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2014 FEB 21 AM 10:28
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
MICHAEL D. DROBOT,
Defendant.

SA CR No. **SACR 14 - 00034**
I N F O R M A T I O N
[18 U.S.C. § 371: Conspiracy;
42 U.S.C. § 1320a-7b(b)(2)(A):
Payment of Kickbacks in Connection
with a Federal Health Care
Program]

The United States Attorney alleges:

COUNT ONE

[18 U.S.C. § 371]

A. RELEVANT PERSONS AND ENTITIES

At all times relevant to this Information:

1. Pacific Hospital of Long Beach ("Pacific Hospital") was a hospital located in Long Beach, California, specializing in surgeries, particularly spinal and orthopedic surgeries. From at least in or around 1997 to in or around November 2013, Pacific Hospital was owned and/or operated by defendant MICHAEL D. DROBOT ("defendant DROBOT").

1 2. International Implants LLC ("I2") was a limited liability
2 company owned and operated by defendant DROBOT that was located in
3 Newport Beach, California. I2 purchased implantable medical devices
4 ("hardware") for use in spinal surgeries from original manufacturers
5 and sold them to hospitals, particularly Pacific Hospital. I2 was
6 registered with the United States Food and Drug Administration as a
7 repackager/relabeler, but was not registered as a manufacturer, and,
8 in fact, did not manufacture medical devices.

9 3. Ronald S. Calderon was an elected California State Senator
10 ("Senator Calderon") who owed a fiduciary duty and a duty of honest
11 services to the citizens of California, including his constituents in
12 the 30th Senate District, which included, among others, the cities of
13 Bell, Bell Gardens, Commerce, Cudahy, Montebello, Norwalk, Pico
14 Rivera, Santa Fe Springs, and Whittier.

15 B. RELEVANT LEGISLATION

16 4. The California Workers' Compensation System ("CWCS") was a
17 system created by California law to provide insurance covering
18 treatment of injury or illness suffered by individuals in the course
19 of their employment. Under the CWCS, employers were required to
20 purchase workers' compensation insurance policies from insurance
21 carriers to cover their employees. When an employee suffered a
22 covered injury or illness and received medical services, the medical
23 service provider submitted a claim for payment to the relevant
24 insurance carrier, which then paid the claim. Claims were submitted
25 to and paid by the insurance carriers either by mail or
26 electronically. The CWCS was governed by various California laws and
27 regulations.

1 5. The California State Compensation Insurance Fund ("SCIF")
2 was a non-profit insurance carrier, created by the California
3 Legislature, which provided workers' compensation insurance to
4 employees in California, including serving as the "insurer of last
5 resort" under the CWCS system for employees without any other
6 coverage.

7 6. California law, including but not limited to the California
8 Business and Professions Code, the California Insurance Code, and the
9 California Labor Code, prohibited the offering, delivering,
10 soliciting, or receiving of anything of value in return for referring
11 a patient for medical services.

12 7. Before January 2013, California law allowed a hospital to
13 bill the cost of medical hardware separately from the other costs of
14 a spinal surgery, such as the hospital's and surgeon's services, the
15 reimbursement rates of which were set by a fee schedule. The
16 hardware was considered a "pass-through" cost and billing was limited
17 to \$250 over what the hospital paid for the hardware.

18 8. Between in or around January 2010 and in or around August
19 2012, the California Senate and the Division of Workers'
20 Compensation, an agency within the CWCS system, took several steps
21 designed to modify or eliminate this pass-through. This was due, in
22 part, to studies that showed eliminating this pass-through could
23 result in savings of as much as \$60 million.

24 9. By January 2013, California law was changed to eliminate
25 the separate billing of medical hardware used in spinal surgeries;
26 subsequently, reimbursement for all costs of such a surgery was
27 limited to a fee schedule.

28

1 10. The Federal Employees' Compensation Act ("FECA") provided
2 benefits to civilian employees of the United States, including United
3 States Postal Service employees, for medical expenses and wage-loss
4 disability due to a traumatic injury or occupational disease
5 sustained while working as a federal employee. Benefits available to
6 injured employees included rehabilitation, medical, surgical,
7 hospital, pharmaceutical, and supplies for treatment of an injury.
8 The Department of Labor ("DOL") - Office of Workers' Compensation
9 Programs ("OWCP") was the governmental body responsible for
10 administering the FECA. When a federal employee suffered a covered
11 injury or illness and received medical services, the medical service
12 provider submitted a claim for payment by mail or electronically to
13 Affiliated Computer Services ("ACS"), located in London, Kentucky,
14 which was contracted with the DOL to handle such claims. Upon
15 approval of the claim, ACS sent payment by mail or electronic funds
16 transfer from the U.S. Treasury in Philadelphia, Pennsylvania, to the
17 medical service provider.

18 11. Federal law prohibited the offering, delivering,
19 soliciting, or receiving of anything of value in return for referring
20 a patient for medical services paid for by a federal health care
21 benefit program.

22 C. OBJECTS OF THE CONSPIRACY

23 12. Beginning in or around 1998 and continuing to in or around
24 November 2013, in Orange and Los Angeles Counties, within the Central
25 District of California, and elsewhere, defendant DROBOT, together
26 with other co-conspirators known and unknown to the United States
27 Attorney, knowingly combined, conspired, and agreed to commit the
28 following offenses against the United States: 18 U.S.C. §§ 1341 and

1 1346 (Mail Fraud and Honest Services Mail Fraud); 18 U.S.C. §
2 1952(a)(3) (Interstate Travel in Aid of a Racketeering Enterprise);
3 18 U.S.C. § 1957 (Monetary Transactions in Property Derived from
4 Specified Unlawful Activity); and 42 U.S.C. § 1320a-7b(b)(2)(A)
5 (Payment or Receipt of Kickbacks in Connection with a Federal Health
6 Care Program).

7 D. MANNER AND MEANS TO ACCOMPLISH THE CONSPIRACY

8 13. The objects of the conspiracy were to be carried out, and
9 were carried out, in the following ways, among others:

10 a. Defendant DROBOT and other co-conspirators offered to
11 pay kickbacks to dozens of doctors, chiropractors, marketers, and
12 others for their referring workers' compensation patients to Pacific
13 Hospital for spinal surgeries, other types of surgeries, magnetic
14 resonance imaging, toxicology, durable medical equipment, and other
15 services, to be paid primarily through the CWCS and the FECA. For
16 spinal surgeries, typically, defendant DROBOT offered to pay a
17 kickback of \$15,000 per lumbar fusion surgery and \$10,000 per
18 cervical fusion surgery.

19 b. Influenced by the promise of kickbacks, doctors,
20 chiropractors, marketers, and others referred patients insured
21 through the CWCS and the FECA to Pacific Hospital for spinal
22 surgeries, other types of surgeries, and other medical services. The
23 workers' compensation patients were not informed that the medical
24 professionals had been offered kickbacks to induce them to refer the
25 surgeries and other medical services to Pacific Hospital.

26 c. The surgeries and other medical services were
27 performed on the referred workers' compensation patients at Pacific
28 Hospital.

1 d. I2, or, at times, another distributor who was a co-
2 conspirator, purchased medical hardware from a manufacturer and sold
3 it to Pacific Hospital for use in spinal surgeries. Typically, the
4 price I2 or the co-conspirator distributor charged for the hardware
5 was inflated by a multiple of the price at which I2 or the other
6 distributor had purchased the device from the manufacturer. At some
7 point, I2 included a stamp on its invoices falsely stating that I2
8 was an "FDA Registered Manufacturer."

9 e. Pacific Hospital submitted claims, by mail and
10 electronically, to SCIF and other workers' compensation insurance
11 carriers for payment of the costs of the surgeries and other medical
12 services. Included with the claims for spinal surgeries were the
13 inflated hardware invoices from I2 or the co-conspirator distributor.

14 f. As defendant DROBOT and the other co-conspirators knew
15 and intended, and as was reasonably foreseeable to them, in
16 submitting claims for payment, Pacific Hospital made materially false
17 and misleading statements to, and concealed material information
18 from, SCIF and other workers' compensation insurance carriers,
19 including that a) Pacific Hospital did not disclose to the insurance
20 carriers that it had offered or paid kickbacks for the referral of
21 the surgeries and other medical services for which it was submitting
22 claims, and b) the hardware invoices were fraudulently inflated.

23 g. The insurance carriers paid Pacific Hospital's claims,
24 by mail or electronically.

25 h. Defendant DROBOT and other co-conspirators paid and
26 caused others to pay kickbacks to the doctors, chiropractors,
27 marketers, and others who had referred patients to Pacific Hospital
28 for surgeries and other medical services.

1 i. To conceal the nature of the kickback payments from
2 both workers' compensation insurance carriers and patients, defendant
3 DROBOT, through one of the companies he owned and/or operated,
4 entered into bogus contracts with the doctors, chiropractors,
5 marketers, and others. The services discussed in those contracts
6 were, in fact, generally not provided or were provided at highly
7 inflated prices; rather, the compensation paid was based on the
8 number and type of surgeries and other medical services referred to
9 Pacific Hospital. Defendant DROBOT and his co-conspirators entered
10 into the following bogus contracts, among others, in order to hide
11 kickback payments: collection agreements, option agreements,
12 research and development agreements, lease and rental agreements,
13 consulting agreements, marketing agreements, and management
14 agreements.

15 j. Defendant DROBOT and other co-conspirators kept
16 records of the number of surgeries and other medical services
17 performed at Pacific Hospital due to referrals from the kickback
18 recipients, as well amounts paid to the kickback recipients for those
19 referrals. Periodically, defendant DROBOT and other co-conspirators
20 amended the bogus contracts with the kickback recipients to increase
21 or decrease the amount of agreed compensation described in the
22 contracts, in order to match the amount of kickbacks paid or promised
23 in return for referrals.

24 k. The spinal pass-through, the provision of California
25 law that allowed Pacific Hospital to fraudulently inflate the cost of
26 the medical hardware used during spinal surgeries, was a vital
27 component of defendant DROBOT's ability to pay kickbacks to the
28 doctors, chiropractors, marketers, and others who had referred

1 patients to Pacific Hospital for surgeries and other medical
2 services.

3 1. To prevent and delay steps being taken in the
4 California Senate and the Division of Workers' Compensation to limit
5 or eliminate the pass-through, as well as to promote legislative
6 efforts that would protect and expand his health care fraud scheme,
7 defendant DROBOT would pay bribes to Senator Calderon to influence,
8 and in exchange for, Senator Calderon's official acts relating to the
9 pass-through and other areas of workers' compensation and regulation.

10 m. The bribe payments were primarily in the form of
11 hiring Senator Calderon's son to perform clerical duties at one or
12 more of defendant DROBOT's companies during the summers of 2010,
13 2011, and 2012, and paying Senator Calderon's son approximately
14 \$10,000 per summer for approximately 15 days of work per summer.
15 Defendant DROBOT would also provide Senator Calderon a stream of
16 other financial benefits, such as trips on privately chartered
17 airplanes, golf at exclusive, high-end golf resorts, and meals at
18 expensive restaurants.

19 n. In exchange for these financial benefits, defendant
20 DROBOT would have Senator Calderon perform official acts favorable to
21 defendant DROBOT in connection with the spinal pass-through and other
22 areas of worker's compensation legislation and regulation. For
23 example, defendant DROBOT would have Senator Calderon arrange and
24 participate in meetings with other public officials and their staff,
25 where defendant DROBOT and Senator Calderon would attempt to convince
26 the other public officials and their staff to take action favorable
27 to defendant DROBOT in connection with the spinal pass-through and
28 other areas of worker's compensation legislation and regulation.

1 More specifically, this favorable action by Senator Calderon and
2 other public officials would support defendant DROBOT's ability to
3 commit and expand his health care fraud scheme.

4 E. EFFECTS OF THE CONSPIRACY

5 14. Had SCIF and the other workers' compensation insurance
6 carriers known the true facts regarding a) the payment of kickbacks
7 for the referral of workers' compensation patients for surgeries and
8 other medical services performed at Pacific Hospital, and b) the
9 fraudulent inflation of the cost of medical hardware used in spinal
10 surgeries, they would not have paid the claims or would have paid a
11 lesser amount.

12 15. From in or around 2008 to in or around April 2013, Pacific
13 Hospital billed workers' compensation insurance carriers
14 approximately \$500 million in claims for spinal surgeries that were
15 the result of the payment of a kickback; and defendant DROBOT or
16 other co-conspirators paid kickback recipients between approximately
17 \$20 million and \$50 million in kickbacks relating to those claims.

18 F. OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

19 16. In furtherance of the conspiracy and to accomplish the
20 objects of the conspiracy, defendant DROBOT and other co-conspirators
21 known and unknown to the United States Attorney, committed various
22 overt acts within the Central District of California, including but
23 not limited to the following:

24 Overt Act No. 1

25 On or about November 10, 2009, defendant DROBOT caused a check
26 in the amount of \$43,650.00 from SCIF to be sent by mail to Pacific
27 Hospital in reimbursement for a claim for spine surgery on patient
28

1 J.M. performed by doctor C.D., which claim was induced by the payment
2 of a kickback to J.C.

3 Overt Act No. 2

4 In or around February 2010, defendant DROBOT met with
5 Senator Calderon in Sacramento, California, and agreed to hire
6 Senator Calderon's son each summer for the next several summers and
7 to pay him \$10,000 per summer, so that Senator Calderon would have
8 enough money to pay for his son's college tuition.

9 Overt Act No. 3

10 On or about April 14, 2010, defendant DROBOT caused a check in
11 the amount of \$90,467.80 from SCIF to be sent by mail to Pacific
12 Hospital in reimbursement for a claim for spine surgery on patient
13 L.T. performed by doctor M.C., which claim was induced by the payment
14 of a kickback to P.S.

15 Overt Act No. 4

16 In or around April 2010, defendant DROBOT had Senator Calderon
17 meet with a Director at the Division of Workers' Compensation and
18 discuss the negative impact that proposed regulations would have on
19 Pacific Hospital and other hospitals.

20 Overt Act No. 5

21 On or about July 13, 2010, defendant DROBOT caused Senator
22 Calderon's son to be paid \$10,000 in advance of clerical work Senator
23 Calderon's son was to perform at one of defendant DROBOT's companies.

24 / / /

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1 Overt Act No. 6

2 In or around February 2011, defendant DROBOT had Senator
3 Calderon meet with Senator A and request that Senator A introduce
4 legislation in the California Senate that would be favorable to
5 defendant DROBOT.

6 Overt Act No. 7

7 On or about March 31, 2011, defendant DROBOT caused a check in
8 the amount of \$23,531.23 from Vanliner to be sent by mail to Pacific
9 Hospital in reimbursement for a claim for spine surgery on patient
10 R.S. performed by doctor S.O., which claim was induced by the payment
11 of a kickback to S.O.

12 Overt Act No. 8

13 On or about July 11, 2011, defendant DROBOT caused Senator
14 Calderon's son to be paid \$5,000 for clerical work Senator Calderon's
15 son had performed at one of defendant DROBOT's companies.

16 Overt Act No. 9

17 On or about August 16, 2011, defendant DROBOT caused Senator
18 Calderon's son to be paid \$5,000 for clerical work Senator Calderon's
19 son had performed at one of defendant DROBOT's companies.

20 Overt Act No. 10

21 On or about June 12, 2012, defendant DROBOT had Senator Calderon
22 arrange and participate in a meeting with Senator B, where Senator
23 Calderon and defendant DROBOT discussed the negative impact Senator
24 B's proposed legislation would have on Pacific Hospital and other
25 hospitals.

26 Overt Act No. 11

27 On or about June 29, 2012, defendant DROBOT caused a kickback in
28 the amount of \$100,000 to be paid to S.O. for the referral of lumbar

1 and cervical spinal surgeries performed at Pacific Hospital,
2 including on patients covered by the FECA.

3 Overt Act No. 12

4 On or about August 1, 2012, defendant DROBOT authorized Senator
5 Calderon's son to be paid a gross salary of \$18,510.90 for clerical
6 work Senator Calderon's son was performing at one of defendant
7 DROBOT's companies in order to guarantee that Senator Calderon's
8 son's take-home (or net) salary totaled approximately \$10,000 for the
9 summer of 2012.

10 Overt Act No. 13

11 On or about January 18, 2013, defendant DROBOT caused a check in
12 the amount of \$51,115.44 from Traveler's Insurance to be sent by mail
13 to Pacific Hospital in reimbursement for a claim for spine surgery on
14 patient F.C. performed by doctor T.R., which claim was induced by the
15 payment of a kickback to T.R.

16 Overt Act No. 14

17 On or about January 24, 2013, defendant DROBOT caused a check in
18 the amount of \$117,142.36 from Vanliner to be sent by mail to Pacific
19 Hospital in reimbursement for a claim for spine surgery on patient
20 S.F. performed by doctor G.A., which claim was induced by the payment
21 of a kickback to G.A.

22 Overt Act No. 15

23 On or about April 24, 2013, defendant DROBOT caused a check in
24 the amount of \$24,209.90 from ICW to be sent by mail to Pacific
25 Hospital in reimbursement for a claim for spine surgery on patient
26 F.A. performed by doctor L.T., which claim was induced by the payment
27 of a kickback to L.T.

1 Overt Act No. 16

2 On or about November 27, 2013, defendant DROBOT caused a check
3 in the amount of \$50,903.76 from Traveler's Insurance to be sent by
4 mail to Pacific Hospital in reimbursement for a claim for spine
5 surgery on patient T.V. performed by doctor L.T., which claim
6 resulted from the payment of a kickback to A.I.

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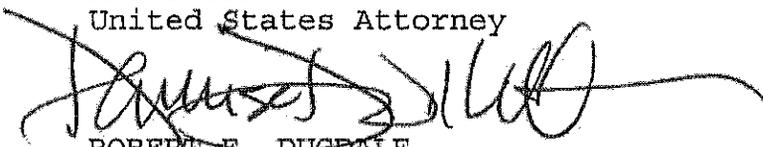
COUNT TWO

[42 U.S.C. § 1320a-7b(b) (2) (A)]

17. Paragraphs one through eleven of this Information are re-alleged and incorporated as if fully set forth herein.

18. Beginning in or around 1998 and continuing to in or around November 2013, in Orange and Los Angeles Counties, within the Central District of California, and elsewhere, defendant DROBOT, together with other co-conspirators known and unknown to the United States Attorney, knowingly and willfully offered and paid remuneration, that is, cash and checks, directly and indirectly, to persons to induce those persons to refer individuals to Pacific Hospital for spinal surgery and other medical services for which payment could be made in whole and in part under a Federal health care program, namely, the FECA.

ANDRÉ BIROTTE JR.
United States Attorney



ROBERT E. DUGDALE
Assistant United States Attorney
Chief, Criminal Division

DENNISE D. WILLETT
Assistant United States Attorney
Chief, Santa Ana Branch Office

JEANNIE M. JOSEPH
Assistant United States Attorney
Deputy Chief, Santa Ana Branch

JOSHUA M. ROBBINS
Assistant United States Attorney

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE JOSEPHINE L. STATON, JUDGE PRESIDING

UNITED STATES OF AMERICA,)	
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Plaintiff,)	
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)	
Vs.)	No. SACR14-00034-JLS
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MICHAEL D. DROBOT,)	
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Defendant.)	
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

CHANGE OF PLEA

SANTA ANA, CALIFORNIA

THURSDAY, APRIL 24, 2014

MIRIAM V. BAIRD, CSR 11893
OFFICIAL U.S. DISTRICT COURT REPORTER
411 WEST FOURTH STREET ROOM 1-053
SANTA ANA, CALIFORNIA 92701
(714) 894-3438
MVB11893@AOL.COM

A P P E A R A N C E S

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3 **IN BEHALE OF THE PLAINTIFF,**
4 **UNITED STATES OF AMERICA:**

JEANNIE M. JOSEPH
JOSHUA ROBBINS
AUSA - OFFICE OF US
ATTORNEY
CRIMINAL DIVISION
411 WEST 4TH STREET SUITE
8000
SANTA ANA, CA 92701-4599

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6
7
8
9 **IN BEHALE OF THE DEFENDANT,**
10 **MICHAEL D. DROBOT:**

TERREE ALLAN BOWERS
ARENT FOX LLP
555 WEST FIFTH STREET 48TH
FLOOR
LOS ANGELES, CA 90013-1065

11
12 - AND -

13
14 JEFFREY H. RUTHERFORD
DEREK HAHN
CROWELL AND MORING LLP
515 SOUTH FLOWER STREET
40TH FLOOR
15
16 LOS ANGELES, CA 90071
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1 SANTA ANA, CALIFORNIA; THURSDAY, APRIL 24, 2014; 2:03 P.M.

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4 THE CLERK: Calling SACR14-00034-JLS. *United*
5 *States of America vs. Michael Drobot.*

02:03PM

6 Counsel, please state your appearance for the
7 record.

8 MS. JOSEPHS: Good afternoon, Your Honor.

9 Jeannie Joseph and Joshua Robbins on behalf of the
10 United States.

02:03PM

11 THE COURT: Good afternoon.

12 MR. RUTHERFORD: Good afternoon, Your Honor.

13 Terree Bowers and Jeffrey Rutherford on behalf of
14 Mr. Michael Drobot, who is present.

02:03PM

15 THE COURT: Good afternoon.

16 MR. RUTHERFORD: Good afternoon, Your Honor.

17 THE COURT: I understand Mr. Drobot wants to plead
18 guilty pursuant to the plea agreement that was filed with the
19 Court on February 21st; is that correct?

02:04PM

20 MR. HAHN: That's correct, Your Honor.

21 THE COURT: That plea agreement will be
22 incorporated and made part of these proceedings here today.
23 If you would like to move to the lectern with your client,
24 please.

02:04PM

25 Mr. Drobot, before I accept your plea of guilty

1 today, I have to make sure you're fully informed of your
2 constitutional rights and that you understand the nature of
3 these proceedings here today. To do that, I'm going to
4 explain to you the constitutional rights that you have and
02:04PM 5 I'm going to ask you a series of questions. If at any point
6 in time you don't understand one of my questions or you need
7 me to repeat it or rephrase it, please let me know, and I
8 will do that.

9 Do you understand?

02:04PM 10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Also, if at any point during these
12 proceedings you'd like to speak with your attorney about
13 anything, please let me know. I'll pause the proceedings.
14 We'll give you the opportunity to do that.

02:05PM 15 Do you understand?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And if the clerk could please
18 administer the oath.

19 Michael D. Drobot, defendant, sworn;

02:05PM 20 THE COURT: Mr. Drobot, do you understand that
21 you've just been placed under oath. If you answer any of my
22 questions falsely, your answers may be used against you in a
23 later prosecution for perjury or for making a false
24 statement?

02:05PM 25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Also, I want to make sure that you
2 understand you have the right to remain silent. That's one
3 of the constitutional rights I'm going to tell you about
4 today. However, if we proceed today, I will be asking you
02:05PM 5 questions. You will you be answering those questions.
6 Meaning, you will be giving up your right to remain silent.

7 Do you understand that?

8 THE DEFENDANT: Yes, I understand.

9 THE COURT: Do you give up that right?

02:05PM 10 THE DEFENDANT: Yes, I do.

11 THE COURT: Counsel, join?

12 MR. BOWERS: Yes, Your Honor.

13 THE COURT: What is your full, true, and correct
14 name?

02:06PM 15 THE DEFENDANT: Michael Dennis Drobot.

16 THE COURT: How old are you, Mr. Drobot?

17 THE DEFENDANT: 69.

18 THE COURT: How many years of schooling have you
19 completed?

02:06PM 20 THE DEFENDANT: Through an MBA.

21 THE COURT: Have you been treated recently for any
22 mental illness of any kind?

23 THE DEFENDANT: No, Your Honor.

02:06PM 24 THE COURT: Have you been treated recently for any
25 addiction to narcotics of any kind?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: Are you currently on or taking any
3 medication or under the influence of any alcoholic beverage,
4 any drug of any sort?

02:06PM 5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Do you suffer from any kind of mental
7 condition or any disability that would prevent you from fully
8 understanding the nature of the charges against you or the
9 consequences of entering a guilty plea?

02:06PM 10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Do you know of any reason why we should
12 not go forward with your plea today?

13 THE DEFENDANT: No, I don't.

14 THE COURT: And, Counsel, have you spoken with your
02:06PM 15 client today about the nature of these proceedings?

16 MR. BOWERS: Yes, Your Honor.

17 THE COURT: Do you have any reason to believe that
18 he should not go forward with his plea today?

19 MR. BOWERS: None whatsoever, Your Honor.

02:07PM 20 THE COURT: Do you believe he's in full possession
21 of his faculties and that he is competent to the proceed?

22 MR. BOWERS: Yes, Your Honor.

23 THE COURT: Then based on the statements of the
24 defendant and his counsel and based on the Court's own
02:07PM 25 observations, I find that the defendant is in full possession

1 of his faculties and is competent to proceed.

2 Mr. Drobot, you have been charged in Count 1 of the
3 information with conspiracy in violation of 18 United States
4 Code Section 371. In Count 2, with payment of kickbacks in
02:07PM 5 connection with a federal health care program in violation of
6 42 United States Code Section 1320(a) through 7(b) subsection
7 (b) (2) (A). These are felony charges.

8 You have a constitutional right to be charged by an
9 indictment returned by a grand jury. A grand jury is
02:07PM 10 composed of at least 16 and not more than 23 persons. At
11 least 12 grand jurors must find that there is probable cause
12 to believe you committed the crime with which you are charged
13 before you may be indicted.

14 Now, I have in front of me, a signed waiver of
02:08PM 15 indictment form that was filed with the Court on March 31st
16 of this year indicating that you waive your right to be
17 charged by an indictment and that you agree to proceed by way
18 of information.

19 Do you have that waiver of indictment form,
02:08PM 20 Counsel?

21 MR. BOWERS: Not with me, Your Honor.

22 THE COURT: Not with you. Let me see if -- if
23 not --

24 MS. JOSEPHS: The Government has one, Your Honor.

02:08PM 25 THE COURT: Thank you, Ms. Joseph.

1 Is that your signature on the form, Mr. Drobot?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Before you signed this, did you discuss
4 waiving your right to an indictment by the grand jury with
02:08PM 5 your lawyer?

6 THE DEFENDANT: Yes, I did, Your Honor.

7 THE COURT: By waiving your right to an indictment
8 by the grand jury, the case will proceed against you on the
9 U.S. Attorney's information as though you had been indicted.

02:08PM 10 Has anyone made any promises, representations, or
11 guarantees to you of any kind to get you to waive your right
12 to an indictment?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Has anyone threatened you in any way or
02:09PM 15 threatened a close family member to get you to waive your
16 right to an indictment?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Do you want to waive, that is, give up
19 your right to an indictment and proceed by way of the U.S.
02:09PM 20 Attorney's information?

21 THE DEFENDANT: Yes, I do, Your Honor.

22 THE COURT: Counsel, I'm sorry, your name, Counsel
23 again?

24 MR. BOWERS: Terree Bowers, excuse me.

02:09PM 25 THE COURT: When I have number of names in front of

1 me, I have to remember which one was which. Thank you.

2 Mr. Bowers, have you discussed with your client his
3 right to be charged by an indictment?

4 MR. BOWERS: Yes, Your Honor.

02:09PM 5 THE COURT: Do you know of any reason why he should
6 not waive indictment?

7 MR. BOWERS: No, Your Honor.

8 THE COURT: Are you satisfied that his waiver is
9 knowingly, voluntarily, and intelligently made?

02:09PM 10 MR. BOWERS: Yes, Your Honor.

11 THE COURT: Do you join and concur in the waiver?

12 MR. BOWERS: I join and concur.

13 THE COURT: In the case of the *United States of*
14 *America vs. Michael D. Drobot*, the Court finds that the

02:09PM 15 defendant is fully aware of the nature of his right to
16 require that the Government proceed by way of an
17 information -- or by way of an indictment, and the Court
18 finds that his waiver is knowingly, voluntarily, and
19 intelligently made. The Court accepts the waiver.

02:10PM 20 Now, Mr. Drobot, have you received a copy of the
21 information; that is, the written statement of the charges
22 against you?

23 THE DEFENDANT: Yes, I have, Your Honor.

24 THE COURT: You have the right to have that

02:10PM 25 information read to you. Would you like me to read that to

1 you now?

2 THE DEFENDANT: It's not necessary, Your Honor.

3 THE COURT: Do you give up that right?

4 THE DEFENDANT: I do give up the right.

02:10PM 5 THE COURT: Now, you also have the following
6 constitutional rights that you will be giving up if you plead
7 guilty. I'm going to describe those for you. So I want you
8 to listen carefully.

9 You have the right to plead not guilty to any
02:10PM 10 offense charged. You have the right to persist in that plea.
11 You have a right to a speedy and public trial. You have the
12 right to a trial by jury. At that trial, you would be
13 presumed to be innocent, and the Government would have to
14 prove your guilt by proving each element of the offense
02:11PM 15 beyond a reasonable doubt.

16 If both you and the Government give up the right to
17 a jury trial, then you have the right to be tried by the
18 Court. You have the right to the assistance of counsel for
19 your defense throughout the proceedings, and if you cannot
02:11PM 20 afford counsel, the Court will appoint counsel for you to
21 represent you free of charge at trial and at every other
22 stage of the proceedings.

23 You have the right to confront and cross-examine
24 the witnesses against you. That means you have the right to
02:11PM 25 see the witnesses and hear them testify and have them

1 questioned by your lawyer. You have the right to have
2 witnesses subpoenaed and compelled to testify on your behalf.
3 You have the right to testify on your own behalf if you
4 choose to do so, but you also have the privilege against
02:11PM 5 self-incrimination, as I stated earlier. That means that you
6 have the right not to testify or incriminate yourself in any
7 way. If this case went to trial, and you decided not to
8 testify, that fact could not be used against you.

9 By pleading guilty, you will be giving up that
02:12PM 10 right and incriminating yourself. You have the right to
11 appeal your conviction and your sentence if you go to trial
12 and you are convicted.

13 Has your lawyer advised you of all these rights?

14 THE DEFENDANT: Yes, Your Honor.

02:12PM 15 THE COURT: Do you understand all of them?

16 THE DEFENDANT: Yes, I do, Your Honor.

17 THE COURT: Do you have any questions about any of
18 them?

19 THE DEFENDANT: No, I don't, Your Honor.

02:12PM 20 THE COURT: Would you like any more time to talk to
21 your lawyer about any of them?

22 THE DEFENDANT: It's not necessary.

23 THE COURT: Do you understand that if your plea is
24 accepted, you will be incriminating yourself and you will be
02:12PM 25 giving up the rights I've just described for you, including

1 your right to a jury trial?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you give up these rights?

4 THE DEFENDANT: Yes, I do, Your Honor.

02:12PM 5 THE COURT: And Mr. Bowers, are you satisfied that
6 the waivers are knowingly, voluntarily, and intelligently
7 made?

8 MR. BOWERS: Yes, I am, Your Honor.

9 THE COURT: Do you join and concur in the waivers?

02:12PM 10 MR. BOWERS: I join, Your Honor.

11 THE COURT: As I stated previously, Mr. Drobot,
12 you've been charged in Count 1 of the information with
13 conspiracy in violation of 18 United States Code Section 371
14 and in Count 2 with payment of kickbacks in connection with
02:13PM 15 the federal health care program in violation of 42 United
16 States Code Section 1320(a) through (7)(b) subsection (b)
17 (2)(A). These are felony charges.

18 And, Ms. Joseph, if you could please state the
19 elements of the charges, including the elements of the
02:13PM 20 substantive crimes underlying the conspiracy charge.

21 MS. JOSEPHS: Yes, Your Honor. For the defendant
22 to be guilty of the crime charged in Count 1 of the
23 information, which is conspiracy, in violation of Title 18
24 United States Code Section 371, the following must be true:

02:13PM 25 Number one, beginning in or around 1998 and

1 continuing in or around November 2013, there was an agreement
2 between two or more persons to commit a violation of Title 18
3 United States Code sections 1341 and 1346, mail fraud and
4 honest services mail fraud. Title 18 United States Code
02:14PM 5 Section 1952(a)(3), interstate travel in aid of racketeering
6 enterprise. Title 18 United States Code Section 1957,
7 monetary transactions and property derived from specified
8 unlawful activity. Title 42 United States Code
9 Section 1320(a)(7)(b) subsections (b)(2)(A), payment or
02:14PM 10 receipt of kickbacks in connection with the federal health
11 care program.

12 Second, defendant became a member of the conspiracy
13 knowing of at least one of its objects and intending to help
14 accomplish it.

02:14PM 15 Three, one of the members of the conspiracy
16 performed at least one overt act for the purpose of carrying
17 out the conspiracy.

18 Mail fraud in violation of Title 18 United States
19 Code Section 1341 has the following elements:

02:14PM 20 Number one, the defendant knowingly devised or
21 participated in a scheme or plan to defraud or a scheme or
22 plan for obtaining money or property by means of false or
23 fraudulent pretenses, representations, or promises.

24 Number two, the statements made or facts omitted as
02:15PM 25 part of the scheme were material; that is, they had a natural

1 tendency to influence or were capable of influencing a person
2 to part with money or property.

3 Number three, the defendant acted with the intent
4 to defraud.

02:15PM

5 Number four, the defendant used or caused to be
6 used the mails to carry out or attempt to carry out an
7 essential part of the scheme.

8 Honest Services Mail Fraud in violation Title 18
9 United States Code Section 346 has the following elements:

02:15PM

10 Number one, the defendant devised or participated
11 in a scheme or plan to deprive a patient of his or his right
12 to honest services.

13 Number two, the scheme or plan consisted of a bribe
14 or kickback in exchange for medical services.

02:15PM

15 Number three, a medical professional person owed a
16 fiduciary duty to the patient.

17 Number four, the defendant acted with the intent to
18 defraud by depriving the patient of his or her right of
19 honest services.

02:16PM

20 Number five, the defendant's act was material; that
21 is, it had a natural tendency to influence or was capable of
22 influencing a person's acts.

23 Number six, the defendant used or caused somebody
24 to use the mails to carry out or attempt to carry out the
25 plan or scheme.

02:16PM

1 Interstate travel in aid of a racketeering
2 enterprise in violation of a Title 18 United States Code
3 Section 1952(a)(3) has the following elements:

02:16PM 4 Number one, defendant used the mail or a facility
5 of interstate commerce with the intent to promote, manage,
6 establish, or carry on or facilitate the promotion,
7 managment, establishment, or carrying on of unlawful
8 activity, specifically payment and receipt of kickbacks in
9 violation of California Business and Professions Code
02:16PM 10 Section 650, California Insurance Code Section 750, and
11 California Labor Code Section 3215.

12 Number two, after doing so, defendant performed or
13 attempted to perform an act to promote, manage, establish, or
14 carry on or facilitate the promotion, managment,
02:17PM 15 establishment, or carrying on of such unlawful activity.

16 Money laundering in violation of Title 18 United
17 States Code Section 1957 has the following elements:

18 Number one, the defendant knowingly engaged or
19 attempted to engage in a monetary transaction.

02:17PM 20 Number two, defendant knew that the transaction
21 involved criminally derived property.

22 Number three, the property had a value greater than
23 \$10,000.

24 Number four, the property was, in fact, derived
02:17PM 25 from mail fraud.

1 Number five, the transaction occurred in the
2 United States.

3 For defendant to be guilty of the crime charged in
4 Count 2 of the information, that is, payment of kickbacks in
02:17PM 5 connection with a federal health care program in violation of
6 42 USC Section 1320(a)(7)(b) subsection (b)(2)(A) the
7 following must be true:

8 Number one, defendant knowingly and willfully paid
9 remuneration directly or indirectly in cash or in kind to
02:18PM 10 another person.

11 Number two, the remuneration was given to induce
12 that person to refer an individual for the furnishing or
13 arranging for the furnishing of any item or service for which
14 payment may be made in whole or in part under a federal
02:18PM 15 health care program.

16 And Number three, defendant knew that such payment
17 of remuneration was illegal.

18 THE COURT: Mr. Drobot, do you understand the
19 nature of the charges?

02:18PM 20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Have you discussed the charges and the
22 elements of the charges with your lawyer?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you have any questions about the
02:18PM 25 charges?

1 THE DEFENDANT: No, I don't, Your Honor.

2 THE COURT: Have you been advised of the maximum
3 penalties?

4 THE DEFENDANT: Yes, I have Your Honor.

02:18PM

5 THE COURT: Ms. Joseph, if you could please
6 describe the penalties, including any maximum fine, special
7 assessment, or term supervised release.

8 MS. JOSEPHS: Yes, Your Honor.

02:19PM

9 The statutory maximum sentence that the Court can
10 impose for a violation of Title 18 United States Code
11 Section 371, conspiracy, is five years' imprisonment, a
12 three-year period of supervised release, a fine of \$250,000
13 or twice the gross gain or gross loss resulting from the
14 offense, whichever is greatest, and a mandatory special
15 assessment of \$100.

02:19PM

16 The statutory maximum sentence that the Court can
17 impose for a violation of Title 42 United States United
18 States Code Section 1320(a)(7)(b) subsection (b)(2)(A) is
19 five years' imprisonment, a three-year period of supervised
20 release, a fine of \$250,000 or twice the gross gain or gross
21 loss resulting from the offense, whichever is greatest, and a
22 mandatory special assessment of \$100.

02:19PM

23 Therefore, the total maximum sentence for all
24 offenses to which defendant is pleading guilty is ten years'
25 imprisonment, a three-year period of supervised release, a

02:19PM

1 fine of \$500,000 or twice the gross gain or gross loss
2 resulting from the offense, whichever is greatest, and a
3 mandatory special assessment of \$200.

02:20PM 4 THE COURT: Mr. Drobot, you may be subject to
5 supervised release for a number of years after release from
6 prison.

7 Have you discussed with your lawyer and do you
8 understand the term supervised release?

9 THE DEFENDANT: Yes I do, Your Honor.

02:20PM 10 THE COURT: Do you understand that if you are sent
11 to prison and then you are placed on supervised release
12 following imprisonment, and you violate one or more of the
13 terms or conditions of supervised release, you may be
14 returned to prison for all or part of the term of supervised
02:20PM 15 release?

16 THE DEFENDANT: I understand, Your Honor.

17 THE COURT: Do you understand that if that happens,
18 it could result in your serving a term of imprisonment that's
19 greater than the statutory maximum?

02:20PM 20 THE DEFENDANT: I understand, Your Honor.

21 THE COURT: Do you understand that if you are not a
22 citizen of the United States, this plea may cause you to be
23 deported or removed from the United States, may result in a
24 denial of naturalization or citizenship, a denial of
02:20PM 25 residency status, and a denial of amnesty?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Now, you are pleading to felony
3 offenses. If your plea is accepted, I will find you guilty.
4 That may deprive you of certain valuable civil rights, such
02:21PM 5 as the right to vote, the right to hold public office, the
6 right to serve on a jury, or the right to possess a firearm
7 of any kind.

8 Do you understand?

9 THE DEFENDANT: Yes, Your Honor.

02:21PM 10 THE COURT: Do you understand that the Court will
11 order you to pay restitution to any victim of the offense?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And the amount of restitution is not
14 limited to the amounts alleged in the counts to which you are
02:21PM 15 pleading guilty, and will include losses that arise from
16 charges not prosecuted, as well as all relevant conduct in
17 connection with those charges.

18 Do you understand?

19 THE DEFENDANT: Yes, I do, Your Honor.

02:21PM 20 THE COURT: Do you understand that the Court may
21 order you to provide notice of conviction to the victims of
22 the offenses?

23 THE DEFENDANT: Yes, I do, Your Honor.

24 THE COURT: Do you understand that the Court may
02:21PM 25 require you to forfeit certain property to the Government?

1 THE DEFENDANT: Yes, I do, Your Honor.

2 THE COURT: Now, having heard from the Court and
3 from the Assistant United States Attorney regarding the
4 maximum sentence you can receive and the other terms and
02:22PM 5 conditions that were just described for you, do you
6 understand the possible consequences to you of entering a
7 guilty plea?

8 THE DEFENDANT: I do, Your Honor.

9 THE COURT: Do you have any questions regarding the
02:22PM 10 potential sentence you may receive if the Court accepts your
11 plea of guilty?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Have you discussed possible punishment,
14 the facts of your case, and possible defenses with your
02:22PM 15 lawyer?

16 THE DEFENDANT: Yes, I have, Your Honor.

17 THE COURT: Have you understood everything that's
18 been said here in the proceedings so far?

19 THE DEFENDANT: Yes, I have, Your Honor.

02:22PM 20 THE COURT: Mr. Drobot, will you be sentenced under
21 the Sentencing Reform Act of 1984. The United States
22 Sentencing Commission has issued Guidelines that Courts must
23 consult and take into account but are not required to follow
24 in determining sentences in criminal cases.

02:22PM 25 Now, in determining your sentence, the Court is

1 required to calculate the applicable Sentencing Guidelines
2 range, then to consider that range, along with possible
3 departures and other sentencing factors under the statute.

02:23PM 4 Now, have you and your lawyer talked about how the
5 Sentencing Guidelines might be applied in your case?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Then you understand that the Guidelines
8 use a person's total offense level and their criminal history
9 category to calculate the applicable Guidelines range?

02:23PM 10 THE DEFENDANT: Yes, I do, Your Honor.

11 THE COURT: Do you understand that regardless of
12 the Guidelines range for your case that is calculated, I may
13 sentence you to up to the maximum time allowed by law?

14 THE DEFENDANT: Yes, Your Honor.

02:23PM 15 THE COURT: And do you understand that neither the
16 Court nor your lawyer will be able to determine the
17 Guidelines range for your case until after the presentence
18 report has been prepared?

19 THE DEFENDANT: Yes, Your Honor.

02:23PM 20 THE COURT: Do you understand that the sentence
21 imposed may be different from any estimate your lawyer has
22 given to you?

23 THE DEFENDANT: Yes, Your Honor.

02:24PM 24 THE COURT: And even though there's an uncertainty
25 with that, and even though you may be disappointed over the

1 Guidelines range that is calculated for your case, or you may
2 be disappointed over the Court's eventual sentence, none of
3 that would be a basis for you to withdraw your plea of
4 guilty.

02:24PM 5 Do you understand?

6 THE DEFENDANT: Yes, I do, Your Honor.

7 THE COURT: Mr. Drobot, I have in front of me a
8 document titled, *Plea Agreement for Defendant Michael D.*
9 *Drobot.*

02:24PM 10 Do you have that agreement in front of you?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: And looking at that agreement at pages
13 31 and 32, above the line where your name is printed, is that
14 your signature on the agreement?

02:24PM 15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Did you read the plea agreement
17 carefully and discuss it with your lawyer before you signed
18 it?

19 THE DEFENDANT: Yes, I did, Your Honor.

02:24PM 20 THE COURT: Do you understand the terms of this
21 agreement?

22 THE DEFENDANT: Yes, I do, Your Honor.

23 THE COURT: Do you want any more time to discuss it
24 with your lawyer?

02:25PM 25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Do you understand that the Court is not
2 a party to this agreement and is not bound by its terms?

3 THE DEFENDANT: Yes, I do, Your Honor.

4 THE COURT: Are the terms of this written agreement
5 the entire understanding that you have with the Government?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Has anyone made any promises,
8 representations, or guarantees of any kind other than those
9 contained in this written plea agreement to get to you plead
10 guilty?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Other than what is contained in the
13 written plea agreement and other than a general discussion of
14 the Sentencing Guidelines and other sentencing considerations
15 and factors with your lawyer, has anyone made you any
16 promises of leniency, or a particular sentence or probation
17 or any other inducement of any kind to get to you plead
18 guilty?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: Has anyone attempted in any way to
21 threaten you or a family member or anyone close to you to get
22 you to plead guilty?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Are you pleading guilty voluntarily and
25 of your own free will?

1 THE DEFENDANT: Yes, I am, Your Honor.

2 THE COURT: Now, do you understand that by entering
3 into this plea agreement and entering a plea of guilty, you
4 will be giving up or limiting your right to appeal the
02:26PM 5 conviction and all or part of the sentence in this case?

6 THE DEFENDANT: I do, Your Honor.

7 THE COURT: Ms. Joseph, if you can please read into
8 the record any provision of the agreement that addresses a
9 waiver of an appeal right by the defendant.

02:26PM 10 MS. JOSEPHS: Yes, Your Honor.

11 At paragraphs 27 and 28, with the exception of an
12 appeal based on a claim that defendant's guilty pleas were
13 involuntary, by pleading guilty, defendant is waiving and
14 giving up any right to appeal his convictions on the offenses
02:26PM 15 to which he is pleading guilty.

16 In addition, provided the Court imposes a total
17 term of imprisonment on all counts of conviction of no more
18 than the low end of the Guidelines range corresponding to a
19 total offense level of 35 and defendant's criminal history
02:26PM 20 category, defendant gives up the right to appeal all of the
21 following:

22 A, the procedures and calculations used to
23 determine and impose any portion of the sentence;

24 B, the term of imprisonment imposed by the Court
02:27PM 25 provided is within the statutory maximum;

1 C, the fine imposed by the Court provided it is
2 within the statutory maximum;

3 D, the amount and terms of any restitution order
4 provided it is requires payment of no more than \$20 million;

02:27PM

5 E, the term of probation or supervised release
6 imposed by the Court provided it is within the statutory
7 maximum;

02:27PM

8 And F, any of the following conditions of probation
9 or supervised release imposed by the Court, the conditions
10 set forth in General Orders 318, 01-05, and/or 05-02 of this
11 Court, the drug testing conditions mandated by 18 USC
12 sections 3563(a)(5) and 3583(d), and the alcohol and drug use
13 conditions authorized by 18 USC Section 3563(b)(7).

02:28PM

14 THE COURT: Mr. Drobot, did you discuss giving up
15 these rights with your lawyer?

16 THE DEFENDANT: Yes, I did, Your Honor.

02:28PM

17 THE COURT: Based on that discussion and having
18 considered the issue, do you agree you're giving up your
19 appeal rights on the terms and conditions just stated by the
20 Assistant U.S. Attorney?

21 THE DEFENDANT: I agree, Your Honor.

22 THE COURT: Mr. Bowers, the plea agreement
23 indicates that it was signed by you and your client on
24 February 20th; is that correct?

02:28PM

25 MR. BOWERS: Yes, Your Honor.

1 THE COURT: And did he sign the agreement in your
2 presence?

3 MR. BOWERS: Yes, Your Honor.

4 THE COURT: Had to think back to February 20th.

02:28PM

5 MR. BOWERS: Yes, Your Honor. Sorry.

6 THE COURT: Did you discuss the contents of the
7 agreement and explain the contents of the agreement to him
8 before he signed the agreement?

9 MR. BOWERS: Yes, Your Honor, extensively.

02:28PM

10 THE COURT: Does this plea agreement represent the
11 entire agreement between your client and the Government?

12 MR. BOWERS: It does, Your Honor.

13 THE COURT: Did you review the facts of the case
14 and all of the discovery provided by the Government with your
15 client?

02:29PM

16 MR. BOWERS: Yes, Your Honor.

17 THE COURT: Did you pursue with him potential
18 defenses he might have to the charges?

19 MR. BOWERS: Yes, Your Honor.

02:29PM

20 THE COURT: Did you advise him concerning the
21 legality or admissibility of any statements or confessions or
22 other evidence that the Government has against him?

23 MR. BOWERS: Yes, Your Honor.

24 THE COURT: To the best of your knowledge, is your
25 client pleading guilty because of any illegally obtained

02:29PM

1 evidence in the possession of the Government?

2 MR. BOWERS: Not to my knowledge, Your Honor.

3 THE COURT: Did you and Mr. Drobot agree that it
4 was in his best interest to enter into this plea agreement?

02:29PM 5 MR. BOWERS: Yes, Your Honor.

6 THE COURT: And it is -- is it your opinion that
7 he's entering into this agreement freely, voluntarily with
8 full knowledge of the charges and the consequences of the
9 plea?

02:30PM 10 MR. BOWERS: Yes, Your Honor.

11 THE COURT: Have there been any promises,
12 representations, or guarantees of any kind made to either you
13 or your client other than those contained in the written plea
14 agreement?

02:30PM 15 MR. BOWERS: No, Your Honor.

16 THE COURT: And other than what is contained in the
17 written plea agreement and other than a general discussion of
18 the Sentencing Guidelines and other sentencing considerations
19 and factors, have you given any indication to your client of
02:30PM 20 what specific sentence the Court will impose in the event it
21 accepts his plea of guilty?

22 MR. BOWERS: No, Your Honor.

23 THE COURT: Do you know of any reason why the Court
24 should not accept your client's plea?

02:30PM 25 MR. BOWERS: No, Your Honor.

1 THE COURT: Do you join in the waiver of jury trial
2 and concur in the plea?

3 MR. BOWERS: Yes, I do, Your Honor.

02:30PM 4 THE COURT: Ms. Joseph, other than what is
5 expressly contained in the written plea agreement, has the
6 Government made any promises, representations, or guarantees
7 of any kind either to the defendant or his counsel?

8 MS. JOSEPHS: No, Your Honor.

02:30PM 9 THE COURT: Mr. Drobot, are you satisfied with the
10 representation that your lawyers have provided to you?

11 THE DEFENDANT: Yes, I am, Your Honor.

12 THE COURT: Have you told them everything you know
13 about your case, all of the facts?

14 THE DEFENDANT: I believe so, Your Honor.

02:31PM 15 THE COURT: Do you believe that they've fully
16 advised you concerning this matter?

17 THE DEFENDANT: Yes, I do, Your Honor.

18 THE COURT: Do you believe that they've fully
19 considered any defense that you may have to the charges?

02:31PM 20 THE DEFENDANT: Yes, I do, Your Honor.

21 THE COURT: Have you had enough time to discuss
22 this matter with them?

23 THE DEFENDANT: Yes, I have, Your Honor.

02:31PM 24 THE COURT: Do you believe that you've understood
25 everything that's happened here in court today, everything

1 said by me and by both counsel?

2 THE DEFENDANT: Yes, I do, Your Honor.

3 THE COURT: Do you understand the consequences to
4 you of entering this guilty plea?

02:31PM 5 THE DEFENDANT: Yes, I do, Your Honor.

6 THE COURT: Having in mind all we've discussed
7 regarding your plea of guilty, including the rights you will
8 be giving up, the maximum sentence you may receive, and the
9 other terms and conditions, do you still want to plead

02:31PM 10 guilty?

11 THE DEFENDANT: Yes, I would.

12 THE COURT: Then I'm going to ask you to listen
13 carefully because I'm going to ask the prosecutor to state
14 those facts that the Government would be prepared to prove if
02:31PM 15 this matter went to trial. Then I'm going to ask you some
16 questions about what she says.

17 Ms. Joseph.

18 MS. JOSEPHS: Thank you, Your Honor.

19 The government would prove as follows should it
02:32PM 20 proceed to trial:

21 Pacific Hospital of Long Beach or Pacific Hospital
22 was a hospital located in Long Beach, California specializing
23 in surgeries, particularly spinal and orthopedic surgeries.
24 From at least in or around 1997 to October 2013, Pacific
02:32PM 25 Hospital was owned and/or operated by defendant.

1 Beginning in or around 1998 and continuing in or
2 around November of 2013, defendant conspired with dozens of
3 doctors, chiropractors, marketers, and others to pay
4 kickbacks in return for those persons to refer thousands of
02:32PM 5 patients to Pacific Hospital for spinal surgeries and other
6 medical services paid for primarily through the Federal
7 Employees' Compensation Act or FECA, and California Workers'
8 Compensation System or CWCS. To help generate the moneys for
9 the kickback payments, defendant used a co-schemer's company
02:32PM 10 or his own company, International Implants, or I2, located in
11 Newport Beach, California to fraudulently inflate the price
12 of medical hardware purchased by Pacific Hospital to be used
13 in the spinal surgeries. Defendant knew that under
14 California law, medical hardware was considered a
02:33PM 15 pass-through cost that could be billed at no more than \$250
16 over what Pacific Hospital paid for the hardware. In paying
17 the kickbacks, inflating the medical hardware costs, and
18 submitting the resulting claims for spinal surgeries and
19 medical services, defendant and his co-conspirators acted
02:33PM 20 with the intent to defraud workers' compensation insurance
21 carriers and to deprive the patients of their right of honest
22 services.

23 Defendant also provided a stream of financial
24 benefits to California State Senator Ronald S. Calderon, or
02:33PM 25 Senator Calderon, in order to influence him to support and in

1 exchange for supporting defendant's positions on legislation
2 and regulations that would enhance defendant's ability to
3 commit and expand his health care fraud scheme. In
4 particular, legislation concerning hospitals' ability to pass
5 through to workers' compensation insurance carriers the cost
6 of medical hardware used in spinal surgeries.

7 The hospital kickback scheme operated as follows:
8 Defendant and other co-conspirators offered to pay kickbacks
9 to doctors, chiropractors, marketers, and others, the
10 kickback recipients, in return for their referring workers'
11 compensation payments patients to Pacific Hospital for spinal
12 surgeries, other types of surgeries, magnetic resonance
13 imaging, toxicology, durable medical equipment, and other
14 services to be paid through FECA and the CWCS. For spinal
15 surgeries, typically defendant offered to pay a kickback of
16 \$15,000 per lumbar fusion surgery and \$10,000 per cervical
17 fusion surgery provided that the surgeon used in the surgery
18 hardware supplied by a specified distributor. Beginning in
19 approximately 2008, defendant's company I2 typically was a
20 specified distributor. If the surgeon did not use I2's
21 hardware in the surgery, the kickbacks offered were smaller.

22 Influenced by the promise of kickbacks, the
23 kickback recipients referred patients insured through the
24 CWCS and the FECA to Pacific Hospital for spinal surgeries,
25 other types of surgeries, and other medical services. In

1 some cases, the patients lived dozens or hundreds of miles
2 from Pacific Hospital and closer to other qualified medical
3 facilities. The workers' compensation patients were not
4 informed that the medical professionals had been offered
02:35PM 5 kickbacks to induce them to refer the surgeries to Pacific
6 Hospital.

7 Pursuant to the kickback agreements, the kickback
8 recipients referred patients to Pacific Hospital. In the
9 case of spinal surgeries, as parts of the kickback
02:35PM 10 agreements, surgeons often used a specified distributor,
11 including I2. Typically, for surgeries covered by the CWCS,
12 the price I2 or the co-conspirator distributor charged for
13 the hardware was inflated by a multiple of the price at which
14 I2 or the other distributor had purchased the device from the
02:35PM 15 manufacturer.

16 Pacific Hospital submitted claims by mail and
17 electronically to workers' compensation insurance carriers
18 for payment of the cost of the surgeries and other medical
19 services. For a spinal surgery, Pacific Hospital typically
02:36PM 20 submitted a claim for the hospital services and the medical
21 hardware used in the surgery. For surgeries covered by he
22 CWCS, Pacific Hospital submitted the inflated invoice for the
23 hardware from I2 or other specified distributors who were
24 co-conspirators, plus an additional \$250. That is the
02:36PM 25 purported pass-through cost submitted in the claims for

1 medical hardware was thousands of dollars and sometimes tens
2 of thousands of dollars higher than the what the manufacturer
3 actually charged and what I2 or the other co-conspirator
4 distributor actually paid for the hardware.

02:36PM 5 As defendant and his co-conspirators knew, federal
6 and California law prohibited paying or receiving the
7 aforementioned kickbacks for the referral of patients for
8 medical services. Defendant and his co-conspirators also
9 knew that the insurance carriers would be unwilling to pay

02:37PM 10 claims for medical services that were obtained through such
11 illegal kickbacks. Moreover, defendant and his
12 co-conspirators knew that the insurance carriers would be
13 unwilling to play claims for spinal surgery hardware that
14 were artificially inflated and substantially above the

02:37PM 15 manufacturer's price. However, defendant and his
16 co-conspirators deliberately did not disclose to the
17 insurance carriers the kickbacks, the inflation of the
18 medical hardware, or the fact that I2 was owned and
19 controlled by defendant, and was not a manufacturer of such
02:37PM 20 hardware. Rather at some point, defendant and his
21 co-conspirators included on I2's invoices stamps falsely
22 stating that I2 was an FDA registered manufacturer.

23 Further, to conceal the illegal kickback payments
24 from the workers' compensation insurance carriers and
02:37PM 25 patients, defendant and his co-conspirators entered into

1 bogus contracts under which the kickback recipients purported
2 to provide services to defendant's companies to justify the
3 kickback payments. The services and other items of value
4 discussed in those contracts were, in fact, generally not
02:38PM 5 provided to Pacific Hospital or were provided at highly
6 inflated prices. The compensation to the kickback recipients
7 was actually based on the number and type of surgeries they
8 referred to the hospital. These contracts included, among
9 others, the following: Collection agreements, option
02:38PM 10 agreements, research and development agreements, lease and
11 rental agreements, consulting agreements, marketing
12 agreements, and managment agreements.

13 Defendant and his co-conspirators kept records of
14 the number of surgeries and other medical services performed
02:38PM 15 at Pacific Hospital due to the referrals from the kickback
16 recipients, as well as amounts paid to the kickback
17 recipients for those referrals. Periodically, defendant and
18 others amended the bogus contracts with the kickback
19 recipients to increase or decrease the amount of agreed
02:38PM 20 compensation described in the contracts in order to match the
21 amount of kickbacks paid or promised in return for referrals.

22 From in or around 2008 to in or around April 2013,
23 Pacific Hospital billed workers' compensation insurance
24 carriers approximately \$500 million in claims for several
02:39PM 25 thousand spinal surgeries that were the result of the payment

1 of kickbacks. Defendant and other co-conspirators paid
2 kickback recipients between approximately \$20 million and \$50
3 million in kickbacks relating to those claims.

02:39PM 4 To preserve his ability to pass on the inflated
5 spinal surgery hardware cost to the insurance carriers, and
6 thus, to help to pay the kickbacks, defendant provided a
7 stream of financial benefits to Senator Calderon in order to
8 induce the Senator to oppose legislation and regulation that
9 would have eliminated the pass-through rule, as well as to
02:39PM 10 support legislation that would have supported defendant's
11 health care fraud scheme. For example, at Senator Calderon's
12 request, defendant agreed to pay Senator Calderon's son
13 \$10,000 per summer, take-home or net, to work as a summer
14 file clerk for defendant's company in 2010, 2011, and 2012.

02:39PM 15 Defendant would not have ordinarily done this but
16 did so here in order to ensure that Senator Calderon would
17 take positions on spinal surgery and pass-through legislation
18 favorable to defendant. In 2010, at Senator Calderon's
19 request, defendant caused his company to pay Senator
02:40PM 20 Calderon's son \$10,000 upfront to be a summer file clerk. In
21 2011, again, at Senator Calderon's request, defendant caused
22 his company to pay Senator Calderon's son \$10,000 to be a
23 summer file clerk. In 2012, defendant made Senator
24 Calderon's son a W-2 employee, which caused taxes to be
02:40PM 25 withheld from his paycheck. When Senator Calderon informed

1 defendant that his son needed to net \$10,000 in the summer,
2 defendant caused his company, despite that it was in
3 financial difficulty and laying off workers, to pay Senator
4 Calderon's son an increased amount of up to near \$18,000 so
02:40PM 5 that Senator Calderon's son would net \$10,000 for the summer
6 of 2012. Defendant ensured that his company made these
7 payments to Senator Calderon's son each summer regardless of
8 how few days Senator Calderon's son actually worked.

9 In addition, on several occasions and while Senator
02:41PM 10 Calderon was supporting legislative positions favorable to
11 defendant, defendant took Senator Calderon to exclusive
12 high-end golf resorts. Defendant paid for these golf outings
13 in order to ensure Senator Calderon's continued legislative
14 support. Additionally, defendant took Senator Calderon out
02:41PM 15 to expensive dinners and provided him with free flights on a
16 private plain. All of these financial benefits were
17 intending to ensure that Senator Calderon would take
18 legislative positions favorable to defendant and Pacific
19 Hospital, which would allow defendant to continue to commit
02:41PM 20 and expand his health care fraud scheme. In response to
21 these financial benefits from defendant, Senator Calderon,
22 among other things, arranged meetings for defendant with
23 other senators to discuss defendant's legislative agenda and
24 advocated positions on legislation that would financially
02:41PM 25 benefit defendant at Pacific Hospital.

1 In furtherance of the conspiracy and to accomplish
 2 the objects of the conspiracy, defendant and other
 3 co-conspirators committed various overt acts within the
 4 Central District of California, including but not limited to
 5 the following:

02:42PM

6 Overt Act Number One, on or about November 10,
 7 2009, defendant caused a check in the amount of \$43,650 from
 8 SCIF to be sent by mail to Pacific Hospital in reimbursement
 9 for a claim for spine surgery on patient JM performed by
 10 Dr. CD which claim was induced by payment of a kickback to
 11 JC.

02:42PM

12 Overt Act Number Two, in or around February 2010,
 13 defendant met with Senator Calderon in Sacramento, California
 14 and agreed to hire Senator Calderon's son each summer for the
 15 next several summers and to pay him \$10,000 per summer so
 16 that Senator Calderon would have enough money to pay for his
 17 son's college tuition.

02:42PM

18 Overt Act Number Three, on or about April 3, 2010,
 19 defendant caused a check in the amount of \$90,467.80 from
 20 SCIF to be sent by mail to Pacific Hospital in reimbursement
 21 for a claim for spine surgery on patient LT performed by the
 22 Dr. MC, which claim was induced by the payment of a kickback
 23 to PS.

02:43PM

24 Overt Act Number Four, in or around April 2010,
 25 defendant had Senator Calderon meet with a director at the

02:43PM

1 Division of Workers' Compensation and discuss the negative
2 impact that proposed regulations would have on Pacific
3 Hospital and other hospitals.

02:43PM 4 Overt Act Number Five, on or about July 13th, 2010,
5 defendant caused Senator Calderon's son to be paid \$10,000 in
6 advance of clerical work Senator Calderon's son was to
7 perform at one of defendant's companies.

02:44PM 8 Overt Act Number Six, in or around February 2011,
9 defendant had Senator Calderon meet with Senator A and
10 request that Senator A introduce legislation in the
11 California Senate that would be favorable to defendant.

02:44PM 12 Overt Act Number Seven, on or about March 31, 2011,
13 defendant caused a check in the amount of \$23,531.23 from
14 Vanliner to be sent by mail to Pacific Hospital in
15 reimbursement for a claim for spine surgery on patient RS
16 performed by Dr. SO, which claim was induced by the payment
17 of a kickback to SO.

02:44PM 18 Overt Act Number Eight, on or about July 11, 2011,
19 defendant caused Senator Calderon's son to be paid \$5,000 for
20 clerical work Senator Calderon's son had performed at one of
21 defendant's companies.

02:45PM 22 Overt Act Number Nine, on or about August 16, 2011,
23 defendant caused Senator Calderon's son to be paid \$5,000 for
24 clerical work Senator Calderon's son had performed at one of
25 defendant's companies.

1 Overt Act Number 10, on or about June 12, 2012,
2 defendant had Senator Calderon arrange and participate in a
3 meeting with Senator B where Senator Calderon and defendant
4 discussed the negative impact Senator B's proposed
02:45PM 5 legislation would have on Pacific Hospital and other
6 hospitals.

7 Overt Act Number 11, on or about June 29, 2012,
8 defendant caused a kickback in the amount of \$100,000 to be
9 paid to SO for the referral of lumbar and cervical spine
02:45PM 10 surgeries performed at Pacific Hospital, including on
11 patients covered by the FECA.

12 Overt Act Number 12, on or about August 1st, 2012,
13 defendant authorized Senator Calderon's son to a gross salary
14 of \$18,510.90 for clerical work Senator Calderon's son was
02:45PM 15 performing at one of defendant's companies in order to
16 guarantee that Senator Calderon's son take-home or net salary
17 totaled approximately \$10,000 for the summer of 2012.

18 Overt Act Number 13, on or about January 18, 2013,
19 defendant caused a check in the amount of \$51,115.44 from
02:46PM 20 Travelers Insurance to be sent by mail to Pacific Hospital in
21 reimbursement for a claim for spine surgery on patient FC
22 performed by Dr. TR, which claim was induced by the payment
23 of a kickback to TR.

24 Overt Act Number 14, on or about January 24, 2013,
02:46PM 25 defendant caused a check in the amount of \$117,142.36 from .

1 Vanliner to be sent by mail to Pacific Hospital in
2 reimbursement for a claim for spine surgery on patient SF
3 performed by Dr. GA, which claim was induced by the payment
4 of a kickback to GA.

02:46PM

5 Overt Act Number 15, on or about April 24, 2013,
6 defendant caused a check to in the amount of \$24,209.90 from
7 ICW to be sent by mail to Pacific Hospital in reimbursement
8 for a claim for spine surgery on patient FA performed by
9 Dr. LT, which claim was induced by the payment of a kickback
10 to LT.

02:47PM

11 Overt Act Number 16, on or about November 27, 2013,
12 defendant caused a check in the amount of \$50,903.76 from
13 Travelers Insurance to be sent by mail to Pacific Hospital in
14 reimbursement for a claim for spine surgery on patient TB
15 performed by Dr. LT, which claim resulted from the payment of
16 a kickback to AI.

02:47PM

17 THE COURT: Do you understand what the prosecutor
18 just said?

19 THE DEFENDANT: Yes, I do, Your Honor.

02:47PM

20 THE COURT: Now, it was quite lengthy, but it was
21 all contained in your plea agreement; correct?

22 THE DEFENDANT: That's correct, Your Honor.

23 THE COURT: And you have had an opportunity before
24 today to review that extensively with your lawyer; correct?

02:48PM

25 THE DEFENDANT: Yes, I have, Your Honor.

1 THE COURT: Is everything that the prosecutor said
2 about you just now, including what she said about your
3 conduct, your intent, and your knowledge true and correct?

4 THE DEFENDANT: Yes, it is, Your Honor.

02:48PM 5 THE COURT: Are you pleading guilty because you did
6 the things charged in the information to which are you
7 pleading guilty?

8 THE DEFENDANT: Yes, I am.

02:48PM 9 THE COURT: Are you pleading guilty because you
10 are, in fact, guilty?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Is the Government satisfied with the
13 factual basis?

14 MS. JOSEPHS: It is, Your Honor. Thank you.

02:48PM 15 THE COURT: Do both counsel agree that the Court
16 has complied with the all of the requirements of Rule 11?

17 MS. JOSEPHS: Yes, Your Honor.

18 MR. BOWERS: Yes, Your Honor.

02:48PM 19 THE COURT: Mr. Drobot, I'm about to take your
20 guilty plea. Before I do that, do you have any questions
21 about anything we've addressed or anything you believe we've
22 not addressed?

23 THE DEFENDANT: No, Your Honor.

02:49PM 24 THE COURT: Mr. Bowers, is there any reason why the
25 Court cannot accept Mr. Drobot's plea at this time?

1 MR. BOWERS: No, Your Honor.

2 THE COURT: Mr. Drobot, in Case Number
3 SACR14-00034-JLS, to the charge in Count 1 of the information
4 that you engaged in a conspiracy in violation of Title 18
02:49PM 5 United States Code Section 371, a felony, how do you plead?

6 THE DEFENDANT: Guilty, Your Honor.

7 THE COURT: To the charge in Count 2 of the
8 information that you paid kickbacks in connection with a
9 federal health care program in violation of Title 42 United
02:49PM 10 States Code Section 1320(a)(7)(b) subsection (b)(2)(A), a
11 felony, how do you plead?

12 THE DEFENDANT: Guilty, Your Honor.

13 THE COURT: Mr. Drobot, I'm going to make certain
14 findings now. If you don't understand what I say or you
02:49PM 15 disagree with what I say or if you simply want to speak with
16 your attorney, please interrupt me right away or ask your
17 attorney to interrupt me.

18 Will you do that?

19 THE DEFENDANT: Yes, I will, Your Honor.

02:50PM 20 THE COURT: In the case of the *United States of*
21 *America vs. Michael D. Drobot*, the Court having questioned
22 the defendant and his counsel on the offer of his plea of
23 guilty to the two counts of the information, felonies, the
24 defendant and his counsel having advised the Court that they
02:50PM 25 have conferred concerning the offered plea of guilty and all

1 aspects of the charges against the defendant and any defenses
2 that he might have, and the Court having observed the
3 intelligence, demeanor, and attitude of the defendant while
4 answering questions, and the Court having observed that the
02:50PM 5 defendant does not appear to be under the influence of any
6 drug, medication, or other substance or factor that might
7 affect his judgment or actions in any manner, the Court finds
8 that the defendant is fully competent and capable of entering
9 an informed plea, and that the defendant is aware of the
02:50PM 10 nature of the charges and the consequences of the plea.

11 The Court further finds that the plea of guilty is
12 knowingly, voluntarily, and intelligently made with a full
13 understanding of the nature of the charges, the consequences
14 of the plea, and the defendant's constitutional rights.

02:51PM 15 The Court further finds that the plea is supported
16 by an independent factual basis containing each of the
17 essential elements of the offenses. The Court, therefore,
18 accepts the plea and orders that the plea be entered.

19 A written presentence report will be prepared by
02:51PM 20 the probation office. You will be asked to provide
21 information for that report. Your attorney may be present if
22 you wish. Both of you will have an opportunity to review the
23 report after it's been prepared and your attorneys may file
24 objections on your behalf before the sentencing hearing.

02:51PM 25 Both of you will be able to be heard on your behalf at

1 your sentencing hearing. All sentencing position papers are
2 due to be filed with the Court no later than two weeks before
3 the date set for sentencing.

02:51PM 4 That includes service on an assigned probation
5 officer, and if I could ask the clerk to please provide an
6 available date for sentencing.

7 THE CLERK: December 12th, 2014, at 10:30 a.m.

8 THE COURT: Is that date and time acceptable to
9 both sides?

02:52PM 10 MS. JOSEPHS: Yes, Your Honor.

11 MR. BOWERS: Yes, Your Honor.

12 THE COURT: And does either side wish to be heard
13 regarding the defendant's release status pending sentencing?

02:52PM 14 MS. JOSEPHS: No, Your Honor. The Government will
15 stipulate to the same conditions.

16 THE COURT: Based on the Government's agreement,
17 the nature of the charges, the fact that the defendant has
18 made his appearances, the Court finds that he is neither a
19 danger to the community or a flight risk, and so the Court
02:52PM 20 finds it appropriate to allow the defendant to remain
21 released on the same terms and conditions that are presently
22 in effect.

23 Mr. Drobot, you are ordered to appear in this
24 courtroom on December 12th, 2014 at 10:30 a.m. without any
02:52PM 25 further notice or order from the Court.

1 Do you understand?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And all dates other than the sentencing
4 date are vacated.

02:52PM

5 Is there anything else that is needed from the
6 Court at this time?

7 MS. JOSEPHS: No, Your Honor.

8 MR. BOWERS: No, Your Honor.

9 THE COURT: Thank you.

10 (Proceedings concluded at 2:55 p.m.)

11 CERTIFICATE

12 I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT
13 TRANSCRIPT OF THE STENOGRAPHICALLY RECORDED PROCEEDINGS IN
14 THE ABOVE MATTER.

15 FEES CHARGED FOR THIS TRANSCRIPT, LESS ANY CIRCUIT FEE
16 REDUCTION AND/OR DEPOSIT, ARE IN CONFORMANCE WITH THE
17 REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

18
19 /s/ Miriam V. Baird

10/27/2015

20 MIRIAM V. BAIRD
21 OFFICIAL REPORTER

DATE

22

23

24

25

FILED

2014 FEB 21 AM 10:35

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY

1 ANDRÉ BIROTTE JR.
 United States Attorney
 2 DENNISE D. WILLETT
 Assistant United States Attorney
 3 Chief, Santa Ana Branch Office
 4 JEANNIE M. JOSEPH (Cal. Bar No. 180399)
 Deputy Chief, Santa Ana Branch Office
 5 JOSHUA M. ROBBINS (Cal. State Bar No. 270553)
 Assistant United States Attorneys
 6 8000 United States Courthouse
 411 West Fourth Street
 7 Santa Ana, California 92701
 Telephone: (714) 338-3576/3538
 8 Facsimile: (714) 338-3708
 9 Email: Joshua.Robbins@usdoj.gov

10 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 SOUTHERN DIVISION

SACR 14 - 00034

15 UNITED STATES OF AMERICA,
 16 Plaintiff,
 17 v.
 18 MICHAEL D. DROBOT,
 19 Defendant.

No. SA CR 14-

PLEA AGREEMENT FOR DEFENDANT
MICHAEL D. DROBOT

21 1. This constitutes the plea agreement between MICHAEL D.
 22 DROBOT ("defendant") and the United States Attorney's Office for the
 23 Central District of California ("the USAO") in the above-captioned
 24 case. This agreement is limited to the USAO and cannot bind any
 25 other federal, state, local, or foreign prosecuting, enforcement,
 26 administrative, or regulatory authorities.

27 / / /
 28 / / /

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a) Give up the right to indictment by a grand jury and, at the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to a two-count criminal Information in the form attached to this agreement as Exhibit A or a substantially similar form, which charges defendant with Conspiracy in violation of 18 U.S.C. § 371, and Payment of Kickbacks in Connection with a Federal Health Care Program in violation of 42 U.S.C. § 1320a-7b(b)(2)(A):

b) Not contest facts agreed to in this agreement.

c) Abide by all agreements regarding sentencing contained in this agreement.

d) Appear for all court appearances, surrender as ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter.

e) Not commit any crime; however, offenses that would be excluded for sentencing purposes under United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not within the scope of this agreement.

f) Be truthful at all times with Pretrial Services, the United States Probation Office, and the Court.

g) Pay the applicable special assessments at or before the time of sentencing unless defendant lacks the ability to pay and prior to sentencing submits a completed financial statement on a form to be provided by the USAO.

3. Defendant further agrees:

1 a) Truthfully to disclose to law enforcement officials,
2 at a date and time to be set by the USAO, the location of,
3 defendant's ownership interest in, and all other information known
4 to defendant about, all monies, properties, and/or assets of any
5 kind, derived from or acquired as a result of, or used to facilitate
6 the commission of, defendant's illegal activities, and to forfeit
7 all right, title, and interest in and to such items.

8 b) To the Court's entry of an order of forfeiture at or
9 before sentencing with respect to these assets and to the forfeiture
10 of the assets.

11 c) To take whatever steps are necessary to pass to the
12 United States clear title to the assets described above, including,
13 without limitation, the execution of a consent decree of forfeiture
14 and the completing of any other legal documents required for the
15 transfer of title to the United States.

16 d) Not to contest any administrative forfeiture
17 proceedings or civil judicial proceedings commenced by the United
18 States of America against these properties.

19 e) Not to assist any other individual in any effort
20 falsely to contest the forfeiture of the assets described above.

21 f) Not to claim that reasonable cause to seize the
22 assets was lacking.

23 g) To prevent the transfer, sale, destruction, or loss
24 of any and all assets described above to the extent defendant has
25 the ability to do so.

26 h) To fill out and deliver to the USAO a completed
27 financial statement listing defendant's assets on a form provided by
28 the USAO.

1 c) At the time of sentencing, provided that defendant
2 demonstrates an acceptance of responsibility for the offense up to
3 and including the time of sentencing, recommend a two-level
4 reduction in the applicable Sentencing Guidelines offense level,
5 pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary, move
6 for an additional one-level reduction if available under that
7 section.

8 d) Recommend that defendant be sentenced to a term of
9 imprisonment no higher than the low end of the applicable Sentencing
10 Guidelines range, provided that the offense level used by the Court
11 to determine that range is 35 and provided that the Court does not
12 depart downward in criminal history category. For purposes of this
13 agreement, the low end of the Sentencing Guidelines range is that
14 defined by the Sentencing Table in U.S.S.G. Chapter 5, Part A ,
15 without regard to reductions in the term of imprisonment that may be
16 permissible through the substitution of community confinement or
17 home detention as a result of the offense level falling within Zone
18 B or Zone C of the Sentencing Table.

19 e) Except for criminal tax violations (including
20 conspiracy to commit such violations chargeable under 18 U.S.C.
21 § 371), not further criminally prosecute defendant for violations
22 arising out of defendant's conduct described in the agreed-to
23 factual basis set forth in paragraph 21 below. Defendant
24 understands that the USAO is free to criminally prosecute defendant
25 for any other unlawful past conduct or any unlawful conduct that
26 occurs after the date of this agreement. Defendant agrees that at
27 the time of sentencing the Court may consider the uncharged conduct
28 in determining the applicable Sentencing Guidelines range, the

1 propriety and extent of any departure from that range, and the
2 sentence to be imposed after consideration of the Sentencing
3 Guidelines and all other relevant factors under 18 U.S.C. § 3553(a).

4 7. The USAO further agrees:

5 a) Not to offer as evidence in its case-in-chief in the
6 above-captioned case or any other criminal prosecution that may be
7 brought against defendant by the USAO, or in connection with any
8 sentencing proceeding in any criminal case that may be brought
9 against defendant by the USAO, any Cooperation Information.

10 Defendant agrees, however, that the USAO may use both Cooperation
11 Information and Plea Information: (1) to obtain and pursue leads to
12 other evidence, which evidence may be used for any purpose,
13 including any criminal prosecution of defendant; (2) to cross-
14 examine defendant should defendant testify, or to rebut any evidence
15 offered, or argument or representation made, by defendant,
16 defendant's counsel, or a witness called by defendant in any trial,
17 sentencing hearing, or other court proceeding; and (3) in any
18 criminal prosecution of defendant for false statement, obstruction
19 of justice, or perjury.

20 b) Not to use Cooperation Information against defendant
21 at sentencing for the purpose of determining the applicable
22 guideline range, including the appropriateness of an upward
23 departure, or the sentence to be imposed, and to recommend to the
24 Court that Cooperation Information not be used in determining the
25 applicable guideline range or the sentence to be imposed. Defendant
26 understands, however, that Cooperation Information will be disclosed
27 to the probation office and the Court, and that the Court may use
28

1 Cooperation Information for the purposes set forth in U.S.S.G
2 § 1B1.8(b) and for determining the sentence to be imposed.

3 c) In connection with defendant's sentencing, to bring
4 to the Court's attention the nature and extent of defendant's
5 cooperation.

6 d) If the USAO determines, in its exclusive judgment,
7 that defendant has both complied with defendant's obligations under
8 paragraphs 2 through 4 above and provided substantial assistance to
9 law enforcement in the prosecution or investigation of another
10 ("substantial assistance"), to move the Court pursuant to U.S.S.G.
11 § 5K1.1, to fix an offense level and corresponding guideline range
12 below that otherwise dictated by the sentencing guidelines, and to
13 recommend a term of imprisonment within this reduced range.

14 DEFENDANT'S UNDERSTANDINGS REGARDING COOPERATION

15 8. Defendant understands the following:

16 a) Any knowingly false or misleading statement by
17 defendant will subject defendant to prosecution for false statement,
18 obstruction of justice, and perjury and will constitute a breach by
19 defendant of this agreement.

20 b) Nothing in this agreement requires the USAO or any
21 other prosecuting, enforcement, administrative, or regulatory
22 authority to accept any cooperation or assistance that defendant may
23 offer, or to use it in any particular way.

24 c) Defendant cannot withdraw defendant's guilty plea if
25 the USAO does not make a motion pursuant to U.S.S.G. § 5K1.1 for a
26 reduced guideline range or if the USAO makes such a motion and the
27 Court does not grant it or if the Court grants such a USAO motion
28 but elects to sentence above the reduced range.

1 the members of the conspiracy performed at least one overt act for
2 the purpose of carrying out the conspiracy.

3 10. Defendant understands that Mail Fraud, in violation of
4 Title 18, United States Code, Section 1341, has the following
5 elements: (1) the defendant knowingly devised or participated in a
6 scheme or plan to defraud, or a scheme or plan for obtaining money
7 or property by means of false or fraudulent pretenses,
8 representations or promises; (2) the statements made or facts
9 omitted as part of the scheme were material, that is, they had a
10 natural tendency to influence, or were capable of influencing, a
11 person to part with money or property; (3) the defendant acted with
12 the intent to defraud; and (4) the defendant used, or caused to be
13 used, the mails to carry out or attempt to carry out an essential
14 part of the scheme. Defendant further understands that Honest
15 Services Mail Fraud, in violation of Title 18, United States Code,
16 Section 1346, has the following elements: (1) the defendant devised
17 or participated in a scheme or plan to deprive a patient of his or
18 her right to honest services; (2) the scheme or plan consisted of a
19 bribe or kickback in exchange for medical services; (3) a medical
20 professional person owed a fiduciary duty to the patient; (4) the
21 defendant acted with the intent to defraud by depriving the patient
22 of his or her right of honest services; (5) the defendant's act was
23 material, that is, it had a natural tendency to influence, or was
24 capable of influencing, a person's acts; and (6) the defendant used,
25 or caused someone to use, the mails to carry out or attempt to carry
26 out the scheme or plan.

27 11. Defendant understands that Interstate Travel in Aid of a
28 Racketeering Enterprise, in violation of Title 18, United States

1 Code, Section 1952(a)(3), has the following elements: (1) defendant
2 used the mail or a facility of interstate commerce with the intent
3 to promote, manage, establish, or carry on, or facilitate the
4 promotion, management, establishment, or carrying on, of unlawful
5 activity, specifically payment and receipt of kickbacks in violation
6 of California Business & Professions Code § 650, California
7 Insurance Code § 750, and California Labor Code § 3215; and (2)
8 after doing so, defendant performed or attempted to perform an act
9 to promote, manage, establish, or carry on, or facilitate the
10 promotion, management, establishment, or carrying on, of such
11 unlawful activity.

12 12. Defendant understands that Money Laundering, in violation
13 of Title 18, United States Code, Section 1957, has the following
14 elements: (1) the defendant knowingly engaged or attempted to
15 engage in a monetary transaction; (2) the defendant knew the
16 transaction involved criminally derived property; (3) the property
17 had a value greater than \$10,000; (4) the property was, in fact,
18 derived from mail fraud; and (5) the transaction occurred in the
19 United States.

20 13. Defendant further understands that for defendant to be
21 guilty of the crime charged in count two of the information, that
22 is, Payment of Kickbacks in Connection with a Federal Health Care
23 Program, in violation of 42 U.S.C. § 1320a-7b(b)(2)(A), the
24 following must be true: (1) defendant knowingly and wilfully paid
25 remuneration, directly or indirectly, in cash or in kind, to another
26 person; (2) the remuneration was given to induce that person to
27 refer an individual for the furnishing or arranging for the
28 furnishing of any item or service for which payment may be made in

1 whole or in part under a Federal health care program; and (3)
2 defendant knew that such payment of remuneration was illegal.

3 PENALTIES AND RESTITUTION

4 14. Defendant understands that the statutory maximum sentence
5 that the Court can impose for a violation of Title 18, United States
6 Code, Section 371, is: 5 years imprisonment; a 3-year period of
7 supervised release; a fine of \$250,000 or twice the gross gain or
8 gross loss resulting from the offense, whichever is greatest; and a
9 mandatory special assessment of \$100.

10 15. Defendant understands that the statutory maximum sentence
11 that the Court can impose for a violation of Title 42, United States
12 Code, Section 1320a-7b(b)(2)(A), is: 5 years imprisonment; a 3-year
13 period of supervised release; a fine of \$250,000 or twice the gross
14 gain or gross loss resulting from the offense, whichever is
15 greatest; and a mandatory special assessment of \$100.

16 16. Defendant therefore understands that the total maximum
17 sentence for all offenses to which defendant is pleading guilty is:
18 10 years imprisonment; a three-year period of supervised release; a
19 fine of \$500,000 or twice the gross gain or gross loss resulting
20 from the offense, whichever is greatest; and a mandatory special
21 assessment of \$200.

22 17. Defendant understands that supervised release is a period
23 of time following imprisonment during which defendant will be
24 subject to various restrictions and requirements. Defendant
25 understands that if defendant violates one or more of the conditions
26 of any supervised release imposed, defendant may be returned to
27 prison for all or part of the term of supervised release authorized
28 by statute for the offenses that resulted in the term of supervised

1 release, which could result in defendant serving a total term of
2 imprisonment greater than the statutory maximum stated above.

3 18. Defendant understands that, by pleading guilty, defendant
4 may be giving up valuable government benefits and valuable civic
5 rights, such as the right to vote, the right to possess a firearm,
6 the right to hold office, and the right to serve on a jury.
7 Defendant understands that once the court accepts defendant's guilty
8 pleas, it will be a federal felony for defendant to possess a
9 firearm or ammunition. Defendant understands that the convictions
10 in this case may also subject defendant to various other collateral
11 consequences, including but not limited to revocation of probation,
12 parole, or supervised release in another case and suspension or
13 revocation of a professional license. Defendant understands that
14 unanticipated collateral consequences will not serve as grounds to
15 withdraw defendant's guilty pleas.

16 19. Defendant understands that, if defendant is not a United
17 States citizen, the felony convictions in this case may subject
18 defendant to: removal, also known as deportation, which may, under
19 some circumstances, be mandatory; denial of citizenship; and denial
20 of admission to the United States in the future. The court cannot,
21 and defendant's attorney also may not be able to, advise defendant
22 fully regarding the immigration consequences of the felony
23 convictions in this case. Defendant understands that unexpected
24 immigration consequences will not serve as grounds to withdraw
25 defendant's guilty pleas.

26 20. Defendant understands that defendant will be required to
27 pay full restitution to the victims of the offenses to which
28 defendant is pleading guilty. Defendant agrees that, in return for

1 the USAO's compliance with its obligations under this agreement, the
2 Court may order restitution to persons other than the victims of the
3 offenses to which defendant is pleading guilty and in amounts
4 greater than those alleged in the counts to which defendant is
5 pleading guilty. In particular, defendant agrees that the Court may
6 order restitution to any victim of any of the following for any
7 losses suffered by that victim as a result: (a) any relevant
8 conduct, as defined in U.S.S.G. § 1B1.3, in connection with the
9 offenses to which defendant is pleading guilty; and (b) any charges
10 not prosecuted pursuant to this agreement as well as all relevant
11 conduct, as defined in U.S.S.G. § 1B1.3, in connection with those
12 counts and charges. The parties have not come to an agreement on
13 the amount of restitution.

14 FACTUAL BASIS

15 21. Defendant admits that defendant is, in fact, guilty of the
16 offenses to which defendant is agreeing to plead guilty. Defendant
17 and the USAO agree to the statement of facts provided below and
18 agree that this statement of facts is sufficient to support pleas of
19 guilty to the charges described in this agreement and to establish
20 the Sentencing Guidelines factors set forth in paragraph 23 below
21 but is not meant to be a complete recitation of all facts relevant
22 to the underlying criminal conduct or all facts known to either
23 party that relate to that conduct.

24 Pacific Hospital of Long Beach ("Pacific Hospital") was a
25 hospital located in Long Beach, California, specializing in
26 surgeries, particularly spinal and orthopedic surgeries. From at
27 least in or around 1997 to October 2013, Pacific Hospital was owned
28 and/or operated by defendant.

1 Beginning in or around 1998 and continuing through in or around
2 November 2013, defendant conspired with dozens of doctors,
3 chiropractors, marketers, and others to pay kickbacks in return for
4 those persons to refer thousands of patients to Pacific Hospital for
5 spinal surgeries and other medical services paid for primarily
6 through the Federal Employees' Compensation Act ("FECA") and the
7 California Workers' Compensation System ("CWCS"). To help generate
8 the monies for the kickback payments, defendant used a co-schemers
9 company or his own company International Implants ("I2"), located in
10 Newport Beach, California, to fraudulently inflate the price of
11 medical hardware purchased by Pacific Hospital to be used in the
12 spinal surgeries; defendant knew that, under California law, medical
13 hardware was considered a "pass-through" cost that could be billed
14 at no more than \$250 over what Pacific Hospital paid for the
15 hardware. In paying the kickbacks, inflating the medical hardware
16 costs, and submitting the resulting claims for spinal surgeries and
17 medical services, defendant and his co-conspirators acted with the
18 intent to defraud workers' compensation insurance carriers and to
19 deprive the patients of their right of honest services.

20 Defendant also provided a stream of financial benefits to
21 California State Senator Ronald S. Calderon ("Senator Calderon") in
22 order to influence him to support, and in exchange for supporting,
23 defendant's positions on legislation and regulations that would
24 enhance defendant's ability to commit and expand his health care
25 fraud scheme -- in particular, legislation concerning hospitals'
26 ability to "pass through" to workers' compensation insurance
27 carriers the cost of medical hardware used in spinal surgeries.

28

1 The hospital kickback scheme operated as follows: defendant
2 and other co-conspirators offered to pay kickbacks to doctors,
3 chiropractors, marketers, and others (the "kickback recipients") in
4 return for their referring workers' compensation patients to Pacific
5 Hospital for spinal surgeries, other types of surgeries, magnetic
6 resonance imaging, toxicology, durable medical equipment, and other
7 services, to be paid through FECA and the CWCS. For spinal
8 surgeries, typically, defendant offered to pay a kickback of \$15,000
9 per lumbar fusion surgery and \$10,000 per cervical fusion surgery
10 provided that the surgeon used in the surgery hardware supplied by a
11 specified distributor. Beginning in approximately 2008, defendant's
12 company I2 typically was the specified distributor; if the surgeon
13 did not use I2's hardware in the surgery, the kickbacks offered were
14 smaller.

15 Influenced by the promise of kickbacks, the kickback recipients
16 referred patients insured through the CWCS and the FECA to Pacific
17 Hospital for spinal surgeries, other types of surgeries, and other
18 medical services. In some cases, the patients lived dozens or
19 hundreds of miles from Pacific Hospital, and closer to other
20 qualified medical facilities. The workers' compensation patients
21 were not informed that the medical professionals had been offered
22 kickbacks to induce them to refer the surgeries to Pacific Hospital.

23 Pursuant to the kickback agreements, the kickback recipients
24 referred patients to Pacific Hospital. In the case of spinal
25 surgeries, as part of the kickback agreements, surgeons often used
26 the specified distributor, including I2. Typically, for surgeries
27 covered by the CWCS, the price I2 or the co-conspirator distributor
28 charged for the hardware was inflated by a multiple of the price at

1 which I2 or the other distributor had purchased the device from the
2 manufacturer.

3 Pacific Hospital submitted claims, by mail and electronically,
4 to workers' compensation insurance carriers for payment of the costs
5 of the surgeries and other medical services. For a spinal surgery,
6 Pacific Hospital typically submitted a claim for the hospital's
7 services and the medical hardware used in the surgery. For
8 surgeries covered by the CWCS, Pacific Hospital submitted the
9 inflated invoice for the hardware from I2 or other specified
10 distributors who were co-conspirators, plus an additional \$250.
11 Thus, the purported "pass-through" cost submitted in the claims for
12 medical hardware was thousands of dollars -- and sometimes tens of
13 thousands of dollars -- higher than what the manufacturer actually
14 charged and what I2 or the co-conspirator distributor actually paid
15 for the hardware.

16 As defendant and his co-conspirators knew, federal and
17 California law prohibited paying or receiving the aforementioned
18 kickbacks for the referral of patients for medical services.
19 Defendant and his co-conspirators also knew that the insurance
20 carriers would be unwilling to pay claims for medical services that
21 were obtained through such illegal kickbacks. Moreover, defendant
22 and his co-conspirators knew that the insurance carriers would be
23 unwilling to pay claims for spinal surgery hardware that were
24 artificially inflated and substantially above the manufacturer's
25 price. However, defendant and his co-conspirators deliberately did
26 not disclose to the insurance carriers the kickbacks, the inflation
27 of the medical hardware, or the fact that I2 was owned and
28 controlled by defendant and was not a manufacturer of such hardware.

1 Rather, at some point, defendant and his co-conspirators included on
2 I2's invoices stamps falsely stating that I2 was an "FDA Registered
3 Manufacturer."

4 Further, to conceal the illegal kickback payments from the
5 workers' compensation insurance carriers and patients, defendant and
6 his co-conspirators entered into bogus contracts under which the
7 kickback recipients purported to provide services to defendant's
8 companies to justify the kickback payments. The services and other
9 items of value discussed in those contracts were, in fact, generally
10 not provided to Pacific Hospital or were provided at highly inflated
11 prices. The compensation to the kickback recipients was actually
12 based on the number and type of surgeries they referred to the
13 hospital. These contracts included, among others, the following:
14 collection agreements, option agreements, research and development
15 agreements, lease and rental agreements, consulting agreements,
16 marketing agreements, and management agreements.

17 Defendant and his co-conspirators kept records of the number of
18 surgeries and other medical services performed at Pacific Hospital
19 due to referrals from the kickback recipients, as well as amounts
20 paid to the kickback recipients for those referrals. Periodically,
21 defendant and others amended the bogus contracts with the kickback
22 recipients to increase or decrease the amount of agreed compensation
23 described in the contracts, in order to match the amount of
24 kickbacks paid or promised in return for referrals.

25 From in or around 2008 to in or around April 2013, Pacific
26 Hospital billed workers' compensation insurance carriers
27 approximately \$500 million in claims for several thousand spinal
28 surgeries that were the result of the payment of kickbacks; and

1 defendant and other co-conspirators paid kickback recipients between
2 approximately \$20 million and \$50 million in kickbacks relating to
3 those claims.

4 To preserve his ability to pass on the inflated spinal surgery
5 hardware costs to the insurance carriers, and thus to help to pay
6 the kickbacks, defendant provided a stream of financial benefits to
7 Senator Calderon in order to induce the senator to oppose
8 legislation and regulation that would have eliminated the "pass-
9 through" rule, as well as to support legislation that would have
10 supported defendant's health care fraud scheme. For example, at
11 Senator Calderon's request, defendant agreed to pay Senator
12 Calderon's son \$10,000 per summer (take-home or net) to work as a
13 summer file clerk for defendant's company in 2010, 2011, and 2012.
14 Defendant would not have ordinarily done this, but did so here in
15 order to ensure that Senator Calderon would take positions on spinal
16 surgery and pass-through legislation favorable to defendant. In
17 2010, at Senator Calderon's request, defendant caused his company to
18 pay Senator Calderon's son \$10,000 upfront to be a summer file
19 clerk. In 2011, again at Senator Calderon's request, defendant
20 caused his company to pay Senator Calderon's son \$10,000 to be a
21 summer file clerk. In 2012, defendant made Senator Calderon's son a
22 W-2 employee, which caused taxes to be withheld from his paycheck.
23 When Senator Calderon informed defendant that his son needed to net
24 \$10,000 in the summer, defendant caused his company, despite that it
25 was in financial difficulty and laying off workers, to pay Senator
26 Calderon's son an increased amount of up to near \$18,000 so that
27 Senator Calderon's son would net \$10,000 for the summer of 2012.
28 Defendant ensured that his company made these payments to Senator

1 Calderon's son each summer regardless of how few days Senator
2 Calderon's son actually worked.

3 In addition, on several occasions and while Senator Calderon
4 was supporting legislative positions favorable to defendant,
5 defendant took Senator Calderon to exclusive, high-end golf resorts.
6 Defendant paid for these golf outings in order to ensure Senator
7 Calderon's continued legislative support. Additionally, defendant
8 took Senator Calderon out to expensive dinners and provided him with
9 free flights on a private plane. All of these financial benefits
10 were intended to ensure that Senator Calderon would take legislative
11 positions favorable to defendant and Pacific Hospital, which would
12 allow defendant to continue to commit and expand his health care
13 fraud scheme. In response to these financial benefits from
14 defendant, Senator Calderon, among other things, arranged meetings
15 for defendant with other senators to discuss defendant's legislative
16 agenda and advocated positions on legislation that would financially
17 benefit defendant and Pacific Hospital.

18 In furtherance of the conspiracy and to accomplish the objects
19 of the conspiracy, defendant and other co-conspirators committed
20 various overt acts within the Central District of California,
21 including but not limited to the following:

22 Overt Act No. 1

23 On or about November 10, 2009, defendant caused a check in the
24 amount of \$43,650.00 from SCIF to be sent by mail to Pacific
25 Hospital in reimbursement for a claim for spine surgery on patient
26 J.M. performed by doctor C.D., which claim was induced by the
27 payment of a kickback to J.C.

28 / / /

1 Overt Act No. 2

2 In or around February 2010, defendant met with
3 Senator Calderon in Sacramento, California and agreed to hire
4 Senator Calderon's son each summer for the next several summers and
5 to pay him \$10,000 per summer, so that Senator Calderon would have
6 enough money to pay for his son's college tuition.

7 Overt Act No. 3

8 On or about April 14, 2010, defendant caused a check in the
9 amount of \$90,467.80 from SCIF to be sent by mail to Pacific
10 Hospital in reimbursement for a claim for spine surgery on patient
11 L.T. performed by doctor M.C., which claim was induced by the
12 payment of a kickback to P.S.

13 Overt Act No. 4

14 In or around April 2010, defendant had Senator Calderon meet
15 with a Director at the Division of Workers' Compensation and discuss
16 the negative impact that proposed regulations would have on Pacific
17 Hospital and other hospitals.

18 Overt Act No. 5

19 On or about July 13, 2010, defendant caused Senator Calderon's
20 son to be paid \$10,000 in advance of clerical work Senator
21 Calderon's son was to perform at one of defendant's companies.

22 Overt Act No. 6

23 In or around February 2011, defendant had Senator Calderon meet
24 with Senator A and request that Senator A introduce legislation in
25 the California Senate that would be favorable to defendant.

26 Overt Act No. 7

27 On or about March 31, 2011, defendant caused a check in the
28 amount of \$23,531.23 from Vanliner to be sent by mail to Pacific

1 Hospital in reimbursement for a claim for spine surgery on patient
2 R.S. performed by doctor S.O., which claim was induced by the
3 payment of a kickback to S.O.

4 Overt Act No. 8

5 On or about July 11, 2011, defendant caused Senator Calderon's
6 son to be paid \$5,000 for clerical work Senator Calderon's son had
7 performed at one of defendant's companies.

8 Overt Act No. 9

9 On or about August 16, 2011, defendant caused Senator
10 Calderon's son to be paid \$5,000 for clerical work Senator
11 Calderon's son had performed at one of defendant's companies.

12 Overt Act No. 10

13 On or about June 12, 2012, defendant had Senator Calderon
14 arrange and participate in a meeting with Senator B, where Senator
15 Calderon and defendant discussed the negative impact Senator B's
16 proposed legislation would have on Pacific Hospital and other
17 hospitals.

18 Overt Act No. 11

19 On or about June 29, 2012, defendant caused a kickback in the
20 amount of \$100,000 to be paid to S.O. for the referral of lumbar and
21 cervical spinal surgeries performed at Pacific Hospital, including
22 on patients covered by the FECA.

23 Overt Act No. 12

24 On or about August 1, 2012, defendant authorized Senator
25 Calderon's son to a gross salary of \$18,510.90 for clerical work
26 Senator Calderon's son was performing at one of defendant's
27 companies in order to guarantee that Senator Calderon's son's take-

28

1 home (or net) salary totaled approximately \$10,000 for the summer of
2 2012.

3 Overt Act No. 13

4 On or about January 18, 2013, defendant caused a check in the
5 amount of \$51,115.44 from Traveler's Insurance to be sent by mail to
6 Pacific Hospital in reimbursement for a claim for spine surgery on
7 patient F.C. performed by doctor T.R., which claim was induced by
8 the payment of a kickback to T.R.

9 Overt Act No. 14

10 On or about January 24, 2013, defendant caused a check in the
11 amount of \$117,142.36 from Vanliner to be sent by mail to Pacific
12 Hospital in reimbursement for a claim for spine surgery on patient
13 S.F. performed by doctor G.A., which claim was induced by the
14 payment of a kickback to G.A.

15 Overt Act No. 15

16 On or about April 24, 2013, defendant caused a check in the
17 amount of \$24,209.90 from ICW to be sent by mail to Pacific Hospital
18 in reimbursement for a claim for spine surgery on patient F.A.
19 performed by doctor L.T., which claim was induced by the payment of
20 a kickback to L.T.

21 Overt Act No. 16

22 On or about November 27, 2013, defendant caused a check in the
23 amount of \$50,903.76 from Traveler's Insurance to be sent by mail to
24 Pacific Hospital in reimbursement for a claim for spine surgery on
25 patient T.V. performed by doctor L.T., which claim resulted from the
26 payment of a kickback to A.I.

27

28

SENTENCING FACTORS

22. Defendant understands that in determining defendant's sentence the Court is required to calculate the applicable Sentencing Guidelines range and to consider that range, possible departures under the Sentencing Guidelines, and the other sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant understands that the Sentencing Guidelines are advisory only, that defendant cannot have any expectation of receiving a sentence within the calculated Sentencing Guidelines range, and that after considering the Sentencing Guidelines and the other § 3553(a) factors, the Court will be free to exercise its discretion to impose any sentence it finds appropriate up to the maximum set by statute for the crimes of conviction.

23. Defendant and the USAO agree to the following applicable Sentencing Guidelines factors:

<u>Base Offense Level:</u>	6	[U.S.S.G. § 2B1.1(a)(2)]
<u>Specific Offense Characteristics</u>		
Loss between \$20M to \$50M:	+22	[U.S.S.G. § 2B1.1(b)(1)(L)]
More than 50 victims:	+4	[U.S.S.G. § 2B1.1(b)(2)(B)]
Federal health care offense with gov't program loss of between \$1M-\$7M:	+2	[U.S.S.G. § 2B1.1(b)(7)]
<u>Adjustments</u>		
Aggravating Role:	+4	[U.S.S.G. § 3B1.1(a)]
Acceptance of Responsibility:	-3	[U.S.S.G. § 3E1.1]
<u>Total:</u>	35	

1 The USAO will agree to a two-level downward adjustment for
2 acceptance of responsibility (and, if applicable, move for an
3 additional one-level downward adjustment under U.S.S.G. § 3E1.1(b))
4 only if the conditions set forth in paragraph 6(c)) are met.
5 Subject to paragraph 7 above and paragraph 35 below, defendant and
6 the USAO agree not to seek, argue, or suggest in any way, either
7 orally or in writing, that any other specific offense
8 characteristics, adjustments, or departures relating to the offense
9 level be imposed. Defendant agrees, however, that if, after signing
10 this agreement but prior to sentencing, defendant were to commit an
11 act, or the USAO were to discover a previously undiscovered act
12 committed by defendant prior to signing this agreement, which act,
13 in the judgment of the USAO, constituted obstruction of justice
14 within the meaning of U.S.S.G. § 3C1.1, the USAO would be free to
15 seek the enhancement set forth in that section.

16 24. Defendant understands that there is no agreement as to
17 defendant's criminal history or criminal history category.

18 25. Defendant and the USAO reserve the right to argue for a
19 sentence outside the sentencing range established by the Sentencing
20 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
21 (a)(2), (a)(3), (a)(6), and (a)(7).

22 WAIVER OF CONSTITUTIONAL RIGHTS

23 26. Defendant understands that by pleading guilty, defendant
24 gives up the following rights:

- 25 a) The right to persist in a plea of not guilty.
26 b) The right to a speedy and public trial by jury.
27 c) The right to be represented by counsel - and if
28 necessary have the court appoint counsel - at trial. Defendant

1 understands, however, that, defendant retains the right to be
2 represented by counsel - and if necessary have the court appoint
3 counsel - at every other stage of the proceeding.

4 d) The right to be presumed innocent and to have the
5 burden of proof placed on the government to prove defendant guilty
6 beyond a reasonable doubt.

7 e) The right to confront and cross-examine witnesses
8 against defendant.

9 f) The right to testify and to present evidence in
10 opposition to the charges, including the right to compel the
11 attendance of witnesses to testify.

12 g) The right not to be compelled to testify, and, if
13 defendant chose not to testify or present evidence, to have that
14 choice not be used against defendant.

15 h) Any and all rights to pursue any affirmative
16 defenses, Fourth Amendment or Fifth Amendment claims, and other
17 pretrial motions that have been filed or could be filed.

18 WAIVER OF APPEAL OF CONVICTION

19 27. Defendant understands that, with the exception of an
20 appeal based on a claim that defendant's guilty pleas were
21 involuntary, by pleading guilty defendant is waiving and giving up
22 any right to appeal defendant's convictions on the offenses to which
23 defendant is pleading guilty.

24 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

25 28. Defendant agrees that, provided the Court imposes a total
26 term of imprisonment on all counts of conviction of no more than the
27 low end of the Guidelines range corresponding to a total offense
28 level of 35 and defendant's criminal history category, defendant

1 gives up the right to appeal all of the following: (a) the
2 procedures and calculations used to determine and impose any portion
3 of the sentence; (b) the term of imprisonment imposed by the Court,
4 provided it is within the statutory maximum; (c) the fine imposed by
5 the court, provided it is within the statutory maximum; (d) the
6 amount and terms of any restitution order, provided it requires
7 payment of no more than \$20,000,000; (e) the term of probation or
8 supervised release imposed by the Court, provided it is within the
9 statutory maximum; and (f) any of the following conditions of
10 probation or supervised release imposed by the Court: the conditions
11 set forth in General Orders 318, 01-05, and/or 05-02 of this Court;
12 the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and
13 3583(d); and the alcohol and drug use conditions authorized by 18
14 U.S.C. § 3563(b)(7).

15 29. The USAO agrees that, provided (a) all portions of the
16 sentence are at or below the statutory maximum specified above and
17 (b) the Court imposes a term of imprisonment of no less than the low
18 end of the Guidelines range corresponding to a total offense level
19 of 35 and defendant's criminal history category, the USAO gives up
20 its right to appeal any portion of the sentence, with the exception
21 that the USAO reserves the right to appeal the following: the amount
22 of restitution ordered, if that amount is less than \$50,000,000.

23 RESULT OF WITHDRAWAL OF GUILTY PLEA

24 30. Defendant agrees that if, after entering guilty pleas
25 pursuant to this agreement, defendant seeks to withdraw and succeeds
26 in withdrawing defendant's guilty pleas on any basis other than a
27 claim and finding that entry into this plea agreement was
28 involuntary, then (a) the USAO will be relieved of all of its

1 obligations under this agreement, including in particular its
2 obligations regarding the use of Cooperation Information; (b) in any
3 investigation, criminal prosecution, or civil, administrative, or
4 regulatory action, defendant agrees that any Cooperation Information
5 and any evidence derived from any Cooperation Information shall be
6 admissible against defendant, and defendant will not assert, and
7 hereby waives and gives up, any claim under the United States
8 Constitution, any statute, or any federal rule, that any Cooperation
9 Information or any evidence derived from any Cooperation Information
10 should be suppressed or is inadmissible; and (c) should the USAO
11 choose to pursue any charge that was not filed as a result of this
12 agreement, then (i) any applicable statute of limitations will be
13 tolled between the date of defendant's signing of this agreement and
14 the filing commencing any such action; and (ii) defendant waives and
15 gives up all defenses based on the statute of limitations, any claim
16 of pre-indictment delay, or any speedy trial claim with respect to
17 any such action, except to the extent that such defenses existed as
18 of the date of defendant's signing this agreement.

19 EFFECTIVE DATE OF AGREEMENT

20 31. This agreement is effective upon signature and execution
21 of all required certifications by defendant, defendant's counsel,
22 and an Assistant United States Attorney.

23 BREACH OF AGREEMENT

24 32. Defendant agrees that if defendant, at any time after the
25 signature of this agreement and execution of all required
26 certifications by defendant, defendant's counsel, and an Assistant
27 United States Attorney, knowingly violates or fails to perform any
28 of defendant's obligations under this agreement ("a breach"), the

1 USAO may declare this agreement breached. For example, if defendant
2 knowingly, in an interview, before a grand jury, or at trial,
3 falsely accuses another person of criminal conduct or falsely
4 minimizes defendant's own role, or the role of another, in criminal
5 conduct, defendant will have breached this agreement. All of
6 defendant's obligations are material, a single breach of this
7 agreement is sufficient for the USAO to declare a breach, and
8 defendant shall not be deemed to have cured a breach without the
9 express agreement of the USAO in writing. If the USAO declares this
10 agreement breached, and the Court finds such a breach to have
11 occurred, then:

12 a) If defendant has previously entered guilty pleas
13 pursuant to this agreement, defendant will not be able to withdraw
14 the guilty pleas.

15 b) The USAO will be relieved of all its obligations
16 under this agreement; in particular, the USAO: (i) will no longer be
17 bound by any agreements concerning sentencing and will be free to
18 seek any sentence up to the statutory maximum for the crime to which
19 defendant has pleaded guilty; (ii) will no longer be bound by any
20 agreements regarding criminal prosecution, and will be free to
21 criminally prosecute defendant for any crime, including charges that
22 the USAO would otherwise have been obligated not to criminally
23 prosecute pursuant to this agreement; and (iii) will no longer be
24 bound by any agreement regarding the use of Cooperation Information
25 and will be free to use any Cooperation Information in any way in
26 any investigation, criminal prosecution, or civil, administrative,
27 or regulatory action by the United States.

28

1 c) The USAO will be free to criminally prosecute
2 defendant for false statement, obstruction of justice, and perjury
3 based on any knowingly false or misleading statement by defendant.

4 d) In any investigation, criminal prosecution, or civil,
5 administrative, or regulatory action by the United States:

6 (i) defendant will not assert, and hereby waives and gives up, any
7 claim that any Cooperation Information was obtained in violation of
8 the Fifth Amendment privilege against compelled self-incrimination;
9 and (ii) defendant agrees that any Cooperation Information and any
10 Plea Information, as well as any evidence derived from any
11 Cooperation Information or any Plea Information, shall be admissible
12 against defendant, and defendant will not assert, and hereby waives
13 and gives up, any claim under the United States Constitution, any
14 statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of
15 the Federal Rules of Criminal Procedure, or any other federal rule,
16 that any Cooperation Information, any Plea Information, or any
17 evidence derived from any Cooperation Information or any Plea
18 Information should be suppressed or is inadmissible.

19 33. Following the Court's finding of a knowing breach of this
20 agreement by defendant, should the USAO choose to pursue any charge
21 that was not filed as a result of this agreement, then:

22 a) Defendant agrees that any applicable statute of
23 limitations is tolled between the date of defendant's signing of
24 this agreement and the filing commencing any such action.

25 b) Defendant waives and gives up all defenses based on
26 the statute of limitations, any claim of pre-indictment delay, or
27 any speedy trial claim with respect to any such action, except to
28

1 the extent that such defenses existed as of the date of defendant's
2 signing this agreement.

3 COURT AND PROBATION OFFICE NOT PARTIES

4 34. Defendant understands that the Court and the United States
5 Probation Office are not parties to this agreement and need not
6 accept any of the USAO's sentencing recommendations or the parties'
7 agreements to facts or sentencing factors.

8 35. Defendant understands that both defendant and the USAO are
9 free to: (a) supplement the facts by supplying relevant information
10 to the United States Probation Office and the Court, (b) correct any
11 and all factual misstatements relating to the Court's Sentencing
12 Guidelines calculations and determination of sentence, and (c) argue
13 on appeal and collateral review that the Court's Sentencing
14 Guidelines calculations and the sentence it chooses to impose are
15 not error, although each party agrees to maintain its view that the
16 calculations in paragraph 23 are consistent with the facts of this
17 case. While this paragraph permits both the USAO and defendant to
18 submit full and complete factual information to the United States
19 Probation Office and the Court, even if that factual information may
20 be viewed as inconsistent with the facts agreed to in this
21 agreement, this paragraph does not affect defendant's and the USAO's
22 obligations not to contest the facts agreed to in this agreement.

23 36. Defendant understands that even if the Court ignores any
24 sentencing recommendation, finds facts or reaches conclusions
25 different from those agreed to, and/or imposes any sentence up to
26 the maximum established by statute, defendant cannot, for that
27 reason, withdraw defendant's guilty pleas, and defendant will remain
28 bound to fulfill all defendant's obligations under this agreement.

1 Defendant understands that no one -- not the prosecutor, defendant's
2 attorney, or the Court -- can make a binding prediction or promise
3 regarding the sentence defendant will receive, except that it will
4 be within the statutory maximum.

5 NO ADDITIONAL AGREEMENTS

6 37. Defendant understands that, except as set forth herein,
7 there are no promises, understandings, or agreements between the
8 USAO and defendant or defendant's attorney, and that no additional
9 promise, understanding, or agreement may be entered into unless in a
10 writing signed by all parties or on the record in court.

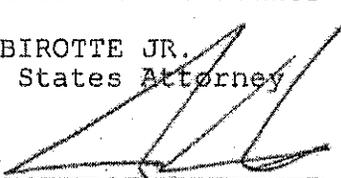
11 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

12 38. The parties agree that this agreement will be considered
13 part of the record of defendant's guilty plea hearing as if the
14 entire agreement had been read into the record of the proceeding.

15 AGREED AND ACCEPTED

16 UNITED STATES ATTORNEY'S OFFICE
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 ANDRÉ BIROTTE JR.
19 United States Attorney

20 
21 JEANNIE M. JOSEPH
22 Assistant United States Attorney

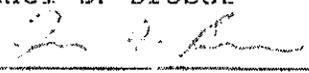
2/20/14
Date

23 MICHAEL D. DROBOT
24 Defendant

FEB 20, 2014
Date

25 
26 JEFFREY N. RUTHERFORD/JANET LEVINE
27 Attorneys for Defendant
28 Michael D. Drobot

FEB 20, 2014
Date

29 
30 TERREE A. BOWERS
31 Attorney for Defendant
32 Michael D. Drobot

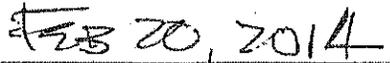
1.2.14
Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorneys. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorneys, and my attorneys have advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorneys in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.



MICHAEL D. DROBOT
Defendant



Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am Michael D. Drobot's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of guilty pleas pursuant to this agreement.



TERREE A. BOWERS
Attorney for Defendant
Michael D. Drobot

2/26/14

Date

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of Orange County, California. I am over 18 years of age, and I am not a party to the above-entitled action. My business address is the United States Attorney's Office, Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Suite 8000, Santa Ana, California 92701.

That I am employed by the United States Attorney for the Central District of California, who is a member of the Bar of the United States District Court for the Central District of California, at whose direction the service was made. On this date, February 21, 2014, I served a copy of the foregoing documents, described as follows: PLEA AGREEMENT FOR DEFENDANT MICHAEL D. DROBOT in the following manner:

by placing a true copy in a sealed envelope, addressed to the person specified below, and placing it for interoffice delivery within the courthouse:

by placing the document in a sealed envelope, bearing the requisite postage thereon, and placing it for mailing via the U.S. Postal Service addressed as follows:

by fax to the person and fax number specified below:

by e-mailing a pdf. version of the document to the e-mail address specified below:

Jeffrey H. Rutherford/Janet Levine
Crowell & Moring LLP
515 South Flower Street, 40th Floor
Los Angeles, California 90017

Terree A. Bowers
Arent Fox
555 West Fifth Street, 48th Floor
Los Angeles, California 90013

I declare under penalty of perjury that the foregoing is true and correct, executed on February 21, 2014, at Santa Ana, California.


GINA HERNANDEZ

CERTIFICATE OF SERVICE BY MAIL
(C.C.P. section 1013(a), 2015.5)

I am over the age of 18 years and not a party to the entitled action. My business address is 1515 Clay Street, 18th Floor, Oakland, California 94612.

I served the following documents:

- **Notice of Provider Suspension – Workers’ Compensation**
- **Information in *United States of America v. Michael D. Drobot* (Case No. SACR 14-00034) – U.S. District Court (Central District of California, Southern Division)**
- **Reporter’s Transcript of Proceedings – *Change of Plea* – dated April 24, 2014 in *United States of America v. Michael D. Drobot* (Case No. SACR 14-00034-JLS) – U.S. District Court (Central District of California)**
- **Plea Agreement for Defendant Michael D. Drobot in *United States of America v. Michael D. Drobot* (Case No. SACR 14-00034) – U.S. District Court (Central District of California, Southern Division)**

on the following person(s) at the following address(es):

Michael D. Drobot
1933 Bayside Drive
Corona del Mar, CA 92625

Michael D. Drobot
2 Gondoliers Bluff
Newport Coast, CA 92657

The documents were served by the following means:

(BY U.S. CERTIFIED MAIL) I enclosed the documents in a sealed envelope or package addressed to the person(s) at the address(es) listed above and:

Placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm’s practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

I declare under penalty of perjury under the laws of State of California that the above is true and correct.

Executed on March 28, 2017, at Oakland, California.



CATHY FUJITA-LAM