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**PAIN MANAGEMENT PHYSICIAN SENTENCED TO 8 YEARS IN FEDERAL PRISON FOR  
CENTRAL ROLE IN MILLION DOLLAR KICKBACK SCHEME AND FRAUDULENT  
BILLING SCHEME**

*Dr. Malik also Convicted of Tax Fraud for Underreporting Income by \$3.3 Million*

**Baltimore**, Maryland – Chief U.S. District Judge James K. Bredar sentenced Atif Babar Malik, age 48, of Germantown, Maryland, today to eight years in prison, followed by three years of supervised release. The sentence was imposed for his trial conviction on 26 counts arising from two criminal schemes involving \$1.376 million in kickbacks and fraudulently billing, as well as his guilty plea to a conspiracy to defraud the United States of more than \$2.1 million in taxes. Chief Judge Bredar also ordered Malik to pay a fine of \$75,000; to pay restitution of \$175,000; and to forfeit \$241,976.

The sentence was announced by United States Attorney for the District of Maryland Robert K. Hur; Special Agent in Charge Gordon Johnson of the Federal Bureau of Investigation, Baltimore Field Office; Special Agent in Charge Maureen Dixon, Office of Investigations, Office of Inspector General of the Department of Health and Human Services; Special Agent in Charge Kelly R. Jackson of the Internal Revenue Service - Criminal Investigation, Washington, D.C. Field Office; Special Agent in Charge Robert E. Craig, Jr. of the Defense Criminal Investigative Service - Mid-Atlantic Field Office; and Special Agent in Charge Bret D. Mastronardi, Investigative Operations, U.S. Office of Personnel Management Office of the Inspector General.

According to his plea agreement and the evidence presented to the jury at his 13-day trial, Malik is a physician trained in pain management. Malik and co-defendant, Dr. Sandeep Sherlekar, merged their pain management practices in February 2009 to create Advanced Pain Management Services, LLC (APMS), which had offices in Maryland and New Jersey. In August 2010, APMS began doing business under the name of American Spine Center, LLC (APMS/ASC). Co-defendants Muhammad Ahmad Khan and Vic Wadhwa were respectively the CEO and CFO of APMS/ASC.

**The Kickback Scheme**

APMS/ASC physicians required patients who were prescribed controlled substances as pain relief medications to submit urine specimens to monitor the levels of pain medication or other narcotics in their bodies. According to evidence presented at trial, in late 2011, Mubtagha Syed, the marketing agent for Accu Reference (which was owned by co-defendant Konstantin Bas), proposed to Khan and Wadhwa that APMS/ASC start referring patients' urine toxicology specimens to Accu Reference in return for the payment of kickbacks. After Malik and Sherlekar approved the plan, which

also came to include back braces from another Bas-controlled company, APMS/ASC began submitting all of its patients' urine specimens to Accu Reference.

Each month from April 2011 through July 2012, APMS/ASC referred between 700 and 1,300 patient urine specimens to Accu Reference in return for kickbacks. Accu Reference received approximately \$4.4 million from claims submitted to Medicare and private insurers for testing the specimens. After deducting its overhead expenses on the testing, Accu Reference split its profits 50/50 with Khan, Wadhwa, Sherlekar, and Malik. (Syed also received a share of Accu Reference's profits.) From the time the kickback payments commenced in June 2011 until the end of the scheme in August 2012, Bas caused his companies to pay kickbacks totaling \$1.376 million to Sherlekar, Malik, Khan and Wadhwa. Khan and Wadhwa deceived Drs. Sherlekar and Malik about the full amount of the kickback payments from Accu Reference, however, and retained more than 60% of the kickback payments for themselves. Drs. Sherlekar and Malik each received approximately \$240,000 in kickbacks from the scheme.

### **The Fraudulent Anesthesia Billing Scheme**

In addition, according to evidence presented at trial, from January 2010 through the summer of 2012, APMS/ASC fraudulently submitted bills to Medicare and private insurers using a billing code that represented that two separate physicians had provided the nerve block and the anesthesia, when in fact, only one physician performed both. As a result of this fraudulent "upcoding," APMS/ASC received a higher level of reimbursement from insurers. For example, on January 3, 2012, Dr. Sherlekar provided both spinal injections and anesthesia to a large number of patients at APMS/ASC's Frederick office. However, he texted Dr. Malik that "I am using your name today as surgeon as we have 34 procedures here [in Frederick] and 20 in Waldorf," to which Malik responded "ok." Malik was seeing patients at his office in Hackettstown, New Jersey that day.

### **The Tax Evasion Scheme**

On June 25, 2018, Malik pleaded guilty to conspiring to defraud the IRS. Malik admitted that from 2009 through 2012, he underreported his taxable income by approximately \$3,374,997, resulting in additional taxes owed of \$1,157,712. Malik failed to report as income the kickback payments received from Accu Reference; he did not report and instead pocketed large amounts of the cash payments received by the practice from patients; and he used the services of a corrupt New Jersey accountant to fraudulently overstate APMS/ASC's business expenses on its corporate tax returns and to understate the income received from the company.

Co-Defendants:

Sandeep Sherlekar, age 52, of Germantown, Maryland, died before his scheduled initial appearance and arraignment. The charges were dismissed after his death.

Konstantin Bas, age 41, of Brooklyn, New York, pleaded guilty to conspiring to violate the Anti-Kickback Act. Scheduled to be sentenced on September 12, 2018 at 10:00 a.m.

Mubtagha Shah Syed, age 50, of Jersey City, New Jersey; pleaded guilty to conspiring to violate the Anti-Kickback Act. Scheduled to be sentenced on September 12, 2018 at 2:15 p.m.

Vic Wadhwa, 41, of Frederick, Maryland, pleaded guilty to violating the Anti-Kickback Act. Scheduled to be sentenced on September 26, 2018 at 4:00 p.m.

Muhammad Ahmad Khan, age 44, charged with the kickbacks conspiracy and conspiracy to defraud the United States. He is a fugitive.

United States Attorney Robert K. Hur commended the FBI, the Department of Health and Human

Services – Office of the Inspector General, IRS - Criminal Investigation, the Defense Criminal Investigative Service, and the Office of Personnel Management – Office of the Inspector General for their work on the investigation. Mr. Hur also thanked Assistant U.S. Attorneys Jefferson M. Gray and Sean R. Delaney, who prosecuted the case against Dr. Malik.

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