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U.S. Attorney's Office

Southern District of Florida

FOR IMMEDIATE RELEASE

Monday, September 18, 2017

Pharmacist And His Employee Convicted Of Over \$30 Million Health Care Fraud Against Military Insurance Program

Benjamin G. Greenberg, Acting United States Attorney for the Southern District of Florida; John Khin, Special Agent in Charge, Department of Defense Criminal Investigative Service (DCIS), Southeast Field Office; Maximo Eamiguel, Special Agent in Charge, United States Postal Service, Office of Inspector General (USPS-OIG), Southern Area Field Office; James T. Wallis, Special Agent in Charge, U.S. Army Criminal Investigation Command, Southeast Fraud Field Office; Justin D. Green, Special Agent in Charge, U.S. Food and Drug Administration (FDA), Office of Criminal Investigations, Miami Field Office; and Scott Rezendes, Special Agent in Charge, United States Office of Personnel Management, Office of Inspector General (OPM-OIG), announced the conviction of Serge Francois and Patrick Tonge for their involvement in a conspiracy to commit health care fraud and pay kickbacks in connection with federal health care programs. The fraudulent scheme caused over \$30 million in losses to the federal TRICARE program. TRICARE provides coverage for active duty military and their families, as well as retired veterans. In addition, the fraudulent scheme caused the Federal Employee Health Benefit Program (FEHBP) to sustain losses.

On September 5, 2017, after a one-month trial, a federal jury found Francois guilty of conspiracy to commit health care fraud, twelve counts of health care fraud, conspiracy to pay kickbacks in connection with a federal health care program, five counts of paying such kickbacks, and twelve counts of money laundering. In addition, Francois was found guilty of eight counts of introducing misbranded drugs into interstate commerce, four counts of making false statements related to health care matters, and one count of making a false statement on a DEA form. The jury found Tonge guilty of the same conspiracy charges, as well as eleven counts of health care fraud, three counts of paying kickbacks, and two counts of money laundering.

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 right-hand man at the pharmacy, Patrick Tonge, entered into a vast conspiracy with so-called marketers who paid physicians to write prescriptions for 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 or need them, while not charging a co-pay in hopes that the patients would not bother to return the medications. Francois and Tonge would pay the marketers out of the profit received for each prescription; and the marketers in turn would pay the physicians. Evidence further showed that a substantial portion of the scheme involved physicians never seeing or examining the purported patients. Rather, they used the patients' personal identification information to write the prescriptions.

Testimony and other evidence at trial revealed that Francois and Tonge specifically targeted the TRICARE program. Through the conspiracy, Atlantic Pharmacy billed over \$37 million to TRICARE and FEHBP, with TRICARE paying out over \$30 million in false and fraudulent claims.

Evidence at trial showed that Francois used the fraud proceeds to buy a \$3.6 million mansion that once belonged to Dwayne "the Rock" Johnson, along with a Ferrari, two Rolls Royces, and over \$1 million in luxury automobiles.

In addition, trial evidence revealed the kickback conspiracy component of the fraud scheme. For example, the marketers told Francois and Tonge that if they did not get paid they could not pay the physicians, and thus the physicians would stop writing the prescriptions. Francois and Tonge continued to make payments and bill TRICARE up until May 2016, when TRICARE stopped covering the medications due to growing knowledge of similar fraud involving other compounding pharmacies. In total, seventeen individuals pled guilty or were convicted for their involvement with the fraudulent scheme or receipt of kickbacks.

"Serge Francois and Patrick Tonge have been held responsible for an egregious fraud scheme that unlawfully diverted over \$30 million in federal health care monies that were set aside for the men and women in uniform who serve and protect our country," stated Acting United States Attorney Benjamin G. Greenberg. "The U.S. Attorney's Office and our law enforcement partners will continue to work tirelessly to identify for prosecution individuals, including healthcare providers, who carry out fraudulent schemes against TRICARE or other federal health care programs for their own personal financial benefit at a loss to the deserving beneficiaries."

"The Defense Criminal Investigative Service is committed to protecting the integrity of the U.S. military health care program to provide top quality medical care to America's Warfighters and their families, while ensuring that health care providers and facilities comply with Federal laws," said John F. Khin, Special Agent in Charge, DCIS - Southeast Field Office. "Through joint investigations with our law enforcement partners, DCIS aggressively pursues criminal prosecutions and all available remedies to bring violators to justice. These guilty verdicts demonstrate the effectiveness of our investigative efforts."

“The verdict reached in this case should be an example to those healthcare providers engaging in illegal schemes that the government is vigilant and these crimes will not be tolerated,” said Special Agent in Charge Maximo Eamiguel, of the U.S. Postal Service Office of Inspector General Southern Area Field Office. “The USPS-OIG, along with our law enforcement partners will continue to vigorously investigate these types of cases in order to protect federal benefit programs from fraud and abuse ensuring the safety of its beneficiaries.”

“The jury’s verdict should stand as a deterrent to those who would engage in fraud and corruption for personal gain, and is a testament to the thorough and professional effort of our investigative and prosecutorial team,” said Special Agent in Charge James T. Wallis, of the U.S. Army Criminal Investigation Command’s Southeast Fraud Field Office. “We will diligently continue our efforts to pursue those engaged in criminal activity that impacts the integrity of U.S. Government and Army programs and resources within our purview.”

“FDA is fully committed to the vigorous criminal investigation and prosecution of individuals who threaten the health and safety of American consumers by causing misbranded drugs to be distributed,” said Justin D. Green, Special Agent in Charge, FDA Office of Criminal Investigations’ Miami Field Office. “Our office will continue to pursue and bring to justice those who place profits above the public health.”

“This conviction should act as a warning to those who believe they can defraud the government with impunity,” said Scott Rezendes, Special agent in Charge, OPM-OIG. “The OPM Office of the Inspector General is committed to holding such individuals accountable for their actions.”

Mr. Greenberg commended the investigative efforts of DCIS, USPIS-OIG, U.S. Army Criminal Investigation Command, FDA Office of Criminal Investigations and OPM-OIG. The case was prosecuted by Assistant United States Attorneys Daniel Bernstein and Franklin Monsour.

A copy of this press release may be found on the website of the United States Attorney’s Office for the Southern District of Florida at www.usdoj.gov/usao/fls. Related court documents and information may be found on the website of the District Court for the Southern District of Florida at www.flsd.uscourts.gov or on <http://pacer.flsd.uscourts.gov>.

Topic(s):

Healthcare Fraud

Component(s):

USAO - Florida, Southern

Updated September 18, 2017