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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

October 2017 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONALD WOO LEE,
aka "Donald Lee,"
aka "Donald Woolee,"

Defendant.

No. CR-16-0415(A)-GW

F I R S T
S U P E R S E D I N G
I N D I C T M E N T

[18 U.S.C. § 1347: Health Care Fraud; 18 U.S.C. § 2(b): Causing an Act to be Done; 21 U.S.C. §§ 331(k), 333(a)(2), 351(a)(2)(A): Adulteration; 18 U.S.C. § 152(3): False Declarations in Bankruptcy; 18 U.S.C. §§ 981(a)(1)(C), 982(a)(7); 28 U.S.C. § 2461(c): Criminal Forfeiture]

The Grand Jury charges:

COUNTS ONE THROUGH SEVEN

[18 U.S.C. §§ 1347, 2(b)]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this First Superseding Indictment:

The Medicare Program

1. Medicare was a federal health care benefit program, affecting commerce, that provided benefits to individuals who

1 were 65 years and older or disabled. Medicare was administered
2 by the Centers for Medicare and Medicaid Services ("CMS"), a
3 federal agency under the United States Department of Health and
4 Human Services. Medicare was a "health care benefit program" as
5 defined by Title 18, United States Code, Section 24(b).

6 2. Individuals who qualified for Medicare benefits were
7 referred to as Medicare "beneficiaries." Physicians and other
8 health care providers who provided medical services that were
9 reimbursed by Medicare were referred to as Medicare "providers."

10 3. To participate in Medicare, providers were required to
11 submit an application in which the provider agreed to comply
12 with all Medicare-related laws and regulations. If Medicare
13 approved a provider's application, Medicare assigned the
14 provider a Medicare "provider number," which was used for
15 processing and payment of claims.

16 4. A health care provider with a Medicare provider number
17 could submit claims to Medicare to obtain reimbursement for
18 services rendered to Medicare beneficiaries.

19 5. Medicare generally reimbursed a provider for physician
20 services that were medically necessary to the health of the
21 beneficiary and were personally furnished by the physician or
22 the physician's employee under the physician's direction.

23 6. CMS contracted with regional contractors to process
24 and pay Medicare claims. Noridian Administrative Services
25 ("Noridian") was the contractor that processed claims involving
26 Medicare Part B physician services in Southern California from
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1 approximately September 2013 to the present. Prior to that,
2 from approximately 2009 to approximately August 2013, the
3 contractor for Part B physician services was Palmetto GBA.

4 7. Providers submitted their claims electronically
5 pursuant to an agreement they executed with Medicare in which
6 the providers agreed that they: (a) were responsible for all
7 claims submitted to Medicare by themselves, their employees, and
8 their agents; (b) would submit claims only on behalf of those
9 Medicare beneficiaries who had given their written authorization
10 to do so; and (c) would submit claims that were accurate,
11 complete, and truthful.

12 8. A Medicare claim for payment was required to set
13 forth, among other things, the following: the beneficiary's name
14 and unique Medicare identification number; the type of service
15 provided to the beneficiary; the date that the service was
16 provided and the charge for the service provided; and the name
17 and National Provider Identifier ("NPI") of the provider who
18 provided the item or service.

19 Vein Ablation Procedures

20 9. Patients with varicose veins sometimes also had venous
21 reflux, that is, a condition in which blood in the patient's
22 veins flowed wrongly away from the heart rather than towards the
23 heart. The condition could cause the patient's blood to pool in
24 the veins of the patient's lower legs, leading to enlargement of
25 the veins, and potentially causing a variety of symptoms such as
26 leg pain, leg heaviness, and leg fatigue, among others. In
27 advanced cases, leg swelling, dermatitis, inflammation and
28 hardening of the skin, and/or discoloration of the skin could

1 occur. In the most advanced cases, skin ulceration could also
2 develop.

3 10. In such situations, a vein ablation procedure was used
4 to treat potentially significant health issues arising from the
5 condition. There were various types of vein ablation
6 procedures, including a radiofrequency vein ablation procedure
7 and an endomechanical vein ablation procedure.

8 11. The radiofrequency vein ablation procedure used a
9 generator unit attached by a long cord to a long, thin
10 disposable catheter. During this procedure, a physician
11 inserted the catheter into the patient's vein. An ultrasound
12 device guided the catheter into and through the varicose vein,
13 until the catheter reached the end of the varicose vein or the
14 varicose segment of the vein. As the catheter, guided by
15 ultrasound, was gradually pulled out of the vein, radiofrequency
16 waves were emitted to collapse the vein. When the catheter was
17 completely removed, the vein was entirely collapsed. After a
18 successful procedure, the patient's blood naturally found new
19 paths through smaller, healthier veins.

20 12. The endomechanical vein ablation procedure was a
21 minimally invasive treatment for varicose veins, combining
22 mechanical and chemical modalities. The procedure was performed
23 using a single-use, percutaneous infusion catheter that
24 contained a rotating wire that provided endovenous mechanical
25 destruction and simultaneously dispensed a physician-specified
26 agent (sclerosant) in the targeted vein. Like the
27 radiofrequency vein ablation procedure, successful execution of

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1 the endomechanical vein ablation procedure resulted in the
2 closing of the veins where reflux occurred, thereby diverting
3 blood previously at risk of pooling to healthier veins.

4 13. Medicare reimbursed providers for the radiofrequency
5 and endomechanical vein ablation procedures only in certain
6 circumstances. In particular, Medicare required providers
7 seeking reimbursement for such procedures to use and document
8 non-invasive conservative treatments for a specified period
9 before performing the invasive procedures. The conservative
10 treatments to be attempted during this period, which under
11 Medicare guidelines was required to last six to eight weeks,
12 included, but were not limited to, the deployment of non-
13 invasive treatment options such as regular leg elevation, rest,
14 and the use of compression stockings. If conservative
15 treatments were not used and documented during the requisite
16 period, then Medicare would not deem radiofrequency and
17 endomechanical vein ablation to be medically necessary
18 procedures.

19 Billing Codes and Procedures

20 14. The Medicare program required that reimbursement
21 claims for services report the type of service using the
22 American Medical Association's Current Procedural Terminology
23 ("CPT") codes. CPT codes were intended to accurately identify,
24 simplify, and standardize billing for medical services. The
25 amount of reimbursement to a provider for a service based on CPT
26 code varied depending on the work involved in the procedure, the
27 complexity of the procedure, practice expense, and malpractice
28 expense.

1 15. CPT codes 36475 and 36476 were used for radiofrequency
2 vein ablation procedures, while CPT codes 93970 and 93971 were
3 used for the duplex ultrasound examinations that were performed
4 prior to a vein ablation procedure. Between January 1, 2014 and
5 January 1, 2017, CPT codes 37799 or 36299 were used for
6 endomechanical vein ablation procedures. Thereafter, CPT codes
7 36473 and 36474 were used for these procedures.

8 Defendant LEE and Related Entities

9 16. Defendant DONALD WOO LEE, M.D., also known as ("aka")
10 "Donald Lee," aka "Donald Woolee" ("LEE"), was a physician who
11 owned, operated, and oversaw a medical clinic located at 27555
12 Ynez Road Suite 105, Temecula, California, within the Central
13 District of California ("Temecula Clinic"). Defendant LEE also
14 owned, operated, and oversaw a medical clinic located at 10241
15 Country Club Drive, Suite H, Mira Loma, California, within the
16 Central District of California ("Mira Loma Clinic"). Defendant
17 LEE also owned, operated, and oversaw a medical clinic located
18 at 1105 South State Street, Hemet, California, within the
19 Central District of California ("Hemet Clinic"). Defendant LEE
20 also owned, operated, and oversaw a medical clinic located at
21 500 N. Broadway, Suite 17, Blythe, California, within the
22 Central District of California ("Blythe Clinic"). Defendant LEE
23 was approved to participate in the Medicare program and was
24 issued a provider number on or about December 28, 1999.

25 17. Prime Partners Medical Group, Inc. ("Prime Partners"),
26 was a corporation registered in the State of California,
27 operating in Temecula, California, within the Central District
28 of California. Defendant LEE, as the President of Prime

1 Partners, opened corporate bank account number ****-3161 at
2 Pacific Western Bank ("Pacific Western Account 1"). Defendant
3 LEE was the sole authorized signatory on this account.
4 Defendant LEE, as the Chief Executive Officer of Prime Partners,
5 opened corporate bank account number ***-9662 at Rabobank, N.A.
6 ("Rabobank Account 1"). Defendant LEE was an authorized
7 signatory on this account. On or about December 10, 2013,
8 defendant LEE executed and submitted an electronic funds
9 transfer agreement ("EFT") to Medicare to receive payment by
10 electronic transfers into Rabobank Account 1.

11 18. SD Medical Clinic, Inc., A Professional Corporation
12 ("SD Medical Clinic"), was a corporation registered in the State
13 of California, operating in Temecula, California, within the
14 Central District of California. Defendant LEE, as the Chief
15 Executive Officer, Chief Financial Officer and Secretary of SD
16 Medical Clinic opened corporate bank account number ****-3346 at
17 Pacific Western Bank ("Pacific Western Account 2"). Defendant
18 LEE was the sole authorized signatory on this account.

19 19. Donald Woo Lee, M.D., A Professional Corporation ("DWL
20 Corp."), was a corporation registered in the State of
21 California, operating in Temecula, California, within the
22 Central District of California. Defendant LEE, as the Chief
23 Executive Officer of DWL Corp., opened corporate bank account
24 number ****-2496 at Rabobank, N.A. ("Rabobank Account 2").
25 Defendant LEE was the sole authorized signatory on this account.
26 On or about June 23, 2015, defendant LEE executed and submitted
27 an EFT to Medicare, to receive payment by electronic transfers
28 into Rabobank Account 2. In or around July 2015, after Security

1 Bank of California purchased Rabobank, Rabobank Account 2 became
2 Security Bank of California account number ****-1302 ("Security
3 Bank Account"). On or about July 31, 2015, defendant LEE
4 executed and submitted an EFT to Medicare, to receive payment by
5 electronic transfers into the Security Bank Account.

6 B. THE SCHEME TO DEFRAUD

7 20. Beginning at least as early as in or around September
8 2012, and continuing at least through in or around September
9 2015, in Riverside County, within the Central District of
10 California, and elsewhere, defendant LEE, together with others
11 known and unknown to the Grand Jury, knowingly, willfully, and
12 with intent to defraud, executed, and attempted to execute, a
13 scheme and artifice: (a) to defraud a health care benefit
14 program, namely Medicare, as to material matters in connection
15 with the delivery of and payment for health care benefits,
16 items, and services; and (b) to obtain money from Medicare by
17 means of material false and fraudulent pretenses and
18 representations and the concealment of material facts in
19 connection with the delivery of and payment for health care
20 benefits, items, and services.

21 21. The fraudulent scheme operated, in substance, as
22 follows:
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1 a. Defendant LEE falsely represented, and caused
2 others to falsely represent, to Medicare beneficiaries that they
3 needed vein ablation procedures, when in fact, as defendant LEE
4 then well knew, the beneficiaries had no visible signs of
5 varicose veins, had no adverse symptoms from varicose veins,
6 and/or had no medical need for a vein ablation procedure to be
7 performed on them.

8 b. Despite the fact that Medicare required
9 conservative treatments to be used and documented for a six-week
10 to eight-week period before a vein ablation procedure would be
11 considered medically necessary, defendant LEE did not employ any
12 conservative treatments on the Medicare beneficiaries before
13 performing the vein ablation procedures. Defendant LEE
14 performed invasive vein ablation procedures on Medicare
15 beneficiaries without having followed the required conservative
16 treatments and despite the absence of extreme varicosity.

17 c. Defendant LEE, together with others known and
18 unknown to the Grand Jury, submitted and caused the submission
19 of false and fraudulent claims to Medicare for reimbursement for
20 the vein ablation procedures. When defendant LEE submitted and
21 caused the submission of these claims, defendant LEE knew that
22 the procedures were medically unnecessary. On at least one
23 occasion, defendant LEE submitted and caused the submission of a
24 claim to Medicare for a service that was never provided to the
25 Medicare beneficiary.

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1 d. Defendant LEE, together with others known and
2 unknown to the Grand Jury, submitted and caused the submission
3 of false and fraudulent claims for endomechanical vein ablation
4 procedures to Medicare using CPT code 37241 in order to obtain a
5 higher reimbursement than defendant LEE would have received had
6 he submitted claims using the appropriate CPT code (37799 or
7 36299), a practice known as "upcoding." No later than November
8 3, 2014, defendant LEE knew that CPT code 37241 was an incorrect
9 code to use to bill Medicare for endomechanical vein ablation
10 procedures. Between November 2014 and September 2015, defendant
11 LEE submitted and caused the submission of approximately
12 \$2,837,100 in claims to Medicare using CPT code 37241, many of
13 which were fraudulently upcoded.

14 22. Between September 2012 and September 2015, defendant
15 LEE submitted and caused the submission of approximately
16 \$14,699,359 in claims to Medicare, of which approximately
17 \$12,448,300 was for vein ablation procedures and related
18 procedures, many of which were medically unnecessary. Of the
19 amounts claimed, Medicare paid defendant LEE \$5,172,808, of
20 which \$4,576,861 was for vein ablation procedures and related
21 procedures.

22 B. EXECUTIONS OF THE FRAUDULENT SCHEME

23 23. On or about the dates set forth below, within the
24 Central District of California, and elsewhere, defendant LEE,
25 together with others known and unknown to the Grand Jury,
26 knowingly and willfully executed and attempted to execute the
27 fraudulent scheme described above, by submitting and causing to
28 be submitted to Medicare for payment the following false and

1 fraudulent claims:

COUNT	BENE-FICIARY	APPROX. DATE ALLEGED SERVICES PERFORMED	APPROX. DATE CLAIM SUBMITTED	ALLEGED SERVICES AND CPT CODE	APPROX. AMOUNT OF CLAIM	CLAIM NUMBER
ONE	C.C.	03/09/2013	03/25/2013	Destruction of insufficient vein of arm or leg, accessed through the skin, Code 36475	\$3,000	540913 084573 560
TWO	C.C.	03/16/2013	03/25/2013	Destruction of insufficient vein of arm or leg, accessed through the skin, Code 36475	\$3,000	540913 084573 550
THREE	S.M.	02/24/2014	03/04/2014	Occlusion of venous malformations (other than hemorrhage) with radiological supervision and interpretation, roadmapping, and imaging guidance, Code 37241	\$8,900	540214 064014 310
FOUR	F.S.	06/14/2014	06/30/2014	Occlusion of venous malformations (other than hemorrhage) with radiological supervision and interpretation, roadmapping, and imaging guidance, Code 37241	\$8,900	540914 181348 510

COUNT	BENE-FICIARY	APPROX. DATE ALLEGED SERVICES PERFORMED	APPROX. DATE CLAIM SUBMITTED	ALLEGED SERVICES AND CPT CODE	APPROX. AMOUNT OF CLAIM	CLAIM NUMBER
FIVE	S.M.	06/16/2014	06/25/2014	Occlusion of venous malformations (other than hemorrhage) with radiological supervision and interpretation, roadmapping, and imaging guidance, Code 37241	\$8,900	540914 176195 600
SIX	C.B.	11/08/2014	11/17/2014	Occlusion of venous malformations (other than hemorrhage) with radiological supervision and interpretation, roadmapping, and imaging guidance, Code 37241	\$8,900	540214 322140 730
SEVEN	P.C.	12/01/2014	12/17/2014	Occlusion of venous malformations (other than hemorrhage) with radiological supervision and interpretation, roadmapping, and imaging guidance, Code 37241	\$8,900	540914 351829 830

COUNT EIGHT

[21 U.S.C. §§ 331(k), 333(a)(2), 351(a)(2)(A)]

24. The Grand Jury hereby repeats and alleges paragraphs 9-12 and 16 of this First Superseding Indictment as if fully set forth herein.

The Food, Drug, and Cosmetic Act

25. At all times relevant to this First Superseding Indictment, the U.S. Food and Drug Administration ("FDA") was the federal agency responsible for protecting the health and safety of the American public by ensuring, among other things, that medical devices were safe and effective for their intended uses and were not adulterated or misbranded. FDA carried out its responsibilities by enforcing the Federal Food, Drug, and Cosmetic Act ("FDCA"), Title 21, United States Code, Sections 301-399f, and other pertinent laws and regulations.

26. Under the FDCA, a medical device is defined as, among other things, "an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is . . . intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or intended to affect the structure or function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of its primary intended purposes." 21 U.S.C. §§ 321(h)(2), 321(h)(3).

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2 27. Under the FDCA, a medical device was adulterated if it
3 was prepared, packed, or held under insanitary conditions
4 whereby it may have been contaminated with filth, or whereby it
5 may have been rendered injurious to health. 21 U.S.C.
6 § 351(a)(2)(A).

7 28. Under the FDCA, it is unlawful to do any act or cause
8 any act to be done with respect to a medical device while the
9 device was held for sale after shipment in interstate commerce,
10 if such act resulted in the device being adulterated. 21 U.S.C.
11 § 331(k). Such conduct is a felony when performed with the
12 intent to defraud or mislead. 21 U.S.C. § 333(a)(2).

13 The ClariVein Catheter

14 29. At all times relevant to this First Superseding
15 Indictment, the device used in the endomechanical vein ablation
16 procedure was known commercially as the ClariVein catheter and
17 was manufactured by Vascular Insights, LLC, which shipped the
18 ClariVein catheters from warehouses located in Massachusetts and
19 Connecticut.

20 30. At all times relevant to this First Superseding
21 Indictment, the ClariVein catheters were devices under the FDCA,
22 21 U.S.C. § 321(h), because they were intended for the infusion
23 of physician-specified agents in the peripheral vasculature, and
24 they did not achieve their primary intended purposes through
25 chemical or metabolic action. In 2008, the FDA provided
26 clearance that enabled Vascular Insights to market the ClariVein
27 catheter as a single-use, disposable catheter.

1 31. At all times relevant to this First Superseding
2 Indictment, the ClariVein catheter's Instructions for Use
3 ("IFUs") stated that the device was for single use only. The
4 IFUs instructed providers not to reuse, reprocess or resterilize
5 the ClariVein catheter due to the risk of compromised structural
6 integrity of the device and/or device failure, which, in turn,
7 may have resulted in patient injury, illness or death.
8 According to the IFUs, reuse, reprocessing or resterilization
9 could have created a risk of contamination of the device and/or
10 caused patient infection or cross-infection. The IFUs warned
11 that contamination of the device could lead to injury, illness
12 or death of the patient. The IFUs instructed providers to
13 dispose of the product and packaging after use.

14 32. Beginning no later than in or around February 2016,
15 and continuing through in or around October 2016, in Riverside
16 County, within the Central District of California, and
17 elsewhere, defendant LEE, with intent to defraud and mislead,
18 did, and willfully caused others to do, acts with respect to
19 devices, namely, the ClariVein catheter, after shipment in
20 interstate commerce and while held for sale, which resulted in
21 the devices being adulterated, in that the devices were
22 prepared, packed, and held under insanitary conditions whereby
23 they may have been contaminated with filth, and whereby they may
24 have been rendered injurious to health.

25 33. Specifically, defendant LEE adulterated, and caused to
26 be adulterated, ClariVein catheters as follows:
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1 a. During the endomechanical vein ablation
2 procedures performed by and under the direction of defendant
3 LEE, the ClariVein catheters were contaminated with debris, such
4 as human blood, plasma, and platelets. This debris remained in
5 the ClariVein catheter after the catheters were removed from the
6 patients.

7 b. After performing endomechanical vein ablation
8 procedures on certain patients using the ClariVein catheter,
9 rather than disposing of the ClariVein catheters, defendant LEE
10 repackaged the ClariVein catheters in blue plastic "peel packs"
11 at both the Temecula Clinic and the Blythe Clinic for re-use on
12 the same patient at a later date.

13 c. Defendant LEE ignored product use specifications
14 and placed his patients at risk by re-packaging and re-using
15 ClariVein catheters designed for single use only.

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COUNT NINE

[18 U.S.C. § 152(3)]

34. The Grand Jury hereby repeats and alleges paragraphs 16-19 of this First Superseding Indictment as if fully set forth herein.

A. BANKRUPTCY PROCEEDINGS

35. At all times relevant to this First Superseding Indictment, a bankruptcy case was commenced by the filing of a petition in bankruptcy. The person or entity seeking relief from debts was referred to as the "debtor."

36. At all times relevant to this First Superseding Indictment, the filing of a bankruptcy petition created a "bankruptcy estate" consisting of all property and assets in which the debtor had any ownership or interest when the petition was filed. The "bankruptcy estate" was administered by a court-appointed trustee.

37. On or about September 24, 2013, defendant LEE and his wife filed and caused to be filed a bankruptcy petition under Title 11 of the United States Code entitled "In re Donald Woo Lee, et al.," case number 13-17920-ES, in the United States Bankruptcy Court for the Central District of California (the "personal bankruptcy").

38. On or about November 18, 2013, defendant LEE filed and caused to be filed a bankruptcy petition under Title 11 of the United States Code on behalf of Prime Partners entitled, "In re Prime Partners Medical Group, Inc.," case number 13-19404-ES, in the United States Bankruptcy Court for the Central District of California (the "corporate bankruptcy").

1 39. On or about May 23, 2014, the bankruptcy court entered
2 an order substantively consolidating the corporate bankruptcy
3 with the personal bankruptcy estates (as consolidated, the
4 "Estate").

5 40. In or about January 2015, an agent retained by the
6 court-appointed trustee administering the Estate determined that
7 Prime Partners had issued a \$252,000 payment for "catheters."
8 When the agent asked defendant LEE for the invoice supporting
9 this \$252,000 payment, defendant LEE responded that this
10 catheter purchase was made on the "black market."

11 41. The trustee determined that the \$252,000 payment was a
12 check made payable to CW-1 on July 25, 2014 from Rabobank
13 Account 1, and was an unauthorized post-petition transfer under
14 Title 11, United States Code, Section 549.

15 42. The trustee negotiated a settlement with defendant LEE
16 and CW-1 whereby defendant LEE agreed to remit \$86,000 (the "LEE
17 Payment") and CW-1 agreed to remit \$166,000 to the trustee on
18 behalf of the Estate, and defendant LEE agreed to submit a
19 declaration under penalty of perjury disclosing the source of
20 the LEE Payment.

21 B. FALSE DECLARATIONS

22 43. On or about July 27, 2015, in Riverside County, within
23 the Central District of California, defendant LEE knowingly and
24 fraudulently made materially false statements under penalty of
25 perjury in relation to a case under Title 11 of the United
26 States Code, in that he made a declaration under penalty of
27 perjury disclosing the source of the LEE Payment used to repay
28 the Estate (the "LEE Declaration"), in which defendant LEE made

1 the following false statements:

2 a. In paragraph 5 of the LEE Declaration, defendant
3 LEE stated, "In order to fund the [LEE] Payment, I obtained
4 three (3) loans, one from Ms. Amy Kim, one from Ms. Bernadette
5 Roman, and one from Mr. Mike Kim"; whereas in truth and in fact,
6 as defendant LEE then well knew, Ms. Kim and Ms. Roman did not
7 loan defendant LEE money, rather defendant LEE wrote a check for
8 \$20,000 from Pacific Western Account 2 made payable to Yong Mi
9 Kim (also known as "Amy Kim"), and a check for \$20,000 from
10 Rabobank Account 2 made payable to Bernadette Roman, and asked
11 both Ms. Kim and Ms. Roman to deposit these checks into their
12 personal bank accounts and remit cashiers' checks to defendant
13 LEE, which cashiers' checks defendant LEE used to fund the LEE
14 Payment.

15 b. In paragraph 10 of the LEE Declaration, defendant
16 LEE stated, "None of the funds used in the [LEE] Payment came
17 from myself, my wife, [Prime Partners], or any other corporate
18 entity that I have either have an ownership in, and/or am an
19 officer, director or employee of"; whereas in truth and in fact,
20 as defendant LEE then well knew, defendant LEE wrote a check for
21 \$20,000 from Pacific Western Account 2, a corporate bank account
22 for SD Medical Clinic, a corporation owned and operated by
23 defendant LEE, made payable to Yong Mi Kim (also known as "Amy
24 Kim"), and a check for \$20,000 from Rabobank Account 2, a
25 corporate bank account for DWL Corp., a corporation owned and
26 operated by defendant LEE, made payable to Bernadette Roman, and
27 asked both Ms. Kim and Ms. Roman to deposit these checks into
28 their personal bank accounts and remit cashier's checks to

1 defendant LEE, which cashiers' checks defendant LEE used to fund
2 the LEE Payment.

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FORFEITURE ALLEGATION

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

44. Pursuant to Rule 32.2(a) Fed. R. Crim. P., notice is hereby given to defendant DONALD WOO LEE, M.D., also known as ("aka") "Donald Lee," aka "Donald Woolee" ("LEE"), 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 the defendant's conviction under any of the Counts One through Seven and Count Nine of this First Superseding Indictment.

45. Defendant 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 any of Counts One through Seven or Count Nine of this First Superseding Indictment; and

b. A sum of money equal to the total value of the property described in subparagraph a.

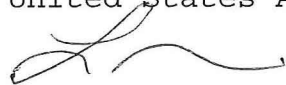
46. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 982(b), the defendant shall forfeit substitute property, up to the total value of the property described in the preceding paragraph 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.

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8 A TRUE BILL

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10 19
Foreperson

11 NICOLA T. HANNA
12 United States Attorney

13 
14 LAWRENCE S. MIDDLETON
15 Assistant United States Attorney
Chief, Criminal Division

16 RANEE A. KATZENSTEIN
17 Assistant United States Attorney
Chief, Major Frauds Section

18 STEPHEN A. CAZARES
19 Assistant United States Attorney
Deputy Chief, Major Frauds Section

20 JOSEPH BEEMSTERBOER
21 Deputy Chief, Fraud Section
United States Department of Justice

22 DIIDRI ROBINSON
23 Assistant Chief, Fraud Section
United States Department of Justice

24 ALEXIS GREGORIAN
25 Trial Attorney, Fraud Section
26 United States Department of Justice