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PRESS RELEASE

Seven Charged in Major Crackdown on Health Care Fraud in the Eastern District of New York
Doctors, a Dentist, a Durable Medical Equipment Supply Company Owner, and a Health Care Clinic
Manager Charged in Four Separate Cases with Fraud Schemes Totaling at Least \$7.9 Million

ROSLYNN R. MAUSKOPF, United States Attorney for the Eastern District of New York, PASQUALE J. D'AMURO, Assistant Director-in-Charge, Federal Bureau of Investigation, New York, ROBIN DALGLEISH, Postal Inspector-in-Charge, United States Postal Inspection Service, New York, and ELIOT SPITZER, Attorney General for the State of New York, today announced the filing of four separate cases charging a total of seven defendants in unrelated health care fraud schemes that resulted in losses to the Medicare and Medicaid programs, as well as private insurers, of at least \$7.9 million.⁽¹⁾

The charges announced today are the product of multi-agency investigations by federal and state entities that bring their unique investigative and prosecutorial experience to redress one of law enforcement's top priorities - the systematic abuse of our state and federal health care programs and private health care insurers. The charges are particularly significant in this era of scarce health care resources because their impact is so pervasive. Governmental health care programs suffer, private insurers are victimized, patients are exploited and in many instances are actually injured by unnecessary medical procedures, and the public is saddled with ever-increasing health care costs. The four cases are detailed below.

Dr. JOSEPH MERMELSTEIN

JOSEPH MERMELSTEIN, an ophthalmologist with offices on Victory Boulevard in

Staten Island, New York, has been charged with committing Medicare fraud, during which he caused serious bodily injuries to elderly patients. The indictment culminates a nine-month investigation jointly conducted by the U. S. Department of Health and Human Services, the FBI and the Postal Service.

According to the indictment, MERMELSTEIN accepts as patients aged and disabled persons whose only health insurance coverage consists of Medicare. Physicians may bill Medicare directly for services they provide to eligible elderly or disabled persons, but Medicare will cover the procedure and reimburse the physician only if the service for which they are billing was actually performed under the physician's direction and if that service was medically necessary.

The grand jury charged that over the past five years MERMELSTEIN fraudulently billed Medicare for services that he did not actually provide and for services that he did provide but that were not medically necessary, including medically unnecessary eye surgeries on elderly and disabled persons. MERMELSTEIN defrauded the Medicare Program of over \$1 million and also caused serious bodily injury to several of his patients.

The case has been assigned to United States District Judge Allyne R. Ross. If convicted of the charges in the indictment, MERMELSTEIN faces a maximum sentence of 20 years in prison, three years supervised release, a \$250,000 fine, and restitution in an amount in excess of \$1 million.

The case is being prosecuted by Assistant United States Attorney Charles S. Kleinberg and Margot Schoenborn.

Dr. PHILLIP FRANK

According to the indictment, PHILLIP FRANK, a licensed dentist who enrolled in the Medicaid program in September 1978, owns and operates 715 Broadway Dental Services, P.C., in Brooklyn, New York.

Medicaid is a United States government program that provides medical assistance to qualifying indigent persons. At the federal level, the Medicaid program is administered by the U. S. Department of Health and Human Services. The New York State Department of Health ("DOH") is responsible for the administration of the Medicaid program in New York State. In New York, Medicaid is funded through financial contributions of approximately 50% by the United States government and approximately 25% each by the state and local governments.

Health care providers, including licensed dentists, can submit claims for reimbursement for covered services provided to Medicaid beneficiaries only if the provider is enrolled in the Medicaid program and assigned a Medicaid provider number. In order to enroll, providers have to submit an enrollment application. Under DOH regulations, no payment will be paid for medical care, services, or supplies ordered or prescribed by a provider while that provider is excluded from the Medicaid program. Similarly, any provider who is excluded from the Medicaid program could not be involved in any activity related to medical care, services and supplies to Medicaid beneficiaries.

In approximately April 1991, an audit by the DOH determined that FRANK had billed for unnecessary and undocumented services and as a result owed the Medicaid program approximately \$677,000. In 1995, a subsequent DOH audit determined that FRANK owed the Medicaid program approximately \$68,000 for another series of billing violations. As a result, in April 1995, FRANK agreed to reimburse Medicaid \$745,000 and was excluded from the program.

As part of his fraud scheme, after being excluded from the Medicaid program, FRANK allegedly hired dentists enrolled in the Medicaid program to work for him on a per diem basis ("per diem dentists"). In some instances, FRANK continued to provide dental care and services to Medicaid beneficiaries, but fraudulently billed the Medicaid program as if they had been provided by a per diem dentist. In other instances, FRANK billed Medicaid for services and treatments that were never performed. In both cases, Medicaid sent payments to a per diem dentist, who allegedly gave the payment to FRANK.

The indictment also charges that as part of the fraud, FRANK provided several per diem dentists with office space and referred many Medicaid patients to them. The per diem dentists treated the patients and then billed Medicaid. Medicaid reimbursed the per diem dentists who shared a portion of the funds with FRANK as reimbursement for what he falsely termed "rent."

As a result of his fraudulent billing scheme, the indictment alleges that FRANK defrauded Medicaid in the amount of \$6.2 million.

If convicted, FRANK faces a maximum of sentence of 10 years of imprisonment, three years supervised release, an \$18.6 million fine, and \$6.2 million restitution.

The investigation was conducted by the FBI and the New York State Attorney General, Medicaid Fraud Control Unit. The government's case is being prosecuted by Assistant United States Attorneys Peter Katz and Orelia Merchant.

ABRAHAM KAHAN

ABRAHAM KAHAN, the owner of Healthstar Industries of New York, Ltd. ("Healthstar"), a durable medical equipment ("DME") company located in Brooklyn, New York, has been charged with health care fraud.

According to the complaint, between October 1998 and January 2002, KAHAN paid thousands of dollars in kickbacks to two employees of Oxford Health Plans, Inc. ("Oxford"), a managed health care company, to induce the employees to refer DME business to Healthstar and to fraudulently inflate the prices paid to KAHAN and Healthstar by Oxford for the equipment. DME, such as wheelchairs, hospital beds, air mattresses and motorized scooters, are intended to assist a person with an illness or an injury and are intended for repeated use. As part of the scheme to defraud Oxford, the employees, DME coordinators at Oxford, authorized Oxford to pay Healthstar 100% of the charges billed, rather than following the reimbursement rates set out in the contract between Oxford and Healthstar under which Healthstar was entitled reimbursement of 60% or 65%. The complaint alleges that as a result of KAHAN's fraudulent scheme, Oxford incurred losses of least \$200,000.

If convicted, KAHAN faces a maximum sentence of 10 years of imprisonment, three years of supervised release, a \$250,000 fine, and restitution in the amount of \$200,000.

The investigation was conducted by the FBI. The government's case is being prosecuted by Assistant United States Attorneys Carrie Capwell and Catherine M. Mirabile.

VYATCHESLAV VIKTORENKOV,

Dr. INNA ROZENTSVIT,

Dr. ANDREW IVANSON and

Dr. ANTHONY R. WILSON

VYATCHESLAV VIKTORENKOV, the manager of Remsen Medical, a Brooklyn medical clinic, INNA ROZENTSVIT and ANDREW IVANSON, neurologists at the clinic, and ANTHONY R. WILSON, a chiropractor at the clinic, have been charged with health care fraud.

As alleged in the complaint, between March 2001 and July 2003, the clinic operated as a no-fault insurance fraud mill. As part of the scheme, individuals who had not suffered injuries and were not in need of medical treatment, routinely came to the clinic for "treatment" of their non-existent injuries in exchange for the promise of a large civil settlement and sometimes for a payment of a few hundred dollars when they are recruited. VIKTORENKOV cut and pasted patient signatures on documents to create false insurance claims, advised patients who had participated in staged automobile accidents but did want to continue treatment to do so because it would help them collect damages in their personal injury cases, and paid "runners" to scour the neighborhood for prospective patients.

The complaint further alleges that IVANSON and ROZENTSVIT repeatedly submitted insurance claims for costly needle electromyographs ("EMGs") that, in fact, were not performed. An EMG is a medical test which is used to help diagnose diseases that damage muscle tissue, nerves or the junction between nerve and muscle, and to evaluate the cause of muscle weakness, paralysis and other symptoms. The complaint also alleges that WILSON ordered MRI tests and durable medical equipment for substantially all individuals who reported to him at the clinic when many of these individuals did not need or want it, typically by filling out patient histories and prescriptions before examining or receiving sufficient information about the individuals. The defendants caused fraudulent claims for these un-rendered and unnecessary medical services and items to be submitted to a number of no-fault

insurance companies in an amount in excess of \$500,000.

If convicted, each defendant faces a maximum sentence of 10 years of imprisonment, three years of supervised release, a fine of \$250,000, and restitution in an amount in excess of \$500,000.

The investigation was conducted by the FBI. The government's case is being prosecuted by Assistant United States Attorneys Keir N. Dougall and Kathleen A. Nandan.

"This office will aggressively investigate and prosecute those who commit health care fraud, regardless of whether the immediate victim is the patient, Medicare, Medicaid or a private insurance company," stated United States Attorney MAUSKOPF. "Ultimately, it is the honest taxpayer and legitimate patient who pays the price through physical injury, increased taxes and higher insurance premiums. The offenses committed by these defendants were particularly egregious because they jeopardized the government's ability to provide affordable medical care to those most in need, namely, the aged and the infirm. These prosecutions stand as a clear warning that health care fraud is a priority of federal law enforcement, and those who commit health care fraud will be met by the full resources of this office and our partners in law enforcement." Ms. MAUSKOPF thanked the U. S. Department of Health and Human Services, the Internal Revenue Service-Criminal Investigation (New York), the National Insurance Crime Bureau, the New York State Insurance Department, Bureau of Frauds and the Office of Inspector General, United States Office of Personnel Management, for their assistance. Ms. MAUSKOPF stated that the investigations are continuing.

FBI Assistant Director-in-Charge D'AMURO stated, "These defendants perverted a system designed to provide a safety net for those requiring medical treatment. In some cases billing for procedures never performed, in some cases prescribing medical equipment or treatment not needed, they turned a safety net into a golden parachute for themselves. The defendants include crooked physicians and unscrupulous medical equipment suppliers, showing our resolve to root out health care fraud at both ends of the scam."

"Dr. Mermelstein's patients were victimized twice by his actions," Postal Inspector-in-Charge DALGLEISH stated. "First, he put them through unnecessary medical procedures and then bilked the Medicare Program for services he did not render or that were not needed. Actions like these cause a loss to all members of the public. Dr. Mermelstein made the mistake of using the U.S. Mail in the furtherance of his scheme. The Postal Inspection Service is committed to preserving the integrity of the mail by vigorously enforcing the fraud statutes - something we have been doing for well over a century."

New York State Attorney General ELIOT SPITZER stated, "My office remains firmly committed to holding accountable and prosecuting those medical and dental professionals who would defraud the Medicaid program."

The defendant FRANK was arrested this morning, and his arraignment is scheduled to be held this afternoon before a United States Magistrate Judge at the U.S. Courthouse, 225 Cadman Plaza East, Brooklyn New York. WILSON was arrested yesterday in Alabama, and the government will seek his removal to the Eastern District of New York. The remaining defendants appeared in court yesterday and were released on bond. As a special condition of release, the court directed that Dr. MERMELSTEIN not perform surgeries at any hospitals, not perform laser surgeries anywhere (including in his office) and not perform certain eye procedures anywhere pending the court's determination of whether these restrictions should be made permanent conditions of release.

The Defendants:

Dr. JOSEPH MERMELSTEIN

DOB:

Business: Ophthalmologist and Owner, The Eye Institute of Staten Island

Address: 2177 Victory Boulevard, Staten Island, New York

Dr. PHILLIP FRANK

DOB:

Business: 715 Broadway Dental Services, P.C.

Address: 715 Broadway, Brooklyn, New York

ABRAHAM KAHAN

DOB: October 20, 1966

Address: 1264 57th Street

Brooklyn, New York

VYATCHESLAV VIKTORENKOV, a/k/a "Slava"

DOB: March 27, 1977

Address: 23 Crestwater Court

Staten Island, New York

INNA ROZENTSVIT, a/k/a "Inna Rozentsvitinna"

DOB: October 6, 1958

Address: 75-15 187th Street

Fresh Meadows, New York

ANDREW IVANSON

DOB: August 11, 1960

Address: 4817 Bedford Avenue

Brooklyn, New York

ANTHONY R. WILSON

DOB: May 17, 1961

Address: 183 Liberty Street

Altmore, Alabama

The charges contained in the indictments and complaints are merely allegations, and the defendants are presumed innocent unless and until proven guilty.