

FILED

MAR 16 2017 *br*

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

HENRY POSADA

) No.

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17CR 165

Violation: Title 18, United States

Code, Section 1347

JUDGE CHANG

MAGISTRATE JUDGE WEISMAN

INDICTMENT

COUNTS ONE THROUGH EIGHTEEN

The SPECIAL FEBRUARY 2017 GRAND JURY charges:

1. At times material to this Indictment:

a. Spine Clinics of America S.C., doing business as Associated Back Care and Rehabilitation located at 4354 W. 63rd Street, Chicago, purported to provide health-care services to patients, including chiropractic and physical therapy services.

b. Defendant HENRY POSADA was a licensed chiropractor in the State of Illinois and was the owner of Associated Back Care and Rehabilitation.

c. Individual A worked as a licensed physical therapist at Associated Back Care and Rehabilitation.

d. The Medicare Program was a federal health care benefit program, as defined in Title 18, United States Code, Section 24(b), that provided free or below

cost health care benefits to certain eligible beneficiaries, primarily individuals who are over the age of 65 or disabled.

e. Medicare authorized payment for chiropractic and physical therapy services when those services were actually provided and were medically necessary, that is the services were required because of a patient's disease, disability, infirmity, or impairment.

f. Enrolled providers of medical services to Medicare recipients are eligible for reimbursement for covered medical services. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the rules, regulations, policies and procedures governing reimbursement, and to keep and allow access to records and information as required by Medicare.

g. Blue Cross Blue Shield of Illinois, Horizon Blue Cross Blue Shield New Jersey, Humana, CIGNA, Independence Blue Cross, Medicare, Blue Cross Blue Shield of Minnesota, Mutual of Omaha, National Association of Letter Carriers and others, were health care benefit programs, as defined in Title 18, United States Code, Section 24(b), that provided health insurance to groups of individuals through their employer sponsored health insurance plans. These health care benefit programs reimbursed physicians for medically necessary services.

h. To receive reimbursement for a covered service from a health care benefit program, a health care provider had to submit a claim form containing the required information appropriately identifying, among other things, the dates of

service, the patient's name; the patient's diagnosis, the patient's insurance number; his/her date of birth; the health-care services provided; assigned provider number, and the charge for each service provided.

i. The health care benefit program paid for covered services for which a representation had been made that the services were actually provided to patients and medically necessary.

j. After a patient's deductible was satisfied, the insurance companies paid approved claims for covered services by electronic direct deposit.

2. Beginning no later than 2008, and continuing through approximately December 2016, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

HENRY POSASDA,

defendant herein, participated in a scheme to defraud a health care benefit program, namely Blue Cross Blue Shield of Illinois, Horizon Blue Cross Blue Shield New Jersey, Humana, CIGNA, Independence Blue Cross, Medicare, Blue Cross Blue Shield of Minnesota, Mutual of Omaha and National Association of Letter Carriers, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a health care benefit program, in connection with the delivery of and payment for health care benefits and services, which scheme is further described in the following paragraphs.

3. It was part of the scheme that defendant POSADA, submitted, and caused to be submitted at least approximately, \$10,000,000 in fraudulent claims to health care benefit programs that falsely represented that certain health-care services were provided to patients, when defendant knew that those services were not actually provided.

4. It was further part of the scheme that defendant POSADA submitted and caused to be submitted fraudulent claims to health care benefit programs for physical therapy services purportedly provided by Individual A and under Individual A's name, when defendant POSADA knew that these services were not actually provided.

5. It was further part of the scheme that defendant POSADA submitted fraudulent claims to health care benefit programs for chiropractic services that were not performed approximately a year after the date of the purported service in order to conceal the fraudulent nature of the claims from the health care benefit programs.

6. It was further part of the scheme that defendant POSADA submitted claims to health care benefit programs for services that he purportedly provided to patients in Illinois while he was outside of Illinois on those dates of service.

7. It was further part of the scheme that defendant POSADA, at times, used the names and identifying information of certain individuals, including patients without their knowledge or authorization, and caused the creation of fraudulent claims submitted by ABC to health care benefit programs.

8. It was further part of the scheme that defendant POSADA typically deposited, and caused to be deposited, the money he received from the health care benefit program for services that were not actually provided into a bank account in the name of Spine Clinics of America S.C.

9. It was further part of the scheme that defendant POSADA concealed, misrepresented, and hid, and caused to be concealed, misrepresented, and hidden, the existence and purpose of the scheme and the acts done in furtherance of the scheme.

10. As a result of this scheme, defendant POSADA fraudulently obtained and caused Associated Back Care and Rehabilitation to obtain, and converted to his own use in excess of at least approximately \$5,182,988 in payments from health care benefit programs.

11. On or about the dates set forth below, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

HENRY POSADA,

defendant herein, knowingly and willfully executed and attempted to execute the above-described scheme by submitting and causing to be submitted claims to health care benefit programs for health-care services that were not actually provided:

Count	Patient	Date of Claimed Service	Date Billed	Health Care Benefit Program
One	S.M.	1/4/13	12/27/13	Medicare
Two	S.M.	3/29/13	2/14/14	Medicare

Three	F.C.	3/27/13	2/14/14	Medicare
Four	F.C.	8/9/13	7/17/14	Medicare
Five	T.W.	8/9/13	8/4/14	CIGNA
Six	M.W.	8/9/13	7/28/14	Humana
Seven	O.S.	8/9/13	7/30/14	Independence Blue Cross
Eight	R.A.	1/4/13	12/27/13	Medicare
Nine	R.A.	3/25/13	2/14/14	Medicare
Ten	S.B.	3/27/13	3/26/14	Blue Cross Blue Shield of Illinois
Eleven	S.B.	3/29/13	3/27/14	Blue Cross Blue Shield of Illinois
Twelve	C.C.	8/5/13	7/28/14	Blue Cross Blue Shield of Illinois
Thirteen	C.C.	12/6/13	11/28/14	Blue Cross Blue Shield of Illinois
Fourteen	H.M.	12/4/13	12/2/14	National Association of Letter Carriers
Fifteen	H.M.	12/6/13	12/2/14	National Association of Letter Carriers
Sixteen	M.H.	4/10/15	4/6/16	Medicare
Seventeen	E.M.	12/15/14	12/2/15	Medicare
Eighteen	W.B.	3/3/14	2/27/15	Medicare

In violation of Title 18, United States Code, Section 1347.

FORFEITURE ALLEGATION

The SPECIAL FEBRUARY 2017 GRAND JURY further alleges:

1. The allegations contained in Count One through Eighteen of this Indictment are incorporated here for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 982(a)(7).

2. As a result of the violation of Title 18, United States Code, Section 1347, as set forth in this indictment,

HENRY POSADA,

defendant herein, shall forfeit to the United States any property, real and personal, constituting, and derived from, gross proceeds traceable to the commission of the offence, obtained, directly or indirectly, as a result of such violation, pursuant to 18 U.S.C. § 982(a)(7).

3. The interests of defendant subject to forfeiture pursuant to Title 18, United States Code, Section 982(a)(7) include, but is not limited to:

- a. a personal money judgement in the amount of approximately \$5,182,988.
- b. the following specific property:
 - i. \$850,000 in cashier checks;
 - ii. 2013 Lexus LX 570, VIN JTHY7AX5D4101;
 - iii. the real property commonly known as 425 E. Walnut Street, Watseka, IL. Lot Number 1; Block 14, District 17, 1933353007

4. If the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- i. cannot be located upon the exercise of due diligence;
- ii. has been transferred or sold to, or deposited with, a third party;
- iii. has been placed beyond the jurisdiction of the Court;
- iv. has been substantially diminished in value; or
- v. has been commingled with other property that 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 to forfeit any other property of the defendants up to the value of the forfeitable property described above.

All pursuant to Title 18, United States Code, Section 982(a)(7).

A TRUE BILL:

FOREPERSON

ACTING UNITED STATES ATTORNEY