

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

FILED

2017 JUN 29 PM 2:35  
CWD

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

February 2017 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

KANAGASABAI KANAKESWARAN, M.D.,

Defendant.

No. CR **17 CR 00410**

I N D I C T M E N T

[18 U.S.C. § 371: Conspiracy to Pay and Receive Illegal Remunerations for Health Care Referrals; 42 U.S.C. § 1320a-7b(b)(1)(A): Receiving Illegal Remunerations for Health Care Referrals; 18 U.S.C. § 982(a)(7): Criminal Forfeiture]

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 371]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. Defendant KANAGASABAI KANAKESWARAN, M.D.

("KANAKESWARAN") was a physician who owned and operated a medical clinic located at 1601 West Avenue J, Suite 202,

1 Lancaster, California 93534, within the Central District of  
2 California.

3 2. Digital Perfection Corporation ("Digital Perfection")  
4 was a company that was owned by defendant KANAKESWARAN and was  
5 located at the same address as defendant KANAKESWARAN's medical  
6 clinic, 1601 West Avenue J, Suite 202, Lancaster, California  
7 93534, within the Central District of California.

8 3. Star Home Health Resources, Inc. ("Star") was a home  
9 health agency located at 1768 Arrow Highway, Suite 105, La  
10 Verne, California 91750, within the Central District of  
11 California.

12 4. Co-conspirator 1 ("CC-1") was the Chief Operating  
13 Officer ("COO") of Star.

14 5. Co-conspirator 2 ("CC-2") and co-conspirator 3 ("CC-  
15 3") were co-owners of Star.

16 6. Co-conspirator 4 ("CC-4") was a marketer who obtained  
17 Medicare patients for Star from referring physicians, including  
18 defendant KANAKESWARAN.

19 The Medicare Program

20 7. Medicare was a federal health care benefit program,  
21 affecting commerce, that provided benefits to individuals who  
22 were 65 years and older or disabled. Medicare was administered  
23 by the Centers for Medicare and Medicaid Services ("CMS"), a  
24 federal agency under the United States Department of Health and  
25 Human Services. Medicare was a "Federal health care program" as  
26 referenced in Title 42, United States Code, Section 1320a-7b(b),  
27 and a "health care benefit program" as defined by Title 18,  
28 United States Code, Section 24(b).

1           8.     Individuals who qualified for Medicare benefits were  
2 referred to as Medicare "beneficiaries." Each beneficiary was  
3 given a unique health insurance claim number ("HICN").

4           9.     Health care providers that provided medical services  
5 that were reimbursed by Medicare were referred to as Medicare  
6 "providers." To participate in Medicare, providers, including  
7 home health agencies ("HHAs"), were required to submit  
8 applications in which the providers agreed to comply with all  
9 Medicare-related laws and regulations, including the anti-  
10 kickback statute (42 U.S.C. § 1320a-7b(b)), which proscribes the  
11 offering, payment, solicitation, or receipt of any remuneration  
12 in exchange for a patient referral or referral of other business  
13 for which payment may be made by any federal health care  
14 program. If Medicare approved a provider's application,  
15 Medicare assigned the provider a Medicare "provider number,"  
16 which was used for the processing and payment of claims  
17 submitted by the providers.

18           10.  A health care provider with a Medicare provider number  
19 could submit claims to Medicare to obtain reimbursement for  
20 services rendered to Medicare beneficiaries.

21           11.  Most providers submitted their claims electronically  
22 pursuant to an agreement they executed with Medicare in which  
23 the providers agreed that: (a) they were responsible for all  
24 claims submitted to Medicare by themselves, their employees, and  
25 their agents; (b) they would submit claims only on behalf of  
26 those Medicare beneficiaries who had given their written  
27 authorization to do so; and (c) they would submit claims that  
28 were accurate, complete, and truthful.

1           12. HHAs who provided home health services to Medicare  
2 beneficiaries, including Star, could submit claims for  
3 reimbursement to the Medicare program. Medicare would cover  
4 home health services only if, among other requirements, the  
5 Medicare beneficiary was homebound; the beneficiary needed  
6 skilled nursing services on an intermittent basis, or physical,  
7 speech pathology, or occupational therapy services; the  
8 beneficiary was under the care of a qualified physician; and a  
9 Plan of Care (CMS Form 485) was established by a physician.

10           13. CMS contracted with private insurance companies to  
11 enroll, process, and pay Medicare claims. National Government  
12 Services ("NGS") was the contractor that processed and paid  
13 Medicare claims for home health services in Southern California  
14 during the relevant time period.

15           14. A Medicare claim for payment was required to set  
16 forth, among other things, the following: the beneficiary's name  
17 and unique Medicare identification number; the type of services  
18 provided to the beneficiary; the date that the services were  
19 provided; and the name and National Provider Identifier ("NPI")  
20 of the attending physician who established the plan of care.

21 B.   OBJECTS OF THE CONSPIRACY

22           15. Beginning no later than in or around May 2008, and  
23 continuing through in or around May 2016, in Los Angeles County,  
24 within the Central District of California, and elsewhere,  
25 defendant KANAKESWARAN, together with CC-1, CC-2, CC-3, CC-4,  
26 and others known and unknown to the Grand Jury, knowingly  
27 combined, conspired, and agreed to commit the following offenses  
28 against the United States:



1 a. Knowingly and willfully soliciting and receiving  
2 remuneration in return for referring an individual to a person  
3 for the furnishing and arranging for the furnishing of any item  
4 or service for which payment may be made in whole or in part  
5 under a Federal health care program, in violation of Title 42,  
6 United States Code, Section 1320a-7b(b)(1)(A); and

7 b. Knowingly and willfully offering to pay and  
8 paying any remuneration to any person to induce such person to  
9 refer an individual to a person for the furnishing and arranging  
10 for the furnishing of any item or service for which payment may  
11 be made in whole or in part under a Federal health care program,  
12 in violation of Title 42, United States Code, Section 1320a-  
13 7b(b)(2)(A).

14 C. THE MANNER AND MEANS OF THE CONSPIRACY

15 16. The objects of the conspiracy were carried out, and to  
16 be carried out, in substance, as follows:

17 a. CC-1 and CC-4 developed a relationship with  
18 defendant KANAKESWARAN, whereby defendant KANAKESWARAN would  
19 refer Medicare beneficiaries to Star to receive home health  
20 services, which services Star would then bill to Medicare.

21 b. In exchange for the Medicare referrals, the  
22 owners and operators of Star would pay defendant KANAKESWARAN a  
23 kickback of approximately \$100-\$700 for each Medicare  
24 beneficiary that defendant KANAKESWARAN referred to Star. CC-4  
25 also received a kickback of approximately \$100-\$200 for each  
26 patient that defendant KANAKESWARAN referred to Star.

27 c. In order to pay the kickbacks to defendant  
28 KANAKESWARAN, CC-1 would withdraw cash from Star's bank accounts

1 and provide the cash to defendant KANAKESWARAN. At times, CC-1  
2 provided money to CC-4, who in turn, provided cash kickbacks to  
3 defendant KANAKESWARAN.

4 d. CC-1 also paid kickbacks to defendant  
5 KANAKESWARAN by writing checks that were made payable to  
6 defendant KANAKESWARAN's company, Digital Perfection.

7 e. In order to keep track of the kickback payments  
8 to defendant KANAKESWARAN, Star maintained password-protected  
9 spreadsheets that listed each Medicare beneficiary referred to  
10 Star and the amount paid to defendant KANAKESWARAN and CC-4 for  
11 each patient referral.

12 f. From in or around May 2008 to in or around May  
13 2016, the owners and operators of Star, including CC-1, CC-2,  
14 and CC-3, caused Star to bill Medicare, and on the basis of  
15 those bills Medicare paid Star a total amount of approximately  
16 \$16,327,259, for home health services. Of that amount, at least  
17 approximately \$4,157,311 was paid based on bills for home health  
18 services to Medicare beneficiaries referred to Star as the  
19 result of kickback payments to defendant KANAKESWARAN.

20 C. OVERT ACTS

21 17. On or about the following dates, in furtherance of the  
22 conspiracy and to accomplish its objects, defendant  
23 KANAKESWARAN, together with CC-1, CC-2, CC-3, CC-4, and others  
24 known and unknown to the Grand Jury, committed and willfully  
25 caused others to commit the following overt acts, among others,  
26 within the Central District of California and elsewhere:

27 Overt Act No. 1: On or about May 20, 2013, defendant  
28 KANAKESWARAN caused to be deposited \$2,000 in cash into

1 defendant KANAKESWARAN's account at California Bank and Trust,  
2 which represented kickbacks that defendant KANAKESWARAN received  
3 in exchange for referring Medicare beneficiaries to Star.

4 Overt Act No. 2: On or about September 16, 2013, defendant  
5 KANAKESWARAN caused to be deposited \$2,000 in cash into  
6 defendant KANAKESWARAN's account at California Bank and Trust,  
7 which represented kickbacks that defendant KANAKESWARAN received  
8 in exchange for referring Medicare beneficiaries to Star.

9 Overt Act No. 3: On or about April 10, 2014, defendant  
10 KANAKESWARAN deposited a check in the amount of \$3,500 into an  
11 account for Digital Perfection at Bank of America, which  
12 represented kickbacks that defendant KANAKESWARAN received in  
13 exchange for referring Medicare beneficiaries to Star.

14 Overt Act No. 4: On or about October 24, 2015, defendant  
15 KANAKESWARAN caused to be deposited a check in the amount of  
16 \$5,600 into an account for Digital Perfection at Bank of  
17 America, which represented kickbacks that defendant KANAKESWARAN  
18 received in exchange for referring Medicare beneficiaries to  
19 Star.

COUNTS TWO THROUGH FIVE

[42 U.S.C. § 1320a-7b(b) (1) (A)]

18. The Grand Jury incorporates by reference and re-alleges paragraphs 1 through 14 and 16 through 17 of this Indictment as though set forth in their entirety herein.

19. On or about the dates set forth below, in Los Angeles County, within the Central District of California, and elsewhere, defendant KANAKESWARAN, together with others known and unknown to the Grand Jury, knowingly and willfully received remuneration, namely, the amounts identified below, deposited into the bank accounts specified below, which constituted kickbacks to defendant KANAKESWARAN for referring patients to Star for home health services, for which payment could be made in whole and in part under a Federal health care program, namely, Medicare:

| COUNT | DATE       | BANK ACCOUNT                             | AMOUNT        |
|-------|------------|--|---------------|
| TWO   | 5/20/2013  | California Bank and Trust<br>#XXXXXX9598 | \$2,000 cash  |
| THREE | 9/16/2013  | California Bank and Trust<br>#XXXXXX9110 | \$2,000 cash  |
| FOUR  | 4/10/2014  | Bank of America<br>#XXXXXX2223           | \$3,500 check |
| FIVE  | 10/24/2015 | Bank of America<br>#XXXXXX2223           | \$5,600 check |



FORFEITURE ALLEGATION

[18 U.S.C. § 982(a)(7)]

20. Pursuant to Rule 32.2(a) Fed. R. Crim. P., notice is hereby given to defendant KANAGASABAI KANAKESWARAN, M.D., that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Section 982(a)(7), in the event of defendant's conviction under any of Counts One through Five of this Indictment.

21. Defendant shall forfeit to the United States the following property:

a. Property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of any offense set forth in any of Counts One through Five of this Indictment; and

b. To the extent such property is not available for forfeiture, a sum of money equal to the total value of the property described in subparagraph a.

22. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by 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 the defendant, the property described in the preceding paragraph, or any portion thereof (a) cannot be located upon the exercise of due diligence; (b) has been transferred, 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

1 (e) has been commingled with other property that cannot be  
2 divided without difficulty.

3 A TRUE BILL

4   
5 Foreperson

6 SANDRA R. BROWN  
7 Acting United States Attorney

8 

9 LAWRENCE S. MIDDLETON  
10 Assistant United States Attorney  
11 Chief, Criminal Division

12 GEORGE S. CARDONA  
13 Assistant United States Attorney  
14 Chief, Major Frauds Section

15 STEPHEN A. CAZARES  
16 Assistant United States Attorney  
17 Deputy Chief, Major Frauds Section

18 DIIDRI ROBINSON  
19 Assistant Chief, Fraud Section  
20 United States Department of Justice

21 ALEXANDER F. PORTER  
22 Assistant United States Attorney  
23 Major Frauds Section

24 CLAIRE YAN  
25 Trial Attorney, Fraud Section  
26 United States Department of Justice  
27  
28