

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF FLORIDA
21-20463-CR-KING/BECERRA

Case No. _____
 18 U.S.C. § 1349
 18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

MARK ZAGER,

Defendant.

_____ /

INFORMATION

The Acting United States Attorney charges:

GENERAL ALLEGATIONS

At all times material to this Information:

The GreenSky Program

1. GreenSky, LLC (“GreenSky”) was a company organized under the laws of Georgia.
2. GreenSky partnered with federally-insured financial institutions to offer loans to the public that could be used to pay out-of-pocket medical expenses provided by pre-approved health care providers who were enrolled with GreenSky. Health care providers who applied to participate in the GreenSky program and were approved by GreenSky could offer GreenSky-serviced loans to patients who qualified for the loans. Providers who enrolled in the GreenSky program agreed to abide by, among others, the following terms, each of which was material to GreenSky:

- a. Patients would only be charged for services actually rendered within 30 days of the charge; and that for services not rendered within 30 days, the patient had the right

to an automatic refund;

- b. Patients would only be charged for services provided within the scope of the practice of the Provider; and
- c. The provider and/or the provider's personnel were required to inform all patient applicants to the GreenSky program that the deferred interest rate was up to 29.99%.

The Medicare Program

3. 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. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

4. Medicare was a "health care benefit program" as defined by Title 18, United States Code, Section 24(b).

5. Medicare programs covering different types of benefits were separated into different program "parts." Medicare Part B was a medical insurance program that covered, among other things, certain physician and outpatient services, and other health care benefits, items and services.

6. For Florida beneficiaries, Medicare Part B's insurance coverage for physician and outpatient services and related health care benefits, items, and services was administered by First

Coast Service Options, Inc. ("First Coast") pursuant to a contract with HHS.

7. Physicians, clinics, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider that received a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary's name and Medicare identification number, the services that were performed for the beneficiary, the date that the services were provided, the cost of the services, and the name and provider number of the physician or other health care provider who ordered or performed the services.

8. Medicare Part B generally would pay a substantial portion of the cost of the physician or outpatient services or related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other licensed, qualified health care providers.

9. Payments under Medicare Part B were often made directly to the health care provider rather than to the beneficiary. For this to occur, the beneficiary would assign the right of payment to the health care provider. Once such an assignment took place, the health care provider would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

10. Under Medicare's rules and regulations, physician and outpatient services and related health care benefits, items, or services must be medically necessary and ordered by a licensed doctor or other licensed, qualified health care provider in order to be reimbursed by Medicare.

11. Manual spinal manipulation was a health care service that may have been eligible for reimbursement by Medicare under Part B. Medicare would reimburse for manual spinal manipulation services only when certain conditions were met, such as when the services were provided by a chiropractor or other qualified provider. Medicare Part B did not cover any other services or tests provided or ordered by a chiropractor.

The Defendant, a Related Company and Related Individual

12. Defendant **MARK ZAGER** was a resident of Miami-Dade County and medical doctor (“M.D.”) practicing family medicine. **ZAGER** was enrolled as a Medicare provider and a GreenSky provider.

13. Dynamic Medical Services, Inc. (“Dynamic Medical”) was a corporation organized under the laws of the State of Florida with a principal place of business located at 1490 W. 49th Place, Suite 204, Hialeah, Florida 33321.

14. Dennis Nobbe was a resident of Miami-Dade County, a chiropractic medical doctor, and the president of Dynamic Medical Services.

**CONSPIRACY TO COMMIT WIRE FRAUD AND HEALTH CARE FRAUD
(18 U.S.C. § 1349)**

From in or around November 2019, and continuing through in or around July 2020, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

MARK ZAGER,

did knowingly and willfully, that is, with the intent to further the objects of the conspiracy, combine, conspire, confederate, and agree with Dennis Nobbe and others known and unknown to the Acting United States Attorney to commit offenses against the United States, that is:

a. to knowingly, and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, certain writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343; and

b. to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, 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, said health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

Purpose of the Conspiracy

15. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things, (a) submitting and causing the submission of false and fraudulent (i) applications to GreenSky for loans serviced through GreenSky for medical services that were medically unnecessary, never provided, not provided as represented, and not eligible for payment through GreenSky; and (ii) claims to Medicare for services that were medically unnecessary, that were not eligible for reimbursement, and that were never provided as represented; (b) concealing the submission of false and fraudulent loan applications to GreenSky and claims to Medicare; and (c) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among others:

16. **MARK ZAGER** agreed with Dennis Nobbe to submit or cause the submission of a false and fraudulent application to GreenSky to become an approved health care provider in the GreenSky network. In the application, **ZAGER** represented that **ZAGER**, or someone within the scope of **ZAGER**'s practice, would provide services to patients who applied for GreenSky loans through **ZAGER**'s GreenSky provider account, and that patients would only be billed for services actually rendered within thirty days of a charge to their GreenSky account. In so doing, **ZAGER** and Nobbe concealed from GreenSky that Nobbe, rather than **ZAGER**, would be the person charging and purportedly treating the GreenSky patients.

17. **MARK ZAGER** permitted Dennis Nobbe to use **ZAGER**'s GreenSky provider account to issue loans to Dynamic Medical's patients, and concealed from these patients the fact that Nobbe was not an authorized GreenSky provider.

18. **MARK ZAGER** and Dennis Nobbe used **ZAGER**'s GreenSky provider account to submit and cause to be submitted charges to the GreenSky consumer accounts for Dynamic Medical's patients for services that were performed by Nobbe rather than **ZAGER**, that were not rendered within thirty days of the charges to these GreenSky accounts, and/or were not performed at all, and thus, were not eligible for payment through GreenSky.

19. Upon a charge placed on a Dynamic Medical patient's GreenSky account, GreenSky would deposit, via interstate wire communications, into bank accounts controlled by **ZAGER** and Dennis Nobbe, the loan amount charged to a patient account, less processing and

transaction fees.

20. As a result of such false and fraudulent charges to Dynamic Medical patients through **ZAGER**'s GreenSky provider account, GreenSky paid approximately \$165,285, via interstate wire communication, into bank accounts controlled by **ZAGER** and Dennis Nobbe.

21. **MARK ZAGER** enrolled as a Medicare provider. In the enrollment documents, **ZAGER** promised (i) to abide by Medicare rules, regulations, and program instructions; (ii) not to knowingly present or cause to be presented false or fraudulent claims for payment by Medicare; and (iii) not to submit claims with deliberate ignorance or reckless disregard of their truth or falsity.

22. **MARK ZAGER** submitted and caused to be submitted claims to Medicare through **ZAGER**'s unique Medicare provider number that falsely and fraudulently represented that **ZAGER** had performed certain services when, in truth and in fact, those services had been performed by Dennis Nobbe, a chiropractor, and/or had not been performed, and were thus not eligible for reimbursement from Medicare.

23. As a result of these false and fraudulent claims, Medicare paid approximately \$7,606, via interstate wire communications, to bank accounts controlled by **MARK ZAGER**.

24. **MARK ZAGER** accepted bribes and kickbacks from Dennis Nobbe in exchange for use of **ZAGER**'s GreenSky provider account and Medicare provider number. To disguise the bribes and kickbacks, **ZAGER** agreed with Nobbe that **ZAGER** would falsely purport to serve as the "Medical Director" of Dynamic Medical Services.

All in violation of Title 18, United States Code, Section 1349.

FORFEITURE
(18 U.S.C. § 982)

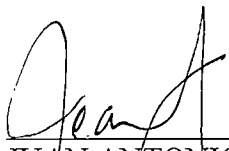
1. The allegations of this Information are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **MARK ZAGER**, has an interest.

2. Upon conviction of a conspiracy to violate Title 18, United States Code, Section 1343, as alleged in this Information, the defendant shall forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation, pursuant to Title 18, United States Code, Section 982(a)(2)(A).

3. Upon conviction of a conspiracy to violate Title 18, United States Code, Section 1347, as alleged in this Information, the defendant 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, pursuant to Title 18, United States Code, Section 982(a)(7).

4. The property subject to forfeiture as a result of the alleged offenses includes, but is not limited to, a forfeiture money judgment of \$32,284.

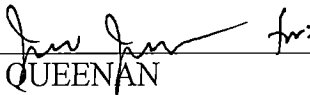
All pursuant to Title 18, United States Code, Section 982 and the procedures set forth in Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1).



Rd JUAN ANTONIO GONZALEZ
ACTING UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

JOSEPH BEEMSTERBOER, ACTING CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

ALLAN MEDINA
DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

By: 

PATRICK QUEENAN
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

v.

MARK ZAGER,

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

Defendant. _____/

Court Division: (Select One)

New defendant(s) Yes No

Miami Key West FTL

Number of new defendants _____

WPB FTP

Total number of counts _____

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) **No** _____
List language and/or dialect _____
- This case will take 0 days for the parties to try.
- Please check appropriate category and type of offense listed below:

- (Check only one)
- I 0 to 5 days
 - II 6 to 10 days
 - III 11 to 20 days
 - IV 21 to 60 days
 - V 61 days and over

- (Check only one)
- Petty
 - Minor
 - Misdemeanor
 - Felony

6. Has this case previously been filed in this District Court? (Yes or No) **No** _____

If yes: Judge _____ Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) **No** _____

If yes: Magistrate Case No. _____

Related miscellaneous numbers: _____


Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) **No** _____

- Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia O. Valle)? (Yes or No) **No** _____
- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? (Yes or No) **No** _____
- Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss)? (Yes or No) **No** _____



 PATRICK QUEENAN
 DOJ Trial Attorney
 Court ID No. A5502715

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: MARK ZAGER

Case No: _____

Count #: 1

Title 18, United States Code, Section 1349

Conspiracy to Commit Wire Fraud and Health Care Fraud

*Max Penalty: Twenty (20) years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

AO 455 (Rev. 01/09) Waiver of an Indictment

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

United States of America

v.

Mark Zager,

Defendant

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Case No.

WAIVER OF AN INDICTMENT

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: _____

Defendant's signature

Signature of defendant's attorney

PHILIP L. REIZENSTEIN, ESQ.

Printed name of defendant's attorney

Judge's signature

Judge's printed name and title