

2021R00840/RV

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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AT 8:30
WILLIAM T. WALSH
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UNITED STATES OF AMERICA

Hon. Michael A. Shipp

Crim. No. 21- 671

v.

18 U.S.C. § 371

ELIJUA WATSON

INFORMATION

The defendant having waived in open court prosecution by indictment, the Acting United States Attorney for the District of New Jersey charges:

(Conspiracy to Defraud the United States and Pay and Receive Health Care Kickbacks)

1. Unless otherwise indicated, at all times relevant to this Information:

The Defendant

a. Defendant ELIJUA WATSON was a resident of Atlanta, Georgia, and the owner of Labtronix, LLC ("Labtronix"), a Georgia limited liability company that purported to market genetic testing services.

Relevant Individuals and Entities

b. Individual 1 owned Marketing Company 1, a company located in Atlanta, Georgia that purported to market genetic testing services.

c. Reyad Salahaldeen, a co-conspirator not charged in this Information, was a resident of Georgia, Texas, and Washington.

d. Khalid Satary, a co-conspirator not charged in this Information, was a resident of Georgia.

e. BioConfirm Laboratory USA, LLC and BioConfirm Laboratories, LLC (collectively, “BioConfirm”) were Georgia limited liability companies located in Doraville, Georgia, that together purported to serve as a diagnostic testing laboratory. Reyad Salahaldeen was an operator of BioConfirm.

f. Express Diagnostics, LLC (“Express Diagnostics”) was a New Jersey limited liability company, located in East Brunswick, New Jersey, that purported to serve as a diagnostic testing laboratory. Reyad Salahaldeen was an operator of Express Diagnostics.

g. Performance Laboratories, LLC (“Performance”) was an Oklahoma limited liability company, located in Oklahoma City, Oklahoma, that purported to serve as a diagnostic testing laboratory.

h. Lazarus Services, LLC (“Lazarus”) was a Delaware limited liability company, located in New Orleans, Louisiana, that purported to serve as a diagnostic testing laboratory.

i. Performance and Lazarus are collectively referred to as the “Satary Labs.” Khalid Satary owned and controlled the Satary Labs.

j. Alpha Medical Consulting Inc. (“Alpha”) was a Georgia company, located in Lawrenceville, Georgia, that purported to provide legal, compliance, marketing, and operational support to laboratories. Khalid Satary owned and controlled Alpha through others.

The Health Insurance Programs

k. The Medicare Program (“Medicare”) was a federally-funded program that provided free or below-cost health care benefits to certain

individuals, primarily the elderly, blind, and disabled. Medicare was administered by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency within the U.S. Department of Health and Human Services (“HHS”). Individuals who received Medicare benefits were referred to as Medicare “beneficiaries.”

l. Medicare was divided into multiple parts with separate coverages: Part A covered hospital inpatient care; Part B covered physicians’ services and outpatient care; Part C covered Medicare Advantage Plans; and Part D covered prescription drugs.

m. The Georgia Medicaid Program (“Medicaid”) provided benefits to certain low-income individuals and families in Georgia. Medicaid was a state and federally funded program administered by CMS and the Georgia Department of Community Health.

n. Commercial Insurer 1 was a health insurance company that offered individual and group health benefit plans under which members could obtain coverage for health care items and services.

o. Medicare and Medicaid were each a “Federal health care program,” as defined in Title 42, United States Code, Section 1320a-7b(f).

p. Medicare, Medicaid, and Commercial Insurer 1 were “health care benefit programs,” as defined in Title 18, United States Code, Section 24(b), and Title 18, United States Code, Section 220(e)(3).

q. Medicare, Medicaid, and Commercial Insurer 1 paid for claims only if the items or services were medically reasonable, medically necessary for

the treatment or diagnosis of the patient's illness or injury, documented, and actually provided as represented.

r. Medicare, Medicaid, and Commercial Insurer 1 would not pay for items or services that were procured through kickbacks and bribes.

Genetic Testing

s. Genetic tests were laboratory tests designed to identify specific inherited mutations in a patient's genes. These genetic variations affected a patient's risk of developing certain diseases or how the patient responded to medications.

t. Genetic tests related to a patient's hereditary predisposition to cancer were commonly referred to as "CGx" tests. These tests used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. CGx testing was not a method of diagnosing whether an individual presently had cancer.

u. Genetic tests related to how a patient's genes affected the response to medications were commonly referred to as "PGx" tests.

v. In order to have a genetic test performed, an individual provided a saliva sample using a buccal (cheek) swab, which collected a specimen containing DNA material. The sample was then transmitted to a laboratory for testing.

w. Medicare did not cover diagnostic testing that was not "reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member." Title 42, United States

Code, Section 1395y(a)(1)(A). Except for certain statutory exceptions, Medicare did not cover “[e]xaminations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint or injury.” Title 42, Code of Federal Regulations, Section 411.15(a)(1). Among the statutory exceptions Medicare covered were cancer screening tests such as “screening mammography, colorectal cancer screening tests, screening pelvic exams, [and] prostate cancer screening tests.” *Id.*

x. If diagnostic testing was necessary for the diagnosis or treatment of illness or injury, or to improve the functioning of a malformed body member, Medicare imposed additional regulations before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a) provided that “all diagnostic x-rays tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, a physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary’s specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary.”

y. Applicable Medicare Local Coverage Determinations deemed genetic testing to be medically necessary only in limited circumstances, namely, when a beneficiary had clinical features of an associated disease, the result of the test would directly impact the treatment being delivered to the beneficiary, and a definitive diagnosis remained uncertain after other methods of diagnosis had been performed.

z. Non-physician practitioners, such as clinical nurse specialists or physician assistants, could also order genetic tests but were subject to the same requirement as physicians: they must have consulted or treated the beneficiary for a specific medical problem and used the test results to manage the beneficiary's specific medical problem. Title 42, Code of Federal Regulations, Section 410.32(a)(2).

The Conspiracy

2. From in or around October 2018 through in or around September 2020, in the District of New Jersey, and elsewhere, defendant

ELIJUA WATSON

did knowingly and willfully conspire and agree with Reyad Salahaldeen, Khalid Satary, Individual 1, and others to commit certain offenses against the United States, that is,

a. to defraud the United States by cheating the United States government or any of its departments or agencies out of money and property, and by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of HHS and CMS in their administration and oversight of Medicare and Medicaid;

b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by soliciting and receiving any remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging

for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program;

c. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by offering and paying any remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program;

d. to violate Title 18, United States Code, Section 220(a)(1), by soliciting and receiving any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring a patient and patronage to a laboratory, with respect to services covered by a health care benefit program, specifically, Medicare, Medicaid, and Commercial Insurer 1, in and affecting interstate commerce; and

e. to violate Title 18, United States Code, Section 220(a)(2)(A), by paying and offering any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to induce a referral of an individual to a laboratory, with respect to services covered by a health care benefit program, specifically, Medicare, Medicaid, and Commercial Insurer 1, in and affecting interstate commerce.

Goal of the Conspiracy

3. It was the goal of the conspiracy for defendant ELIJUA WATSON and his co-conspirators to unlawfully enrich themselves by, among other things: (a)

soliciting, receiving, offering, and paying kickbacks and bribes in return for recruiting and referring Medicare, Medicaid, and Commercial Insurer 1 beneficiaries and members to BioConfirm, Express Diagnostics, and the Satary Labs for medically unnecessary CGx and PGx testing; (b) submitting and causing the submission of false and fraudulent claims to Medicare, Medicaid, and Commercial Insurer 1 for services that were ordered or provided through illegal kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented; (c) concealing the submission of claims that were false and fraudulent, and ordered and provided through illegal kickbacks and bribes, and the receipt and transfer of the proceeds; and (d) diverting proceeds for the personal use and benefit of defendant ELIJUA WATSON and his co-conspirators.

Manner and Means of the Conspiracy

4. The manner and means by which defendant ELIJUA WATSON and his co-conspirators sought to accomplish the goal of the conspiracy included, among other things, the following:

a. Defendant ELIJUA WATSON, and others acting at his direction, solicited Medicare, Medicaid, and Commercial Insurer 1 beneficiaries and members to provide swabs containing DNA material that could be used to perform CGx and PGx tests.

b. Defendant ELIJUA WATSON arranged for Individual 1, Marketing Company 1, and others to solicit CGx and PGx tests for Medicare, Medicaid, and Commercial Insurer 1 beneficiaries and members that were

medically unnecessary, ineligible for reimbursement, and not provided as represented.

c. Defendant ELIJUA WATSON arranged for medical professionals to approve genetic testing orders referred to BioConfirm, Express Diagnostics, and the Satary Labs for Medicare, Medicaid, and Commercial Insurer 1 beneficiaries and members who they were not treating.

d. Defendant ELIJUA WATSON agreed to and did solicit and receive illegal kickbacks and bribes from Reyad Salahaldeen and Khalid Satary in exchange for providing BioConfirm, Express Diagnostics, and the Satary Labs with swabs containing DNA material, and signed orders, that could be used to perform and bill for CGx and PGx tests.

e. Defendant ELIJUA WATSON agreed to and did offer and pay illegal kickbacks and bribes to Individual 1 and others in exchange for swabs containing DNA material and requisition forms, for which ELIJUA WATSON obtained medical professionals' signatures, that were then provided to BioConfirm, Express Diagnostics, and the Satary Labs for the purpose of performing and billing for CGx and PGx tests.

f. Defendant ELIJUA WATSON and others, through BioConfirm, Express Diagnostics, and the Satary Labs, submitted and caused the submission of approximately \$22,885,000 in false and fraudulent claims to Medicare, Medicaid, and Commercial Insurer 1, which resulted in reimbursement by Medicare, Medicaid, and Commercial Insurer 1 of approximately \$4,150,000, for CGx and PGx tests that were procured by the payment of illegal kickbacks and

bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented.

Overt Acts

5. In furtherance of the conspiracy and to accomplish its goals, defendant ELIJUA WATSON and his co-conspirators committed and caused the commission of one or more of the following acts in the District of New Jersey and elsewhere:

a. On or about October 5, 2018, defendant ELIJUA WATSON caused a wire transfer to be made from BioConfirm to Labtronix in the approximate amount of \$11,440 in exchange for genetic testing referrals.

b. On or about March 26, 2019, defendant ELIJUA WATSON caused a wire transfer to be made from Express Diagnostics to Labtronix in the approximate amount of \$52,800 in exchange for genetic testing referrals.

c. On or about May 8, 2019, defendant ELIJUA WATSON caused a wire transfer to be made from Express Diagnostics to Labtronix in the approximate amount of \$80,400 in exchange for genetic testing referrals.

d. On or about June 21, 2019, defendant ELIJUA WATSON caused a wire transfer to be made from Alpha to Labtronix in the approximate amount of \$35,800 in exchange for genetic testing referrals.

e. On or about July 5, 2019, defendant ELIJUA WATSON caused an electronic transfer to be made from Alpha to Labtronix in the approximate amount of \$54,000 in exchange for genetic testing referrals.

f. On or about September 11, 2019, defendant ELIJUA WATSON

caused an electronic transfer to be made from Alpha to Labtronix in the approximate amount of \$107,800 in exchange for genetic testing referrals.

In violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATIONS
18 U.S.C. § 982(a)(7)

1. The allegations contained in this Information are re-alleged here for the purpose of alleging forfeiture against defendant ELIJUA WATSON.

2. Pursuant to Title 18, United States Code, Section 982(a)(7), upon being convicted of the crime charged in this Information, defendant ELIJUA WATSON shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

Substitute Assets Provision

3. If any of the above-described forfeitable property, as a result of any act or omission of defendant ELIJUA WATSON:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

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

to seek forfeiture of any other property of defendant ELIJUA WATSON up to the value of the forfeitable property described above.

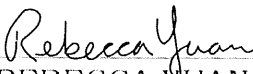


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