

BWB:KVH
F.#2011R01764

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

I N D I C T M E N T

- against -

Cr. No. _____
(T. 18, U.S.C., §§ 982(a)(7),
1347, 1349, 2 and
3551 et seq.)

HO YON KIM,
HOI YAT KAM,
ELAINE KIM,
 also known as "So Ryang Kim,"
GILBERT KIM,
JOHN KNOX and
PETER LU,

Defendants.

11 7 43
KORMAN, J.

-----X

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment, unless
otherwise indicated:

I. Background

GO, M.J.

A. The Medicare Program

1. The Medicare program ("Medicare") was a federal health care program providing benefits to individuals aged 65 and over and to certain disabled persons. Medicare was administered by the Centers for Medicare and Medicaid Services, a federal agency under the United States Department of Health and Human Services. An individual who received benefits under Medicare was referred to as a Medicare "beneficiary." The physician who provided a service to a beneficiary or ordered that a service be

provided to a beneficiary was referred to as a "rendering physician."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. Medicare provided coverage under several components, including hospital insurance ("Part A") and medical insurance ("Part B"). Medicare Part B covered the costs of physicians' services and outpatient care, including physical therapy, occupational therapy and diagnostic tests. Medicare Part B covered these costs only if, among other requirements, they were medically necessary and ordered by a physician.

4. A medical provider certified to participate in Medicare, whether a clinic or an individual, was assigned a provider identification number ("PIN") for billing purposes. A medical provider rendering a service was required to use its assigned PIN when submitting a claim for reimbursement to Medicare.

5. A medical provider was permitted to submit claims to Medicare only for services actually rendered and was required to maintain patient records verifying the provision of services.

6. To receive reimbursement for a covered service from Medicare, a medical provider was required to submit a claim, either electronically or in writing. The claim had to include information identifying the medical provider, the rendering

physician, the patient and the services rendered. By submitting the claim, the provider certified, among other things, that the services were rendered to the patient and were medically necessary.

7. Medicare provider claims included "billing codes," which were numbers that referred to specific descriptions of medical services provided to beneficiaries. Medicare reimbursed medical providers a set fee for many billing codes.

B. Relevant Entities and the Defendants

(1) The Medical Clinics

8. URI Medical Service, PC ("URI") and Sarang Medical, PC ("Sarang") were New York State corporations doing business in Flushing, New York. URI and Sarang were medical clinics certified to participate in the Medicare program, and each had its own PIN. URI and Sarang purported to provide, among other things, physical therapy and electronic stimulation treatment to Medicare beneficiaries and submitted claims to Medicare for such services.

(2) The Defendants

9. The defendant HO YON KIM was the president of URI and Sarang. KIM was also a rendering physician at URI and Sarang. KIM purportedly treated Medicare beneficiaries at both clinics by providing, among other things, physical therapy and electric stimulation treatment. The medical services he purported to provide were billed through URI and Sarang's PINs.

10. The defendant HOI YAT KAM was a rendering physician for URI and Sarang. He purportedly treated Medicare beneficiaries at both clinics by providing, among other things, physical therapy and electric stimulation treatment. The medical services he purported to provide were billed through URI and Sarang's PINs.

11. The defendant ELAINE KIM, also known as "So Ryang Kim," was an office manager at URI and Sarang and the daughter-in-law of HO YON KIM. She was also a co-signatory of the URI bank account where Medicare deposited reimbursement money for claims submitted by URI.

12. The defendant GILBERT KIM was an officer manager at Sarang and the son of HO YON KIM. KIM was a co-signatory of URI and Sarang's bank accounts where Medicare deposited reimbursement money for claims submitted by the clinics. GILBERT KIM also signed Sarang's Medicare enrollment application, along with HO YON KIM.

13. The defendant JOHN KNOX was a chiropractor certified to participate in Medicare under his individual PIN. He purportedly treated Medicare beneficiaries at URI by providing chiropractic services. The medical services he purported to provide at URI were billed through his own individual PIN.

14. The defendant PETER LU was a physician certified to participate in Medicare under his individual PIN. He purportedly treated Medicare beneficiaries at URI by providing, among other

things, physical therapy and laser surgeries. The medical services he purported to provide at URI were billed through his own individual PIN.

II. The Fraudulent Scheme

15. From approximately March 2007 to October 2011, the defendants HO YON KIM, HOI YAT KAM, ELAINE KIM, also known as "So Ryang Kim," GILBERT KIM, JOHN KNOX and PETER LU, together with others, agreed to execute and executed a fraudulent scheme in which they provided services such as massages, facials, lunches and dancing classes to Medicare beneficiaries at URI and Sarang to induce those beneficiaries to allow their Medicare numbers to be billed for medical services that were never provided and were not medically necessary. As a part of the scheme, Medicare beneficiaries were seen by physicians at URI and Sarang, including HO YON KIM, HOI YAT KAM, JOHN KNOX and PETER LU, who billed Medicare for services, such as physical therapy and electric stimulation treatments, that were not medically necessary. As a further part of the scheme, the defendants HO YON KIM, HOI YAT KAM, JOHN KNOX and PETER LU billed Medicare for additional services that were never provided to the beneficiaries.

16. The defendants HO YON KIM, HOI YAT KAM, ELAINE KIM, also known as "So Ryang Kim," GILBERT KIM, JOHN KNOX and PETER LU, together with others, submitted and caused the submission of false and fraudulent claims to Medicare on behalf of URI and Sarang and

rendering physicians JOHN KNOX and PETER LU for services purportedly provided to Medicare beneficiaries that were not rendered and were not medically necessary.

17. Between March 2007 and October 2011, URI submitted over \$7.2 million in claims to Medicare. Between February 2010 and October 2011, Sarang submitted over \$1.5 million in claims to Medicare. Between April 2008 and October 2011, JOHN KNOX submitted over \$1.7 million in claims to Medicare under his individual PIN. Between June 2009 and October 2011, PETER LU submitted over \$1.3 million in claims to Medicare under his individual PIN.

COUNT ONE

(Conspiracy to Commit Health Care Fraud)

18. The allegations contained in paragraphs 1 through 17 are realleged and incorporated as if fully set forth in this paragraph.

19. In or about and between March 2007 and November 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants HO YON KIM, HOI YAT KAM, ELAINE KIM, also known as "So Ryang Kim," GILBERT KIM, JOHN KNOX and PETER LU, together with others, did knowingly and willfully conspire to execute a scheme and artifice to defraud Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, Medicare,

in connection with the delivery of and payment for health care benefits, items and services, contrary to Title 18, United States Code, Section 1347.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNTS TWO THROUGH FIVE
(Health Care Fraud)

20. The allegations contained in paragraphs 1 through 17 are realleged and incorporated as if fully set forth in this paragraph.

21. On or about the dates identified below, within the Eastern District of New York and elsewhere, the defendants identified below, together with others, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, Medicare, in connection with the delivery of and payment for health care benefits, items and services, as set forth below:

Count	Defendant	Beneficiary	Approx. Date of Service	Approx. Date of Claim	Services Billed	Approx. Claim Amount
TWO	HO YON KIM	C.L.	9/24/2008	10/14/2008	physical therapy	\$90.46
THREE	HOI YAT KAM	Y.X.	6/9/2011	8/16/2011	lesion destruction	\$129.54

Count	Defendant	Beneficiary	Approx. Date of Service	Approx. Date of Claim	Services Billed	Approx. Claim Amount
FOUR	JOHN KNOX	Y.K.	8/19/2011	10/21/2011	chiropractic services	\$28.05
FIVE	PETER LU	Y.K.	8/19/2011	10/19/2011	physical therapy	\$100.63

(Title 18, United States Code, Sections 1347, 2 and 3551
et seq.)

CRIMINAL FORFEITURE ALLEGATION AS TO COUNTS ONE THROUGH FIVE

22. The United States hereby gives notice to the defendants charged in Counts One through Five that, upon conviction of any such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(7), which requires any person convicted of such offenses to forfeit any property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offenses, including but not limited to a sum of money in United States currency, in an amount to be determined at trial, for which the defendants are jointly and severally liable.

23. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value;
or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(2) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property

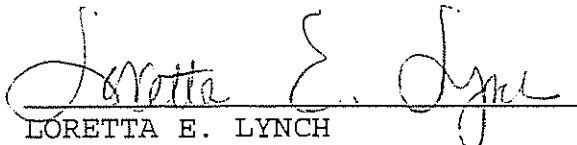
of such defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 982(a)(7))

A TRUE BILL



FOREPERSON



LORETTA E. LYNCH
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

DENIS J. MCINERNEY
CHIEF CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

No.

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

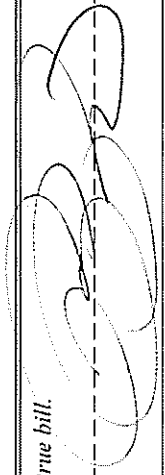
vs.

HO YON KIM, HOI YAT KAM, ELAINE KIM, also known as So Ryang Kim, GILBERT KIM, JOHN KNOX and PETER LU
Defendants.

INDICTMENT

(T. 18, U.S.C., §§ 1347, 1349, 982(a)(7), 2 and 3551 et seq.)

A true bill.



Foreman

Filed in open court this _____ day,

of _____ A.D. 20 _____

Clerk

Bail, \$ _____

Katherine Houston, Trial Attorney (718) 254-6033