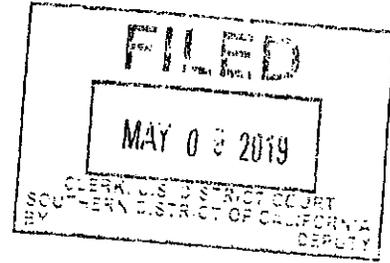


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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIRK H. KANCILIA,

Defendant.

Case No. 19 CR 1612-BAS

INFORMATION

Title 18, United States Code, Section 1349 - Conspiracy to Commit Honest Services Mail Fraud and Health Care Fraud; and Title 28, U.S.C., § 2461(c) - Criminal Forfeiture

The United States charges:

COUNT 1

CONSPIRACY

18 U.S.C. § 1349

From at least 2013 through at least 2016, Defendant DIRK H. KANCILIA conspired with medical providers, marketers, attorneys and others to: commit Honest Services Mail Fraud, that is, knowingly and with the intent to defraud, devise and participate in a material scheme to defraud and to deprive patients of the intangible right to their doctors' honest services, and cause mailings in furtherance of the scheme, in violation of Title 18, United states Code, Sections 1341 and 1346; and commit Health Care Fraud, that is, knowingly and with the intent to defraud, devise and participate in a material scheme to defraud a health care

1 benefit program, or to obtain money or property owned by, or under the  
2 custody or control of, a health-care benefit program by means of false  
3 or fraudulent pretenses, representations, or promises, in violation of  
4 Title 18, United States Code, Section 1347.

5 All in violation of Title 18, United States Code, Section 1349.

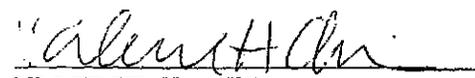
6 FORFEITURE ALLEGATION

7 Upon conviction of the felony offense alleged in this Information  
8 set forth above and pursuant to 18 U.S.C. § 981(a)(1)(C), 28 U.S.C.  
9 § 2461(c), and Federal Rule of Criminal Procedure 32.2, defendant DIRK  
10 H. KANCILIA shall forfeit to the United States any property, real or  
11 personal, which constitutes or was derived from proceeds traceable to  
12 such violation.

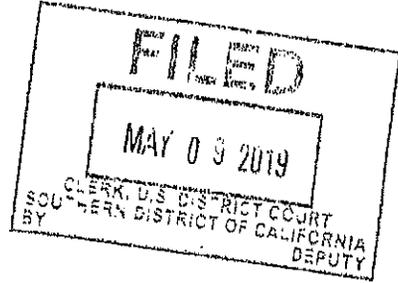
13 If any of the above-described forfeited property, as a result of  
14 any act or omission of DIRK H. KANCILIA cannot be located upon the  
15 exercise of due diligence; has been transferred or sold to, or deposited  
16 with, a third person; has been placed beyond the jurisdiction of the  
17 Court; has been substantially diminished in value; or has been commingled  
18 with other property which cannot be subdivided without difficulty, it  
19 is the intent of the United States, pursuant to  
20 21 U.S.C. § 853(p), made applicable herein by 28 U.S.C. § 2461(c), to  
21 seek forfeiture of any other property of DIRK H. KANCILIA up to the  
22 value of the property subject to forfeiture.

23 ROBERT S. BREWER, JR.  
24 United States Attorney

25 DATED: 5/9/2019

26   
27 VALERIE H. CHU  
28 CAROLINE P. HAN  
Assistant U.S. Attorney

ORIGINAL



1 ALANA ROBINSON  
 Acting United States Attorney  
 2 FRED SHEPPARD  
 Assistant United States Attorney  
 3 California Bar No. 250781  
 VALERIE H. CHU  
 4 Assistant United States Attorney  
 California Bar No. 241709  
 5 CAROLINE P. HAN  
 Assistant United States Attorney  
 6 California Bar No. 250301  
 Federal Office Building  
 7 880 Front Street, Room 6293  
 San Diego, California 92101-8893  
 8 Attorneys for United States of America

9  
 10 UNITED STATES DISTRICT COURT  
 11 SOUTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

Case No. 19CR1612-BAS

13 Plaintiff,

14 v.

PLEA AGREEMENT

15 DIRK H. KANCILIA

16 Defendant.

17 IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF  
 18 AMERICA, through its counsel, Alana Robinson, Acting United States  
 19 Attorney, and Valerie H. Chu, Caroline P. Han, and Fred Sheppard,  
 20 Assistant United States Attorneys, and defendant DIRK H. KANCILIA, with  
 21 the advice and consent of Brian H. Bieber, counsel for Defendant, as  
 22 follows:

23 I

24 THE PLEA

25 Defendant agrees to waive indictment and plead guilty to an  
 26 ~~Superseding~~ Information charging defendant with Conspiracy to commit  
 27 Honest Services Mail Fraud and Healthcare Fraud, in violation of 18  
 28 U.S.C. § 1349.

WAC  
132  
EPD

Plea Agreement

Def. Initials 

19CR1612

1 In exchange, the United States agrees to not prosecute Defendant  
2 for conduct set forth in the Factual Basis of this plea agreement,  
3 unless Defendant breaches the plea agreement or the guilty plea entered  
4 pursuant to this plea agreement is set aside for any reason. If  
5 Defendant breaches this agreement or the guilty plea is set aside,  
6 section XII below shall apply.

7 II

8 NATURE OF THE OFFENSE

9 A. ELEMENTS EXPLAINED

10 The offense to which Defendant is pleading guilty has the following  
11 elements:

- 12 1. There was an agreement between two or more persons to  
13 commit Honest Services Mail Fraud and Health Care Fraud;  
14 and  
15 2. The defendant entered into the agreement knowing of at  
16 least one of its objects and intending to help accomplish  
17 it.

18 The elements of Honest Services Mail Fraud are as follows:

- 19 1. The defendant devised or knowingly participated in a  
20 scheme to deprive a patient of his or her right to a  
21 doctor's honest services;  
22 2. The scheme consisted of soliciting and facilitating the  
23 receipt of kickback payments from suppliers of health-  
24 care services and products to be paid to doctors in  
25 exchange for referrals;  
26 3. The doctor, as a healthcare professional, owed a  
27 fiduciary duty to the patient;  
28

- 1 4. The defendant acted with the intent to defraud by  
2 depriving the patient of his or her right to the doctor's  
3 honest services;
- 4 5. The defendant's act was material; that is, it had a  
5 natural tendency to influence, or was capable of  
6 influencing, a person's acts; and
- 7 6. The defendant used, or caused someone to use, the mails  
8 to carry out or to attempt to carry out the scheme or  
9 plan.

The elements of Health Care Fraud are as follows:

- 10 1. The defendant knowingly and willfully devised or  
11 participated in a scheme to defraud a health-care  
12 benefit program, or to obtain money or property owned  
13 by, or under the custody or control of, a health-care  
14 benefit program, that is, the California Workers'  
15 Compensation System, by means of false or fraudulent  
16 pretenses, representations, or promises;
- 17 2. The statements made or facts omitted as part of the  
18 scheme were material;
- 19 3. The defendant acted willfully and intended to defraud;  
20 and
- 21 4. The Defendant did so in connection with the delivery of  
22 or payment for health-care benefits, items, or services.

23 B. ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS

24 Defendant has fully discussed the facts of this case with defense  
25 counsel. Defendant has committed each element of the crime and admits  
26 that there is a factual basis for this guilty plea. The following facts  
27 are true and undisputed:  
28

1. Defendant Dirk H. Kancilia is a chiropractor who has been licensed in the state of California since 1985. He owns and operates chiropractic clinics in San Diego, San Ysidro and Escondido, California. Defendant conducts business under E.J.D. Medical Corporation and RB Spine Center.
2. From at least 2013 through at least 2016, Defendant conspired with medical providers, marketers, attorneys and others to facilitate the payment of unlawful per-patient and volume-based kickbacks and bribes to doctors by various medical providers, in exchange for the doctors' referrals of hundreds patients to those providers, in violation of the doctors' duty of honest services to their patients.
3. The co-conspirators engaged in this unlawful cross-referral scheme for services including extracorporeal shockwave therapy, Nerve Conduction Velocity tests, Magnetic Resonance Imaging ("MRI") Durable Medical Equipment ("DME"), autonomic nervous system testing, and other medical services, that were billed and paid through the California Workers' Compensation System and through private insurers.
4. Defendant and his co-conspirators, knowing that paying or receiving bribes and kickbacks to refer patients was unlawful, agreed to conceal the true nature of the financial and other relationships among them.
5. It was a part of the conspiracy that the conspirators concealed from patients, and caused to be concealed from

1 patients, the kickback and bribe payments Doctors agreed  
2 to accept in exchange for referring their patients, in  
3 violation of the Doctors' fiduciary duty to their  
4 patients.

5 6. It was a part of the conspiracy that the conspirators  
6 used the mails to send bills to insurers for services  
7 provided to patients, and concealed from insurers the  
8 material fact that the treatments were the result of  
9 bribes and kickbacks paid to Doctors and procured in  
10 violation of the Doctors' fiduciary duty to their  
11 patients.

12 7. The CWCS and private insurance companies are health care  
13 benefit programs.

14 8. It was a part of the conspiracy that the coconspirators  
15 employed numerous deceptive and fraudulent tactics to  
16 conceal their illegal bribe and kickback scheme,  
17 including by inserting intermediaries to facilitate  
18 payments from the providers to the Doctors, including  
19 Defendant, and instituting sham rent, lease, and  
20 professional services agreements among the parties to  
21 try to make the payments appear legitimate, when in fact  
22 the corrupt payments were made exclusively for the  
23 referral of patients. Defendant agrees that he  
24 intentionally engaged in or caused conduct constituting  
25 sophisticated means.

26 9. As a physician, Defendant owed patients a fiduciary  
27 duty, which he abused by accepting kickbacks and bribes  
28

1 in exchange for referring them to predetermined  
2 providers.

3 10. Defendant agrees that over the course of the conspiracy  
4 the co-conspirators generated and submitted to health  
5 care benefit programs claims totaling over \$550,000 for  
6 DME and MRIs procured as a result of this unlawful cross-  
7 referral scheme.

8 **III**

9 **PENALTIES**

10 The crime to which Defendant is pleading guilty carries the  
11 following penalties:

- 12 A. a maximum 20 years in prison;
- 13 B. a maximum \$250,000 fine, or twice the pecuniary gain or twice  
14 the pecuniary loss;
- 15 C. a mandatory special assessment of \$100 per count; and
- 16 D. a term of supervised release of up to 3 years. Failure to  
17 comply with any condition of supervised release may result in  
18 revocation of supervised release, requiring Defendant to  
19 serve in prison, upon revocation, all or part of the statutory  
20 maximum term of supervised release; and
- 21 E. an order of forfeiture of any property, real or personal,  
22 which constitutes or is derived from proceeds traceable to  
23 the offense.

24 In addition, Defendant may be subject to an order of restitution  
25 to victims of the offense requiring Defendant to repay such persons as  
26 much as \$550,000.

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IV

**DEFENDANT'S WAIVER OF TRIAL RIGHTS AND  
UNDERSTANDING OF CONSEQUENCES**

This guilty plea waives Defendant's right at trial to:

- A. Continue to plead not guilty and require the Government to prove the elements of the crime beyond a reasonable doubt;
- B. A speedy and public trial by jury;
- C. The assistance of counsel at all stages;
- D. Confront and cross-examine adverse witnesses;
- E. Testify and present evidence and to have witnesses testify on behalf of Defendant; and,
- F. Not testify or have any adverse inferences drawn from the failure to testify.

V

**DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE  
PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION**

Any information establishing the factual innocence of Defendant known to the undersigned prosecutor in this case has been turned over to Defendant. The United States will continue to provide such information establishing the factual innocence of Defendant.

If this case proceeded to trial, the United States would be required to provide impeachment information for its witnesses. In addition, if Defendant raised an affirmative defense, the United States would be required to provide information in its possession that supports such a defense. By pleading guilty Defendant will not be provided this information, if any, and Defendant waives any right to this information. Defendant will not attempt to withdraw the guilty plea or to file a collateral attack based on the existence of this information.

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VI

**DEFENDANT'S REPRESENTATION THAT GUILTY  
PLEA IS KNOWING AND VOLUNTARY**

Defendant represents that:

- A. Defendant has had a full opportunity to discuss all the facts and circumstances of this case with defense counsel and has a clear understanding of the charges and the consequences of this plea. By pleading guilty, Defendant may be giving up, and rendered ineligible to receive, valuable government benefits and civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury. The conviction in this case may subject Defendant to various collateral consequences, including but not limited to revocation of probation, parole, or supervised release in another case; debarment from government contracting; and suspension or revocation of a professional license, none of which can serve as grounds to withdraw Defendant's guilty plea.
- B. No one has made any promises or offered any rewards in return for this guilty plea, other than those contained in this agreement or otherwise disclosed to the Court.
- C. No one has threatened Defendant or Defendant's family to induce this guilty plea.
- D. Defendant is pleading guilty because Defendant is guilty and for no other reason.

VII

**AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE  
SOUTHERN DISTRICT OF CALIFORNIA**

This plea agreement is limited to the United States Attorney's Office for the Southern District of California, and cannot bind any other authorities in any type of matter, although the United States will bring this plea agreement to the attention of other authorities if requested by Defendant.

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Plea Agreement

8

Def. Initials 

17CR

1 VIII

2 APPLICABILITY OF SENTENCING GUIDELINES

3 The sentence imposed will be based on the factors set forth in 18  
4 U.S.C. § 3553(a). In imposing the sentence, the sentencing judge must  
5 consult the United States Sentencing Guidelines (Guidelines) and take  
6 them into account. Defendant has discussed the Guidelines with defense  
7 counsel and understands that the Guidelines are only advisory, not  
8 mandatory. The Court may impose a sentence more severe or less severe  
9 than otherwise applicable under the Guidelines, up to the maximum in  
10 the statute of conviction. The sentence cannot be determined until a  
11 presentence report is prepared by the U.S. Probation Office and defense  
12 counsel and the United States have an opportunity to review and  
13 challenge the presentence report. Nothing in this plea agreement limits  
14 the United States' duty to provide complete and accurate facts to the  
15 district court and the U.S. Probation Office.

16 IX

17 SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

18 This plea agreement is made pursuant to Federal Rule of Criminal  
19 Procedure 11(c)(1)(B). The sentence is within the sole discretion of  
20 the sentencing judge who may impose the maximum sentence provided by  
21 statute. It is uncertain at this time what Defendant's sentence will  
22 be. The Government has not made and will not make any representation  
23 about what sentence Defendant will receive. Any estimate of the probable  
24 sentence by defense counsel is not a promise and is not binding on the  
25 Court. Any recommendation by the Government at sentencing also is not  
26 binding on the Court. If the sentencing judge does not follow any of

1 the parties' sentencing recommendations; Defendant will not withdraw  
2 the plea.

3 X

4 PARTIES' SENTENCING RECOMMENDATIONS

5 A. SENTENCING GUIDELINE CALCULATIONS

6 Although the parties understand that the Guidelines are only  
7 advisory and just one of the factors the Court will consider under 18  
8 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly  
9 recommend the following Base Offense Level, Specific Offense  
10 Characteristics, Adjustments and Departures:

- |    |  |                      |
|----|--|----------------------|
| 11 | 1. Base Offense Level [§ 2X1.1]                | 7                    |
| 12 | 2. Loss more than \$550,000 [§ 2B1.1(b)(1)(H)] | +14                  |
| 13 | 3. Sophisticated Means [§2B1.1(b)(10)(C)]      | +2                   |
| 14 | 4. Abuse of a Position of Trust                | +2                   |
| 15 | 5. Acceptance of Responsibility [§ 3E1.1]      | -3                   |
| 16 | Fine range at AOL 22 [§ 5E1.2]                 | \$15,000 - \$150,000 |

17 B. ACCEPTANCE OF RESPONSIBILITY

18 Despite paragraph A above, the Government need not recommend an  
19 adjustment for Acceptance of Responsibility if Defendant engages in  
20 conduct inconsistent with acceptance of responsibility including, but  
21 not limited to, the following:

- 22 1. Fails to truthfully admit a complete factual basis as  
23 stated in the plea at the time the plea is entered, or  
24 falsely denies, or makes a statement inconsistent with,  
25 the factual basis set forth in this agreement;
- 26 2. Falsely denies prior criminal conduct or convictions;

1 3. Is untruthful with the Government, the Court or  
2 probation officer; or

3 4. Breaches this plea agreement in any way.

4 C. FURTHER ADJUSTMENTS AND SENTENCE REDUCTIONS INCLUDING THOSE  
5 UNDER 18 U.S.C. § 3553

6 Defendant may request or recommend additional downward  
7 adjustments, departures, or variances from the Sentencing Guidelines  
8 under 18 U.S.C. § 3553. The United States may oppose any downward  
9 adjustments, departures, or variances not set forth in Section X,  
10 paragraph A above.

11 D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

12 The parties have no agreement as to Defendant's Criminal History  
13 Category.

14 E. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

15 The facts in the "factual basis" paragraph of this agreement are  
16 true and may be considered as "relevant conduct" under USSG § 1B1.3 and  
17 as the nature and circumstances of the offense under 18 U.S.C.  
18 § 3553(a)(1).

19 F. PARTIES' RECOMMENDATIONS REGARDING CUSTODY

20 The United States will recommend that Defendant be sentenced within  
21 the advisory guideline range recommended by the United States at  
22 sentencing.

23 G. SPECIAL ASSESSMENT/FINE/RESTITUTION/FORFEITURE

24 1. Special Assessment

25 The parties will jointly recommend that Defendant pay a special  
26 assessment in the amount of \$100.00 per felony count of conviction to  
27 be paid forthwith at time of sentencing. Special assessments shall be  
28 paid through the office of the Clerk of the District Court by bank or

1 cashier's check or money order made payable to the "Clerk, United States  
2 District Court."

3 2. Fine

4 The parties will jointly recommend that Defendant be ordered to  
5 pay a fine of \$75,000.

6 3. Forfeiture

7 Defendant forfeits and waives any right, claim, and entitlement to  
8 reimbursement for claims submitted in Defendant's name or in the name  
9 of E.J.D. Medical Corporation or RB Spine Center, that arose from the  
10 unlawful cross-referral scheme described in the Factual Basis.

11 4. Restitution

12 In light of the difficulty of determining complex issues of fact  
13 related to the cause or amount of losses, and the complication and  
14 prolongation of the sentencing process resulting from the fashioning of  
15 an order of restitution, the parties agree not to recommend an order of  
16 restitution, pursuant to 18 U.S.C. §§ 3663(a)(B)(ii) and  
17 3663A(c)(3)(B). Parties agree that the United States' compliance with  
18 the requirements of the Mandatory Victim Restitution Act and the  
19 Victims' Rights Act, including presenting to the Court any claims  
20 submitted by victims, does not constitute violation of this  
21 recommendation.

22 H. SUPERVISED RELEASE

23 If the Court imposes a term of supervised release, Defendant will  
24 not seek to reduce or terminate early the term of supervised release  
25 until Defendant has served at least 2/3 of the term of supervised  
26 release and has fully paid and satisfied any special assessments, fine,  
27 criminal forfeiture judgment, and restitution judgment.

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XI

DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

A. WAIVER OF RIGHT TO APPEAL CONVICTION AND RESTITUTION

In exchange for the United States' concessions in this plea agreement, Defendant waives, to the full extent of the law, any right to appeal the conviction and any lawful forfeiture order and restitution order.

B. WAIVER OF RIGHT TO COLLATERAL ATTACK

In addition, Defendant waives, to the full extent of the law, any right to collaterally attack the conviction and/or sentence, except for a post-conviction collateral attack based on a claim of ineffective assistance of counsel.

C. OBJECTIONS TO UNITED STATES' RECOMMENDATION

If Defendant believes the United States' recommendation is not in accord with this plea agreement, Defendant will object at the time of sentencing; otherwise the objection will be deemed waived.

XII

BREACH OF THE PLEA AGREEMENT

Defendant and Defendant's attorney know the terms of this agreement and shall raise, before the sentencing hearing is complete, any claim that the United States has not complied with this agreement. Otherwise, such claims shall be deemed waived (that is, deliberately not raised despite awareness that the claim could be raised), cannot later be made to any court, and if later made to a court, shall constitute a breach of this agreement.

1 Defendant breaches this agreement if Defendant violates or fails  
2 to perform any obligation under this agreement. The following are non-  
3 exhaustive examples of acts constituting a breach:

- 4 1. Failing to plead guilty pursuant to this agreement;
- 5 2. Failing to fully accept responsibility as established in  
6 Section X, paragraph B, above;
- 7 3. Failing to appear in court;
- 8 4. Attempting to withdraw the plea;
- 9 5. Failing to abide by any court order related to this case;
- 10 6. Appealing (which occurs if a notice of appeal is filed)  
11 or collaterally attacking the conviction or sentence in  
12 violation of Section XI of this plea agreement; or
- 13 7. Engaging in additional criminal conduct from the time of  
14 arrest until the time of sentencing.

15 If Defendant breaches this plea agreement, Defendant will not be  
16 able to enforce any provisions, and the United States will be relieved  
17 of all its obligations under this plea agreement. For example, the  
18 United States may proceed to sentencing but recommend a different  
19 sentence than what it agreed to recommend above. Or the United States  
20 may pursue any charges including those that were dismissed, promised to  
21 be dismissed, or not filed as a result of this agreement (Defendant  
22 agrees that any statute of limitations relating to such charges is  
23 tolled indefinitely as of the date all parties have signed this  
24 agreement; Defendant also waives any double jeopardy defense to such  
25 charges). In addition, the United States may move to set aside  
26 Defendant's guilty plea. Defendant may not withdraw the guilty plea  
27 based on the United States' pursuit of remedies for Defendant's breach.



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XV

DEFENDANT SATISFIED WITH COUNSEL

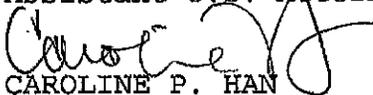
Defendant has consulted with counsel and is satisfied with counsel's representation. This is Defendant's independent opinion, and Defendant's counsel did not advise Defendant about what to say in this regard.

ALANA W. ROBINSON  
Acting United States Attorney

5/9/2017  
DATED

  
VALERIE H. CHU  
Assistant U.S. Attorney

DATED

  
CAROLINE P. HAN  
Assistant U.S. Attorney

DATED 5/9/2017

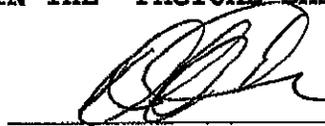
  
FRED SHEPPARD  
Assistant U.S. Attorney

5/9/17  
DATED

  
BRIAN H. BIEBER  
Defense Counsel

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" SECTION ABOVE ARE TRUE.

5/9/17  
DATED

  
DIRK H. KANCILIA  
Defendant



1 In consideration of that hearing and the allocution  
2 made by the Defendant under oath on the record and in  
3 the presence of counsel, and the remarks of the  
4 Assistant United States Attorney,

5 **I make the following FINDINGS - that the Defendant**  
6 **understands:**

- 7 1. The government's right, in a prosecution for  
8 perjury or false statement, to use against the  
9 defendant any statement that the defendant  
10 gives under oath;
- 11 2. The right to persist in a plea of "not guilty";
- 12 3. The right to a speedy and public trial;
- 13 4. The right to trial by jury, or the ability to  
14 waive that right and have a judge try the case  
15 without a jury;
- 16 5. The right to be represented by counsel-and if  
17 necessary to have the court appoint counsel-at  
18 trial and at every other stage of the  
19 proceeding;
- 20 6. The right at trial to confront and cross-  
21 examine adverse witnesses, to be protected from  
22 compelled self-incrimination, to testify and  
23 present evidence, and to compel the attendance  
24 of witnesses;
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- 1       7. The defendant's waiver of these trial rights if
- 2       the court accepts a guilty plea or nolo
- 3       contendere;
- 4       8. The nature of each charge to which the
- 5       defendant is pleading;
- 6       9. Any maximum possible penalty, including
- 7       imprisonment, fine, and term of supervised
- 8       release;
- 9       10. Any applicable mandatory minimum penalty;
- 10      11. Any applicable forfeiture;
- 11      12. The court's authority to order restitution [if
- 12      applicable];
- 13      13. The court's obligation to impose a special
- 14      assessment;
- 15      14. In determining a sentence, the court's
- 16      obligation to calculate the applicable
- 17      sentencing guideline range and to consider that
- 18      range, possible departures under the Sentencing
- 19      Guidelines, and other sentencing factors under
- 20      18 U.S.C § 3553(a);
- 21      25. Any provision in the plea agreement whereby
- 22      defendant waives the right to appeal or to
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1 collaterally attack the conviction and  
2 sentence; and

3 16. That, if convicted, a defendant who is not a  
4 United States citizen may be removed from the  
5 United States, denied citizenship, and denied  
6 admission to the United States in the future.  
7

8 **I further find that:**

9 17. The defendant is competent to enter a plea;

10 18. The defendant's guilty plea is made knowingly  
11 and voluntarily, and did not result from force,  
12 threats or promises (other than those made in a  
13 plea agreement); and  
14

15 19. There is a factual basis for Defendant's plea.

16 **I therefore RECOMMEND that the District Judge**  
17 **accept the Defendant's guilty plea to 1 of the**  
18 **Information.**  
19

20 The sentencing hearing will be before United States  
21 **District Judge Cynthia Bashant**, on 7/29/2019 at 9:00  
22 AM. The court excludes time from 5/9/2019 through  
23 7/29/2019 pursuant to 18 USC § 3161(h)(1)(G) on the  
24 ground that the District Judge will be considering the  
25 proposed plea agreement.  
26  
27  
28

1           Objections to these Findings and Recommendations  
2 are waived by the parties if not made within 14 days of  
3 this order. If the parties waive the preparation of the  
4 Presentence Report, objections are due within three  
5 days of this order.  
6

7  
8 Dated: <sup>10</sup>5/9/2019

  
9 \_\_\_\_\_  
10 **Hon. Karen S. Crawford**  
11 United States Magistrate  
12 Judge

13 Copies to:  
14 Judge Cynthia Bashant  
15 Assistant United States Attorney  
16 Counsel for Defendant  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

V.

DIRK H. KANCILIA (1),

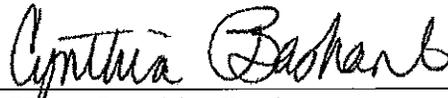
Defendant.

Criminal Case No. 19CR1612-BAS

ORDER

No objections having been filed, **IT IS ORDERED** that the Findings and Recommendation of the Magistrate Judge are adopted and this Court accepts Defendant's plea of guilty to Count One (1) of the Information.

Dated: May 28, 2019



Hon. Cynthia Bashant  
United States District Judge

**U.S. District Court**  
**Southern District of California (San Diego)**  
**CRIMINAL DOCKET FOR CASE #: 3:19-cr-01612-BAS-1**

Case title: USA v. Kancilia

Date Filed: 05/09/2019

Assigned to: Judge Cynthia Bashant

**Defendant (1)****Dirk H. Kancilia**

represented by **Brian Harris Bieber**  
GrayRobinson, P.A.  
333 SE 2nd Avenue  
Suite 3200  
Miami, FL 33131  
305-416-6880 x4422  
Fax: 305-416-6887  
Email: BRIAN.BIEBER@GRAY-  
ROBINSON.COM  
*LEAD ATTORNEY*  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Melissa Bobrow**  
Law Office of Cassandra Hearn, APC  
750 B. Street  
Suite 1760  
San Diego, CA 92101  
(619) 800-0384  
Email: melissa@hearnlawgroup.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Retained*

**Pending Counts**

18:1349; 28:2461(c) - Conspiracy to  
Commit Honest Services Mail Fraud and  
Healthcare Fraud and Criminal Forfeiture  
(1)

**Disposition****Highest Offense Level (Opening)**

Felony

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition****Plaintiff**

USA

represented by **Valerie Chu**

U S Attorneys Office Southern District of  
California  
Criminal Division  
880 Front Street  
Room 6293  
San Diego, CA 92101  
(619) 546-6750  
Fax: (619) 546-0450  
Email: Valerie.Chu@usdoj.gov  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*  
*Designation: Assistant United States*  
*Attorney*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
05/09/2019	<u>1</u>	INFORMATION as to Dirk H. Kancilia (1) count(s) 1. (ecs) (Entered: 05/09/2019)
05/09/2019	<u>2</u>	WAIVER OF INDICTMENT by Dirk H. Kancilia (ecs) (Entered: 05/09/2019)
05/09/2019		Surrender of Dirk H. Kancilia (Dft appeared in Court on Notice to Appear ; abstract issued for fingerprint and release) (no document attached) (ecs) (Entered: 05/09/2019)
05/09/2019	3	Minute Entry for proceedings held before Magistrate Judge Karen S. Crawford: Initial Appearance as to Dirk H. Kancilia held on 5/9/2019. Bond set as to Dirk H. Kancilia (1) \$10,000 P/S (secured by 1 FRA - dft to serve as FRA). Bond filed and abstract issued for fingerprint and release. Attorney Brian Bieber (retained) and Melissa Bobrow (retained local counsel). Arraignment on Information and Change of Plea Hearing held on 5/9/2019. Plea Tendered by Dirk H. Kancilia Guilty on counts 1 of the Information. Excludable(s) started as to Dirk H. Kancilia: XK 5/9/19-7/29/19. PSR Ordered. Sentence With PSR set for 7/29/2019 09:00 AM before Judge Cynthia Bashant. (CD# 5/9/2019 KSC 1224-1242). (Plaintiff Attorney Valerie Chu AUSA). (Defendant Attorney Brian Bieber RET and Melissa Bobrow RET (local counsel)). (ecs) (Entered: 05/09/2019)
05/09/2019	<u>4</u>	Request to Appear Pro Hac Vice, (Filing fee received: \$ 206 receipt number CAS111642). (Application to be reviewed by Clerk.) (dsn) (Entered: 05/09/2019)
05/09/2019	5	PRO HAC APPROVED: Brian Harris Bieber appearing for Defendant Dirk H. Kancilia (no document attached) (dsn) (Entered: 05/09/2019)
05/09/2019	<u>7</u>	CONSENT TO RULE 11 PLEA before Magistrate Judge Karen S. Crawford by Dirk H. Kancilia. (acc) (Entered: 05/10/2019)
05/09/2019	<u>8</u>	PLEA AGREEMENT as to Dirk H. Kancilia (acc) (Entered: 05/10/2019)
05/09/2019	<u>9</u>	NOTICE OF RELATED CASE(S) by Dirk H. Kancilia of case(s) 18cr3015-BAS. (acc)

		(Entered: 05/10/2019)
05/09/2019	<u>10</u>	Pretrial Release Order. Bond set for Dirk H. Kancilia (1) 10,000 PS secured by the co signature of 1 financially responsible adult. Signed by Magistrate Judge Karen S. Crawford on 5/9/2019. (acc) (Entered: 05/10/2019)
05/09/2019	<u>12</u>	ABSTRACT OF ORDER Releasing Dirk H. Kancilia re <u>11</u> Bond. (acc) (mdc) (Entered: 05/10/2019)
05/10/2019	<u>11</u>	PS Bond Filed as to Dirk H. Kancilia in amount of \$ 10,000, Signed by Magistrate Judge Karen S. Crawford on 5/9/2019. (Document applicable to USA, Dirk H. Kancilia.) (acc) (Entered: 05/10/2019)
05/10/2019	<u>13</u>	FINDINGS AND RECOMMENDATION of the Magistrate Judge upon a Tendered Plea of Guilty as to Dirk H. Kancilia: Recommending that the district judge accept the defendant's plea of guilty.. Signed by Magistrate Judge Karen S. Crawford on 5/10/19. (ecs) (Entered: 05/10/2019)
05/28/2019	<u>14</u>	ORDER ACCEPTING GUILTY PLEA as to Count One (1) of the Information, as to Dirk H. Kancilia, adopting <u>13</u> Findings and Recommendation. Signed by Judge Cynthia Bashant on 5/28/2019. (sxm) (Entered: 05/28/2019)
06/24/2019	<u>15</u>	PRE-SENTENCE REPORT as to Dirk H. Kancilia. Report prepared by: David E. Dilbeck. (Document applicable to USA, Dirk H. Kancilia.) (Castillo, B.) . (jah). (Entered: 06/24/2019)

PACER Service Center			
Transaction Receipt			
07/11/2019 10:28:00			
<b>PACER Login:</b>	DIRAFU94612:5984219:0	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	3:19-cr-01612-BAS
<b>Billable Pages:</b>	2	<b>Cost:</b>	0.20