

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 08 CR ____
v.	)	
	)	Violation: Title 18,
SUSHIL SHETH	)	United States Code,
	)	Section 1347.

**INFORMATION**

The UNITED STATES ATTORNEY charges:

1. At times material to this information:
  - a. SUSHIL SHETH was a cardiologist with privileges at three hospitals in the Chicago area: Hospitals A, B and C.
  - b. SUSHIL SHETH was enrolled as a provider with the Medicare program and assigned a unique provider number, which he used to submit claims to the Medicare program for reimbursement from federal funds.
  - c. SUSHIL SHETH's business office was located in Flossmoor, Illinois ("Flossmoor Residence").
  - d. SUSHIL SHETH also used his own personal residence in Burr Ridge, Illinois ("the Burr Ridge Residence") to conduct his business activities.
  - e. Medicare was a national health insurance program pursuant to Title 18 of the Social Security Act. The Centers for Medicare and Medicaid Services ("CMS") was a federal agency within the United States Department of Health and Human Services ("HHS"), which administered the Medicare program through its contractors. Medicare provided free or below-cost health care benefits to certain eligible beneficiaries, primarily persons who were sixty-five years of age and older.

f. Medicare Part A helps pay for medically necessary hospital care.

Medicare Part B helps pay for certain medically necessary physician services, outpatient services, and other medical services.

g. CMS contracted with Wisconsin Physicians Service (“WPS”), a Medicare contractor, to process Medicare Part B claims submitted for physician’s services for beneficiaries in Illinois.

h. Enrolled providers of medical services to Medicare recipients are eligible for reimbursement for covered medical services. By becoming a participating provider in Medicare, enrolled providers agree to abide by the rules, regulations, policies and procedures governing reimbursement, and to keep and allow access to records and information as required by Medicare.

i. Medicare authorizes payment for cardiology, critical care, and physician services only if those services were actually provided and were medically necessary, that is, the services were required because of disease, disability, infirmity, or impairment. Medicare will not pay for services and treatment that were not actually provided or for which that patient did not meet the criteria necessary to justify the claimed service or treatment.

j. The American Medical Association has established certain codes to identify medical services and procedures performed by physicians, which is known as the Physicians' Current Procedural Terminology (“CPT”) system. CPT codes are widely used and accepted by health care providers and insurers, including Medicare and other health benefit programs. Certain CPT codes identify the amount of time ordinarily required to perform specific procedures.

k. Among the published rules, regulations and procedures were regulations regarding the types of medical services and treatment that could be billed to Medicare by cardiologists. These regulations included CPT Codes 99291 and 99292, which involve claims for the highest level of cardiac care. The medical service and treatment reflected by CPT codes 99291 and 99292 require hands-on treatment of patients in an intensive care unit setting and are time consuming for the treating physician.

l. CPT codes 99291 and 99292 are also both “timed codes.” The codes are allotted a maximum amount of time for completion by the treating physician. The maximum allowed time under CPT code 99291 is 74 minutes. If a physician is still treating the patient after 74 minutes, he or she must start using CPT code 99292 for each additional 30 minute increment of care. Thus, the maximum allowed time under CPT code 99292 is 30 minutes. The allowed times for these two codes are set forth in the Current Procedural Terminology Handbook.

m. Providers of health care services to Medicare beneficiaries seeking reimbursement under the program must submit a claim form (the so-called “HCFA 1500”) containing certain required information pertaining to the Medicare beneficiary, including the beneficiary’s name, health insurance claim number, date the subject service was rendered, location where the service was rendered, type of services provided, the CPT code, number of services rendered, an ICD-9 code reflecting the patient’s diagnosis, charges for each service provided, provider’s assigned provider number, and a certification that such services were personally rendered by the provider.

2. Beginning no later than in or about January 2002 and continuing to at least in or about approximately June 2007, at Burr Ridge and Flossmoor, in the Northern District of Illinois, Eastern Division, and elsewhere,

SUSHIL SHETH

defendant herein, together with others both known and unknown, did knowingly and intentionally devise and participate in a scheme and artifice to defraud health care benefit programs that affected interstate commerce, including the Medicare program described above, and other health care providers 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 health care benefit programs including the Medicare program.

3. It was part of the scheme that SUSHIL SHETH would access and obtain patient information pertaining to Medicare beneficiaries as well as others, including the beneficiary's name, health insurance claim number, and dates the beneficiary stayed in the hospital, through his affiliation with and privileges granted to him at Hospitals A, B and C. SUSHIL SHETH accessed and obtained this patient information without the knowledge or consent of the patients.

4. It was further part of the scheme that SUSHIL SHETH hired various individuals ("Billers") to prepare and submit the necessary paperwork, including the HCFA 1500, to the Medicare program or CMS, and other health benefit programs, in order for SUSHIL SHETH to be reimbursed by Medicare, and other health benefit programs, for medical services purportedly rendered to Medicare beneficiaries, and beneficiaries of other health benefit programs, by SUSHIL SHETH.

5. It was further part of the scheme that SUSHIL SHETH would fax to these Billers

handwritten documents that he prepared, from the Burr Ridge Residence and/or the Flossmoor Residence. These handwritten documents contained false and fraudulent information, including patient identifying information for patients that SUSHIL SHETH well-knew he never treated. Further the documents contained false information relating to the CPT code and the dates of service for the medical services purportedly rendered by SUSHIL SHETH to a patient, although SUSHIL SHETH well knew he had never rendered that service to that patient on that date. These handwritten notes regularly reflected that SUSHIL SHETH had provided patients with the highest level of cardiac care as reflected by CPT codes 99291 and 99292 on multiple days during their hospital stays when, in fact, SUSHIL SHETH knew that information was false.

6. It was further part of the scheme that SUSHIL SHETH would instruct the Billers to include the information from his handwritten documents in the claims submitted to the Medicare program and other health care benefit programs, in order for SUSHIL SHETH to be paid although as he well-knew he had not rendered such services.

7. It was further part of the scheme that SUSHIL SHETH would wait approximately one year before submitting these false and fraudulent claims to the Medicare program and other health care benefit programs for medical services and treatment purportedly rendered.

8. It was further part of the scheme that SUSHIL SHETH would instruct the Medicare program and/or CMS to deliver his reimbursement for medical services and treatment to the Flossmoor Residence.

9. It was further part of the scheme that SUSHIL SHETH knowingly submitted and caused to be submitted false and fraudulent claims to the Medicare program and other health care

benefit programs for the highest level of cardiac care as reflected by CPT codes 99291 and 99292 when as he well knew those services were not performed.

10. It was further part of the scheme that SUSHIL SHETH would and did conceal and hide and cause to be concealed and hidden, the purposes of the acts done in furtherance of the scheme.

11. As a result of the above-described scheme, during the period January 2002 through June 2007, defendant SUSHIL SHETH received approximately \$8,300,000 from the Medicare program and approximately \$5,100,000 from other health benefit programs in fraudulent reimbursement for the highest level of cardiac care as reflected by CPT codes 99291 and 99292 when those services were not performed. SUSHIL SHETH then converted these proceeds to his own use and benefit.

12. On or about September 12, 2005, at Burr Ridge, in the Northern District of Illinois, Eastern Division, and elsewhere,

SUSHIL SHETH,

defendant herein, knowingly and willfully executed and attempted to execute the above-described scheme to defraud a health care benefit program, namely Medicare, by fraudulently submitting and causing to be submitted to WPS a Medicare reimbursement claim in the amount of \$1,300 for critical care codes 99291 and 99292 allegedly provided to Medicare beneficiary AJ by SUSHIL SHETH on or about August 19, 2004, defendant then knowing that such medical treatment had not been provided to that Medicare beneficiary on that day;

In violation of Title 18, United States Code, Sections 1347.

**Forfeiture Allegation**

The UNITED STATES ATTORNEY further charges:

1. The allegations contained in this information are realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

2. As a result of his violations of Title 18, United States Code, Section 1347, as alleged in the foregoing information,

SUSHIL SHETH,

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section, 982(a)(7), any and all right, title and interest in property, real and personal, that constitutes and is derived from the gross proceeds traceable to the commission of the offense.

3. The interests of the defendant subject to forfeiture pursuant to Title 18, United States Code, Section, 982(a)(7), are to include but not be limited to approximately \$13,400,000, and the following property:

**REAL PROPERTY:**

(a) The real property commonly known as **9121 East Andora Hills Drive, Scottsdale, Arizona** and legally described as follows:

LOT 156, DESERT MOUNTAIN PHASE I UNIT ONE; ACCORDING TO  
BOOK 293 OF MAPS, PAGE 41, RECORDS OF MARICOPA COUNTY,  
ARIZONA.

APN: 219-11-610;

(b) The real property commonly known as **40121 East 107<sup>th</sup> Street, Scottsdale, Arizona** and legally described as follows:

LOT 160, DESERT MOUNTAIN PHASE II, UNIT FIVE PART 2, AND  
AFFIDAVIT OF CORRECTION RECORDED IN DOCUMENT NO. 88-

87409, ACCORDING TO BOOK 319 OF MAPS, PAGE 43, RECORDS OF  
MARICOPA COUNTY, ARIZONA.

APN: 219-56-170;

**UNITED STATES CURRENCY:**

- (c) funds in the amount of \$2,463,140.58 seized from Harris Bank account number XXXXXX4865 held in the name of SUSHIL SHETH and his wife;
- (d) funds in the amount of \$2,256,469.55 seized from Harris Bank account number XXXXXX4857 held in the name of SUSHIL SHETH and his wife;
- (e) funds in the amount of \$251,075.93 seized from Harris Bank account number XXXXXX6507 held in the name of SUSHIL SHETH;
- (f) funds in the amount of \$1,542,543.52 seized from Harris Bank account number XXXXXX5839 held in the name of SUSHIL SHETH;
- (g) funds in the amount of \$500,000 restrained in Advanced Equities - Peregrine Investment Account held in the name of SUSHIL SHETH;
- (h) funds in the amount of \$500,000 restrained in Advanced Equities-Alien Tech Investment Account held in the name of SUSHIL SHETH and his wife;
- (i) funds in the amount of \$250,000 restrained in Advanced Equities-Altra Investment Account held in the name of SUSHIL SHETH and his wife;
- (j) funds in the amount of \$500,000 restrained in Advanced Equities-Force 10 Investment Account held in the name of SUSHIL SHETH and his wife;
- (k) funds in the amount of \$750,000 restrained in Advanced Equities-Turin Investment Account held in the name of SUSHIL SHETH and his wife;
- (l) funds in the amount of \$500,000 restrained in AEI Eastern Investments-Motricity Investment Account held in the name of SUSHIL SHETH and his wife;
- (m) funds in the amount of \$401,166 restrained in AEI Eastern Investments-Motricity Capital Call Account held in the name of SUSHIL SHETH and his wife;
- (n) funds in the amount of \$50,000 restrained in AEI Greentech I Investment Account held in the name of SUSHIL SHETH and his wife;
- (o) funds in the amount of \$150,042.36 restrained in Advanced Equities-Turin



Investment Capital Call Account held in the name of SUSHIL SHETH and his wife;

- (p) funds in the amount of \$723,704.11 restrained in Oppenheimer Funds Account XXXXXXXXXXX7485 held in the named of SUSHIL SHETH;
- (q) funds in the amount of \$56,520.91 restrained in Oppenheimer Funds Account XXXXXXXXXXX6710 held in the named of SUSHIL SHETH;
- (r) funds in the amount of \$56,520.91 restrained in Oppenheimer Funds Account XXXXXXXXXXX6721 held in the named of SUSHIL SHETH's wife;
- (s) funds in the amount of \$60,961.64 restrained in Bright Start College Account XXXXXX0696 held in the name of SUSHIL SHETH's son;
- (t) funds in the amount of \$62,203.58 restrained in Bright Start College Account XXXXXX0700 held in the name of SUSHIL SHETH's daughter;
- (u) funds in the amount of \$62,349.31 restrained in Bright Start College Account XXXXXX0704 held in the name of SUSHIL SHETH's son;
- (v) funds in the amount of \$60,905.67 restrained in Bright Start College Account XXXXXX0717 held in the name of SUSHIL SHETH's daughter; and
- (w) funds in the amount of \$161,948.16 restrained in First Bank Account XXXXXX5086 held in the name of SUSHIL SHETH and his wife.

4. If any of the property subject to forfeiture and described above, 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,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States

Code, Section 982(b)(1), such substitute property to include, but not be limited to:

**REAL PROPERTY:**

- (a) The real property commonly known as **8691 Crown Ct., Burr Ridge, Illinois** and legally described as follows:

LOT 40 IN HIGHLAND FIELDS, A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 31, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN AND PART OF THE NORTHWEST 1/4 OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 18-31-307-015.

- (b) The real property commonly known as **850 Village Center Drive, Unit 209, Burr Ridge, Illinois**: and legally described as follows:

LOT 6-2 IN THE FINAL PLAT OF SUBDIVISION FOR BURR RIDGE VILLAGE CENTER RESUBDIVISION, A SUBDIVISION OF PART OF THE WEST 1/2 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN; WHICH SURVEY IS ATTACHED AS EXHIBIT "B" TO THE DECLARATION OF CONDOMINIUM RECORDED MAY 23, 2008 AS DOCUMENT 0814422089, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE EXCLUSIVE RIGHT TO THE USE OF PARKING SPACE P-21 AND P-55, A LIMITED COMMON ELEMENT, AS DELINEATED ON THE SURVEY ATTACHED TO THE AFORESAID DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0814422089.

PARCEL 3:

THE EXCLUSIVE RIGHT TO THE USE OF STORAGE SPACE S-32 AND S-66, A LIMITED COMMON ELEMENT, AS DELINEATED ON THE SURVEY ATTACHED TO THE AFORESAID DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0814422089.

PARCEL 4:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED OCTOBER 4, 2006 AS DOCUMENT 0627734129 AND AMENDED AND RESTATED DECLARATION OF RECIPROCAL EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED NOVEMBER 30, 2007 AS DOCUMENT 0733403124 FOR ACCESS, PARKING, STORM WATER DRAINAGE, SANITARY SEWER, WATER, GAS, ELECTRIC, TELEPHONE, CABLE TELEVISION AND COMMUNICATION, VERTICAL UTILITIES, MAINTENANCE, ADJACENT BUILDING CONSTRUCTION, ENCROACHMENT, AND STRUCTURAL SUPPORT OVER, UPON AND UNDER THE COMMON AREAS OF LOTS 1 THROUGH 8 AND OUTLOTS A AND B IN BURR RIDGE VILLAGE CENTER SUBDIVISION.

PIN. 18-30-300-035-0000 (AFFECTS ADDITIONAL PROPERTY);

**UNITED STATES CURRENCY:**

- (c) funds in the amount of \$1,002,544.73 in Harris Bank Investment Account XXXXXXXX3944 in the name of SUSHIL SHETH and his wife; and

**VEHICLE:**

- (d) One 2002 BMW X5, VIN number 5UXFA53512LP48302.

All pursuant to Title 18, United States Code, Section 982.

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UNITED STATES ATTORNEY