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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

October 2017 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v:

IRENA SHUT,
DOMENIC SIGMORELLI, and
ROBERT JOSEPH,

Defendants.

No. 18GR00315-RGK

I N D I C T M E N T

[18 U.S.C. § 371: Conspiracy;
18 U.S.C. §§ 981(a)(1)(A),
981(a)(1)(C), 982(a)(1),
982(a)(7) and 28 U.S.C. §
2461(c): Criminal Forfeiture]

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 371]

I. GENERAL ALLEGATIONS

At all times relevant to this Indictment:

A. Defendants and Related Entities and Individuals

1. Unindicted co-conspirator ("UCC") A and UCC-B formed and caused the formation of TYY Consulting, Inc. ("TYY") in or about February 2011.

1 2. TYY purported to provide "marketing consulting
2 services" to pharmacies and had a registered address in Las
3 Vegas, Nevada. TYY engaged "marketing representatives"
4 ("marketers" or "reps") to generate prescriptions of compounded
5 drugs and/or other pharmaceuticals for New Age Pharmaceuticals,
6 Inc.; Roxsan Pharmacy; Concierge Compounding Pharmaceuticals,
7 Inc.; and Precise Compounding Pharmacy, Inc. (collectively, "the
8 TYY-Affiliated Pharmacies").

9 3. UCC-A, UCC-B, UCC-C, and UCC-D formed and caused the
10 formation of Concierge Compounding Pharmaceuticals, Inc.
11 ("Concierge") to fill compounded drug prescriptions generated by
12 TYY "reps." In or about November 2012, Concierge became fully
13 operational in Nevada and the primary beneficiary of TYY's
14 "marketing" efforts.

15 4. Precise Compounding Pharmacy, Inc. ("Precise") was a
16 pharmacy located in Culver City, California, within the Central
17 District of California, formed in or about December 2008, by
18 UCC-E, who was a pharmacist licensed in California.
19 In January 2013, UCC-A, UCC-B, UCC-C, and UCC-D acquired
20 ownership interests in Precise, which they fraudulently
21 concealed so that UCC-E remained the only owner of public record
22 for the pharmacy. UCC-E also obtained a fraudulently concealed
23 ownership interest in Concierge and TYY.

24 5. UCC-F was a TYY marketer, based in Maryland, who,
25 through "Meditech," was paid percentage-based commissions for
26 facilitating the referral of prescriptions for compounded drugs
27 and other items reimbursed by health care benefit programs to
28 the TYY-Affiliated Pharmacies. UCC-F was affiliated

1 with TYY, initially under an independent contractor agreement,
2 and later under a sham consulting agreement with Concierge.
3 UCC-G was initially an employee of UCC-F, and was later, at the
4 request of UCC-F, designated as a purported employee of
5 Concierge, so Concierge could pay UCC-G's employment wages for
6 the benefit of UCC-F.

7 6. UCC-H was a TYY marketer, based in Florida, who,
8 through "DCMI," was paid percentage-based commissions for
9 facilitating the referral of prescriptions for compounded drugs
10 and other items reimbursed by health care benefit programs to
11 the TYY-Affiliated Pharmacies. UCC-H operated as an independent
12 contractor with respect to TYY.

13 7. UCC-I was a TYY marketer, based in California, who,
14 through MCNAA, Inc., was paid percentage-based commissions for
15 facilitating the referral of prescriptions for compounded drugs
16 and other items reimbursed by health care benefit programs to
17 the TYY-Affiliated Pharmacies. UCC-I was affiliated with TYY,
18 initially under an independent contractor agreement, and later
19 under a sham employment agreement with Precise. In order to
20 fully compensate UCC-I for the large volume of his prescription
21 referrals, without creating a suspiciously generous employment
22 agreement, UCC-I, UCC-A, UCC-B, UCC-D, UCC-E, and others,
23 arranged for compensation to be paid to UCC-I's wife through a
24 fraudulent employment contract between Precise and UCC-I's wife.

25 8. UCC-J was a TYY marketer, based in Alabama, who,
26 through "Doc RX," was paid percentage-based commissions for
27 facilitating the referral of prescriptions for compounded drugs
28 and other items reimbursed by health care

1 benefit programs to the TYY-Affiliated Pharmacies. UCC-J
2 operated as an independent contractor with respect to TYY.

3 9. UCC-K was a TYY marketer who, through Associated DME,
4 Inc., was paid percentage-based commissions for facilitating the
5 referral of prescriptions for compounded drugs and other items
6 reimbursed by health care benefit programs to the TYY-Affiliated
7 Pharmacies. UCC-K operated as an independent contractor and
8 generated prescription referrals from various states, including
9 Florida.

10 10. UCC-L was a TYY marketer, based in Florida, who was
11 paid percentage-based commissions for facilitating the referral
12 of prescriptions for compounded drug and other items reimbursed
13 by health care benefit programs to the TYY-Affiliated
14 Pharmacies. UCC-L operated as an independent contractor with
15 respect to TYY.

16 11. UCC-M was a TYY marketer, based in California, who was
17 paid percentage-based commissions for facilitating the referral
18 of prescriptions for compounded drugs and other items reimbursed
19 by health care benefit programs to the TYY-Affiliated
20 Pharmacies. UCC-M was affiliated with TYY, initially under an
21 independent contractor agreement, and later under a sham
22 employment agreement with Precise.

23 12. UCC-N was a TYY marketer, based in Florida, who,
24 through AALS Consulting, was paid percentage-based
25 commissions for facilitating the referral of prescriptions for
26 compounded drugs and other items reimbursed by health care
27 benefit programs to the TYY-Affiliated Pharmacies. UCC-N
28 operated as an independent contractor with respect to TYY.

1 13. Defendant IRENA SHUT ("defendant SHUT") was a TYY
2 marketer, based in Los Angeles, California, who, through Mise
3 Marketing, was paid percentage-based commissions for
4 facilitating the referral of prescriptions for compounded drugs
5 and other items reimbursed by health care benefit programs to
6 the TYY-Affiliated Pharmacies. Defendant SHUT was affiliated
7 with TYY, initially under an independent contractor agreement,
8 and later under a sham consulting agreement with Concierge.

9 14. UCC-O was a TYY marketer, based in California, who was
10 paid percentage-based commissions for facilitating the referral
11 of prescriptions for compounded drugs and other items reimbursed
12 by health care benefit programs to the TYY-Affiliated
13 Pharmacies. UCC-O operated as an independent contractor under
14 defendant SHUT, through Mise Marketing, initially, and later,
15 with TYY directly.

16 15. Defendant DOMENIC SIGNORELLI ("defendant SIGNORELLI")
17 was a podiatrist licensed in California, who wrote compounded
18 drug prescriptions for patients that were routed to the TYY-
19 Affiliated Pharmacies for dispensing, in exchange for kickback
20 payments from defendant SHUT.

21 16. Defendant ROBERT JOSEPH ("defendant JOSEPH") was a
22 podiatrist licensed in California, who wrote compounded drug
23 prescriptions for patients that were routed to the TYY-
24 Affiliated Pharmacies for dispensing, in exchange for kickback
25 payments from defendant SHUT.

26 17. UCC-P was a podiatrist licensed in Maryland, who wrote
27 compounded drug prescriptions for patients that were routed to
28 the TYY-Affiliated Pharmacies for

1 dispensing. TYY would pay UCC-N and UCC-K percentage-based
2 commissions for facilitating prescription referrals from UCC-P.

3 18. UCC-Q was a physician licensed in Florida, who wrote
4 compounded drug prescriptions for patients, including UCC-L and
5 his family members, which were routed to the TYY-Affiliated
6 Pharmacies for dispensing based on kickbacks and bribes paid to
7 UCC-L and UCC-Q. (UCC-A through UCC-Q are collectively referred
8 to as "the UCCs", UCC-F through UCC-O are collectively referred
9 to as the "TYY Marketing UCCs", and UCC-P through UCC-Q are
10 collectively referred to as the "TYY Prescribing UCCs".)

11 B. TRICARE

12 19. TRICARE provided health care coverage for Department
13 of Defense ("DoD") beneficiaries worldwide, including active
14 duty service members, National Guard and Reserve members,
15 retirees, their families, and survivors.

16 20. Individuals who received health care benefits through
17 TRICARE were referred to as TRICARE beneficiaries. The Defense
18 Health Agency ("DHA"), an agency of the DoD, was the military
19 entity responsible for overseeing and administering the TRICARE
20 program.

21 21. TRICARE provided coverage for certain prescription
22 drugs, including certain compounded drugs that were medically
23 necessary and prescribed by a licensed physician. Express
24 Scripts, Inc. ("ESI") administered TRICARE's prescription drug
25 benefits.

26 22. TRICARE beneficiaries could fill their prescriptions
27 through military pharmacies, TRICARE's home delivery program,
28 network pharmacies, and non-network pharmacies. If a

1 beneficiary chose a network pharmacy, the pharmacy would collect
2 any applicable co-pay from the beneficiary, dispense the drug to
3 the beneficiary, and submit a claim for reimbursement to ESI,
4 which would in turn adjudicate the claim and reimburse the
5 pharmacy. To become a TRICARE network pharmacy, a pharmacy
6 agreed to be bound by, and comply with, all applicable State and
7 Federal laws, specifically including those addressing fraud,
8 waste, and abuse.

9 C. DOL-OWCP

10 23. The Federal Employees' Compensation Act, Title 5,
11 United States Code, Sections 8101, et seq. ("FECA") provided
12 certain benefits to civilian employees of the United States, for
13 wage-loss disability due to a traumatic injury or occupational
14 disease sustained while working as a federal employee (the "FECA
15 program").

16 24. The Office of Workers' Compensation Programs ("OWCP"),
17 a component of the Department of Labor ("DOL"), administered the
18 FECA program, which was a federal workers' compensation program
19 focused on return to work efforts and was not a medical
20 insurance or a retirement plan.

21 25. When a qualified employee suffered a work-related
22 injury, the employee filed a claim for coverage with OWCP, which
23 then assigned the claimant an OWCP claim number.

24 26. To obtain reimbursement for prescription drugs
25 provided to OWCP claimants or beneficiaries, a pharmacy had to
26 submit its prescription claims for payment to OWCP, using the
27 beneficiary's OWCP claim number. By submitting a claim for
28 reimbursement with OWCP, the pharmacy provider certified that

1 the service or product for which reimbursement was sought was
2 medically necessary, appropriate, and properly billed in
3 accordance with accepted industry standards.

4 27. OWCP would process the claims submitted by the
5 provider, and if all required information was included, OWCP
6 would reimburse the provider in accordance with an established
7 fee schedule.

8 D. State Workers' Compensation System

9 28. The California Workers' Compensation System ("CWCS")
10 was a system created by California law to provide insurance
11 covering treatment of injury or illness suffered by individuals
12 in the course of their employment. Under the CWCS, employers
13 were required to purchase workers' compensation insurance
14 policies from insurance carriers to cover their employees. When
15 an employee suffered a covered injury or illness and received
16 medical services, the medical service provider submitted a claim
17 for payment to the relevant insurance carrier, which then paid
18 the claim. Claims were submitted to and paid by the insurance
19 carriers either by mail or electronically. The CWCS was
20 governed by various California laws and regulations.

21 29. The California State Compensation Insurance Fund
22 ("SCIF") was a non-profit insurance carrier, created by the
23 California Legislature, that provided workers' compensation
24 insurance to employees in California, including serving as the
25 "insurer of last resort" under the CWCS system for employers
26 without any other coverage.

27 30. California law, including the California Business and
28 Professions Code and the California Insurance Code, prohibited

1 the offering, delivering, soliciting, or receiving of anything
2 of value in return for referring a patient for medical items or
3 services.

4 E. Fiduciary Duties

5 31. A "fiduciary" obligation generally existed whenever
6 one person -- a client -- placed special trust and confidence in
7 another -- the fiduciary -- in reliance that the fiduciary will
8 exercise his or her discretion and expertise with the utmost
9 honesty and forthrightness in the interests of the client, such
10 that the client relaxed the care and vigilance which she or he
11 would ordinarily exercise, and the fiduciary knowingly accepted
12 that special trust and confidence and thereafter undertook to
13 act on behalf of the client based on such reliance.

14 32. Physicians, pharmacists, and pharmacy owners, among
15 other medical professionals, owed a fiduciary duty to their
16 patients and customers, requiring these fiduciaries to act in
17 the best interest of the patients, and not for their own
18 professional, pecuniary, or personal gain. These fiduciaries
19 owed a duty of honest services to their patients for decisions
20 made relating to the medical care and treatment of those
21 patients and customers, including the authorizing, prescribing,
22 and dispensing of pharmaceuticals to such patients and
23 customers. Patients' and customers' right to honest services
24 from these fiduciaries included the right not have the
25 fiduciaries solicit or accept bribes and kickbacks connected to
26 the medical care or treatment of such patients/customers.

27 F. Health Care Programs

28 33. Among other programs, Tricare and FECA were "federal

1 health care programs," as defined by 42 U.S.C. § 1320a-7b(f)
2 (collectively, the "Affected Federal Health Care Programs").

3 34. The Affected Federal Health Care Programs, SCIF and
4 other state workers' compensation insurance carriers, along with
5 other public and private plans and contracts that Concierge and
6 Precise billed for compounded drug prescription reimbursements
7 were "health care benefit programs," as defined by 18 U.S.C.
8 § 24(b), that affected commerce (collectively, the "Affected
9 Health Care Plans").

10 G. Compounded Drugs

11 35. In general, "compounding" was a practice in which a
12 licensed pharmacist, a licensed physician, or, in the case of an
13 outsourcing facility, a person under the supervision of a
14 licensed pharmacist, combined, mixed, or altered ingredients of
15 a drug or multiple drugs to create a drug tailored to the needs
16 of an individual patient. Compounded drugs were not FDA-
17 approved, that is, the FDA did not verify the safety, potency,
18 effectiveness, or manufacturing quality of compounded drugs.
19 The California State Board of Pharmacy regulated the practice of
20 compounding in the State of California.

21 36. Compounded drugs were prescribed by a physician when
22 an FDA-approved drug did not meet the health needs of a
23 particular patient. For example, if a patient was allergic to a
24 specific ingredient in an FDA-approved medication, such as a dye
25 or a preservative, a compounded drug would be prepared excluding
26 the substance that triggered the allergic reaction. Compounded
27 drugs would also be prescribed when a patient could not consume
28 a medication by traditional means, such as an elderly patient or

1 a child who could not swallow an FDA-approved pill and needed
2 the drug in a liquid form that was not otherwise available.

3 II. OBJECTS OF THE CONSPIRACY

4 37. Beginning on an unknown date, but no later than in or
5 about November 2012, and continuing through at least in or about
6 June 2016, in Los Angeles County, within the Central District of
7 California, and elsewhere, defendant SHUT, defendant SIGNORELLI,
8 defendant JOSEPH, the UCCs, and others known and unknown to the
9 Grand Jury, knowingly combined, conspired, and agreed to commit
10 the following offenses against the United States:

11 a. mail and wire fraud, in violation of Title 18,
12 United States Code, Sections 1341 and 1343;

13 b. honest services mail and wire fraud, in violation
14 of Title 18, United States Code, Sections 1341, 1343, and 1346;

15 c. health care fraud, in violation of Title 18,
16 United States Code, Section 1347;

17 d. using the mails and interstate facilities in aid
18 of bribery, in violation of Title 18, United States Code,
19 Section 1952(a)(1) and (3);

20 e. engaging in monetary transactions in property
21 derived from specified unlawful activity, in violation of Title
22 18, United States Code, Section 1957;

23 f. knowingly and willfully soliciting or receiving
24 remuneration in return for referring an individual for the
25 furnishing and arranging for the furnishing of any item or
26 service, and in return for arranging for and recommending
27 purchasing or ordering any good, service, or item, for which
28 payment may be made in whole or in part under a Federal health

1 care program, in violation of Title 42, United States Code,
2 Section 1320a-7b(b) (1); and

3 g. knowingly and willfully offering to pay or paying
4 any remuneration to any person to induce such person to refer an
5 individual for the furnishing and arranging for the furnishing
6 of any item or service, and to arrange for and recommend
7 purchasing or ordering any good, service, or item, for which
8 payment may be made in whole or in part under a Federal health
9 care program, in violation of Title 42, United States Code,
10 Section 1320a-7b(b) (2).

11 III. THE MANNER AND MEANS OF THE CONSPIRACY

12 38. The objects of the conspiracy were carried out, and to
13 be carried out, in substance, as follows:

14 a. UCC-A, UCC-B, UCC-C, UCC-D, and UCC-E
15 (collectively, "the TYY-Related Owners"), along with other co-
16 conspirators working with the TYY-Related Owners, would provide
17 kickbacks to the TYY Marketing UCCs, the TYY Prescribing UCCs,
18 and others (collectively, the "Kickback Induced Referral
19 Sources") in return for referring, arranging for, recommending,
20 and causing the referral of, pre-formulated prescriptions for
21 compounded drugs and other pharmaceuticals (collectively,
22 "Kickback Tainted Prescriptions") to the TYY-Affiliated
23 Pharmacies. These kickbacks would include: (1) percentage-based
24 referral payments from TYY to the TYY Marketing UCCs in exchange
25 for arranging for, recommending, and causing the referral of
26 Kickback Tainted Prescriptions to the TYY-Affiliated Pharmacies;
27 and (2) items, services, and other things of value from TYY and
28 the TYY Marketing UCCs to the TYY Prescribing UCCs and other

1 health care professionals to induce the prescribing or
2 authorization of Kickback Tainted Prescriptions for
3 beneficiaries of the Affected Health Care Plans for dispensing
4 at the TYY-Affiliated Pharmacies.

5 b. In response to the promise of kickbacks, Kickback
6 Induced Referral Sources would refer and cause the referral of
7 Kickback Tainted Prescriptions to the TYY-Affiliated Pharmacies.

8 c. The TYY-Affiliated Pharmacies would dispense
9 compounded drugs and other pharmaceuticals authorized by the
10 Kickback Tainted Prescriptions.

11 d. The TYY-Affiliated Pharmacies would send
12 compounded drugs and other pharmaceuticals, by mail, to patient-
13 beneficiaries and submit claims for reimbursement to the
14 Affected Health Care Plans.

15 e. Medical professionals and others who were
16 entrusted to exercise judgement and discretion in making
17 decisions relating to the medical care and treatment of patients
18 -- including the prescribing, authorizing, and dispensing of
19 compounded drugs and other pharmaceuticals to patients -- owed a
20 duty of honest services to those patients. Medical
21 professionals and others responsible for the medical care and
22 treatment of these patients would deprive the patients of their
23 right to honest services by soliciting, receiving, offering, and
24 paying kickbacks to induce the referral of Kickback Tainted
25 Prescriptions to the TYY-Affiliated Pharmacies, and by
26 concealing these material facts.

27
28

1 f. To conceal and disguise the illegal nature of the
2 inducements provided to Kickback Induced Referral Sources for
3 Kickback Tainted Prescriptions, the TYY-Related Owners, along
4 with other co-conspirators, would use TYY to insulate the TYY-
5 Affiliated Pharmacies from payments to the TYY Marketing UCCs
6 and the TYY Prescribing UCCs.

7 g. TYY would recruit "marketers," including
8 defendant SHUT and the TYY Marketing UCCs, who would leverage
9 pre-existing relationships and develop new ones with physicians
10 and other health care professionals to generate Kickback Tainted
11 Prescriptions for dispensing at the TYY-Affiliated Pharmacies.
12 Defendant SHUT and several of the TYY Marketing UCCs, including
13 UCC-F, UCC-G, UCC-I, UCC-K, UCC-L, UCC-N, and UCC-O, would offer
14 inducements to the TYY Prescribing UCCs to generate prescription
15 referrals.

16 h. Using "marketing" contracts to disguise the true
17 nature of the payments, including independent contractor,
18 employment, and consulting agreements, TYY would pay marketers:
19 (a) a percentage of the amount the Affected Health Care Plans
20 reimbursed the TYY-Affiliated Pharmacies for each Kickback
21 Tainted Prescription; or (b) starting in mid-2016, a purported
22 "fixed" amount established and adjusted to replicate a
23 percentage of such reimbursements. These payments to marketers
24 would be made primarily -- or entirely, depending on the
25 circumstances -- for the generation and steering of Kickback
26 Tainted Prescriptions to the TYY-Affiliated Pharmacies, rather
27 than any purported "marketing" or advertising-related services
28 identified in the respective agreements.

1 i. Based on the referral fees the TYY-Related
2 Owners, through TYY, offered "marketers," defendant SHUT and the
3 TYY Marketing UCCs would:

4 (1) solicit physicians to authorize
5 prescriptions of unfamiliar combinations of compounded drugs and
6 other custom pharmaceuticals;

7 (2) present prescribing physicians with pre-
8 printed prescriptions for compounded drug combinations or
9 formularies specifically selected to maximize the amount the
10 Affected Health Care Plans would reimburse for each
11 prescription, without regard for the medical efficacy of the
12 formulary; and

13 (3) falsely inform prescribing physicians that
14 beneficiaries would not be responsible for any "out-of-pocket"
15 costs associated with the prescribed compounded drugs and
16 pharmaceuticals. In reality, nearly all of the Affected Health
17 Care Plans (with the exception of workers' compensation
18 programs) required patients to contribute a co-payment ("co-
19 pay") amount towards the prescription cost. As the co-
20 conspirators well knew, health care benefit programs reimbursed
21 prescription claims on the express understanding that patients
22 made any applicable co-pay to the dispensing pharmacy, or,
23 alternatively, that the pharmacy provider prepared and
24 maintained hardship exception paperwork providing good faith
25 justification for uncollected patient co-pays.

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1 j. Defendants SIGNORELLI and JOSEPH and other TYY
2 Prescribing UCCs would receive kickbacks and bribes from
3 defendant SHUT and other TYY Marketing UCCs as inducements to
4 authorize Kickback Tainted Prescriptions.

5 k. The TYY-Related Owners would also induce medical
6 professionals to authorize prescriptions. These inducements
7 would be concealed through various arrangements, including:

8 (1) The management of in-office pharmacy
9 dispensing programs for certain TYY Prescribing UCCs where
10 management fees would be discounted to provide such physicians.
11 with kickbacks and bribes. The calculation of the discounted
12 management fee, and the corresponding inducement, would be based
13 on the physician's volume of compounded drug prescriptions,
14 despite the fact that the compounded drug prescriptions would be
15 dispensed by the TYY-Related Pharmacies and wholly unrelated to
16 any physician's in-office dispensing program;

17 (2) The use of a financial transaction referred
18 to as "factoring," or more specifically, "accounts receivable
19 factoring," where TYY would purchase all or a portion of the
20 accounts receivable of certain TYY Prescribing UCCs paying
21 substantially above fair market value to incentivize TYY
22 Prescribing UCCs to write compounded drug prescriptions; and

23 (3) The offering of prostitutes, expensive
24 meals, valuable event tickets, and other items of value.

25 l. Based on these undisclosed inducements,
26 the TYY Prescribing UCCs and defendants SIGNORELLI and JOSEPH,
27 would authorize the pre-printed prescriptions for compounded
28 drugs: (a) with no prior physician/patient relationship with the

1 beneficiaries; (b) without the knowledge or consent of the
2 purported beneficiaries; and/or (c) without meaningfully
3 considering a far less expensive FDA-approved (i.e., non-
4 compounded) prescription drug for the patient.

5 m. In order to pay the Kickback Induced Referral
6 Sources for the Kickback Tainted Prescriptions, the TYY-Related
7 Owners, and other co-conspirators, would cause Concierge and
8 Precise to engage in financial transactions using reimbursements
9 from the Affected Health Care Plans. These reimbursements would
10 be paid to the TYY-Affiliated Pharmacies based on insurance
11 billings and corresponding reimbursements on Kickback Tainted
12 Prescriptions (collectively, the "Health Care Fraud ('HCF') and
13 Kickback Proceeds"). As the TYY-Related Owners and many of the
14 TYY Marketing UCCs and TYY Prescribing UCCs then knew and
15 understood, HCF and Kickback Proceeds paid to Kickback Induced
16 Referral Sources -- commonly exceeding \$10,000 -- would be made
17 circuitously from the TYY-Affiliated Pharmacies to TYY and then
18 to the referral source to conceal and disguise the nature,
19 source, ownership, and control of the HCF and Kickback Proceeds
20 from the Affected Health Care Plans and corresponding pharmacy
21 benefit managers, patient-beneficiaries, regulatory bodies, and
22 others.

23 n. As the TYY-Related Owners, TYY Marketing UCCs,
24 TYY Prescribing UCCs, and other co-conspirators knew and
25 intended, and as was reasonably foreseeable to them, in
26 obtaining Kickback Tainted Prescriptions, operating the TYY-
27 Affiliated Pharmacies to dispense Kickback Tainted Prescriptions
28

1 and submitting claims for reimbursement using the mails,
2 interstate wire communications, and other facilities in
3 interstate commerce, the TYY-Related Owners, the TYY Marketing
4 UCCs, the TYY Prescribing UCCs, defendants SHUT, SIGNORELLI, and
5 JOSEPH, as well as other co-conspirators, would conceal material
6 information from patient-beneficiaries and the Affected Health
7 Care Plans, including the fact that the TYY-Related Owners
8 offered, paid, and caused to be paid, and the Kickback Induced
9 Referral Sources solicited, received, and caused to be solicited
10 and received, kickbacks and bribes for the referral of Kickback
11 Tainted Prescriptions to the TYY-Affiliated Pharmacies.

12 o. In order to track referral fees, the TYY-Related
13 Owners, along with other co-conspirators, would make several
14 arrangements, including using computer software programs, such
15 as DigitalRX, for billing and prescription tracking, and for
16 giving the TYY Marketing UCCs access to data to facilitate the
17 tracking of referral fees. This data would include for each
18 prescription the "marketer," prescriber, and health care benefit
19 program applicable to the beneficiary and prescription,
20 including the Affected Federal Health Care Programs, such as
21 TRICARE and the FECA program.

22 IV. EFFECTS OF THE CONSPIRACY

23 39. By concealing the true facts regarding the Kickback
24 Tainted Prescriptions from the Affected Health Care Plans, the
25 co-conspirators prevented the Affected Health Care Plans from
26 subjecting the claims to additional review, paying lesser
27 amounts on the claims, and in some instances rejecting the
28 claims altogether.

1 40. In furtherance of the conspiracy, co-conspirators
2 caused Concierge and Precise to submit claims for reimbursement
3 on Kickback Tainted Prescriptions seeking in excess of \$250
4 million from the Affected Health Care Plans.

5 41. As result of these claims, between in or about
6 November 2012 and in or about June 2016, the Affected Health
7 Care Plans paid Concierge approximately \$117,675,261 for
8 Kickback Tainted Prescriptions, and between in or about January
9 2013 and in or about June 2016, paid Precise approximately
10 \$56,901,662 for Kickback Tainted Prescriptions.

11 42. In furtherance of the conspiracy, between in or about
12 April 2014 and July 2016, co-conspirators caused TYY to pay
13 defendant SHUT approximately \$6,789,000. In turn, and in
14 furtherance of the conspiracy, defendant SHUT paid defendant
15 SIGNORELLI approximately \$885,000, through two members of
16 defendant SIGORELLI's family, in exchange for authorizing
17 Kickback Tainted Prescriptions, which were dispensed at the TYY-
18 Related Pharmacies, and for which the Affected Health Care Plans
19 reimbursed the TYY-Related Pharmacies approximately \$14 million.

20 43. In furtherance of the conspiracy, between in or
21 about April 2014 and July 2016, defendant SHUT paid defendant
22 JOSEPH approximately \$332,500, through defendant JOSEPH's
23 mother, in exchange for defendant JOSEPH authorizing Kickback
24 Tainted Prescriptions, which were dispensed at the TYY-Related
25 Pharmacies, and for which the Affected Health Care Plans
26 reimbursed the TYY-Related Pharmacies approximately \$1.3
27 million.

28

1 V. OVERT ACTS

2 44. In furtherance of the conspiracy and to accomplish its
3 objects, on or about the following dates, the TYY Related
4 Owners, the TYY Marketing UCCs, the TYY Prescribing UCCs,
5 defendants SHUT, SIGMORELLI, and JOSEPH, and other co-
6 conspirators known and unknown to the Grand Jury, committed,
7 willfully caused others to commit, and aided and abetted the
8 commission of the following overt acts, among others, within the
9 Central District of California and elsewhere:

10 Overt Act No. 1: On or about December 1, 2012, UCC-D
11 caused Concierge to issue check number 1073 from a Wells Fargo
12 Bank account bearing a number ending in 7686 (the "7686 Wells
13 Fargo Acct"), in the approximate amount of \$190,992, to TYY.

14 Overt Act No. 2: On or about December 13, 2012, UCC-J
15 sent an email to UCC-A and UCC-C, among others, with the subject
16 line "Dr's sending in scripts not showing up." UCC-J explained:
17 We have doctors sending in scripts that are not showing up
18 in our payout. Please look at reassign these. Someone is
19 getting credit for them and shouldn't be. Please make sure
20 these are added to our payout for the last 2 months of
21 scripts.

22 In the email, UCC-J provided the names of seven prescribing
23 physicians, including physicians who wrote prescriptions
24 reimbursed by the Affected Federal Health Care Programs.

25 Overt Act No. 3: On or about December 19, 2012, UCC-A
26 sent an email with the subject line "Orlando Magic info," to
27 other TYY-Related Owners, discussing the purchase of
28 approximately 38 Orlando Magic tickets for "marketing purposes,"

1 for a purchase price of approximately \$13,052. In the email,
2 UCC-A named three "marketers," including UCC-L, and stated that
3 these "marketers" were asking if the TYY-Related Owners would
4 buy seats that include food and beverage to utilize for
5 marketing. UCC-A noted that the "marketers" had increased their
6 numbers from \$150,000 to \$200,000 per month and were looking to
7 increase volume. In a reply email, UCC-B added, "I think we
8 should do it. We need as much business as possible with the
9 loss of [a deceased marketer]."

10 Overt Act No. 4: On January 4, 2013, UCC-A sent an email
11 to UCC-D and another Concierge employee, noting: "FYI [UCC-F]
12 DID 900k+ HE IS A GOLDEN GOOSE KEEP HIS SHIT FLOWIN."

13 Overt Act No. 5: On June 3, 2013, UCC-A sent an email to
14 UCC-E and UCC-C, writing:

15 "REMINDER GUYS PLEASE. [UCC-P] WHO IS A VERY BIG
16 PRESCRIBER WANTS THIS STUFF THAT HE WAS PREVIOUSLY GETTING
17 FROM VALLEY VIEW. PLEASE YOU REALLY NEED TO GET THIS
18 INF[ORMATION] TOGETHER AND TEST REIMBURSEMENTS AND TELL ME
19 QUICKLY IF THESE ARE DOBBLE [sic]. PLEASE DON'T LAG."

20 An email from UCC-P's surgical coordinator that included
21 compound drug prescription formulas UCC-P previously referred to
22 another pharmacy was attached to UCC-A's email.

23 Overt Act No. 6: On June 13, 2013, UCC-J caused a
24 Concierge employee to send an email to UCC-C, writing: "This is
25 what UCC-J is sending to our patients," with a sample letter
26 attached to the email. The attached letter read:

27 Dear (patient), Concierge Pharmacy has been trying to get
28 in touch with you to refill your prescription that (doctor

1 name) wrote for you. The current number we have for you may
2 be incorrect. (Doctor Name) would like for you to continue
3 the treatment plan he has for you with refills for your
4 prescription. If you have already received your most recent
5 refill please disregard this letter. If not, please contact
6 our refill department. Sincerely, Concierge Pharmacy Refill
7 Department.

8 In response to reviewing the letter UCC-J was sending to
9 patients on behalf of Concierge regarding refills, UCC-C
10 responded: "Fuck No." When the Concierge employee then asked
11 UCC-C, "Okay, so what should I tell him?", UCC-C responded, "Say
12 this is illegal."

13 Overt Act No. 7: On or about June 18, 2013, UCC-C sent
14 an email to the other TYY-Related Owners and two Concierge
15 employees concerning wound care and scar cream prescription pad
16 formularies. In the email, titled "Re: New pad," UCC-C detailed
17 the ingredient changes, as follows: "FCL to KFCL...Ketoprofen
18 10, Fluribiprofen 10, Cyclo 4, Lido 5 [describing the compound
19 medication formulary ingredients]... FBCGL to FKBCGL...Ketoprofen
20 10, flubi 10, baclo 2, gaba 6, lido 2."

21 Overt Act No. 8: On or about July 12, 2013, after a
22 Concierge employee emailed the TYY-Related Owners inquiring:
23 "What do we say when a patient brings in an EOB to the doctor
24 showing that we billed \$3000 for a compound and the patient is
25 upset?," UCC-A responded: "No returns." and UCC-C replied:

26 We say we don't have control of what the drug companies
27 have set the pricing for these compounds. All we do is
28

1 process it through insurance and if it's not covered we
2 send a FREE emergency supply.

3 Overt Act No. 9: On or about July 17, 2013, a Concierge
4 employee sent an email to UCC-A and UCC-D, stating:

5 Hi Fred, I am sending this email for [a TYY Marketing UCC].
6 She is doing a convention here and many of the doctors we
7 have signed up will be attending. She will obviously be
8 entertaining for a couple nights. She was talking with
9 [UCC-A] and trying to come up with a way to get a credit
10 card, since she tells me that at some venues credit cards
11 (not cash) are a must. . . .

12 UCC-A responded: "Yes [UCC-D,] we should get her a pre paid card
13 in case she takes them out etc. for the convention. We can go
14 over this Monday though."

15 Overt Act No. 10: On or about August 13, 2013, UCC-J sent
16 an email to UCC-A and UCC-C, writing:

17 If you want to increase your revenue, particularly on
18 refills, I have a new proposal. You give me the reps to
19 manage. Anybody over 200K in gross, you pay me 5% on.
20 Anyone below 200K, you pay me as you do now on my %'s. But
21 I manage them ALL. Texas big wigs too. You will see an
22 increase in your revenue 10 fold this way. Also, you are
23 going to have to pay me 45% on everything minus Triad.

24 Overt Act No. 11: On or about October 4, 2013, UCC-G sent
25 an email to UCC-F, which UCC-F forwarded to UCC-A and UCC-B.
26 The email from UCC-G highlighted complaints received from Blue
27 Cross Blue Shield (BCBS) federal patient-beneficiaries. The
28 email explained that patients were complaining that they were

1 not receiving their prescription medications, even though BCBS
2 had already been billed for the prescriptions.

3 Overt Act No. 12: On or about October 9, 2013, UCC-A sent
4 an email to other TYY-Related Owners and two Concierge employees
5 concerning making arrangements to provide a car for UCC-P to
6 entertain other prescribing physicians in Las Vegas, Nevada.

7 Overt Act No. 13: On October 23, 2013, a Concierge
8 employee emailed the TYY-Related Owners, writing:

9 THIS IS FOR ANYONE, CHRISTINE ([UCC-K's] ASSISTANT) CALLED
10 ME SAYING THAT [UCC-P] WANTS ONE OF YOU TO CALL HIM TODAY.
11 HE NEEDS SOMEONE TO CLARIFY WHY HE SENT IN A 100 SCRIPTS
12 AND ONLY 20 APPROVED. HE WANTS ONE OF YOU TO SPEAK WITH
13 HIM. HE REQUESTED THAT SPECIFICALLY.

14 Overt Act No. 14: On or about October 30, 2013, UCC-C
15 sent an email to several Concierge employees and other TYY-
16 Related Owners, writing:

17 I say forget the 3 stupid call rules. If the Rx goes
18 through and we still haven't contacted the patients. Then
19 just send the Rx to patient. Let's not lose our customers
20 and have physicians pissed at us. Call and if no answer
21 and medication went through insurance, ship it out.

22 As part of the same email chain, UCC-A inquired: "What if it is
23 a large copay?" UCC-B replied: "Ship ship ship."

24 Overt Act No. 15: On or about November 27, 2013, UCC-F
25 and the TYY-Related Owners engaged in an email exchange
26 concerning the purchase of a condominium in the Dominican
27 Republic for UCC-F, in the amount of approximately \$500,000.

28

1 Overt Act No. 16: On or about December 9, 2013, UCC-F
2 sent an email to UCC-A and UCC-C, writing:

3 We did only a couple months of CC [referring to compounding
4 creams] in 2012. Less than \$1M in income for me. In 2013,
5 I am very close to \$5.5M in CC commissions. Without CC
6 [compounding creams] my 2013 revenue is \$2.7M (not exact
7 but very good estimate). 2012 is closer to \$2.5M.

8 Overt Act No. 17: On or about December 25, 2013, co-
9 conspirators caused TYY to pay \$70,000 to UCC-H, from a Wells
10 Fargo bank account bearing a number ending in 2106 (the "2106
11 Wells Fargo Acct"), for the purchase of 3 Miami Dolphins
12 football suites to be used to entertain prescribing physicians.

13 Overt Act No. 18: On or about December 29, 2013, co-
14 conspirators caused TYY to pay \$29,500 to UCC-H from the 2106
15 Wells Fargo Acct for the purchase of a watch to be given to a
16 TYY Prescribing UCC.

17 Overt Act No. 19: On or about March 21, 2014, UCC-K sent
18 an email to UCC-H, UCC-A, and UCC-B, attaching a prescription
19 formulary sheet, and writing: "Guys here is another RX from
20 express RX. I just hired a rep from there company. He
21 collected \$25K in one week. There [sic] pain swelling cream
22 number one is paying \$9K PLEASE RUN SOME FORMULAS AND FIND US
23 SOME PAYERS."

24 Overt Act No. 20: On or about May 21, 2014, defendant
25 SHUT wrote a check for \$18,000 from Mise Marketing to defendant
26 JOSEPH's mother, in exchange for defendant JOSEPH's
27 authorization of Kickback Tainted Prescriptions.
28

1 Overt Act No. 21: On or about July 21, 2014, UCC-F
2 requested the TYY-Related Owners place his employee, UCC-G, on
3 the TYY payroll, as an inducement to UCC-F to continue to
4 generate prescription referrals.

5 Overt Act No. 22: On or about July 22, 2014, UCC-F sent
6 an email to UCC-A, UCC-B, and UCC-C, with the subject "Re:
7 DME/ [UCC-G]/Medicare," explaining:

8 For MC business . . . i'm sure that attorneys will tell us
9 that we need to make it close to 'fair market value'. How
10 does \$5k/month (\$60k annual salary) sound plus 20%
11 commission (from my normal 28%) for the MC orders. If I
12 don't make enough to cover the salary you can deduct from
13 my normal commissions. I think that might be a good
14 solution for other reps that we want to bring in for MC
15 bracing, lab etc . . . thoughts? Maybe for them do
16 \$3k/month and adjust their commissions a bit like me . . .
17 commissions paid as bonus.

18 Overt Act No. 23: On or about July 24, 2014, defendant
19 SHUT sent an email to UCC-C describing TYY's payments for the
20 benefit of defendant SIGMORELLI, who referred Kickback Tainted
21 Prescriptions to the TYY-Affiliated Pharmacies. The payments
22 included \$288 for a limousine service that picked up defendant
23 SIGMORELLI at his residence and transported him to the BOA
24 Restaurant, located in West Hollywood, California, where
25 defendant SIGMORELLI's dinner bill totaled approximately \$1,698,
26 which was also paid by TYY.

27 Overt Act No. 24: On August 28, 2014, UCC-L caused Lily
28 Medical LLC, a durable medical equipment and supplies company,

1 to file its articles of organization with the Florida Secretary
2 of State.

3 Overt Act No. 25: On or about September 3, 2014, UCC-B
4 caused Concierge to issue check number 2044 from the 7686 Wells
5 Fargo Acct, in the amount of \$1,250,000, to TYY.

6 Overt Act No. 26: On or about September 30, 2014,
7 defendant SHUT sent an email to UCC-A and UCC-C, writing, in
8 part, "Help." The email forwarded another email from an
9 employee of defendant SIGNORELLI, which cautioned defendant SHUT
10 to be "aware of the issues with the labor dept." The forwarded
11 email included a faxed letter from the medical director of the
12 TSA workers' compensation case management program to defendant
13 SIGNORELLI, which expressed concern over defendant SIGNORELLI's
14 then-ongoing and frequent prescribing of costly compounded
15 topical medications to a TSA employee who had returned to duty
16 eighteen months earlier, with no difficulty or issues involving
17 his prior foot injury.

18 Overt Act No. 27: On or about October 17, 2014, UCC-A
19 caused TYY to issue check number 4846 to the Washington Wizards
20 from the 2106 Wells Fargo Acct, in the amount of \$12,325, for
21 the purchase of professional basketball tickets for UCC-F to
22 entertain TYY-affiliated prescribers. The memo line of the
23 check reads: "50% deposit on tickets."

24 Overt Act No. 28: On or about November 6, 2014, UCC-D
25 caused Concierge to issue check number 1184 from the 7686 Wells
26 Fargo Acct, in the amount of \$1,250,000, to TYY.

27 Overt Act No. 29: On or about November 20, 2014,
28 defendant SHUT wrote a check for \$16,000 from Mise Marketing to

1 defendant JOSEPH's mother, in exchange for defendant JOSEPH's
2 authorization of Kickback Tainted Prescriptions.

3 Overt Act No. 30: On or about November 20, 2014,
4 defendant SHUT wrote a check for \$45,000 from Mise Marketing to
5 a family member of defendant SIGMORELLI, in exchange for
6 defendant SIGMORELLI's authorization of Kickback Tainted
7 Prescriptions.

8 Overt Act No. 31: On or about November 26, 2014, UCC-E
9 sent an email to UCC-L, writing:

10 When the girls called the patients told them either nobody
11 called them and they don't need refills or they said they
12 have already said they don't want refills. So if that's
13 the case why are these refills on your refill log when
14 patients clearly have said they do not want any refills???

15 UCC-L replied, "There were multiple patients that said they
16 didn't want it due to costs but when we explained we have a
17 hardship program they were interested."

18 Overt Act No. 32: On December 31, 2014, UCC-B caused TYY
19 to issue check number 5054 from the 2106 Wells Fargo Acct to the
20 Washington Wizards, in the amount of \$12,325, for the purchase
21 of sporting event tickets provided to UCC-F to entertain TYY
22 Prescribing UCCs and others. The memo line of the check read:
23 "Final 50% deposit on tickets."

24 Overt Act No. 33: On or about February 6, 2015, UCC-B
25 sent a group text to UCC-E, defendant SHUT, and a Concierge
26 employee regarding defendant SIGMORELLI. In the text, UCC-B
27 sent a screen shot of a text message from defendant SIGMORELLI.
28 UCC-B indicated that defendant SIGMORELLI had given blanket

1 authorization for refills in perpetuity for all of his patients
2 with prescriptions dispensed at the TYY-Affiliated Pharmacies.
3 Defendant SIGNORELLI also advised that TYY representatives
4 should only contact him directly and not contact his office
5 staff regarding refills and other questions pertaining to
6 prescriptions.

7 Overt Act No. 34: On or about February 25, 2015, co-
8 conspirators caused Precise to issue check number 5163 from the
9 Chase Bank account number ending in 5150 (the "5150 Chase
10 Acct"), in the amount of \$400,000, to TYY.

11 Overt Act No. 35: On or about March 10, 2015, co-
12 conspirators caused Precise to issue check number 1357 from the
13 5150 Chase Acct, in the amount of \$1,500,000, to TYY.

14 Overt Act No. 36: On or about March 20, 2015, defendant
15 SHUT wrote a check for \$60,000 from Mise Marketing to a family
16 member of defendant SIGNORELLI, in exchange for defendant
17 SIGNORELLI's authorization of Kickback Tainted Prescriptions.

18 Overt Act No. 37: On or about July 21, 2015, UCC-B, UCC-
19 G, and a Concierge employee participated in a group text message
20 chain. As part of the text chain, UCC-G wrote: "Ben-I'm gonna
21 send u a boat load of patients-can we test run claims to see
22 what's covered on these patients." The Concierge employee
23 responded: "yeah."

24 Overt Act No. 38: On or about April 25, 2016, UCC-D sent
25 an email to UCC-J, attaching a Concierge Employee Handbook,
26 HIPPA form, I-9 form, W-4, and Direct Deposit forms. UCC-D
27 added: "Congratulations on coming aboard. Please fill all
28

1 applications and return to me to get you started as new
2 employee."

3 Overt Act No. 39: On or about May 10, 2016, UCC-J sent an
4 email to UCC-D, writing:

5 Basically DOL is about the only thing paying. However, I
6 have a billing company I know that is doing wc billing for
7 pharmacies and making a killing for pharmacies. They also
8 do some wc billing for me. They can collect on at least
9 60% of this report. I would like to be the guinea pig for
10 you guys to try them. I know my adjudications will go up
11 and you will make more money than doing this ourselves.

12 Overt Act No. 40: On or about May 16, 2016, the TYY-
13 Related Owners issued employment agreements to UCC-I and his
14 wife, who were purported employees of Precise.

15 Overt Act No. 41: On or about June 15, 2016, a Concierge
16 employee sent an email to UCC-J, UCC-D, and another individual,
17 with the subject line "RE: Commission Payment." The Concierge
18 employee wrote:

19 Commissions will no longer be coming from Tyy Consulting,
20 as TYY has been dissolved as of May 1, 2016, so commissions
21 will no longer be paid out on the 15th of the month. Once
22 all the paperwork has been signed and returned to CCRX
23 (which I believe as of today it has been returned) then
24 [UCC-D] will assign a representative from CCRX to have the
25 reports to you on a regular basis."

26 Overt Act No. 42: On or about June 1, 2016, UCC-F entered
27 into a consulting services agreement with Concierge, through
28 Meditech Inc., for a \$75,000 monthly salary, purportedly

1 covering various marketing and advertising services, including
2 "assistance in the preparation of marketing materials,"
3 "consultation on pharmacy operations," "develop[ing] marketing
4 strategies," "provid[ing] educational sessions for physicians
5 and other healthcare providers," and "provid[ing] consultation
6 on federal and state rules and regulations."

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FORFEITURE ALLEGATION

[18 U.S.C. §§ 982(a)(7), 981(a)(1)(C) and 28 U.S.C. § 2461(c)]

45. Pursuant to Rule 32.2(a), Fed. R. Crim. P., notice is hereby given to defendants SHUT, SIGNORELLI, and JOSEPH (collectively, the "defendants") that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Sections 982(a)(7) and 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), in the event of any defendant's conviction under Count One of this Indictment.

46. Defendants shall forfeit to the United States the following property:

a. all right, title, and interest in any and all property, real or personal, that constitutes or is derived, directly or indirectly, from the gross proceeds traceable to the commission of any offense set forth in Count One of this Indictment; and

b. a sum of money equal to the total value of the property described in subparagraph a. If more than one defendant is found guilty under Count One of this Indictment, each such defendant found guilty shall be liable for the entire amount forfeited pursuant to Count One of this Indictment.

47. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 982(b), each defendant shall forfeit substitute property, up to the total value of the property described in the preceding paragraph if, as a result of any act or omission of a defendant, the property described in the preceding paragraph, or any portion thereof

1 (a) cannot be located upon the exercise of due diligence;
2 (b) has been transferred, sold to or deposited with a third
3 party; (c) has been placed beyond the jurisdiction of the Court;
4 (d) has been substantially diminished in value; or (e) has been
5 commingled with other property that cannot be divided without
6 difficulty.

7
8 A TRUE BILL

9
10
11 _____
Foreperson

12
13 NICOLA T. HANNA
United States Attorney

14
15 

16 LAWRENCE S. MIDDLETON
Assistant United States Attorney
17 Chief, Criminal Division

18 RANEE A. KATZENSTEIN
Assistant United States Attorney
19 Chief, Major Frauds Section

20 STEPHEN A. CAZARES
Assistant United States Attorney
21 Deputy Chief, Major Frauds Section

22 ASHWIN JANAKIRAM
Assistant United States Attorney
23 Major Frauds Section