

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 19-cr-191-7 (RBK)
: :
v. : 18 U.S.C. § 1349
: :
CHRISTOPHER BROCCOLI : SUPERSEDING INFORMATION
: :

The defendant having waived in open court prosecution by Indictment, the Attorney for the United States, acting pursuant to authority conferred by 28 U.S.C. § 515, charges:

COUNT 1
(Conspiracy to Commit Health Care Fraud)

1. At all times relevant to this Superseding Information:
 - a. Defendant CHRISTOPHER BROCCOLI was a resident of New Jersey.
 - b. Matthew Tedesco, who is listed as a co-conspirator but not as a defendant herein, was a resident of New Jersey and a pharmaceutical sales representative.
 - c. Lakeside Medical LLC was a New Jersey limited liability company owned and operated by Matthew Tedesco.
 - d. John Gaffney, who is listed as a co-conspirator but not as a defendant herein, was a doctor of osteopathy with a medical practice in New Jersey.
2. At all times relevant to this Superseding Information:

a. In New Jersey, the State Health Benefits Program (“SHBP”) offered medical and prescription drug coverage to qualified state and local government public employees, retirees, and eligible dependents. The School Employees’ Health Benefits Program (“SEHBP”) offered medical and prescription drug coverage to qualified local education public employees, retirees, and eligible dependents. SHBP and SEHBP each were “health care benefit programs” that affected commerce as defined in Title 18, United States Code, Section 24(b).

b. “Pharmacy Benefits Administrator” provided pharmacy benefit management services for SHBP and SEHBP beneficiaries pursuant to a contract with the State of New Jersey. Pharmacy Benefits Administrator also provided pharmacy benefit management services for beneficiaries of other insurance plans. Pharmacy Benefits Administrator adjudicated claims for reimbursement from pharmacies and paid pharmacies for valid claims. Pharmacy Benefits Administrator then billed the State of New Jersey based on the amount paid to the pharmacies for claims on behalf of SHBP and SEHBP beneficiaries and billed other insurance plans based on the amount paid to the pharmacies for claims under other insurance plans. Pharmacy Benefits Administrator was a “health care benefit program” that affected commerce as defined in Title 18, United States Code, Section 24(b).

c. In general, compounding was a practice in which a licensed pharmacist combined, mixed, or altered ingredients of one or more drugs in response to a prescription to create a medication tailored to the medical needs of an individual patient. Compounded drugs were not approved by the United States Food and Drug

Administration (“FDA”); that is, the FDA did not verify the safety, potency, effectiveness, or manufacturing quality of compounded drugs.

d. Compounded drugs could be appropriately prescribed by a physician when an FDA-approved medication did not meet the health needs of a particular patient. For example, if a patient was allergic to a specific ingredient in an FDA-approved medication, such as a dye or preservative, a compounded drug could be prepared excluding the ingredient that triggers the allergic reaction.

e. Compounding Pharmacy was a pharmacy located in Louisiana that prepared compounded medications. Compounding Pharmacy received prescriptions for compounded medications via fax from medical practices in New Jersey and elsewhere. Compounding Pharmacy filled the prescription by preparing the compound medication and mailing it to the individual. Compounding Pharmacy would bill Pharmacy Benefits Administrator for the prescription and receive payment from Pharmacy Benefits Administrator.

f. From in or about July 2014 through in or about April 2016, in the District of New Jersey, and elsewhere, defendant

CHRISTOPHER BROCCOLI

did knowingly and willfully conspire and agree with others to execute a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, or under the custody and control of, a health care benefit program in connection with the delivery of and payment for health care benefits, items, and services, contrary to Title 18, United States Code, Section 1347.

Object of the Conspiracy

3. It was the object of the conspiracy for defendant CHRISTOPHER BROCCOLI and others to unlawfully enrich themselves by causing the submission of false and fraudulent insurance claims for compound prescription medications to Pharmacy Benefits Administrator, and by receiving a portion of the money that Pharmacy Benefits Administrator paid to Compounding Pharmacy for those compound prescription medications.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that defendant CHRISTOPHER BROCCOLI, Matthew Tedesco, and others learned that Pharmacy Benefits Administrator would reimburse thousands of dollars for an individual's one-month supply of certain prescription compound medications.

5. It was further part of the conspiracy that Matthew Tedesco, through Lakeside Medical LLC, received payments, directly or indirectly, from Compounding Pharmacy, which represented a percentage of the amounts paid by Pharmacy Benefits Administrator for prescriptions arranged by Matthew Tedesco and those under him, including defendant CHRISTOPHER BROCCOLI.

6. It was further part of the conspiracy that Matthew Tedesco, through Lakeside Medical LLC, directly or indirectly paid defendant CHRISTOPHER BROCCOLI a percentage of the amounts received from Compounding Pharmacy for the prescriptions that defendant CHRISTOPHER BROCCOLI arranged.

7. It was further part of the conspiracy that defendant CHRISTOPHER BROCCOLI received medically unnecessary compound medication prescriptions

because he was a SHBP beneficiary whose insurance covered the medications. These prescriptions were authorized by John Gaffney, who did not medically examine defendant CHRISTOPHER BROCCOLI or have a doctor-patient relationship with him prior to authorizing the prescriptions.

8. It was further part of the conspiracy that defendant CHRISTOPHER BROCCOLI and others recruited state and local government employees and others who had prescription drug benefits administered by Pharmacy Benefits Administrator to agree to receive the compound medications, regardless of whether or not those individuals had a medical need for the medications.

9. It was further part of the conspiracy that defendant CHRISTOPHER BROCCOLI and others arranged for individuals to receive prescriptions for compound medications from Compounding Pharmacy authorized by John Gaffney without a medical evaluation to determine that the individuals had a medical necessity for the medications.

10. It was further part of the conspiracy that defendant CHRISTOPHER BROCCOLI and others compensated certain individuals to induce or reward them for agreeing to obtain prescriptions for compound medications from Compounding Pharmacy.

11. It was further part of the conspiracy that defendant CHRISTOPHER BROCCOLI received approximately \$150,315.19 in payments for causing the submission of false and fraudulent claims for compound medications.

In violation of Title 18, United States Code, Section 1349.

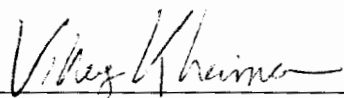
FORFEITURE ALLEGATION

1. As a result of committing the offense alleged in Count 1 of this Superseding Information, defendant CHRISTOPHER BROCCOLI shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense alleged in Count 1, including but not limited to a forfeiture money judgment in the amount of \$150,315.19, representing all property constituting or derived from proceeds traceable to the commission of the offense alleged in Count 1 to which he pleads guilty.

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

- 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 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.



VIKAS KHANNA
Attorney for the United States
Acting Under Authority Conferred by 28 U.S.C. § 515

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SUPERSEDING INFORMATION FOR
18 U.S.C. § 1349

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