

WK/ABS:AE
F. #2016R02193

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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UNITED STATES OF AMERICA

SUPERSEDING
INDICTMENT

- against -

Wael Bakry,
Abraham Demoz,
Victor Genkin,
Mayura Kanekar and
Alexander Khavash,

Cr. No. 17-353 (S-1) (SJ)
(T. 18, U.S.C., §§ 287, 371,
982(a)(1), 982(a)(7), 982(b)(1),
1349, 1956(h), 2 and 3551 et seq.;
T. 21, U.S.C., § 853(p); T. 26,
U.S.C., § 7206(1))

Defendants.

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THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Superseding Indictment, unless otherwise indicated:

I. Background

A. The Medicare and Medicaid Programs

1. The Medicare program ("Medicare") was a federal health care program providing benefits to persons who were at least 65 years old 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"). Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

2. The New York State Medicaid program ("Medicaid") was a federal and state health care program providing benefits to individuals and families who met specified

financial and other eligibility requirements, and certain other individuals who lacked adequate resources to pay for medical care. CMS was responsible for overseeing the Medicaid program in participating states, including New York. Individuals who received benefits under Medicaid were similarly referred to as “beneficiaries.”

3. Medicare and Medicaid were “health care benefit programs,” as defined by Title 18, United States Code, Section 24(b).

4. Medicare was divided into multiple parts. Medicare Part B covered the costs of physicians’ services and outpatient care, such as physical therapy, occupational therapy and diagnostic tests. Generally, Medicare Part B covered these costs only if, among other requirements, they were medically necessary and ordered by a physician.

5. Medicaid covered the costs of medical services and products ranging from routine preventive medical care for children to institutional care for the elderly and disabled. Among the specific medical services and products provided by Medicaid were physical therapy, occupational therapy and diagnostic tests. Generally, Medicaid covered these costs only if, among other requirements, the services and products were medically necessary and ordered by a physician.

6. Medical providers and suppliers that sought to participate in Medicare Part B and Medicaid and to bill Medicare and Medicaid for the cost of their treatment of Medicare and Medicaid beneficiaries and related benefits, items and services were required to apply for and receive a provider identification number (“PIN”) or provider transaction access number (“PTAN”) from each program. The PIN/PTAN allowed medical providers and suppliers to submit bills, known as claims, to Medicare and Medicaid, respectively, to obtain reimbursement

for the cost of treatment and related health care benefits, items and services that they had supplied and provided to beneficiaries.

7. Medical providers and suppliers were authorized to submit claims to Medicare and Medicaid only for services they actually rendered and items they actually provided, and were required to maintain patient records verifying the provision of services and items.

8. To receive reimbursement from Medicare and Medicaid for covered services and items, medical providers were required to submit claims, either electronically or in writing, using specific claim forms. Each claim form required certain important information, including: (a) the beneficiary's name and identification number; (b) the PIN/PTAN of the doctor or other qualified health care provider who ordered the health care benefit, item or service that was the subject of the claim; (c) the health care benefit, item or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item or service; and (e) the date upon which the benefit, item or service was provided or supplied to the beneficiary. By submitting the claim, the provider was certifying, among other things, that the items and services were not induced by kickbacks, were rendered to the beneficiary and were medically necessary.

B. Relevant Individuals and Entities

(1) The Defendants and Related Entities

9. The defendants each owned and operated a number of professional service corporations, which, together with other such corporations (collectively, the "Professional Corporations"), were used to advance the scheme as set forth below.

10. The defendant WAEL BAKRY was a licensed physical therapist authorized to participate in the Medicare and Medicaid programs. BAKRY incorporated two of the Professional Corporations, as follows:

(a) Cure Touch Rehab & PT P.C., which purported to do business at 2911 Surf Avenue, Brooklyn, New York 11224, and other locations; and

(b) Priority Care Rehab & PT P.C., which purported to do business at 2911 Surf Avenue, Brooklyn, New York 11224, and other locations.

11. The defendant ABRAHAM DEMOZ was a licensed physician authorized to participate in the Medicare and Medicaid programs. DEMOZ incorporated three of the Professional Corporations, as follows:

(a) Surf Medical, P.C., which purported to do business at 2911 Surf Avenue, Brooklyn, New York 11224, and other locations;

(b) Woodhaven Physician PC, which purported to do business at 63-52 Woodhaven Boulevard, Rego Park, New York 11374, and other locations; and

(c) Sunshine Medical P.C., which purported to do business at 9408 Flatlands Avenue, Brooklyn, New York 11236, and other locations.

12. The defendant VICTOR GENKIN was a licensed occupational therapist authorized to participate in the Medicare and Medicaid programs. GENKIN incorporated two of the Professional Corporations, as follows:

(a) Victor's Occupational Therapy Solutions, P.C., which purported to do business at 303 Avenue P, Apt. F-9, Brooklyn, New York 11204, and other locations; and

(b) NYC Occupational Therapy P.C., which purported to do business at 303 Avenue P, Apt. F-9, Brooklyn, New York 11204, and other locations.

13. The defendant MAYURA KANEKAR was a licensed occupational therapist authorized to participate in the Medicare and Medicaid programs. KANEKAR incorporated two of the Professional Corporations, as follows:

(a) Excel Occupational Therapy Services P.C., which purported to do business at 61-43 186th Street, Fresh Meadows, New York 11365, and other locations; and

(b) Able Occupational Therapy Services, P.C., which purported to do business at 61-43 186th Street, Fresh Meadows, New York 11365, and other locations.

14. The defendant ALEXANDER KHAVASH was a licensed chiropractor authorized to participate in the Medicare and Medicaid programs. KHAVASH incorporated two of the Professional Corporations, as follows:

(a) Alexander Khavash, DC, P.C., which purported to do business at 223 Piccadilly Downs, Lynbrook, New York 11563, and other locations; and

(b) AK Chiropractic P.C., which purported to do business at 223 Piccadilly Downs, Lynbrook, New York 11563, and other locations.

(2) Co-Conspirators and Related Entities

15. A number of co-conspirators of the defendants, including, among others, Oleg Dron, Amgad Mikhail and Eduard Noykhovich, were medical professionals who established other of the Professional Corporations.

16. Co-conspirator Oleg Dron was a licensed occupational therapist authorized to participate in the Medicare and Medicaid programs. Dron incorporated Oleg Dron Handz On Occupational Therapy, P.C. (“Handz On”) in approximately October 2006, and served as the President of Handz On from approximately October 2006 through approximately January 2014.

17. Handz On was one of the Professional Corporations and was located at 1729 East 14th Street, #A, Brooklyn, New York 11229, and other locations. Handz On purported to provide occupational therapy services to Medicare and Medicaid beneficiaries.

18. Co-conspirator Amgad Mikhail was a licensed physical therapist authorized to participate in the Medicare and Medicaid programs. Mikhail incorporated St. Pavly P.T. P.C. (“St. Pavly”) in approximately April 2008, and served as the President of St. Pavly from approximately April 2008 through approximately March 2016.

19. St. Pavly was one of the Professional Corporations and was located at 1601 W. 5th Street, Brooklyn, New York 11223, and other locations. St. Pavly purported to provide physical therapy services to Medicare and Medicaid beneficiaries.

20. Co-conspirator Eduard Noykhovich was a licensed physical therapist authorized to participate in the Medicare and Medicaid programs. Noykhovich incorporated Ideal Health PT, P.C. (“Ideal Health”) in approximately September 2009, and served as the President of Ideal Health from approximately September 2009 through approximately October 2015.

21. Ideal Health was one of the Professional Corporations and was located at: (a) 2263 E. 15th Street, Brooklyn, New York 11229; (b) 2365 E. 13th Street, Brooklyn, New York 11229; and other locations. Ideal Health purported to provide physical therapy services to Medicare and Medicaid beneficiaries.

22. A number of co-conspirators of the defendants, including, among others, Roman Azimov, Moshe Izgelov, Denis Satyr, Yevgeniy Sudman and Malvina Yablonskaya, owned and operated companies (the “Kickback Shell Companies”), purportedly in the business

of providing management, consulting, advertising, marketing, medical support and other commercial services to the Professional Corporations.

23. Co-conspirator Roman Azimov owned and operated a number of the Kickback Shell Companies and used bank accounts opened in the names of those companies to assist the defendants and their co-conspirators in furthering the criminal scheme set forth below. The Kickback Shell Companies Azimov used for this purpose included, among others, the following:

(a) Surf Consulting Group Inc., which purported to do business at 2911 Surf Avenue, Brooklyn, New York 11224, and other locations;

(b) Neptune Consulting Services, Inc., which purported to do business at 1218 Neptune Avenue, Brooklyn, New York 11224, and other locations;

(c) R.E.M.M. Research & Marketing, Inc., which purported to do business at 46 Hollywood Avenue, Lynbrook, New York 11563, and other locations;

(d) B.Z.R. Inc., which purported to do business at 2276 East 13th Street, Brooklyn, New York 11229, and other locations;

(e) Tri State Recruiting Services, Inc., which purported to do business at 46 Hollywood Avenue, Lynbrook, New York 11563, and other locations; and

(f) Prime Collections Solutions Inc., which purported to do business at 46 Hollywood Avenue, Lynbrook, New York 11563, and other locations.

24. Co-conspirator Moshe Izgelov owned and operated several of the Kickback Shell Companies and used bank accounts opened in the names of those companies to assist the defendants and their co-conspirators in furthering the criminal scheme set forth below.

The Kickback Shell Companies Izgelov used for this purpose included, among others, the following:

(a) FH Support Group, Inc., which purported to do business at 108-27 63rd Avenue, Forest Hills, New York 11375, and other locations; and

(b) Right Management, Inc., which purported to do business at 108-27 63rd Avenue, Forest Hills, New York 11375, and other locations.

25. Co-conspirator Denis Satyr owned and operated several of the Kickback Shell Companies and used bank accounts opened in the names of those companies to assist the defendants and their co-conspirators in furthering the criminal scheme set forth below. The Kickback Shell Companies Satyr used for this purpose included, among others, the following:

(a) Biz Net Solutions, Inc., which purported to do business at 2327 83rd Street, Brooklyn, New York 11214, and other locations; and

(b) Kings Boro Management Corp., which purported to do business at 2955 Brighton 4th Street, Brooklyn, New York 11235, and other locations.

26. Co-conspirator Yevgeniy Sudman owned and operated one of the Kickback Shell Companies, Prime Care Medical Management, Inc. ("PCMM"), which purported to do business at 2955 Brighton 4th Street, Brooklyn, New York 11235, and other locations. Sudman used bank accounts opened in the name of PCMM to assist the defendants and their co-conspirators in furthering the criminal scheme set forth below.

27. Co-conspirator Malvina Yablonskaya owned and operated several of the Kickback Shell Companies and used bank accounts opened in the names of those companies to assist the defendants and their co-conspirators in furthering the criminal scheme set forth below.

The Kickback Shell Companies Yablonskaya used for this purpose included, among others, the following:

(a) Healthy Palm Management, Inc., which purported to do business at 2263 East 15th Street, Brooklyn, New York 11229, and other locations; and

(b) Bay Solutions Plus, Inc., which purported to do business at 2263 East 15th Street, Brooklyn, New York 11229, and other locations.

II. The Fraudulent Billing, Kickback and Money Laundering Scheme

28. Between approximately June 2009 and June 2016, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, agreed to execute and executed a scheme to enrich themselves whereby they: (a) paid kickbacks to co-conspirators in return for the referral of beneficiaries to their Professional Corporations; (b) submitted and caused to be submitted claims to Medicare and Medicaid on behalf of beneficiaries who were recruited through the payment of kickbacks; (c) submitted and caused to be submitted claims to Medicare and Medicaid for physical therapy, occupational therapy and other medical services that were not rendered or, when rendered, were not supervised by licensed professionals as required and not performed by professionals trained and authorized to perform those medical services; (d) submitted and caused to be submitted claims to Medicare and Medicaid for medically unnecessary services to beneficiaries, such as physical therapy, occupational therapy and other services; (e) artificially and corruptly increased demand for medical services by providing Medicare and Medicaid beneficiaries, through their co-conspirators, with cash payments to induce those beneficiaries to subject themselves to medically unnecessary procedures, services and tests; and (f) engaged in

deceptive acts and contrivances intended to hide information, mislead, avoid suspicion and avert further inquiry into the scheme.

29. Specifically, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, submitted and caused to be submitted to Medicare and Medicaid false and fraudulent claims for physical therapy, occupational therapy and other medical services on behalf of beneficiaries who were recruited through the payment of kickbacks, and which services were not rendered or, when rendered, were not supervised by licensed professionals as required, not performed by professionals trained and authorized to perform those medical services and not medically necessary.

30. In order to receive payment for claims submitted to Medicare and Medicaid through the Professional Corporations they each controlled, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, submitted and caused the submission of paperwork that permitted them to receive electronic deposits from Medicare and Medicaid into various bank accounts under their control.

31. Upon receiving payments from Medicare and Medicaid, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH transferred substantial sums of this money to their co-conspirators by means of checks made payable to the Kickback Shell Companies, which were purportedly in the business of providing management, consulting, advertising, marketing, medical support and other commercial services. In reality, these companies provided only superficial professional support and other services, and, as the defendants then and there well knew and believed, a

substantial portion of the money the defendants paid to their co-conspirators through these checks included kickbacks for the referral of patients to the defendants' respective Professional Corporations. Further, the defendants made these checks payable to the Kickback Shell Companies in order to conceal the illegal nature of the defendants' payments to their co-conspirators. The defendants' co-conspirators converted many of the checks written to the Kickback Shell Companies, purportedly for legitimate business expenses, into cash through a series of transactions that included, among other steps, cashing checks for a fee at check-cashing businesses. These transactions generated cash that was used, among other purposes, to pay illegal kickbacks to patients who were referred to the defendants for physical therapy, occupational therapy and other services that would later be paid for in whole and in part by Medicare and Medicaid.

32. Between approximately July 2009 and August 2014, the defendant WAEL BAKRY submitted and caused to be submitted approximately \$36 million in claims to Medicare and was paid approximately \$16 million on those claims.

33. Between approximately June 2009 and March 2015, the defendant ABRAHAM DEMOZ submitted and caused to be submitted approximately \$15 million in claims to Medicare and was paid approximately \$10 million on those claims.

34. Between approximately June 2009 and August 2014, the defendant VICTOR GENKIN submitted and caused to be submitted approximately \$22 million in claims to Medicare and was paid approximately \$10 million on those claims.

35. Between approximately April 2010 and June 2016, the defendant MAYURA KANEKAR submitted and caused to be submitted approximately \$34 million in claims to Medicare and was paid approximately \$15 million on those claims.

36. Between approximately October 2009 and August 2014, the defendant ALEXANDER KHAVASH submitted and caused to be submitted approximately \$9 million in claims to Medicare and was paid approximately \$3 million on those claims.

III. The Tax Fraud Scheme

37. The Internal Revenue Service (“IRS”), an agency within the U.S. Department of the Treasury, was responsible for administering and enforcing federal revenue laws and regulations regarding the ascertainment, computation, assessment and collection of taxes owed to the United States by its citizens and residents.

38. In order to accurately assess and collect taxes, the IRS, among other things, determined taxpayers’ actual income, credits and deductions. In doing so, the IRS used, among other means, tax returns filed pursuant to the tax laws and regulations of the United States. In general, citizens or residents of the United States who earned income during a calendar year in excess of a threshold amount, and domestic corporations in existence for any part of a tax year, filed income tax returns for that year to report taxable income.

39. For each of the Professional Corporations controlled by the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, the controlling defendant was required to file with the IRS a United States Corporation Income Tax Return, Form 1120 (“Form 1120”), or an Income Tax Return for an S Corporation, Form 1120S (“Form 1120S”), to report such company’s gross receipts, income, gains, losses, deductions, credits and income tax liabilities. Where the Professional Corporation was an S Corporation, the defendant and any other shareholders of the S Corporation were required to report to the IRS, among other things, their share of the S

Corporation's income on their United States Individual Income Tax Return, Form 1040 ("Form 1040").

40. Between approximately June 2009 and June 2016, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH and others conspired to file and caused to be filed false tax returns with the IRS for the Professional Corporations.

41. Specifically, for various of the tax years 2009 through 2015, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH falsely reported to the IRS that the payments they made to the Kickback Shell Companies were real and legitimate business expenditures when, as the defendants then and there well knew and believed, a substantial portion of this money was paid for illegal patient referrals. By representing the payments to the Kickback Shell Companies as legitimate business expenses, the defendants caused: (a) the Forms 1120 and Forms 1120S they filed with the IRS to falsely under-report income and falsely claim deductions; and (b) the Forms 1040 they filed to falsely under-report income.

COUNT ONE

(Conspiracy to Commit Health Care Fraud)

42. The allegations contained in paragraphs one through 36 are realleged and incorporated as if fully set forth in this paragraph.

43. In or about and between June 2009 and June 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, did knowingly and intentionally conspire to execute a scheme and artifice to defraud one or more health care benefit

programs, as defined in Title 18, United States Code, Section 24(b), to wit: Medicare and Medicaid, 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, Medicare and Medicaid, in connection with the delivery of and payment for health care benefits, items and services, contrary to Title 18, United States Code, Section 1347.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNT TWO

(Conspiracy to Pay Health Care Kickbacks)

44. The allegations contained in paragraphs one through 36 are realleged and incorporated as if fully set forth in this paragraph.

45. In or about and between June 2009 and June 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, did knowingly and willfully conspire to offer and pay kickbacks, directly and indirectly, overtly and covertly, in cash and in kind, to persons to induce such persons to refer beneficiaries to BAKRY, DEMOZ, GENKIN, KANEKAR and KHAVASH for the furnishing and arranging for the furnishing of items and services for which payment may be made in whole and in part under Medicare, contrary to Title 42, United States Code, Section 1320a-7b(b)(2)(A).

46. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, committed and caused to be committed, among others, the following:

OVERT ACTS

(a) On or about July 22, 2013, DEMOZ wrote check number 1625, in the amount of \$10,000, payable to ABRAHAM DEMOZ, drawn on Sovereign Bank account number ending 5198 and held in the name of Surf Medical P.C.;

(b) On or about July 29, 2013, KHAVASH wrote check number 1750, in the amount of \$3,800.16, payable to ALEXANDER KHAVASH, drawn on HSBC Bank account number ending in 7378 and held in the name of Alexander Khavash DC, P.C.;

(c) On or about August 6, 2013, GENKIN wrote check number 1321, in the amount of \$2,000, payable to VICTOR GENKIN, drawn on Bank of America account number ending in 9629 and held in the name of NYC Occupational Therapy P.C.;

(d) On or about November 14, 2013, BAKRY wrote check number 1734, in the amount of \$8,400, payable to WAEL BAKRY, drawn on Capital One account number ending in 7200 and held in the name of Cure Touch Rehab & PT P.C.; and

(e) On or about November 27, 2013, KANEKAR wrote check number 1530, in the amount of \$10,000, payable to MAYURA KANEKAR, drawn on Flushing Savings Bank account number ending in 0296 and held in the name of Excel Occupational Therapy Services, P.C.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT THREE
(Money Laundering Conspiracy)

47. The allegations contained in paragraphs one through 36 are realleged and incorporated as if fully set forth in this paragraph.

48. In or about and between June 2009 and June 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the

defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, did knowingly and intentionally conspire to conduct one or more financial transactions in and affecting interstate commerce, to wit: deposits, withdrawals, and transfers of funds and monetary instruments, which transactions in fact involved the proceeds of one or more specified unlawful activities, to wit: (a) health care fraud and conspiracy to commit health care fraud, in violation of Title 18, United States Code, Sections 1347 and 1349, respectively, and (b) conspiracy to pay health care kickbacks, in violation of Title 18, United States Code, Section 371, knowing that the property involved in such financial transactions represented the proceeds of some form of unlawful activity, and knowing that such financial transactions were designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of one or more of the specified unlawful activities, contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i).

(Title 18, United States Code, Sections 1956(h) and 3551 et seq.)

COUNT FOUR

(Conspiracy to Defraud by Obstructing the Lawful Functions
of the Internal Revenue Service)

49. The allegations contained in paragraphs one through 41 are realleged and incorporated as if fully set forth in this paragraph.

50. In or about and between June 2009 and June 2016, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, did knowingly and willfully conspire to defraud the United States by impairing, impeding, obstructing and defeating the

lawful government functions of the IRS, an agency and department of the United States, in the ascertainment, computation, assessment and collection of revenue, to wit: income taxes.

51. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, committed and caused to be committed, among others, the following:

OVERT ACTS

- (a) On or about March 15, 2012, KHAVASH filed and caused to be filed a Form 1120S on behalf of Alexander Khavash, DC, P.C. for the tax year 2011;
- (b) On or about April 16, 2012, DEMOZ filed and caused to be filed a Form 1120S on behalf of Surf Medical, P.C. for the tax year 2011;
- (c) On or about April 29, 2012, BAKRY filed and caused to be filed a Form 1120 on behalf of Cure Touch Rehab & PT P.C. for the tax year 2011;
- (d) On or about September 11, 2012, KANEKAR filed and caused to be filed a Form 1120 on behalf of Excel Occupational Therapy Services P.C. for the tax year 2011; and
- (e) On or about September 12, 2012, GENKIN filed and caused to be filed a Form 1120S on behalf of Victor's Occupational Therapy Solutions, P.C. for the tax year 2011.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNTS FIVE THROUGH NINE
(Subscribing to a False and Fraudulent Tax Return)

52. The allegations contained in paragraphs one through 41 are realleged and incorporated as if fully set forth in this paragraph.

53. On or about the dates set forth below, within the Eastern District of New York and elsewhere, the defendants WAEL BAKRY, ABRAHAM DEMOZ, VICTOR GENKIN, MAYURA KANEKAR and ALEXANDER KHAVASH did knowingly and willfully make and subscribe the United States Corporation and Individual Tax Returns set forth below, each of which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, and which BAKRY, DEMOZ, GENKIN, KANEKAR and KHAVASH did not believe to be true and correct as to every material matter, as the tax returns falsely reported taxable income in the following amounts, when, as the defendants BAKRY, DEMOZ, GENKIN, KANEKAR and KHAVASH then and there well knew and believed, their taxable income exceeded the amounts stated in the returns:

<u>Count</u>	<u>Defendant</u>	<u>Approximate Date</u>	<u>Form</u>	<u>False Statement</u>
FIVE	KANEKAR	September 11, 2012	U.S. Corporation Tax Return, Form 1120 on behalf of Excel Occupational Therapy Services P.C. for tax year 2011	Reported Taxable Income, on line 30, of \$58,599
SIX	GENKIN	October 3, 2012	U.S. Individual Income Tax Return, Form 1040 for tax year 2011	Reported Taxable Income, on line 43, of \$412,075
SEVEN	KHAVASH	April 13, 2013	U.S. Individual Income Tax Return, Form 1040 for tax year 2012	Reported Taxable Income, on line 43, of \$202,123

<u>Count</u>	<u>Defendant</u>	<u>Approximate Date</u>	<u>Form</u>	<u>False Statement</u>
EIGHT	BAKRY	May 6, 2013	U.S. Corporation Tax Return, Form 1120 on behalf of Cure Touch Rehab & PT P.C. for tax year 2012	Reported Taxable Income, on line 30, of \$46,075
NINE	DEMOZ	April 22, 2014	Amended U.S. Individual Income Tax Return, Form 1040X for tax year 2012	Reported Taxable Income, on line 5, of \$316,629

(Title 26, United States Code, Section 7206(1); Title 18, United States Code, Sections 3551 et seq.)

COUNTS TEN THROUGH FIFTEEN

(False Claims)

54. The allegations contained in paragraphs one through 36 are realleged and incorporated as if fully set forth in this paragraph.

55. On or about the dates set forth below, within the Eastern District of New York and elsewhere, the defendants WAEL BAKRY, MAYURA KANEKAR and ALEXANDER KHAVASH, together with others, did knowingly and intentionally make and present the claims set forth below upon and against a department and agency of the United States, to wit: the United States Department of Health and Human Services, knowing such claims to be false, fictitious and fraudulent:

<u>Count</u>	<u>Defendant</u>	<u>Purported Date of Service</u>	<u>Claim Submission Date</u>	<u>Beneficiary</u>	<u>Claim Number</u>	<u>Claim Amount</u>
TEN	KHAVASH	July 23, 2013	February 28, 2014	Individual-1, whose identity is known to the Grand Jury	****0670	\$45.00
ELEVEN	KHAVASH	July 23, 2013	February 28, 2014	Individual-2, whose identity is known to the Grand Jury	****1950	\$45.00
TWELVE	BAKRY	August 30, 2013	September 4, 2013	Individual-3, whose identity is known to the Grand Jury	****5440	\$50.00
THIRTEEN	BAKRY	August 30, 2013	September 4, 2013	Individual-4, whose identity is known to the Grand Jury	****4170	\$50.00
FOURTEEN	KANEKAR	September 30, 2014	October 14, 2014	Individual-5, whose identity is known to the Grand Jury	****9370	\$70.00
FIFTEEN	KANEKAR	September 30, 2014	October 14, 2014	Individual-6, whose identity is known to the Grand Jury	****9830	\$70.00

(Title 18, United States Code, Sections 287, 2 and 3551 et seq.)

**CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS ONE, TWO AND TEN THROUGH FIFTEEN**

56. The United States hereby gives notice to the defendants charged in Counts One, Two and Ten through Fifteen that, upon their conviction of any such offenses, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(7), which requires any person convicted of a federal health care offense to forfeit

property, real or personal, that constitutes, or is derived directly or indirectly from, gross proceeds traceable to the commission of such offenses.

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

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

divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(7) and 982(b)(1); Title 21, United States Code, Section 853(p))

**CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT THREE**

58. The United States hereby gives notice to the defendants charged in Count Three that, upon their conviction of such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(1), which requires any person convicted of such offense to forfeit any property, real or personal, involved in such offense, or any property traceable to such property.

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

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

divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other

property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(1) and 982(b)(1); Title 21, United States Code, Section 853(p))

A TRUE BILL

FOREPERSON

RICHARD P. DONOGHUE
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

BY: Bruce H. Rold
ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. O.136

Sandra L. Moser by ASB
SANDRA L. MOSER
ACTING CHIEF, FRAUD SECTION
CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE