UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	INFORMATION
- v. -	:	13 Cr.
SPYROS PANOS,	:	
Defendant.	:	

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COUNT ONE

(Health Care Fraud)

The United States Attorney charges:

Background

1. At all times relevant to this Information, SPYROS PANOS, the defendant, was a board certified orthopedic surgeon licensed to practice medicine in the State of New York.

2. At all times relevant to this Information, SPYROS PANOS, the defendant, practiced orthopedic medicine as part of a medical group with offices in Dutchess County, New York (the "Medical Group") and performed orthopedic surgical procedures ("Surgical Procedures") at hospitals in Poughkeepsie, New York.

3. At all times relevant to this Information, the Medicare Program ("Medicare") was a federal health care program providing benefits to people who were over the age of sixty-five or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under

the United States Department of Health and Human Services ("HHS").

4. At all times relevant to this Information, the New York State Insurance Fund ("NYSIF") was a New York State agency functioning as an insurance carrier that competed with private insurers in the workers' compensation and disability benefits markets and was among the largest providers of workers' compensation insurance in New York State.

5. At all times relevant to this Information, payments for Surgical Procedures were obtained from Medicare, NYSIF, and numerous private health insurance providers (collectively, the "Health Insurance Providers"), all of which were "health care benefit programs" as defined by Title 18, United States Code, Section 24(b).

The Scheme to Defraud

6. To receive payments for Surgical Procedures from the Health Insurance Providers, SPYROS PANOS, the defendant, was required, among other things, to submit, and cause the Medical Group to submit, information to the Health Insurance Providers regarding the nature and details of the Surgical Procedures.

7. During the period charged in this Information, SPYROS PANOS, the defendant, performed thousands of Surgical Procedures, and often as many as twenty or more in a single day, for which PANOS and the Medical Group submitted claims in excess

of $35,000,000 to Health Care Providers. Health Care Providers, in turn, paid the Medical Group in excess of $13,000,000 on claims submitted in connection with the Surgical Procedures. During the years 2007 through 2011, PANOS received over $7,500,000 in compensation from the Medical Group.

8. During the period charged in this Information, SPYROS PANOS, the defendant, routinely saw at least sixty patients per office day at the Medical Group, and at times saw more than ninety patients in a single office day. Health Care Providers paid over $3.5 million on claims submitted in connection with Panos's office visits.

9. With respect to many of the Surgical Procedures he performed, SPYROS PANOS, the defendant, furnished, and caused to be furnished, false information to Health Insurance Providers (the "Fraudulent Claims") that resulted in the Health Insurance Providers paying the Medical Group a greater amount than PANOS and the Medical Group were entitled to receive based on the true nature and details of the Surgical Procedures PANOS performed.

10. Among the false representations that were included in the Fraudulent Claims regarding Surgical Procedures performed by SPYROS PANOS, the defendant, were the following:

a. open surgeries were performed, when in fact PANOS performed the surgeries arthroscopically;

b. certain techniques and procedures were performed during the course of the Surgical Procedures, when in fact PANOS did not perform them, either because they were not medically necessary or because PANOS performed other techniques and procedures that would have resulted in lower, if any, payments from the Health Insurance Providers; and

c. loose bodies in excess of certain size criteria were removed, when in fact no loose bodies were removed or the loose bodies that were removed were smaller than the thresholds set by the Health Insurance Providers for payment.

11. In this manner, SPYROS PANOS, the defendant, defrauded Health Insurance Providers out of over $2,500,000 paid to the Medical Group as a result of the Fraudulent Claims.

12. Beginning in or about December 2010, SPYROS PANOS, the defendant, attempted to conceal his scheme by, among other things, falsely representing to the Medical Group that the Fraudulent Claims were the result of clerical errors.

Statutory Allegation

13. From at least in or about 2006, through and including in or about July 2011, in the Southern District of New York and elsewhere, SPYROS PANOS, the defendant, willfully and knowingly executed, and attempted to execute, a scheme and artifice to defraud a health care benefit program and to obtain, 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, a health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, to wit, PANOS, among other things, submitted, and caused to be submitted, false and fraudulent claims for Surgical Procedures to Health Care Providers that included false information concerning the Surgical Procedures he performed.

(Title 18, United States Code, Sections 1347 and 2.)

FORFEITURE ALLEGATION

14. As a result of committing the health care fraud offense charged in Count One of this Information, in violation of Title 18, United States Code, Section 1347, SPYROS PANOS, the defendant, pursuant to Title 18, United States Code, Section 982(a)(7) and Title 28, United States Code, Section 2461, shall forfeit all property, real and personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense charged in Count One of this Information, including but not limited to $5,000,000 in United States currency, in that such sum in aggregate is property representing the approximate amount of gross proceeds obtained by PANOS and the Medical Group as a result of the health care fraud offense charged in Count One.

Substitute Assets Provision

15. If any of the property described above as being subject to forfeiture, 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 person;

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 subdivided 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.

(Title 18, United States Code, Section 982(a)(7); Title 21, United States Code, Section 853; Title 28, United States Code, Section 2461.)

Preet Bharara

PREET BHARARA
United States Attorney

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(18 U.S.C. §§ 1347 and 2.)

PREET BHARARA
United States Attorney.