

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
	:	Crim. No. 23-
v.	:	
	:	
	:	18 U.S.C. § 371
ELAN YAISH	:	(Conspiracy to Violate the Anti-
	:	Kickback Statute)

INFORMATION
(Conspiracy to Violate the Anti-Kickback Statute)

The defendant having waived in open court prosecution by Indictment, the Attorney for the United States, Acting Under Authority Conferred by 28 U.S.C. § 515, charges:

Overview of the Conspiracy

1. From at least as early as in or around September 2017 through in or around December 2020, Defendant ELAN YAISH and others worked together with marketers, telemedicine companies, and doctors to unlawfully profit by conspiring to offer and pay illegal kickbacks and bribes in return for referrals of prescriptions for drugs. Defendant YAISH and other conspirators submitted claims for prescription drugs to federal health care benefit programs that were tainted by kickbacks and bribes and therefore were ineligible for federal health care program reimbursement. As a result, federal health care benefit programs including Medicare and TRICARE

paid to YAISH and his co-conspirators over approximately \$32 million in ineligible claims.

The Defendant and Other Individuals and Entities

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

a. YAISH was a resident of Israel.

b. Apogee Bio-Pharm LLC (“Apogee”) was a pharmacy located in Edison, New Jersey that purportedly did business throughout the United States by filling prescriptions and shipping them to patients. YAISH was the President of Apogee, which was owned by William B. Welwart and operated by William B. Welwart, Yaish, and Ethan B. Welwart. William B. Welwart and Ethan B. Welwart were co-conspirators not charged in this Information.

c. Beacon Medical Marketing LLC (“Beacon”) was a business located in Edison, New Jersey, under common ownership with Apogee.

d. Health Pain Solutions, LLC (“HPS”) was a company located in North Ridgeville, Ohio. Mark Belter and James Feeley, who owned and operated HPS, were co-conspirators not charged in this Information.

e. RediDoc LLC was a company located in Phoenix, Arizona. RediDoc was a purported telemedicine company doing business throughout the United States. RediDoc was owned and operated by Stephen Luke and David Laughlin, two co-conspirators not charged in this Information.

Medicare and TRICARE

f. Medicare was a federally funded program established to provide medical insurance benefits for individuals age 65 and older and certain disabled individuals who qualified under the Social Security Act. Individuals who received benefits under Medicare were referred to as “Medicare beneficiaries.”

g. Medicare was divided into four parts: hospital insurance (Part A); medical insurance (Part B); Medicare Advantage (Part C); and prescription drug benefits (Part D). Medicare Part D provided coverage for the cost of prescription drugs for individuals on Medicare. Part D coverage was managed by pharmacy benefit managers and other private companies approved by Medicare.

h. TRICARE was a federal health care benefit program for the United States Department of Defense (DoD) Military Health System that provided health insurance coverage for DoD beneficiaries worldwide, including active-duty military service members, National Guard and Reserve members, retirees, their families, and survivors. The Defense Health Agency, an agency of the DoD, oversaw and administered TRICARE.

i. Both Medicare and TRICARE (and their pharmacy benefits managers) were “health care benefit programs” that affected commerce as defined in 18 U.S.C. § 24(b) and “federal health care programs” as defined in 42 U.S.C. § 1320a-7b(f). “Beneficiaries” were individuals covered by these programs.

Telemedicine

j. “Telemedicine” referred to the practice of medicine by doctors using telecommunications technology, such as video or telephone, to connect with patients. Telemedicine companies, like RediDoc, hired doctors and other health care providers, purportedly to furnish telemedicine services to patients.

The Conspiracy

3. From in or about January 2017 through on or about December 2020, in the District of New Jersey and elsewhere, defendant

ELAN YAISH

knowingly and intentionally conspired and agreed with William B. Welwart, Ethan B. Welwart, Belter, Feeley, Luke, Laughlin, and others known and unknown, to commit certain offenses against the United States, namely, to knowingly and willfully offer and pay remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, kickbacks and bribes, 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 under a federal health care program, contrary to Title 42, United States Code, Section 1320a-7b(b)(2)(A).

Goal of the Conspiracy

4. The goal of the conspiracy was for YAISH and his co-conspirators to unlawfully profit by submitting claims to federal health care benefit programs—predominantly Medicare—based on a circular scheme of kickbacks and bribes paid,

solicited, and received from each other and others. YAISH and his co-conspirators paid kickbacks to marketers, including HPS, in return for the marketers steering prescriptions for expensive drugs to Apogee. Apogee then submitted claims to federal health care benefit programs for which Apogee received lucrative reimbursements. The marketers, including HPS, and others, obtained the prescriptions by paying kickbacks and bribes to telemedicine companies, including RediDoc, which the telemedicine companies in turn paid to doctors so that the doctors would sign prescriptions for expensive medications.

Manner and Means of the Conspiracy

5. It was part of the conspiracy that:

a. YAISH and his co-conspirators, acting through Apogee and Beacon, entered into agreements with marketers, including HPS, for the referral of prescriptions.

b. At the outset, marketing companies, such as HPS, identified Beneficiaries to target for expensive drugs. These drugs typically included pain creams, scar creams, eczema creams, and migraine medication. The Beneficiaries whom the marketers identified were referred to as “leads.” The marketers received Beneficiary information from various sources, including overseas call centers, and the information usually included the Beneficiary’s personal and health insurance information.

c. After identifying leads, the marketers called the Beneficiaries to pressure them to agree to try expensive medications—regardless of medical necessity. These calls were recorded.

d. After the Beneficiaries agreed to receive the medication, the marketers, including HPS, then transmitted to telemedicine companies, including RediDoc, the Beneficiaries' medical information and portions of the recorded phone calls. The marketers also sent pre-marked prescription pads for particular drugs that would yield exorbitant reimbursements. In some cases, the marketers received the pads from pharmacies, including Apogee.

e. The marketers paid telemedicine companies, such as RediDoc, a kickback for each Beneficiary referred for a prescription.

f. The telemedicine companies, including RediDoc, thereafter paid doctors and other health care providers to approve the pre-written prescriptions that they had received from the marketing companies. RediDoc, for example, paid the doctors on a per-patient basis based on how many Beneficiary "consultations" the doctors supposedly performed. The doctors often approved the prescriptions without having had any contact with the Beneficiary and without making a bona fide assessment that the medications were medically necessary.

g. After securing signed prescriptions, the telemedicine companies, including RediDoc, steered the prescriptions to Apogee and other pharmacies around the country at the direction of the marketers, including HPS. For example, Belter,

acting on behalf of HPS, directed prescriptions for patients from all over the country to specific pharmacies with whom he had kickback arrangements, including Apogee.

h. The marketers told the Beneficiaries that the medications were at “no cost,” regardless of whether the Beneficiary’s insurance plan required a co-payment (“co-pay”). YAISH and his co-conspirators set up one or more purported “co-pay assistance programs” to cover Beneficiaries’ co-pays to persuade the Beneficiaries to accept medications regardless of medical necessity. Although the “co-pay assistance programs” purported to be third-party programs, in fact they were funded and controlled by William B. Welwart and his co-conspirators as part of the scheme.

i. Apogee then sought to fill and dispense the medications, and submitted claims for reimbursement to health care benefit programs. Once Apogee received reimbursement, YAISH and others working for Apogee sent kickbacks to the marketing companies, such as HPS, as payment for the prescriptions that the marketers had paid the telemedicine companies to generate.

j. YAISH and his co-conspirators often selected medications for the scheme based on their high reimbursement amounts, without regard to medical necessity.

k. In total, YAISH and his co-conspirators caused the submission of claims to Medicare and TRICARE totaling over \$32 million that were not eligible for reimbursement because the prescriptions had been procured by the payment of bribes and kickbacks.

Overt Acts

6. In furtherance of the conspiracy and to achieve its illegal objectives, YAISH and others committed, and caused to be committed, the following overt acts in the District of New Jersey and elsewhere:

a. YAISH and his co-conspirators, through Apogee and Beacon, which were located in New Jersey, sent HPS payments totaling approximately \$6,168,155.05, each of which represented a bribe and kickback to HPS for prescriptions steered to Apogee. These kickbacks to HPS included the following, on or about the approximate dates listed below:

Date	Amount	Sender
November 28, 2018	\$11,328.06	Apogee
June 4, 2019	\$86,000	Beacon
June 13, 2019	\$19,966.40	Beacon
June 17, 2019	\$50,000	Apogee
June 25, 2019	\$15,000	Apogee

b. On or about September 19, 2017, William B. Welwart wrote an email to YAISH and others who worked at Apogee in Edison, New Jersey, stating: “We should talk to marketing to look at the following items for potential push this fall. Lower costs higher reimbursement is what we should look for in these items.”

c. On or about December 11, 2017, an Apogee employee (“Employee-1”) who worked at Apogee in Edison, New Jersey, wrote to YAISH and others that Apogee had received a call from a patient, who said that the patient’s insurance company had told the patient that it was illegal for Apogee not to charge her a co-pay. YAISH responded that the insurance company was “incorrect for stating that we did

not charge for the copay as we did and [Program-1], a third party copay assist program paid for it.” YAISH was aware, however, that Program-1 was funded by YAISH and his co-conspirators through Beacon. For example, on or about March 22, 2018, an Apogee employee (“Employee-2”), who worked at Apogee in Edison, New Jersey, wrote to YAISH that “to close out the [Program 1] and get an EOB return on all claims for audit purposes [Beacon] needs to make a donation of \$70,000.” YAISH forwarded the email to William B. Welwart, stating, “See below Let’s discuss” The next day, YAISH and his co-conspirators made a \$70,000 payment from a business bank account for Beacon, located in Edison, New Jersey, to an account in the name of Program-1.

d. On or about January 15, 2018, Belter emailed Employee-2 and William B. Welwart, and stated that when Belter called Beneficiaries, he deliberately avoided specifics to increase the likelihood of the Beneficiaries consenting to receive expensive medications: “I think you might lose some people [Beneficiaries] when you mention a Doctor name they have never heard of.” In the same email, Belter wrote that he would tell the Beneficiaries in the calls: “Ms. Jones you were approved for your prescriptions!!!” and that he would emphasize to the Beneficiaries that the medications would be supplied to them at no cost: “People [Beneficiaries] are mostly ALL on low income . . . and cant afford a copay at all.” In the same email, Belter further encouraged Apogee to set the patients up with automatic refills during an initial call. Belter stated: “If you wait and call them back in 23-30 days and say we have a refill on your cream 85% will say I have 2 tubes still or I am not ready yet ...

-(If you want refills it should be set up for the 2-3 on first call).” Employee-2 forwarded this email to YAISH.

e. On or about April 17, 2018, Belter attempted to re-negotiate his kickback agreement with Apogee, writing to YAISH and William B. Welwart, “At this point I think a 50/50 split is way off based on these factors. I would say it should be no less than 60/40.”

f. On or about July 6, 2018, Belter emailed YAISH and William B. Welwart regarding a strategy to increase profit and reimbursements by obtaining Beneficiaries’ up-front consent to prescription refills by “set[ting] up our own refill schedule with patients/Apogee.” YAISH responded: “Your idea sounds interesting . . . We also have some ideas as we are feeling the same pain as you[] regarding refills.” Belter responded on or about July 7, 2018: “We just need to figure out a plan for refills it has been such a huge loss of money through Apogee. It is money we both can make and it is right there.”

g. On or about May 9, 2019, YAISH wrote an email to William B. Welwart, Ethan B. Welwart, and others, summarizing a “Weekly Call.” Yaish wrote: “HPS – doing well is current with new scripts and is owed money for past scripts.”

h. On or about September 27, 2019, YAISH wrote an email to Belter regarding test claims, stating: “Can you send over 5 scripts for us to test to see what the scripts look like and how they adjudicate?”

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

FORFEITURE ALLEGATION

1. The allegations in this Information are realleged here for the purpose of alleging forfeiture.

2. Upon conviction of the Federal health care offense (as defined in 18 U.S.C. § 24) alleged in this Information, ELAN YAISH shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real and personal, YAISH obtained that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of such offense, including, but not limited to, a sum of money equal to \$685,846.

SUBSTITUTE ASSETS PROVISION

3. If any of the above-described forfeitable property, as a result of any act or omission by YAISH:

- 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 divided 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 the defendant up to the value of the forfeitable property described above.



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

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INFORMATION FOR

18 U.S.C. § 371

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