

# Five defendants convicted of health care kickback conspiracy

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U.S. Attorney's Office, Eastern District of Texas

TYLER, Texas – Five defendants, including laboratory executives and hospital executives, were found guilty of conspiring to violate the Anti-Kickback Statute, announced U.S. Attorney Damien M. Diggs today.

Susan L. Hertzberg, 65, of New York, New York; Matthew John Theiler, 57, of Mars, Pennsylvania; David Weldon Kraus, 65, of Loudon, Tennessee; Thomas Gray Hardaway, 51 of San Antonio, Texas; and Jeffrey Paul Madison, 48, Georgetown, Texas, were found guilty by a jury on November 30, 2023, following a seven-week-long trial before U.S. District Judge Jeremy D. Kernodle.

“Patients should be able to trust that their physicians are ordering tests and making laboratory referrals based on what is best for the patient, and not because the physicians are looking to pad their pockets with profits from kickbacks,” said U.S. Attorney Damien M. Diggs. “For several years, these defendants utilized an elaborate marketing scheme to facilitate payments to physicians in return for the physicians’ laboratory referrals. Improper financial relationships such as these undermine the integrity of federally-funded healthcare programs by influencing physician decision-making. This case emphasizes our District’s commitment to justice by pursuing both the hospital and lab executives who sought to influence the physicians and the physicians who accepted the illegal kickbacks.”

“The reach of HHS-OIG is far and wide. Our agents and law enforcement partners will not be deterred by the scope of a health care fraud investigation or the location of its’ defendants,” said Jason E. Meadows, Special Agent in Charge of the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG), Dallas Region. “Kickback arrangements, regardless of their intended complexity, will always be an investigative priority for our agency.”

“The Department of Defense Office of Inspector General’s Defense Criminal Investigative Service (DCIS) is committed to protecting the integrity of TRICARE, the health care system for military members and their dependents,” said Gregory P. Shilling, Acting Special Agent-in-Charge of DCIS’s Southwest Field Office. “Today’s guilty verdicts send a clear message that DCIS, along with our law enforcement partners and the U.S. Attorney’s Office, will diligently pursue fraudsters who seek self-enrichment by undermining the integrity of this critical program.”

On January 12, 2022, Hertzberg, Theiler, Kraus, Hardaway, and Madison, as well as Jeffrey Paul Parnell, 55, of Tyler; Laura Spain Howard, 49, of Allen; Todd Dean Cook, 58, Wimauma, Florida; William Todd Hickman, 60, of Lumberton; Christopher Roland Gonzales, 47, of McKinney; Ruben Daniel Marioni, 39, of Spring; Jordan Joseph Perkins, 39, of Conroe; Elizabeth Ruth Seymour, 40, of Corinth; Linh Ba Nguyen, 59, of Dallas; Thuy Ngoc Nguyen, 55, of Dallas; Joseph Gil Bolin, of Dallas; Heriberto Salinas, 63, of Cleburne; and Hong Davis, 55, of Lewisville, were [indicted](#) for conspiring to commit illegal remunerations in violation of the Anti-Kickback Statute. The statute prohibits offering, paying, soliciting, or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid, and other federal health care programs. The defendants were charged for their roles in a conspiracy through which physicians were incentivized to make referrals to rural hospitals and an affiliated lab in exchange for kickbacks which were disguised as investment returns; and in which marketers were incentivized to arrange for or recommend the ordering of services from rural hospitals and an affiliated lab.

Two rural Texas hospitals, Little River Healthcare (LRH) based in Rockdale, and Stamford Memorial Hospital based in Stamford, partnered with Boston Heart Diagnostics (BHD), a clinical laboratory based in Framingham, Massachusetts, that specialized in advanced cardiovascular lipid testing. For a fee, BHD processed the blood tests while the hospitals billed the tests to insurers as hospital outpatient services, with the hospitals charging insurers a much higher rate than BHD could receive as a clinical laboratory. The hospitals utilized a network of marketers who in turn operated management services organizations (MSOs) that offered investment opportunities to physicians throughout the State of Texas. In reality, the MSOs were simply a means to facilitate payments to physicians in return for the physicians’ laboratory referrals. Pursuant to the kickback scheme, the hospitals paid a portion of their laboratory revenues to marketers, who in turn kicked back a portion of those funds to the referring physicians who ordered BHD tests from the hospitals or from BHD directly. BHD executives and sales force personnel leveraged the MSO kickbacks to gain and increase referrals and, in turn, to increase their revenues, bonuses, and commissions.

Parnell, Howard, Cook, Hickman, Gonzales, Marioni, Perkins, Seymour, Thuy Nguyen, Salinas, and Davis pleaded guilty prior to trial.

In January 2022, Robert O’Neal, 65, of San Antonio, pleaded guilty to conspiracy to commit illegal remunerations, in violation of Anti-Kickback Statute, and with conspiracy to commit

money laundering. His role in the kickback conspiracy was to arrange for physician referrals and recommend the ordering of services to the rural hospitals and BHD. O’Neal also had kickback proceeds laundered on his behalf and, at times various times, obtained proceeds from the kickback conspiracy.

In July 2023, Peter J. Bennett, 49, of Houston, was convicted of money laundering conspiracy, money transmitting conspiracy, and perjury. According to information presented in court, Bennett created sham trusts and shell corporations through which he laundered at least \$2,724,080.41 in healthcare kickback proceeds. Bennett used his law firm’s Interest on Lawyers Trust Account (IOLTA), operating account, and a personal bank account to launder and transmit the kickback proceeds.

The defendants face up to five years in federal prison at sentencing. The maximum statutory sentence prescribed by Congress is provided here for information purposes, as the sentencing will be determined by the court based on the advisory sentencing guidelines and other statutory factors. A sentencing hearing will be scheduled after the completion of a presentence investigation by the U.S. Probation Office.

This case was investigated by the U.S. Department of Health and Human Services, Office of Inspector General, and the U.S. Department of Defense – Defense Criminal Investigative Service (DCIS) with assistance from the U.S. Secret Service and the U.S. Department of Commerce - Export Enforcement. It was prosecuted by Assistant U.S. Attorneys Adrian Garcia, Nathaniel C. Kummerfeld, Lucas Machicek, and Robert Austin Wells.

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*Updated November 30, 2023*

## Topic

**HEALTH CARE FRAUD**

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