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 U.S. DISTRICT COURT
 2007 Dec 12 P 12:03
 DISTRICT OF UTAH
 BY: _____
 DISTRICT CLERK

IN THE UNITED STATES DISTRICT COURT
 DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 :

vs. :

WARREN R. STACK, MINDY L. :
 KRAMER, and PHYLLIS V. MURRAY, :
 Defendants. :

INDICTMENT

VIO: 18 U.S.C. § 371 [Conspiracy]; 21
 U.S.C. § 841(a)(1) [Distribution or
 Dispensation of a Controlled Substance], 18
 U.S.C. § 1347(2) [Health Care Fraud], and
 18 U.S.C. § 1956(a)(1)(A)(i) and(B)(i)
 [Money Laundering].

The Grand Jury charges:

Case: 2:07-cr-00899
 Assigned To : Campbell, Tena
 Assign. Date : 12/12/2007
 Description: USA v.

Introduction

At all times relevant hereto:

1. At a time unknown to the Grand Jury, but at least by October, 2004, until May 16, 2007, the Defendant, Warren R. Stack, represented himself as a medical doctor and operated a clinic as a sole practitioner, located at 3540 South 4000 West, Suite 350, West Valley City, Utah, which later moved to 5005 South 900 East, Suite 120, Salt Lake City, Utah.

2. At all times relevant to this indictment, Defendant Mindy L. Kramer was employed by Defendant Warren R. Stack. Her duties included, among other things; making patient appointments, collecting cash payments and insurance co-payments, billing and collecting fees from various health insurance companies, the Utah Medicaid Program, and the Federal Medicare Program, and depositing payments from patients and insurance companies into Defendant Warren R. Stack's business checking account.

3. Beginning in April, 2006 until May 16, 2007, Phyllis V. Murray was employed by Defendant Warren R. Stack. Her duties included, among other things, making patient appointments, collecting cash payments and insurance co-payments, and applying procedure coding for insurance billing purposes.

General Allegations and Terminology

4. The Controlled Substances Act ("CSA") governs the manufacture, distribution, and dispensation of controlled substances in the United States. The CSA and the Code of Federal Regulations ("CFR") contain definitions relevant to this Indictment, some of which are set forth below.

5. The term "controlled substance" means a drug or other substance, or immediate precursor, included in Schedule I, II, III, IV and V, as designated by Title 21 of the United States Code, Section 802 (6), and the CFR.

6. The term "Schedule II" means the drug or other substance has a high potential for abuse; the drug has a currently accepted medical use with severe restriction; and abuse of the drug or other substances may lead to severe psychological or physical dependence.

7. The term "dispense" means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing

and administering of a controlled substance.

8. The term "distribute" means to deliver (other than by administering or dispensing) a controlled substance.

9. The term "practitioner" means a medical doctor, physician, or other individual licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which she or he practices, to dispense a controlled substance in the course of professional practice.

10. The Drug Enforcement Administration ("DEA") issues registration numbers to qualifying doctors, who become authorized to dispense Schedule II, III, IV and V controlled substances. To issue a prescription for a controlled substance, a doctor must have a DEA registration number for each location in which they are practicing medicine.

11. A prescription for a controlled substance violates the Controlled Substances Act and CFR if it is issued beyond the bounds of medical practice or is not for a legitimate medical purpose in the usual course of professional practice.

12. The term "dosage" is the amount, frequency, and number of doses of medication authorized by a practitioner, who has been issued a DEA registration number.

13. The term "health care benefit program" pursuant to 18 U.S.C. § 24(b) means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item or service for which payment may be made under the plan or contact. The following are health care benefit programs: Regency Blue Cross and Blue Shield of Utah; Public Employees Health Plans; Select Health; Utah Medicaid Program; and Federal Medicare Program.

Charged Controlled Substances

14. OxyContin, which is also known as "Oxy", "OC" or "O", is a Schedule II Controlled Substance whose active ingredient is Oxycodone. Demand for OxyContin has grown to epidemic proportion throughout the United States where dealers can sell an OxyContin pill on the street for up to a dollar a milligram. In Utah, an OxyContin 40 mg pill/tablet sells for around \$40.00 per pill/tablet and an OxyContin 80 mg pill/tablet sells for around \$80.00 per pill/tablet.

15. OxyContin, which is a brand name pill designed, manufactured, and promoted by Purdue Pharma to be a safer and less abusable drug for the treatment of chronic pain, is an analgesic-narcotic that contains Oxycodone. Introduced to the market in or about 1995, OxyContin is a pill that gradually releases steady amounts of narcotics for 12 hours. OxyContin pills currently contain dosages of 10 mg, 20 mg, 40 mg and 80 mg of Oxycodone.

16. OxyContin and other Schedule II drugs have a high potential for abuse and can be crushed and snorted or dissolved and injected to get an immediate high. This abuse can lead to addiction, overdose and, sometimes, death. The injection method of abuse of OxyContin (and other drugs) oftentimes leaves highly visible scars and ulcers on the patient's arms.

17. Oxycodone is one of the most widely used OPIOID ANALGESICS, drugs meant for the treatment of severe, acute pain, in the United States, and it is usually used in conjunction with the analgesics aspirin or acetaminophen. The combinations have proven effective and are, in some ways, superior to oxycodone alone. Oxycodone is a semi-synthetic prescription drug with pain-relieving properties similar to those of morphine and codeine. Although commonly known as an opioid analgesic, it is also known as a narcotic analgesic. Official names of Oxycodone

include: Endocet, Endocodone, Endodan, M-Oxy, OxyContin, OxyFast, OxyIR, Percocet, Percodan, Percodan-Demi, Percolone, Roxicet, Roxicodone, Roxilox, Roxiprin, Tylox. Street names include: Hillbilly heroin; poor man's heroin; pxy; oxie; oxycotton; Ocs; killers; oxycons; percs (or perks); and pink spon. Oxycodone is a Schedule II, narcotic analgesic.

18. Percocet, which is also know as Percs, is a Schedule II Controlled Substance whose active ingredients are 10 mg of Oxycodone and 325 mg of acetaminophen.

19. Endocet is a Schedule II Controlled Substance whose active ingredients or Oxycodone and acetaminophen. Endocet comes in three strengths of Oxycodone to include 5mg 7.5 mg and 10 mgs. It also comes in three strengths of acetaminophen to include 325mg, 500 mgs and 650mgs.

20. Methadone is a Schedule II Controlled Substance whose active ingredients are Methadone Hydrochloride. It is a synthetic narcotic analgesic with multiple actions quantitatively similar to those of morphine. Methadone comes in several different dosages and in multiple brands to include Dolophine, Methadose and as a generic drug.

The Conspiracy and Overt Acts

21. At a time unknown to the Grand Jury, but at least by February, 2003, Defendant Warren R. Stack operated a medical practice in Salt Lake County, Utah. During the course of that practice, Stack did devise and intend to devise a scheme and artifice to defraud and to obtain by false and fraudulent pretenses, representations, and promises, money and property under the custody or control of, any health care benefit program, in connection with the delivery of or payment for, health care benefits, items, or services.

22. During the course of the medical practice, and in furtherance of the scheme to defraud, Defendant Warren R. Stack unlawfully distributed or dispensed various Schedule II

controlled substances to patients without a legitimate medical purpose and outside of the usual course of professional practice.

23. During the course of the medical practice, Defendants Warren R. Stack, Mindy L. Kramer and Phyllis V. Murray routinely and regularly billed patients and health care benefit programs for medical services which were not provided.

24. During the course of the medical practice, Defendants Warren R. Stack, Mindy L. Kramer and Phyllis V. Murray received monies from individual patients and health care benefit programs then deposited those monies in the business checking account. In making these deposits, Defendants Warren R. Stack, Mindy L. Kramer and Phyllis V. Murray concealed the nature of those proceeds as legitimate business proceeds from properly conducted and billed medical examinations. During the course of the conspiracy charged in Count 1 of this Indictment, Defendant Warren R. Stack received at least \$750,000 from his fraudulent conduct and illegal drug distribution activities, and deposited or caused to be deposited at least \$400,000 of those proceeds into the business checking account. From that account, Defendant Warren R. Stack conducted transactions totaling at least \$200,000 involving the proceeds from his fraudulent conduct and illegal drug distribution activities. These transactions included paying a salary to Defendants Mindy L. Kramer and Phyllis V. Murray, as well as himself. He also paid from that account business expenses to include clinic rents, utilities, and other employee related expenses, thus promoting and furthering his pattern of controlled substance distribution and health care fraud.

25. During the course of the medical practice, Defendant Warren R. Stack routinely and regularly issued prescriptions for Schedule II Controlled Substances, including Oxycontin, Oxycodone, Methadone, Methadose, Percocet, and Endocet without conducting an appropriate

medical examination. Defendant Warren R. Stack routinely and regularly falsified patient records and charts, and insurance billing claims, to reflect medical examinations that he did not, in fact, conduct.

26. Beginning on January 2, 2007 and continuing until at least March 26, 2007, Defendant Warren R. Stack engaged in a practice he referred to as "Express Scripts." During the "Express Scripts" period of time, Stack would meet with patients at a make-shift desk in his waiting room, in full view and hearing of his office staff and other waiting patients. Stack would quickly review the patient's file, make an inquiry as to whether the patient's prescribed medications were still working, and issue a new prescription for controlled substances to the patient without conducting even the pretense of a medical examination. Stack continued to bill patients and health care benefit programs as though he had conducted a thorough and professional medical examination. During the "Express Scripts" period of time, Stack saw and prescribed to as many as 80 patients per day, and collected or billed amounts of \$70 to \$200 per patient visit.

COUNT 1

Beginning at a time unknown to the Grand Jury but at least by November 1, 2005, and continuing until May 16, 2007, in the Central Division of the District of Utah,

WARREN R. STACK, MINDY L. KRAMER AND PHYLLIS V. MURRAY, defendants herein, did conspire to commit the following offenses against the United States:

1. Distribution of a Controlled Substance, in violation of 21 U.S.C. § 841(a)(1);
2. Health Care Fraud, in violation of 18 U.S.C. § 1347(1) and (2); and
3. Money Laundering, in violation of 18 U.S.C. § 1956(a)(1)(A)(i) and (B)(i); all in violation of 18 U.S.C. § 371.

COUNT 2

On multiple occasions between July 7, 2006, and March 27, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Tyler Lugo, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone and Methadone Hydrochloride, the use of which resulted in the death of Tyler Lugo on April 9, 2007; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 3

On multiple occasions between August 2, 2005, and October 19, 2005, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Thomas Brandon Scott, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone, the use of which resulted in the death of Thomas Brandon Scott on October 23, 2005; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 4

On multiple occasions between February 9, 2006, and April 25, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Kaydie Winters, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone, the use of which resulted in the death of Kaydie Winters on May 4, 2007; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 5

On or about August 21, 2006, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Thaison Roark, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone, the use of which resulted in the death of Thaison Roark on August 23, 2006; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 6

On multiple occasions between October 27, 2004, and March 9, 2005, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Michael Barker, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the

meaning of 21 U.S.C. § 812, to wit: Oxycodone, the use of which resulted in the death of Michael Barker on March 10, 2005; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 7

On multiple occasions between March 23, 2005, and February 13, 2006, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Clint Young, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone and Methadone Hydrochloride; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 8

On multiple occasions between August 1, 2006, and November 22, 2006, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Nick Paloukos, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 9

On multiple occasions between March 1, 2006, and April 16, 2007, in the Central

Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to Chad Bennett, without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone and Methadone Hydrochloride; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 10

On multiple occasions between February 20, 2003, and April 24, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to D.W.T. without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 11

On multiple occasions between February 26, 2003, and April 24, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to D.T., without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21

U.S.C. § 812, to wit: Oxycodone; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 12

On multiple occasions between November 22, 2005, and May 15, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to R.N., without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 13

On multiple occasions between June 26, 2003, and May 15, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, did knowingly and intentionally distribute and dispense to C.S., without a legitimate medical purpose and outside the bounds of medical practice, a mixture and substance containing a detectable amount of a Schedule II Controlled Substance within the meaning of 21 U.S.C. § 812, to wit: Oxycodone; all in violation of 21 U.S.C. 841(a)(1) and punishable under 21 U.S.C. § 841(b)(1)(C).

COUNT 14

Beginning at a time unknown to the Grand Jury but at least by November 1, 2005, and continuing until May 16, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud Blue Cross Blue Shield Insurance, which was a health care benefit program, and to obtain from such health care benefit program by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, such health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services; all in violation of 18 U.S.C. § 1347(1) and (2).

COUNT 15

Beginning at a time unknown to the Grand Jury but at least by November 1, 2005, and continuing until May 16, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud Public Employees Health Plan, which was a health care benefit program, and to obtain from such health care benefit program by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, such health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services; all in violation of 18 U.S.C. § 1347(1) and (2).

COUNT 16

Beginning at a time unknown to the Grand Jury but at least by November 1, 2005, and continuing until May 16, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud Select Health, which was a health care benefit program, and to obtain from

such health care benefit program by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, such health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services; all in violation of 18 U.S.C. § 1347(1) and (2).

COUNT 17

Beginning at a time unknown to the Grand Jury but at least by November 1, 2005, and continuing until May 16, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud Utah Medicaid Program, which was a health care benefit program, and to obtain from such health care benefit program by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, such health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services; all in violation of 18 U.S.C. § 1347(1) and (2).

COUNT 18

Beginning at a time unknown to the Grand Jury but at least by November 1, 2005, and continuing until May 16, 2007, in the Central Division of the District of Utah,

WARREN R. STACK,

defendant herein, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud Federal Medicare Program, which was a health care benefit program, and to obtain from such health care benefit program by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of, such health care benefit program, in connection with the delivery of and payment

for health care benefits, items, and services; all in violation of 18 U.S.C. § 1347(1) and (2).

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE

As a result of committing the felony offense alleged in Counts 1 through 18 of this indictment which are punishable by imprisonment for more than one year, the above-named defendants shall forfeit to the United States pursuant to 21 U.S.C. § 853(a)(1) and (2), 18 U.S.C. § 982(a)(1), 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. §984 and 28 U.S.C. § 2461 any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the said felony offenses and any and all property, real and personal, used or intended to be used in any manner or part to commit and to facilitate the commission of a violation of 18 U.S.C. § 371, 21 U.S.C. § 841(a)(1), 18 U.S.C. § 1956(a)(1)(A)(i) and (B)(i), 18 U.S.C. § 1347(1) and (2), and any property traceable thereto, including, but not limited to:

1. The following monetary amounts previously seized, together with any accruing interest:

<u>FINANCIAL INSTITUTION</u>	<u>AMOUNT</u>
JPMorgan Chase	\$566,233.72
Home Federal Bank	\$10,500.00
Wachovia Securities LLC	\$9500.00
United States Currency	\$2,195.00
United States Currency	\$2,120.00
	<hr/>
TOTAL	\$590,548.72

2. The following business and all assets associated therewith

Warren R. Stack, M.D., P.C.:

2. MONEY JUDGMENT

A sum of money equal to \$757,760.81 in United States currency, representing the amount of money involved in the offense.

3. SUBSTITUTE ASSETS

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

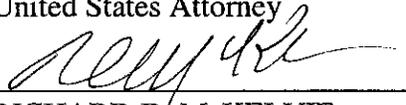
- (a) cannot be located upon the exercise of due diligence;
 - (b) has been transferred or sold to, or deposited with, a third party;
 - (c) has been placed beyond the jurisdiction of the court;
 - (d) has been substantially diminished in value; or
 - (e) has been commingled with other property which 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 said defendant up to the value of the forfeitable property described in paragraphs 1-2 above.

A TRUE BILL:



FOREPERSON OF THE GRAND JURY

BRETT L. TOLMAN
United States Attorney



RICHARD D. McKELVIE
Assistant United States Attorney