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Department of Justice

U.S. Attorney's Office

Southern District of Florida

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Pharmacist and Pharmacy Employee Sentenced for Involvement in Over \$30 Million Health Care Fraud

A pharmacist and his employee were sentenced on Friday for their involvement in a \$30 million health care fraud scheme against Tricare, the health care program for military service members, veterans and their families. This case was largest health care fraud case involving the Tricare program to go to trial.

Benjamin G. Greenberg, United States Attorney for the Southern District of Florida, John F. Khin, Special Agent in Charge, U.S. Department of Defense Criminal Investigative Service (DCIS), Southeast Field Office, Christopher Cave, Special Agent in Charge, U.S. Postal Service, Office of Inspector General (USPS-OIG), Southern Area Field Office, Michael C. Curran, Special Agent in Charge, U.S. Army Criminal Investigation Command, Southeast Fraud Field Office, Peter H. Kuehl, Acting Special Agent in Charge, U.S. Food and Drug Administration, Office of Criminal Investigation (FDA-OCI), Miami Field Office, and Scott Rezendes, Special Agent in Charge, U.S. Office of Personnel Management, Office of Inspector General (OPM-OIG), made the announcement.

On March 9, 2018, **Serge Francois**, 52, of Southwest Ranches, Florida was sentenced to 204 months in prison to be followed by three years supervised release by U.S. District Judge Darren P. Gayles. Francois was ordered to pay \$31,259,252 in restitution. **Patrick Tonge**, 42, of Southwest Ranches was sentenced to 188 months in prison, to be followed by three years of supervised release. Tonge was also ordered to pay \$31,259,252 in restitution.

On September 5, 2017, after a one-month trial, a federal jury found Francois guilty of conspiracy to commit health care fraud in violation of Title 18, United States Code, Section, 1349 twelve counts of health care fraud in violation of Title 18, United States Code, Section 1347, conspiracy to pay kickbacks in connection with a federal health care program in violation of Title 18, United States Code, Section 371, five counts of paying kickbacks, in violation of Title 42, United States Code, Section 1320, and twelve counts of money laundering, in violation of Title 18, United

States Code, Section 1957. In addition, Francois was found guilty of eight counts of introducing misbranded drugs into interstate commerce in violation of Title 21, United States Code, Section 331, four counts of making false statements related to health care matters, in violation of Title 18, United States Code, Section 1035 and one count of making a false statement on a DEA form, in violation of Title 21, United States Code, Section 843. The jury found Patrick Tonge guilty of the same conspiracy charges, eleven counts of health care fraud, three counts of paying kickbacks, and two counts of money laundering. The scheme caused over \$31 million in loss to the federal Tricare program and the Federal Employee Health Benefit Program ("FEHBP"), with over \$30 million in loss to Tricare alone. The trial was a culmination of a three-year investigation that resulted in 18 convictions.

According to evidence presented at trial, Francois, a pharmacist, owned and operated Atlantic Pharmacy and Compounding, located in Pompano Beach, Florida. From there, Francois and his assistant at the pharmacy, Tonge, entered into a vast conspiracy with so-called marketers who paid physicians to write prescriptions for expensive topical medications that cost up to \$17,000 a bottle. As the pharmacist-in-charge, Francois was responsible for the compounded medications, which were made in house by the pharmacy.

Francois, Tonge and their co-conspirators agreed to automatically refill the prescriptions, sending numerous refills to patients who did not request them and not charging a co-pay. Francois and Tonge would also pay the marketers from the profits received for each prescription and the marketers, in turn, would pay the physicians. Evidence further showed that some physicians never saw the purported patients. Rather, they used the patient's identification to write the prescriptions.

The trial evidence revealed that Francois and Tonge specifically targeted the Tricare program. Throughout the conspiracy, Atlantic Pharmacy submitted thousands of claims which led Tricare and FEHBP to make payment to Atlantic Pharmacy and Compounding in the approximate amount of \$31,259,252. Further evidence presented at trial showed that Francois used the fraud proceeds to buy a \$3.6 million mansion once owned by Dwayne "the Rock" Johnson, as well as a Ferrari, two Rolls Royce Motor vehicles, and over \$1 million in other luxury automobiles.

"The fraud committed in this case was particularly egregious, as it targeted the health care program for the men and women in uniform who protect this country," stated United States Attorney Benjamin G. Greenberg. "The jury's verdict exemplifies this Office's tireless commitment to prosecuting healthcare providers and individuals who commit fraud against the Tricare program and any federal health care program."

"This sentencing should serve as a stern warning to corrupt health care providers who defraud Federal health care programs. These defendants engaged in a vast and egregious fraud scheme that specifically targeted the vulnerabilities of the DoD's TRICARE program, charging outrageous amounts for phony and unneeded prescription medications," said Defense Criminal Investigative Service (DCIS) Special Agent in Charge John F. Khin, Southeast Field Office. "While depriving American military members of legitimate health care and medications, these defendants splurged on a luxurious fantasy lifestyle for themselves supported by the millions of dollars they bilked from TRICARE. Through our aggressive investigative efforts in coordination with our partner agencies, DCIS stopped this shameful abuse of one of DoD's most critical programs."

“The USPS-OIG, along with our law enforcement partners has worked diligently to ensure the protection of federal benefit programs from healthcare providers seeking to receive unmerited money from fraudulent claims,” said Special Agent in Charge Christopher Cave, of the U.S. Postal Service Office of the Inspector General Southern Area Field Office. “The sentence imposed today clearly demonstrates these crimes will not be tolerated and serves as a great deterrent to other healthcare providers engaging in these illegal schemes. Our federal government is vigilant against these crimes will be investigated and punished accordingly.”

“Today’s sentencing is the direct result of the steadfast dedication of our agents and our partners in federal law enforcement,” said Special Agent in Charge Michael C. Curran, of the U.S. Army Criminal Investigation Command’s Southeastern Fraud Field Office. “This was a wide-ranging investigation that spanned multiple states, and led to the convictions of 18 individuals including doctors, podiatrists, a physician’s assistant, and patient recruiters. We will continue to vigorously pursue those who abuse the Tricare program and violate the trust placed in them by the U.S. government.”

“Prescription drugs should only be dispensed pursuant to valid prescriptions in order to protect patient safety,” said Justin D. Green, Special Agent in Charge, FDA-OCI’s Miami Field Office. “We remain committed to bringing to justice those who place their personal gain over the health of American consumers.”

Scott Rezendes, Special Agent in Charge, United States Office of Personnel Management, Office of Inspector General (OPM-OIG). “Today’s sentencing sends a message to professionals in the health care industry that the Federal Government will not tolerate fraud and other unethical behavior. The OPM-OIG, along with our law enforcement partners, is committed to protecting the integrity of the Federal Employees Health Benefits Program and ensuring that its funds are used to promote the wellbeing of Federal employees, retirees, and their families.”

Mr. Greenberg commended the investigative efforts DCIS, USPS-OIG, U.S. Army Criminal Investigation Command, OPM-OIG and FDA. This case was prosecuted by AUSA’s Daniel Bernstein, Evelyn Sheehan, Adrienne Rosen and former AUSA Franklin Monsour.

Related court documents and information may be found on the website of the District Court for the Southern District of Florida at <http://www.flsd.uscourts.gov> or on <http://pacer.flsd.uscourts.gov>.

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