

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No.

**18-20526**

18 U.S.C. § 371

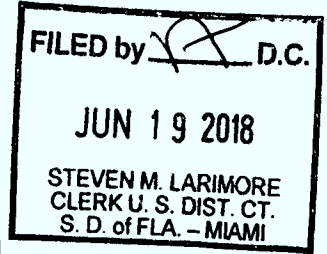
42 U.S.C. § 1320a-7b(b)(1)(B)

18 U.S.C. § 982(a)(7)

MAGISTRATE JUDGE

O'SULLIVAN

CR-UNGARO



UNITED STATES OF AMERICA

vs.

ALAP SHAH,

**Defendant.**

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**INDICTMENT**

The Grand Jury charges that:

**GENERAL ALLEGATIONS**

At all times material to this Indictment:

**TRICARE PROGRAM**

1. TRICARE was a health care insurance program of the United States Department of Defense. TRICARE provided civilian health benefits for military personnel, military retirees, and military dependents all around the world. The TRICARE program provided medical coverage for Uniformed Service members including those who were active duty and reservists that were a part of the following: U.S. Army, U.S. Air Force, U.S. Navy, U.S. Marine Corps, U.S. Coast Guard, Commissioned Corps of the U.S. Public Health Service, and Commissioned Corps of the National Oceanic and Atmospheric Association, National Guard/Reserve, Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and U.S. Coast Guard Reserve and their families. This program also covered survivors, former spouses,

Medal of Honor recipients and their families, and others registered in the Defense Enrollment Eligibility Reporting System (DEERS).

2. There were two types of Beneficiaries under the TRICARE program: (a) Sponsors, who are active duty, retired and Guard/Reserve members, and (b) Family Members, who are spouses and children who were registered in DEERS.

3. In order to pay a claim, TRICARE required that the item or service being billed must be medically necessary, properly prescribed by a licensed physician and actually provided to a TRICARE beneficiary.

4. TRICARE was a Federal Health Care Benefit Program as defined by Title 18, United States Code, Section 24(b), and as such it was illegal for an individual to pay kickbacks to a person for the referral of an individual for the furnishing of some health care item, benefit or service paid for by TRICARE.

5. TRICARE contracted with Express Scripts, Incorporated (ESI) to administer the TRICARE program, specifically for the processing and payment of claims.

#### **The Defendant, Related Persons and Entities**

6. PGRX Group Inc. (“PGRX”) was a corporation organized under the laws of the State of Florida that recruited and paid doctors to prescribe compounded medications for TRICARE and private commercial insurance beneficiaries. PGRX’s principal place of business was located at 2645 Executive Park Drive, Suite 135, Weston, Florida 3331.

7. Gary Small was the President and Registered Agent of PGRX.

8. Paul Meek was the Vice President of PGRX.

9. Vital RX d/b/a Atlantic Pharmacy and Compounding (“Atlantic”) was a corporation organized under the laws of the State of Florida that purportedly provided prescription

medications to TRICARE and commercial insurance beneficiaries. Atlantic's principal place of business was located at 1000 East Atlantic Boulevard, Suite 110, Pompano Beach, Florida.

10. Podiatrist 1, a resident of Miami-Dade County, Florida, was licensed to practice podiatric medicine in the State of Florida.

11. Podiatrist 2, a resident of Marion County, Florida, was licensed to practice podiatric medicine in the State of Florida.

12. Podiatrist 3, a resident of Glynn County, Georgia, was licensed to practice podiatric medicine in the State of Georgia.

13. Mark Messenger, a resident of Mcduffie County, Georgia, was licensed to practice podiatric medicine in the State of Georgia.

14. Defendant **ALAP SHAH**, a resident of Muscogee County, Georgia was licensed to practice podiatric medicine in the State of Georgia.

**COUNT 1**

**Conspiracy To Defraud The United States and Receive Health Care Kickbacks  
(18 U.S.C. § 371)**

1. Paragraphs 1 through 14 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around April of 2014, and continuing through in or around August of 2015, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendant,

**ALAP SHAH,**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Gary Small, Paul Meek, Mark Messenger, Podiatrist 1, Podiatrist 2, Podiatrist 3, and others known and unknown to the Grand Jury to defraud

the United States by impairing, impeding, obstructing and defeating through deceitful and dishonest means the lawful governmental functions of the United States Department of Defense in its administration and oversight of the TRICARE program, in violation of Title 18, United States Code, Section 371 and to commit an offense against the United States, that is, to violate Title 42, United States Code, 1320a-7b(b)(1)(B), by knowingly and willfully soliciting and receiving any remuneration, including any kickback and bribe, directly and indirectly, overtly and covertly, in cash and in kind, in return for purchasing, leasing, ordering and arranging for and recommending purchasing, leasing, and ordering any good, facility, and service, and item for which payment may be made in whole and in part by a Federal health care program, that is, TRICARE.

#### **PURPOSE OF THE CONSPIRACY**

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) soliciting and receiving kickbacks in return for providing prescriptions to PGRX for compounded medications; (b) concealing the payment of kickbacks; and (c) submitting and causing the submission of claims to TRICARE.

#### **MANNER AND MEANS**

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

4. **ALAP SHAH** wrote prescriptions for compounded medications in return for the payment of kickbacks from PGRX.

5. **ALAP SHAH**, Paul Meek and Gary Small signed false Medical Director and speaker agreements in order to conceal the fact that PGRX was paying kickbacks to **SHAH**.

6. **ALAP SHAH**, Paul Meek and Gary Small caused Atlantic to submit claims to TRICARE for health care benefits, primarily compounded prescription medications, purportedly provided to TRICARE beneficiaries by Atlantic.

7. As a result of these claims, TRICARE made payments to Atlantic.

### **OVERT ACTS**

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one co-conspirator committed and caused to be committed, in the Southern District of Florida, and elsewhere, at least one of the following overt acts, among others:

1. On or about May 21, 2014, **ALAP SHAH** signed a Medical Director agreement and faxed it to Gary Small.

2. On or about July 9, 2014, **ALAP SHAH** sent an email to Paul Meek's PGRX email account in which he wrote "these are the only ones that got filled?"

3. On or about July 16, 2014, **ALAP SHAH** sent an email to Gary Small's PGRX email account in which he stated "I will look into it gary."

4. On or about December 19, 2014, a co-conspirator faxed a false independent contractor speaker agreement from a fax machine located in Miami-Dade County to a PGRX fax machine located in Broward County.

5. On January 16, 2015, Gary Small signed PGRX check no.1269 in the approximate amount of \$5000 and made out to **ALAP SHAH**.

6. On or about February 5, 2015, Gary Small signed PGRX check no. 1238 in the approximate amount of \$5000 and made out to Sole Healer LLC.

7. On January 22, 2015, Gary Small sent a text message to an employee of PGRX that said "we have Alap Shah's permission to add 15% Ketamine to anything we want."

8. On or about February 26, 2015, **ALAP SHAH** sent a text message to Gary Small in which he wrote “good morning sunshine..lol..any luck on the pain patch? Want to give you guys these patients! Got two tricare.”

9. On or about February 26, 2015, **ALAP SHAH**, sent a text message to Gary Small in which he wrote “I can push cream instead...thought patches might be good pay”.

10. On or about February 26, 2015, **ALAP SHAH** sent an email to Paul Meek’s PGRX email address.

11. On or about March 29, 2015, **ALAP SHAH** sent an email to Gary Small’s PGRX email account in which he wrote, “Sorry about multiple emails. One last thing I forgot to mention. I will be on vacation this week so you may see a drop off in numbers...FYI will pick up starting 4/6 again. Thanks again Gary”

12. On or about July 13, 2015, Gary Small sent an email from his PGRX email account to the defendant in which he wrote, among other things, “Please send all your Tricare Now!”

13. On or about July 14, 2015, **ALAP SHAH** sent an email reply to Gary Small’s July 13, 2015 PGRX email in which he wrote “On it.”

14. On or about July 28, 2015, **ALAP SHAH** sent an email to PGRX in which he wrote “are we all caught up on scripts?”

15. On or about August 12, 2015, **ALAP SHAH** sent a text message to Gary Small in which he asked “any word on adjudications?”

All in violation of Title 18, United States Code, Section 371.

**COUNTS 2-4**  
**Receipt of Kickbacks in Connection with a Federal Health Care Program**  
**(42 U.S.C. § 1320a-7b(b)(1)(B))**

1. Paragraphs 1 through 14 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below, in Broward County, in the Southern District of Florida, and elsewhere, the defendant,

**ALAP SHAH,**

did knowingly and willfully solicit and receive any remuneration, that is, kickbacks and bribes, overtly and covertly, in cash and in kind, including by check, as set forth below, in return for purchasing, leasing, ordering and arranging for and recommending purchasing, leasing, and ordering any good, facility, and service, and item for which payment may be made in whole and in part by a Federal health care program, that is, TRICARE.

<b>Count</b>	<b>Approx. Date</b>	<b>Approx. Amt.</b>
<b>2</b>	7/11/2014	\$5,000
<b>3</b>	8/7/2014	\$5,000
<b>4</b>	9/15/2014	\$5,000

In violation of Title 42, United States Code, Section 1320a-7b(b)(1)(B), and Title 18, United States Code, Section 2.

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

1. The allegations in this Indictment are 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, **ALAP SHAH**, has an interest.

2. Upon conviction of any of the violations alleged in this Indictment, 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).

3. The property subject to forfeiture includes, but is not limited to, the sum of \$54,350 in United States currency, which amount is equal to the gross proceeds traceable to the commission of the violations alleged in this Indictment. The United States will seek this amount as a forfeiture money judgment as part of the defendant's sentence.

4. If the property described above as being subject to forfeiture, 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 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property and, in addition, to seek a court order requiring the defendant to return any such property to the jurisdiction of the court for seizure and forfeiture.




All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures set forth at Title 21, United States Code, Section 853, as made applicable by Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

~~FOREPERSON~~

  
BENJAMIN G. GREENBERG  
UNITED STATES ATTORNEY

  
DANIEL BERNSTEIN  
ASSISTANT UNITED STATES ATTORNEY