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FILED
2018 JAN 19 PM 4:09
CENTRAL DISTRICT OF CALIF.
SANTA ANA

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS S. POWERS,

Defendant.

SA CR No. 17-77(B)-AG

S E C O N D
S U P E R S E D I N G
I N F O R M A T I O N

[42 U.S.C. § 1320a-7b(b) (1) (A):
Illegal Remunerations for Health
Care Referrals]

The United States Attorney charges:

[42 U.S.C. § 1320a-7b(b) (1) (A)]

On or about April 29, 2015, in Orange County, within the Central District of California, and elsewhere, defendant THOMAS S. POWERS ("POWERS") knowingly and willfully solicited and received from Anthony Paduano remuneration, that is, approximately \$2,800, in the form of cash, in exchange for defendant POWERS signing fourteen compounded medication prescriptions, including prescriptions to Tricare beneficiaries A.B. and N.S, for which payment could be made in whole and in part under a federal health care program, namely, Tricare, a managed health care system operated by the Department of

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//

1 Defense for the benefit of active and retired members of the military
2 and their dependents..

3
4 NICOLA T. HANNA
United States Attorney

5 
6 Scott M. Ganninger
Deputy Chief, Criminal Division Fed.

7 LAWRENCE S. MIDDLETON
8 Assistant United States Attorney
Chief, Criminal Division

9 GEORGE S. CARDONA
10 Assistant United States Attorney
Chief, Major Frauds Section

11 STEPHEN A. CAZARES
12 Assistant United States Attorney
Deputy Chief, Major Frauds Section

13 MARK AVEIS
14 PAUL G. STERN
15 CASSIE D. PALMER
Assistant United States Attorneys
Major Frauds Section

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. SACR 17-77-AG Date February 12, 2018

Present: The Honorable Andrew J. Guilford, U.S. District Judge

Interpreter _____

<u>Lisa Bredahl</u> <i>Deputy Clerk</i>	<u>Miriam Baird</u> <i>Court Reporter/Recorder, Tape No.</i>	<u>Paul LeBlanc</u> <i>Assistant U.S. Attorney</i>
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<u>U.S.A. v. Defendant(s):</u>	<u>Present</u>	<u>Cust.</u>	<u>Bond</u>	<u>Attorneys for Defendants:</u>	<u>Present</u>	<u>App.</u>	<u>Ret.</u>
THOMAS S POWERS	X	X		Kelley Munoz, DFPD	X	X	

Proceedings: CHANGE OF PLEA

A closed hearing is held with the defendant, his counsel, the Government and Court staff only, present.

Defendant is arraigned on the Second Superseding Information. Waiver of Indictment signed and filed. The plea agreement is incorporated herein by reference. Defendant sworn and states true name as charged. Defendant pleads GUILTY to Count 1 of the Second Superseding Information.

The Court questions the defendant regarding plea of GUILTY and finds that a factual basis has been laid and further finds the plea is knowledgeable and voluntarily made. The Court orders the plea accepted and entered.

The Court refers the defendant to the Probation Office for investigation and report, and the matter is continued to October 15, 2018 at 1:30 pm for sentencing.

The Court ORDERS the jury trial vacated as to this defendant only.

Counsel stipulate and the Court finds by clear and convincing evidence that the defendant is not a flight risk or a risk to the community. The Court grants bond as reflected in the Modified Bond and Conditions of Release signed and filed this date. Release D8784 written.

cc: PTS/SA

_____: _____ 55
Initials of Deputy Clerk lmb

SO/E,RELATED-G

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA (Southern Division - Santa Ana)
CRIMINAL DOCKET FOR CASE #: 8:17-cr-00077-AG-1**

Case title: USA v. Powers, M.D et al
Other court case number: SACR16-00096 AG

Date Filed: 07/07/2017

Assigned to: Judge Andrew J. Guilford

Defendant (1)**Thomas S Powers, M.D**represented by **Kelley Munoz**

Federal Public Defenders Offices
Southern Division
411 West 4th Street Suite 7110
Santa Ana, CA 92701-4598
714-338-4500
Fax: 714-338-4520
Email: Kelley_Munoz@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or
Community Defender Appointment

Pending Counts

18:1347; 2 HEALTH CARE FRAUD;
AIDING AND ABETTING AND
CAUSING AN ACT TO BE DONE
(1)

42:1320a-7b(b)(1)(A) ILLEGAL
REMUNERATIONS FOR HEALTH
CARE REFERRALS
(1s)

Disposition**Highest Offense Level (Opening)**

Felony

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

Disposition

None

Plaintiff

USA

represented by **Mark Aveis**

AUSA - Office of US Attorney
 Major Frauds Section
 312 North Spring Street Suite 1100
 Los Angeles, CA 90012-4700
 213-894-4477
 Fax: 213-894-6269
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Cassie D Palmer
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Designation: Assistant US Attorney

Paul G Stern
 AUSA - Office of US Attorney
 Criminal Division - US Courthouse
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 213-894-0715
 Fax: 213-894-6269
 Email: USACAC.Criminal@usdoj.gov
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Date Filed	#	Docket Text
07/07/2017	<u>1</u>	INDICTMENT Filed as to Thomas S Powers, M.D (1) count(s) 1, Anthony Paduano (2) count(s) 1. Offense occurred in OC, RV. (ja) (Entered: 07/11/2017)
07/07/2017	<u>2</u>	CASE SUMMARY filed by AUSA Mark Aveis as to Defendant Thomas S Powers, M.D; defendant's Year of Birth: 1941 (ja) (Entered: 07/11/2017)

07/07/2017	<u>4</u>	MEMORANDUM filed by Plaintiff USA as to Defendant Thomas S Powers, M.D, Anthony Paduano in regards to the following Magistrate Judges: Jacqueline Chooljian, Patrick J. Walsh, Sheri Pym, Michael Wilner, Alka Sagar, Jean Rosenbluth, Douglas McCormick, Rozella Oliver, Gail J Standish, Steve Kim, John Early (ja) (Entered: 07/11/2017)
07/07/2017	<u>5</u>	MEMORANDUM filed by Plaintiff USA as to Defendant Thomas S Powers, M.D, Anthony Paduano. This criminal action, being filed on 7/7/17, was not pending in the U. S. Attorneys Office before the date on which Judge Andre Birotte Jr, and Judge Michael W. Fitzgerald began receiving criminal matters. (ja) (Entered: 07/11/2017)
07/07/2017	<u>6</u>	NOTICE of Related Case(s) filed by Plaintiff USA as to Defendant Thomas S Powers, M.D, Anthony Paduano Related Case(s): SA CR 16-96-AG (ja) (Entered: 07/11/2017)
07/11/2017	<u>9</u>	REPORT COMMENCING CRIMINAL ACTION as to Defendant Thomas S Powers, M.D; defendants Year of Birth: 1941; date of arrest: 7/11/2017 (mba) (Entered: 07/13/2017)
07/11/2017	<u>11</u>	MINUTES OF POST-INDICTMENT ARRAIGNMENT: held before Magistrate Judge Douglas F. McCormick as to Defendant Thomas S Powers, M.D (1) Count 1 and Anthony Paduano (2) Count 1. Defendant arraigned, states true name: As charged. Defendant entered not guilty plea to all counts as charged. Attorney: Kelley Munoz for Thomas S Powers, M.D, Deputy Federal Public Defender, present. Attorney: John Barton, CJA Appointed, present. Case assigned to Judge Josephine L. Staton. Court orders bail set for Thomas S Powers, M.D (1) Unsecured Appearance Bond and Anthony Paduano (2) Unsecured Appearance Bond, See attached copy of the bond. Jury Trial set for 9/5/2017 09:00 AM before Judge Josephine L. Staton. Status Conference set for 8/25/2017 11:30 AM before Judge Josephine L. Staton. Trial estimate 7-10 days. Defendant and counsel are ordered to appear before said judge at the time and date indicated. Court Smart: CS 07/11/2017. (mba) (Entered: 07/13/2017)
07/11/2017	<u>12</u>	STATEMENT OF CONSTITUTIONAL RIGHTS filed by Defendant Thomas S Powers, M.D (mba) (Entered: 07/13/2017)
07/11/2017	<u>13</u>	ASSERTION OF FIFTH AND SIXTH AMENDMENT RIGHTS filed by Defendant Thomas S Powers, M.D (mba) (Entered: 07/13/2017)
07/11/2017	<u>14</u>	DECLARATION RE: PASSPORT filed by Defendant Thomas S Powers, M.D, declaring that I am unable to locate my passport(s) or other travel document(s). If I locate any passport or other travel document issued to me, I will immediately surrender it to the U.S. Pretrial Services Agency. I will not apply for a passport or other travel document during the pendency of this case. (mba) (Entered: 07/13/2017)
07/11/2017	<u>15</u>	FINANCIAL AFFIDAVIT filed as to Defendant Thomas S Powers, M.D. (Not for Public View pursuant to the E-Government Act of 2002) (mba) (Entered: 07/13/2017)
07/11/2017	<u>16</u>	ARREST WARRANT RETURNED Executed on 7/11/2017 as to Defendant Thomas S Powers, M.D. (mba) (Entered: 07/13/2017)

07/13/2017	<u>21</u>	ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 16-05 Related Case filed. Related Case No: SACR16-00096 AG. Case, as to Defendant Thomas S Powers, M.D, Anthony Paduano, transferred from Judge Josephine L. Staton to Judge Andrew J. Guilford for all further proceedings. The case number will now reflect the initials of the transferee Judge SACR17-00077 AG. Signed by Judge Andrew J. Guilford (dro) (Entered: 07/13/2017)
07/13/2017	<u>22</u>	BOND AND CONDITIONS OF RELEASE filed as to Defendant Thomas S Powers, M.D conditions of release: \$25,000 Unsecured AB approved by Magistrate Judge Karen E. Scott. (es) (Entered: 07/14/2017)
07/18/2017	<u>25</u>	STIPULATION for Order Protective Order filed by Plaintiff USA as to Defendant Thomas S Powers, M.D, Anthony Paduano (Attachments: # <u>1</u> Proposed Order)(Aveis, Mark) (Entered: 07/18/2017)
07/19/2017	<u>26</u>	PROTECTIVE ORDER by Judge Andrew J. Guilford as to Defendant Thomas S Powers, M.D, Anthony Paduano: Granting Stipulation for Protective Order <u>25</u> . (mt) (Entered: 07/19/2017)
07/21/2017	<u>27</u>	NOTICE OF APPEARANCE OR REASSIGNMENT of AUSA Paul G Stern on behalf of Plaintiff USA. Filed by Plaintiff USA. (Stern, Paul) (Entered: 07/21/2017)
07/21/2017	<u>28</u>	Notice of Appearance or Withdrawal of Counsel: for attorney Cassie D Palmer counsel for Plaintiff USA. Adding CASSIE D. PALMER as counsel of record for UNITED STATES OF AMERICA for the reason indicated in the G-123 Notice. Filed by Plaintiff United States of America. (Attorney Cassie D Palmer added to party USA(pty:pla))(Palmer, Cassie) (Entered: 07/21/2017)
08/11/2017	<u>31</u>	STIPULATION re: excludable delay from September 5, 2017 to February 20, 2018 filed by Plaintiff USA as to Defendant Thomas S Powers, M.D, Anthony Paduano (Attachments: # <u>1</u> Proposed Order)(Aveis, Mark) (Entered: 08/11/2017)
08/14/2017	<u>32</u>	ORDER by Judge Andrew J. Guilford as to Defendant Thomas S Powers, M.D, Anthony Paduano: Regarding Continuance of Trial Date and Findings of Excludable Time Periods Pursuant to Speedy Trial Act. Jury Trial continued to 2/20/2018 08:30 AM before Judge Andrew J. Guilford. Status Conference continued to 2/12/2018 02:00 PM before Judge Andrew J. Guilford. (mt) (Entered: 08/14/2017)
08/28/2017	<u>36</u>	REPORT COMMENCING CRIMINAL ACTION as to Defendant Thomas S Powers, M.D; defendants Year of Birth: 1941; date of arrest: 8/28/2017 (mt) (Entered: 08/31/2017)
08/28/2017	<u>37</u>	MINUTES OF INITIAL APPEARANCE Re: REVOCATION OF PRETRIAL RELEASE held before Magistrate Judge Douglas F. McCormick as to Defendant Thomas S Powers, M.D. Defendant informed of the charge. Attorney: Kelley Munoz, Deputy Federal Public Defender, present. Government's request for detention is: DENIED. PO/PSA WARRANT. Counsel are directed to contact the clerk for Andrew J. Guilford for the setting of further proceedings. Defendant committed to the custody of the U.S. Marshal. SEE ATTACHED

		COPY OF MODIFIED CR-1 BOND FORM FOR CONDITIONS. Court Smart: CS 8/28/17. (mt) (Entered: 08/31/2017)
08/28/2017	<u>38</u>	NOTICE OF REQUEST FOR DETENTION filed by Plaintiff USA as to Defendant Thomas S Powers, M.D (mt) (Entered: 08/31/2017)
08/28/2017	<u>39</u>	Warrant of Arrest for violation of Order of Court Returned Executed as to Thomas S Powers, M.D. (mt) (Entered: 08/31/2017)
08/31/2017	<u>40</u>	MODIFIED BOND AND CONDITIONS OF RELEASE filed as to Defendant Thomas S Powers, M.D conditions of release: \$25,000 Unsecured Appearance Bond approved by Magistrate Judge Jay C. Gandhi. Release No. 36884. (mt) (Entered: 08/31/2017)
08/31/2017	<u>41</u>	MEMORANDUM FOR RELEASE ORDER AUTHORIZATION filed by PSA Officer as to Defendant Thomas S Powers, M.D. Submitted in compliance with conditions as set forth in Modified Bond and Conditions (CR-1) <u>40</u> . (mt) (Entered: 08/31/2017)
11/16/2017	<u>45</u>	REPORT COMMENCING CRIMINAL ACTION as to Defendant Thomas S Powers, M.D; defendants Year of Birth: 1941; date of arrest: 11/16/2017 (mt) (Entered: 11/16/2017)
11/16/2017	<u>46</u>	MINUTES OF INITIAL APPEARANCE Re: REVOCATION OF PRETRIAL RELEASE held before Magistrate Judge Jay C. Gandhi as to Defendant Thomas S Powers, M.D. Defendant informed of the charge. Attorney: Kelley Munoz, Special appearance by Andrea Jacobs, Deputy Federal Public Defender, present. Government's request for detention is: GRANTED. Court orders defendant Permanently detained. Defendant committed to the custody of the U.S. Marshal. Court Smart: CS 11/16/17. (mt) (Entered: 11/16/2017)
11/16/2017	<u>47</u>	NOTICE OF REQUEST FOR DETENTION filed by Plaintiff USA as to Defendant Thomas S Powers, M.D (mt) (Entered: 11/16/2017)
11/16/2017	<u>48</u>	ORDER OF DETENTION by Magistrate Judge Jay C. Gandhi as to Defendant Thomas S Powers, M.D, (mt) (Entered: 11/16/2017)
11/16/2017	<u>49</u>	Warrant of Arrest for violation of Order of Court Returned Executed as to Thomas S Powers, M.D. (mt) (Entered: 11/16/2017)
01/19/2018	<u>62</u>	SECOND SUPERSEDING INFORMATION filed as to Thomas S Powers, M.D (1) count(s) 1s. (mt) (Entered: 01/24/2018)
01/19/2018	<u>63</u>	CASE SUMMARY filed by AUSA Cassie D Palmer as to Defendant Thomas S Powers, M.D; defendants Year of Birth: 1941 (mt) (Entered: 01/24/2018)
01/19/2018	<u>64</u>	MEMORANDUM filed by Plaintiff USA as to Defendant Thomas S Powers, M.D. Re Magistrate Judge Jacqueline Chooljian, Magistrate Judge Patrick J. Walsh, Magistrate Judge Sheri Pym, Magistrate Judge Michael Wilner, Magistrate Judge Jean Rosenbluth, Magistrate Judge Alka Sagar, Magistrate Judge Douglas McCormick, Magistrate Judge Rozella A. Oliver, Magistrate Judge Gail J. Standish, Magistrate Judge Steve Kim, Magistrate Judge John Early. (mt) (Entered: 01/24/2018)
01/19/2018	<u>65</u>	

		MEMORANDUM filed by Plaintiff USA as to Defendant Thomas S Powers, M.D. Re Judge Andre Birotte Jr., Judge Michael W. Fitzgerald. (mt) (Entered: 01/24/2018)
01/19/2018	<u>66</u>	SEALED DOCUMENT RE GOVERNMENT'S EX PARTE APPLICATION FOR ORDER SEALING DOCUMENTS; DECLARATION OF CASSIE D PALMER. (mt) (Entered: 01/24/2018)
01/22/2018	<u>67</u>	SEALED DOCUMENT RE ORDER SEALING DOCUMENT (mt) (Entered: 01/24/2018)
01/22/2018	<u>68</u>	SEALED DOCUMENT RE UNDER SEAL DOCUMENT (mt) (Entered: 01/24/2018)
01/31/2018	<u>69</u>	STIPULATION for Order FOR RELEASE ON BOND filed by Defendant Thomas S Powers, M.D (Attachments: # <u>1</u> Exhibit A-D, # <u>2</u> Proposed Order) (Munoz, Kelley) (Entered: 01/31/2018)
02/01/2018	<u>70</u>	ORDER by Judge Andrew J. Guilford as to Defendant Thomas S Powers: Denying Release on Bond (mt) (Entered: 02/07/2018)
02/12/2018	<u>71</u>	ORDER RE RELEASE ON BOND by Judge Andrew J. Guilford as to Defendant Thomas S Powers, re Stipulation for Release on Bond <u>69</u> . Bond Set as to Defendant Thomas S Powers, M.D. (1) \$25,000 Unsecured Appearance Bond. Release D8784 written. (mt) (Entered: 02/12/2018)
02/12/2018	<u>72</u>	MINUTES OF CHANGE OF PLEA HEARING held before Judge Andrew J. Guilford as to Defendant Thomas S Powers, M.D. A closed hearing is held with the defendant, his counsel, the Government and Court staff only, present. Defendant is arraigned on the Second Superseding Information. Defendant sworn. Defendant pleads GUILTY to Count 1s of the Second Superseding Information. Court questions defendant. The Court orders the plea accepted and entered. The Court ORDERS the preparation of a Presentence Report. Sentencing set for 10/15/2018 01:30 PM before Judge Andrew J. Guilford. The Court ORDERS the jury trial vacated as to this defendant only. The Court grants bond as reflected in the Modified Bond and Conditions of Release signed and filed this date. Release D8784 written. Court Reporter: Miriam Baird. (mt) (Entered: 02/12/2018)
02/12/2018	<u>73</u>	WAIVER OF INDICTMENT by Defendant Thomas S Powers, M.D before Judge Andrew J. Guilford (mt) (Entered: 02/13/2018)
02/12/2018	<u>74</u>	BOND AND CONDITIONS OF RELEASE filed as to Defendant Thomas S Powers conditions of release: \$25,000 Appearance Bond (see attached for details) approved by Judge Andrew J. Guilford. Release No. D8784. (mt) (Entered: 02/16/2018)

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