee" of $1,000,000 from HealthSouth, ostensibly for his efforts in having brought the Saudi Contract to the attention of HealthSouth. The HealthSouth Officers sought advice from an attorney outside HealthSouth ("the Outside Attorney") concerning the legality of making such a payment. On or about June 12, 2000, the Outside Attorney advised the HealthSouth Officers that payment could only be made with the written approval of the Foundation.

8. The HealthSouth Officers subsequently requested the Outside Attorney's advice about the propriety of paying the Foundation's Director General through a consulting contract with a HealthSouth-affiliated entity. The Outside Attorney advised the HealthSouth Officers,

inter alia, that any such contract would require the Foundation's Director General to provide real services in return, that the market value of those services equate to the amount the Foundation's Director General was paid, and that HealthSouth could not make any "backdoor" payment or provide any reimbursement to the affiliated entity to compensate that entity for its execution of a contract with the Foundation's Director General.

9. In or about July 2000, and acting in disregard of advice received from the Outside Attorney, the HealthSouth Officers agreed to pay the Foundation's Director General the sum of $500,000 per year for five years under a consulting contract with a HealthSouth-affiliated entity.

10. On or about July 17, 2000, one of the HealthSouth Officers signed the Saudi Contract on behalf of HealthSouth. The Foundation's Director General countersigned the Saudi Contract on or about August 12, 2000. The Saudi Contract called for HealthSouth to receive a $6,000,000 payment from the Saudi Foundation each January, with the remaining $4,000,000 to be paid at a later point during each of the succeeding five years.

11. NICO caused HealthSouth to advance funds under a bogus consulting contract ("the Australian Consulting Contract") between the Foundation's Director General and a HealthSouth-affiliated entity located in Australia ("the Australian Entity"). Under the Australian Consulting Contract, dated September 25, 2000, the Foundation's Director General would be paid $500,000 each year for five years, in advance of any services being provided.

12. Over the course of the Australian Consulting Contract, HealthSouth funded the Australian Entity's payments to the Foundation's Director General by wiring funds to Australia after HealthSouth's receipt of the annual $6,000,000 payment from the Foundation. The

Foundation's Director General performed few, if any, services under the Australian Consulting Contract.

NICO'S Breach of his Duty of Honest Services

13. NICO's status as a HealthSouth employee imposed certain fiduciary obligations upon him. Among those obligations were a duty of loyalty and good faith. The duty of good faith required NICO to act in HealthSouth's best interest, while the duty of loyalty required NICO to avoid self dealing and to protect the property of his employer. In addition, NICO was subject to HealthSouth's Standards of Business Conduct, which prohibited employees from receiving gifts from individuals/entities doing business with HealthSouth..

14. The Foundation's Director General agreed to pay NICO $125,000 of the $500,000 he received each year under the Australian Consulting Contract. NICO accepted payments of $125,000 from the Foundation's Director General in 2001, 2002, and 2003. NICO did not seek HealthSouth's approval prior to accepting these funds, nor did he disclose his receipt of these funds to his employer.

15. In or about October 2002, NICO demanded that HealthSouth pay him a bonus ("the Bonus"), based on his claimed efforts in securing and maintaining the Saudi Contract. NICO contended that he was due the Bonus because he had not received performance based compensation for the actions he had taken on HealthSouth's behalf in obtaining and servicing the Saudi Contract. At no time prior to demanding or after receiving the Bonus did NICO disclose to HealthSouth that he had received money from the Foundation's Director General. Based on NICO's false representations and failure to disclose his receipt of payment from the Foundation's Director General, HealthSouth agreed to pay NICO $900,000, or five percent of the profit the

company realized from the Saudi Contract during the first three years of its term. In addition, HealthSouth promised to pay NICO five percent of any profit earned on the Saudi Contract for the remainder of its term.

16. In or about January 2003, NICO received $631,502, after state and federal tax deductions, from HealthSouth as payment of the Bonus.

17. From in or about January 2000, and continuing through in or about August 2003, in the Northern District of Alabama and elsewhere, defendant

VINCENT NICO

devised and intended to devise the above-described scheme and artifice.

Execution of the Scheme

18. On or about the date set forth below, within Jefferson County in the Northern District of Alabama, and elsewhere, the defendant VINCENT NICO, aided and abetted by others, knowingly and willfully, for the purpose of executing the above-described scheme and artifice to defraud and obtain money and property by means of false and fraudulent pretense, transmitted and caused to be transmitted by means of wire communications in interstate commerce writings, signs, signals, pictures and sounds, as described below.

19. The allegations of paragraphs 1 through 18 above are re-alleged for Count 1 below as though fully set out therein.

Count	Date	Transmission
1	January 21, 2003	Electronic mail from VINCENT NICO in Tampa, Florida to HealthSouth headquarters in Birmingham, Alabama

All in violation of Title 18, United States Code, Sections 1343, 1346 and 2.

COUNT TWO
Forfeiture
Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c)

The United States Attorney further charges:

1. That Count One of this Information is incorporated by reference herein for the purpose of alleging criminal forfeiture pursuant toTitle 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2. As a result of the foregoing offense alleged in Count One of this Information, the defendant,

VINCENT NICO

shall forfeit to the United States any property, real or personal, constituting or derived from proceeds traceable to said violation committed by him. Such forfeitable interests include, but are not limited to the sum of $1,006,502, and all interest and proceeds derived therefrom.

3. If the property described above as being subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), 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 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), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

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