



nominal owner of “Company-1,” which at times received funds from the Fair Lawn Pharmacy. She was a resident of River Vale, New Jersey.

d. Zachary Ohebshalom (“Ohebshalom”), a conspirator not named as a defendant in this Information, worked on behalf of the Fair Lawn Pharmacy. He was a resident of Fort Lee, New Jersey.

e. The Fair Lawn Pharmacy was a retail pharmacy that began dispensing prescription medications in or about January 2016. The Fair Lawn Pharmacy dispensed, among other things, expensive prescription pain creams to Filippone’s patients.

f. The United States provided certain benefits, including health care benefits and wage loss replacement, to federal employees who sustained a work-related injury. *See* Federal Employees’ Compensation Act, 5 U.S.C. § 8101, *et seq.* The federal workers’ compensation program was administered by the United States Department of Labor, Office of Workers’ Compensation Program (“DOL-OWCP”). If a federal employee was injured on the job, he or she was required to submit to DOL-OWCP certain forms and medical reports that contained information about the claimant and the injury. Once approved for benefits, individuals could claim health care benefits, including for qualifying doctors’ visits and prescription drugs, through DOL-OWCP. Accordingly, the federal workers’ compensation program constituted a “health care benefit program” as defined in 18 U.S.C. § 24(b).

g. A “National Drug Code” or “NDC” was a unique numerical code used to identify specific drug products.

h. A “test claim” referred to the process used by pharmacy professionals to determine, among other things, a patient’s insurance carrier, coverages, eligibility, and co-pay. A pharmacy employee would submit electronically a “test claim” through pharmacy billing software regarding a specific patient or prescription. The “test claim” elicited a nearly-instantaneous response that showed a patient’s insurance information and the reimbursement rate for the particular drug’s NDC. The “test claim” was then “reversed,” meaning that the claim was withdrawn and no money was caused to be paid out by the patient’s insurance program.

**The Conspiracy to Violate the Anti-Kickback Statute**

2. From in or about May 2016 to in or about July 2019, in Bergen and Hudson Counties, in the District of New Jersey and elsewhere, defendant

**MARK A. FILIPPONE**

knowingly and intentionally conspired and agreed with Miller, Marlene Vangelas, Ohebshalom, and others to knowingly and willfully commit certain offenses against the United States, that is, to knowingly and willfully solicit and receive, and offer and pay remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, kickbacks and bribes, in return for the referral of an individual to another person for the furnishing and arranging for the furnishing of any items and services, and in return for ordering, and arranging for purchasing and ordering any good,

facility, service, or item, namely, the referral of medically unnecessary pain cream prescriptions for patients to a pharmacy located in Fair Lawn, New Jersey, for which payment was made in whole or in part under a Federal health care program, namely, the federal workers' compensation benefits program administered by the Department of Labor, Office of Workers' Compensation, contrary to Title 42, United States Code, Section 1320a-7b(b)(1)-(2).

### **Goal of the Conspiracy**

3. The goal of the conspiracy was for Miller, Marlene Vangelas, Ohebshalom, and others to induce FILIPPONE to prescribe and continue to prescribe expensive, medically unnecessary pain creams in the exact formulations they desired by paying FILIPPONE kickbacks and bribes including, among other things, orchestrating the purchase of FILIPPONE's medical office and then permitting FILIPPONE to continue to use the premises, for which he routinely failed to pay rent.

### **Manner and Means of the Conspiracy**

4. To carry out the conspiracy and to effect its unlawful object, FILIPPONE, Miller, Marlene Vangelas, and Ohebshalom engaged in a variety of means and methods including, among others, those described below.

a. FILIPPONE treated hundreds of United States Postal Service employees who had purportedly sustained on-the-job injuries.

b. FILIPPONE submitted medical reports and other required documentation to DOL-OWCP attesting to his patients' purported disability to qualify them for, among other things, health care benefits under DOL-OWCP even though such patients were not, in fact, disabled.

c. Miller cultivated a relationship with FILIPPONE, in part, based upon the patient population that FILIPPONE serviced.

d. Miller directed the formation and opening of the Fair Lawn Pharmacy, in large part, to dispense drugs to FILIPPONE's patients.

e. To conceal Miller's management and financial interest in the Fair Lawn Pharmacy in light of his close relationship with FILIPPONE, Marlene Vangelas formed and opened the Fair Lawn Pharmacy in her name, rather than Miller's. Nonetheless, Miller directed the business operations of and maintained a financial interest in the Fair Lawn Pharmacy.

f. To service FILIPPONE's patients, the Fair Lawn Pharmacy obtained approval to seek reimbursement from DOL-OWCP for prescription drugs it dispensed.

g. Miller, a non-medical professional, concocted formulas for prescription pain creams.

h. Miller, Marlene Vangelas, and Ohebshalom directed pharmacists employed by the Fair Lawn Pharmacy to submit "test claims" to DOL-OWCP to determine the most lucrative NDCs for ingredients that could be used in prescription

pain cream formulations. Using that information, Miller, Marlene Vangelas, and Ohebshalom selected and caused the selection of ingredients or drugs contained in the pain creams, including the strength or amount used, based on the amount DOL-OWCP would reimburse the Fair Lawn Pharmacy for such prescriptions and not the medical needs of particular patients or the therapeutic value of the combinations.

i. Miller, Marlene Vangelas, and Ohebshalom caused such “test claims” to be submitted to DOL-OWCP without any valid prescription, using patient names without such patients’ knowledge or authorization, and for the sole purpose of ascertaining the pain cream formulations with the highest reimbursements.

j. Miller, Marlene Vangelas, and Ohebshalom directed pharmacists and others employed by the Fair Lawn Pharmacy to prepare and mass print sheets of prescription sticker labels containing the most expensive formulations of the prescription pain creams that a physician—like FILIPPONE—could use to prescribe the concocted, high-reimbursing pain creams.

k. Miller and Ohebshalom brought the pre-printed prescription labels to FILIPPONE and solicited him to prescribe the pain creams to his patients.

l. To induce FILIPPONE to write and continue to write such prescriptions for his patients, Miller and Marlene Vangelas orchestrated the purchase of FILIPPONE’s Jersey City Premises at a time when FILIPPONE was under significant financial distress, and permitted FILIPPONE to continue to use the Jersey City Premises even though FILIPPONE did not consistently pay rent. That purchase

was funded, in part, with money derived from Company-1 and the Fair Lawn Pharmacy.

m. FILIPPONE used the pre-printed labels provided to him by Miller and Ohebshalom to prescribe hundreds of pain creams to many of his patients.

n. FILIPPONE generally provided patients their prescriptions to be filled at a pharmacy of their choosing. However, when it came pain creams, FILIPPONE personally directed all such prescriptions to be sent directly to the Fair Lawn Pharmacy, without providing patients the option to have them filled elsewhere.

o. FILIPPONE wrote these prescriptions not because they were medically necessary but rather because he needed to continue using the Jersey City Premises, for both professional and personal reasons, and because Miller and Marlene Vangelas, in consultation with Ohebshalom, allowed FILIPPONE to continue to use the Jersey City Premises even though FILIPPONE did not consistently pay rent.

#### **Overt Acts**

5. In furtherance of the conspiracy, and to effect its unlawful object, FILIPPONE, Miller, Marlene Vangelas, and Ohebshalom, committed, and caused to be committed, the following overt acts in the District of New Jersey and elsewhere:

a. On or about May 5, 2016, a payment of approximately \$273,460 was wired from one of Marlene Vangelas's Company-1 bank accounts to fund, in part, the purchase of the Jersey City Premises.

b. In or about June 2016, based on approximately 119 pain cream prescriptions and refills that FILIPPONE steered to the Fair Lawn Pharmacy, the Fair Lawn Pharmacy received reimbursement payments from DOL-OWCP of approximately \$600,308.

c. On or about November 20, 2017, during a conversation that included Ohebshalom, Ohebshalom referred to the Jersey City Premises as a point of leverage to force FILIPPONE to continue to send prescriptions to the Fair Lawn Pharmacy.

d. On or about November 29, 2017, during a conversation that included Marlene Vangelas and Ohebshalom, Ohebshalom acknowledged that FILIPPONE was not paying his rent for the Jersey City Premises, and that a real landlord would not allow a tenant to go five months without paying rent. The conversation also included a discussion that FILIPPONE's non-payment of rent was worth approximately \$30,000 at that time.

e. In or about December 2017, based on approximately 114 pain cream prescriptions and refills that FILIPPONE steered to the Fair Lawn Pharmacy, Fair Lawn Pharmacy received reimbursement payments from DOL-OWCP of approximately \$217,025.

f. On or about March 15, 2018, during a conversation between Miller and others, Miller stated, in substance, that whether he sought to collect rent



from FILIPPONE for the Jersey City Premises depended on the volume of prescriptions that FILIPPONE steered to the Fair Lawn Pharmacy.

g. In or about April 2018, based on approximately 156 pain cream prescriptions and refills that FILIPPONE steered to the Fair Lawn Pharmacy, the Fair Lawn Pharmacy received reimbursement payments from DOL-OWCP of approximately \$292,477.

h. On or on or about November 20, 2018, during a conversation that included FILIPPONE, FILIPPONE acknowledged that he was not paying rent on the Jersey City Premises and that his daughter lived rent-free in the upstairs apartment of the Jersey City Premises. During the same conversation, FILIPPONE acknowledged, among other things, that he was providing four to five pain cream prescriptions per day to the Fair Lawn Pharmacy and noted that Miller helped him out by allowing FILIPPONE to use the Jersey City Premises.

i. In or about November 2018, based on approximately 203 pain cream prescriptions and refills that FILIPPONE steered to the Fair Lawn Pharmacy, the Fair Lawn Pharmacy received reimbursement payments from DOL-OWCP of approximately \$333,424.

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

## FORFEITURE ALLEGATION

1. Upon conviction of the Federal health care offense (as defined in 18 U.S.C. § 24) alleged in this Information, the defendant shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real or personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the alleged offense (as defined in 18 U.S.C. § 24).

## SUBSTITUTE ASSETS PROVISION

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 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;

the United States shall be entitled, pursuant to 21 U.S.C. § 853(p) (as incorporated by 28 U.S.C. § 2461(c) and 18 U.S.C. § 982(b)), to forfeiture of any other property of the defendant up to the value of the above-described forfeitable property.

  
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CRAIG CARPENITO  
United States Attorney

CASE NUMBER: 20-

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United States District Court  
District of New Jersey

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UNITED STATES OF AMERICA

v.

MARK A. FILIPPONE

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INFORMATION FOR

18 U.S.C. § 371

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**CRAIG CARPENITO**

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*NEWARK, NEW JERSEY*

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