

Jul 18, 2022

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMIUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
22-80104-CR-ROSENBERG/REINHART
Case No. _____

18 U.S.C. § 1349

18 U.S.C. § 982(a)(7)

UNITED STATES OF AMERICA

vs.

JOSEPH DAUCH,

Defendant.
_____ /**INFORMATION**

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times material to this Information:

Medicare Program

1. The Medicare Program (“Medicare”) was a federally funded 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 governed by federal statutes and regulations. The United States Department of Health and Human Services (“HHS”), through its agency, the Centers for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

2. Medicare was 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).

3. Medicare programs covering different types of benefits were separated into different program “parts.” Medicare “Part A” covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. “Part B” covered, among other things, medical services provided by physicians, medical clinics, laboratories, and other qualified health care providers, such as office visits, minor surgical procedures, and laboratory testing, that were medically necessary and ordered by licensed medical doctors or other qualified health care providers.

4. Physicians, clinics, and other health care providers, including laboratories, that provided services to beneficiaries were able to apply for and obtain a “provider number.” A health care provider that received a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries.

5. A Medicare claim was required to contain certain important information, including: (a) the beneficiary’s name and Health Insurance Claim Number (“HICN”); (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number (“UPIN”) or National Provider Identifier (“NPI”). The claim form could be submitted in hard copy or electronically via interstate wire.

6. When submitting claims to Medicare for reimbursement, providers were required to certify that: (1) the contents of the forms were true, correct, and complete; (2) the forms were prepared in compliance with the laws and regulations governing Medicare; and (3) the items and services that were purportedly provided, as set forth in the claims, were medically necessary.

7. Medicare claims were required to be properly documented in accordance with Medicare rules and regulations. Medicare would not reimburse providers for claims that were procured through the payment of kickbacks and bribes.

8. When initially enrolling or updating ownership or management information, the Provider Enrollment Application required the provider to disclose all owners and any individuals or businesses with managing control over the provider. This disclosure obligation included any individual or entity with five (5) percent or more ownership, managing control, or a partnership interest, regardless of the percentage of ownership the partner had.

9. This disclosure obligation was necessary, in part, because, under 42 C.F.R. § 424.530, CMS could deny a provider's enrollment in the Medicare program if, among other reasons, the "provider, supplier, or any owner or managing employee of the provider or supplier was, within the preceding 10 years, convicted . . . of a Federal or State felony offense that CMS determines is detrimental to the best interests of the Medicare program and its beneficiaries."

Part B Coverage and Regulations

10. CMS acted through fiscal agents called Medicare administrative contractors ("MACs"), which were statutory agents for CMS for Medicare Part B. The MACs were private entities that reviewed claims and made payments to providers for items and services rendered to beneficiaries. The MACs were responsible for processing Medicare claims arising within their assigned geographical area, including determining whether the claim was for a covered item or service.

11. Payments under Medicare Part B were often made directly to the health care provider rather than to the patient or beneficiary. For this to occur, the beneficiary would assign the right of payment to the health care provider. Once such an assignment took place, the health

care provider would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

Genetic Testing

12. Various forms of genetic testing existed using DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain diseases or health conditions in the future, including certain types of cancers (known as cancer genetic or “CGx” testing), cardiovascular disease, and Parkinson’s disease, Alzheimer’s disease, and dementia. Pharmacogenetic tests (“PGx” tests) were laboratory tests that used DNA sequencing to assess how the body’s genetic makeup would affect the response to certain medications.

13. Except for certain statutory exceptions, Medicare did not cover laboratory testing that was “not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.” 42 U.S.C. § 1395y(a)(1)(A).

14. If laboratory testing was necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a) provided, “All diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary’s specific medical problem.” “Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary.” *Id.*

Telemedicine

15. Telemedicine provided a means of connecting patients to doctors by using telecommunications technology, such as the internet or telephone, to interact with a patient.

16. Telemedicine companies provided telemedicine, or “telehealth” services, to individuals by hiring doctors and other health care providers. Telemedicine companies typically paid doctors a fee to conduct consultations with patients. In order to generate revenue, telemedicine companies typically either billed insurance or received payment from patients who utilized the services of the telemedicine company.

17. Medicare Part B covered expenses for specified telehealth services if certain requirements were met. These requirements included that: (a) the beneficiary was located in a rural or health professional shortage area; (b) services were delivered via an interactive audio and video telecommunications system; and (c) the beneficiary was in a practitioner’s office or a specified medical facility—not at a beneficiary’s home—during the telehealth service with a remote practitioner. In or around March 2020, in response to the COVID-19 pandemic, some of these requirements were amended temporarily to, among other things, cover telehealth services for certain office and hospital visits, even if the beneficiary was not located in a rural area or a health professional shortage area and even if the telehealth services were furnished to beneficiaries in their home.

The Defendant, Related Entities, and Relevant Persons

18. THECSC LLC (“CSC”) was a limited liability company formed under the laws of Florida, with its listed place of business in Broward County, Florida.

19. The Medical Screening Center LLC (“MSC”) was a limited liability company formed under the laws of Florida with its listed place of business in Palm Beach County, Florida.

20. Marketing Marauders LLC (“Marketing Marauders”) was a limited liability company formed under the laws of Florida with its listed place of business in Broward County, Florida.

21. Defendant **JOSEPH DAUCH**, a resident of Broward County, Florida, was the manager and owner of CSC and Marketing Marauders, and an owner and officer of MSC.

22. Individual 1 was a resident of Palm Beach County and **JOSEPH DAUCH**'s business partner in both the CSC and MSC.

23. Elite Medical Laboratories Inc ("Elite") was incorporated under the laws of Georgia and provided laboratory testing services, including CGx testing, to beneficiaries.

24. Lazarus Services, LLC ("Lazarus") was a limited liability company formed under the laws of Louisiana and provided laboratory testing services, including CGx testing, to beneficiaries.

25. Khalid Ahmed Satary, a resident of Lawrenceville, Georgia, owned and controlled various diagnostic laboratories in Louisiana, Oklahoma, Georgia, and elsewhere, including Elite and Lazarus, capable of performing CGx testing.

26. Alpha Medical Consulting Inc ("Alpha Medical") was incorporated under the laws of Georgia and purported to provide legal, compliance, marketing, and operational support to laboratories. Khalid Ahmed Satary owned and controlled Alpha Medical through others.

27. Boca Toxicology, LLC (d/b/a Lab Dynamics) ("Boca Toxicology") was a limited liability company formed under the laws of Florida, that provided laboratory testing services, including various forms of genetic testing, to beneficiaries.

28. Christopher Licata, a resident of Palm Beach County, Florida, was the owner of Boca Toxicology.

**Conspiracy to Commit Health Care Fraud
(18 U.S.C. § 1349)**

From in or around October 2018, and continuing through in or around April 2021, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

JOSEPH DAUCH,

did knowingly and willfully, that is, with the intent to further the object of the conspiracy, combine, conspire, confederate, and agree with Khalid Ahmed Satary, Individual 1, Christopher Licata, and others known and unknown to the United States Attorney, to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said 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.

Purpose of the Conspiracy

29. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) paying and receiving kickbacks in exchange for the referral of beneficiaries, genetic tests, doctors' orders, and other documentation necessary to submit claims to Medicare (collectively, "doctors' orders") to laboratories, including Elite, Lazarus, and Boca Toxicology; (b) paying kickbacks and bribes to telemedicine and marketing companies in exchange for ordering and arranging for the ordering of genetic tests for beneficiaries, without regard to the medical necessity of the prescribed genetic tests or whether the tests were eligible for Medicare reimbursement; (c) submitting and causing the submission of false and fraudulent claims to Medicare for genetic tests that were not medically necessary and not eligible for reimbursement; (d) concealing the submission of false and fraudulent claims to Medicare; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which the defendant and his co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things:

30. **JOSEPH DAUCH**, Individual 1, and other co-conspirators recruited Medicare beneficiaries by targeting them with telemarketing campaigns and induced them to accept CGx tests regardless of whether the tests were medically necessary or eligible for Medicare reimbursement.

31. **JOSEPH DAUCH**, Individual 1, and other co-conspirators offered and paid illegal kickbacks and bribes to telemedicine and marketing companies in exchange for doctors' orders for genetic tests that were not medically necessary and not eligible for Medicare reimbursement. The orders were written by doctors contracted with the telemedicine companies, even though those doctors had no prior relationship with the beneficiaries, were not treating the beneficiaries for any symptoms or illnesses, did not use the test results in the treatment of the beneficiaries, and did not conduct a proper telemedicine visit.

32. **JOSEPH DAUCH**, Individual 1, and other co-conspirators entered into agreements with Khalid Ahmed Satary, Christopher Licata, and others that falsely stated that CSC, MSC, and Marketing Marauders performed legitimate marketing services for Elite, Lazarus, and Boca Toxicology at an hourly rate or for a flat fee. In reality, **DAUCH** and Individual 1 received kickbacks and bribes as payments from laboratories—including Elite, Lazarus, and Boca Toxicology—in exchange for CSC, MSC, and Marketing Marauders referring beneficiaries and doctors' orders for genetic testing.

33. In total, **JOSEPH DAUCH** and his co-conspirators caused Elite, Lazarus, and Boca Toxicology to submit false and fraudulent claims to Medicare in the approximate amount of

\$21,512,711. As the result of these false and fraudulent claims, Medicare paid laboratories, including Elite, Lazarus, and Boca Toxicology, approximately \$10,756,355. In turn, laboratories, including Elite, Lazarus, and Boca Toxicology, paid CSC, MSC, and Marketing Marauders kickbacks and bribes totaling approximately \$6,050,450.

34. **JOSEPH DAUCH**, Individual 1, Khalid Ahmed Satary, Christopher Licata, and other co-conspirators used the fraud proceeds to benefit themselves and others, and to further the fraud.

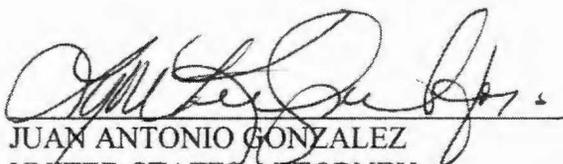
All in violation of Title 18, United States Code, Section 1349.

FORFEITURE ALLEGATIONS

1. The allegations of this Information are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **JOSEPH DAUCH**, has an interest.

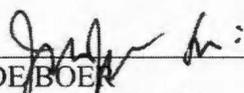
2. Upon conviction of a violation of Title 18, United States Code, Section 1349, as alleged in this Information, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, pursuant to Title 18, United States Code, Section 982(a)(7).

All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures set forth in Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1).



JUAN ANTONIO GONZALEZ
UNITED STATES ATTORNEY

LORINDA I. LARYEA, ACTING CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE



JAMIE DEBOER
PATRICK J. QUEENAN
TRIAL ATTORNEYS
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: JOSEPH DAUCH

Case No: _____

Count #: 1

Title 18, United States Code, Section 1349

Conspiracy to Commit Health Care Fraud

* Max. Term of Imprisonment: 10 years

* Mandatory Min. Term of Imprisonment (if applicable): N/A

* Max. Supervised Release: 3 years

* Max. Fine: \$250,000 or twice the gross gain or loss from the offense

***Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

United States of America

v.

Joseph Dauch,

Defendant

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Case No.

WAIVER OF AN INDICTMENT

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: _____

Defendant's signature

Signature of defendant's attorney

SEAN ELLSWORTH, ESQ.
Printed name of defendant's attorney

Judge's signature

Judge's printed name and title