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UNITED STATES DISTRICT COURT
CENTRAL DIST. OF CALIF.
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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
HWA JA KIM,
aka "Helen Kim,"
Defendant.

~~CR 12 00059~~
INFORMATION

[18 U.S.C. § 1347: Health Care
Fraud]

The United States Attorney charges:

[18 U.S.C. § 1347]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Information:

1. Defendant HWA JA KIM, also known as "Helen Kim" ("defendant KIM"), was a registered nurse ("RN") working for Greatcare Home Health, Inc. ("Greatcare"), a Medicare provider owned by Hee Jung Mun ("co-schemer Mun").

2. Medicare was a federal health care benefit program, affecting commerce, that provided benefits to individuals who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services, a federal

1 agency under the United States Department of Health and Human
2 Services.

3 3. Individuals who qualified for Medicare benefits were
4 referred to as "beneficiaries" and were issued Medicare
5 identification cards with unique Health Insurance Claim Numbers.

6 4. Persons and entities that provided medical services
7 that were reimbursed by Medicare were called Medicare
8 "providers."

9 5. Medicare reimbursed providers for certain types of
10 medically necessary treatment, including home health services
11 provided by qualified home health agencies.

12 6. Medicare coverage for home health services was limited
13 to situations in which specified qualifying conditions were met.
14 These conditions included the following:

15 a. The Medicare beneficiary was confined to the home
16 and did not have a willing care-giver to assist him or her;

17 b. The beneficiary needed skilled nursing services or
18 physical or occupational therapy services;

19 c. The beneficiary was under the care of a qualified
20 physician who had established a written plan of care for the
21 beneficiary, signed by the physician and an RN from the home
22 health agency;

23 d. Skilled nursing services were provided by an RN or
24 by a licensed vocational nurse under the supervision of an RN in
25 accordance with the plan of care; and

26 e. The services were medically necessary.

27 7. To determine the proper level of care for a particular
28 beneficiary and the amount of payment, Medicare required home

1 health agencies to perform an initial evaluation reflecting the
2 patient's current health and living conditions, using a tool
3 called the Outcome and Assessment Information Set ("OASIS") that
4 Medicare required an RN or a qualified therapist to complete.

5 8. At the conclusion of each episode of treatment, an RN
6 was required to fill out and sign another OASIS assessment,
7 evaluating the patient's condition and recommending either
8 termination or recertification for another episode.

9 9. Medicare also required a home health agency to
10 maintain a clinical record of services provided to each
11 beneficiary, including signed and dated clinical and progress
12 notes recording each home visit.

13 B. THE SCHEME TO DEFRAUD

14 10. Beginning on or about May 1, 2008, and continuing to
15 in or about July 2010, in Los Angeles County, within the Central
16 District of California, and elsewhere, defendant KIM, together
17 with co-schemer Mun and others known and unknown to the United
18 States Attorney, knowingly, willfully, and with intent to
19 defraud, executed and attempted to execute a scheme and
20 artifice: (a) to defraud a health care benefit program, namely
21 Medicare, as to material matters in connection with the delivery
22 of and payment for health care benefits, items, and services;
23 and (b) to obtain money from Medicare by means of material false
24 and fraudulent pretenses and representations and the concealment
25 of material facts in connection with the delivery of and payment
26 for health care benefits, items, and services.

27 11. The scheme operated, in substance, as follows:

28 a. While working at Greatcare, at co-schemer Mun's

1 direction, defendant KIM:

2 i. Signed false OASIS forms for Medicare
3 beneficiaries receiving home health services from Greatcare,
4 making it appear as though the beneficiaries' medical condition
5 and lack of willing caregivers made home health services
6 medically necessary, when in fact they were not and defendant
7 KIM often never conducted any assessment of the patients;

8 ii. Signed OASIS forms that listed false or
9 misleading diagnoses for the beneficiaries (including diagnoses
10 that made the beneficiaries' conditions seem more severe than
11 they in fact were); and

12 iii. Signed skilled nursing notes containing
13 falsified information regarding the beneficiaries' conditions
14 and falsely represented that patients had been visited by
15 defendant KIM, when in fact they had not.

16 b. Defendant KIM gave co-schemer Mun and other
17 Greatcare employees these signed OASIS forms and notes
18 documenting the services she had purportedly provided to
19 patients. Defendant KIM knew and intended that Greatcare
20 employees would use that documentation to support false and
21 fraudulent claims to Medicare for home health services that were
22 not medically necessary and either not provided or provided by
23 unlicensed individuals.

24 c. Medicare paid Greatcare approximately \$1,004,240
25 for false and fraudulent claims for home health services
26 allegedly provided by defendant KIM.

27 C. EXECUTION OF THE SCHEME TO DEFRAUD

28 12. On or about May 26, 2010, in Los Angeles County,

1 within the Central District of California, and elsewhere,
2 defendant KIM, together with co-schemer Mun and others known and
3 unknown to the United States Attorney, for the purpose of
4 executing the above-described scheme to defraud, knowingly and
5 willfully submitted and caused to be submitted to Medicare a
6 false and fraudulent claim (claim number 21014600319602CAR) for
7 skilled nursing services allegedly provided by defendant KIM to
8 beneficiary P.K. between on or about February 18, 2010, and on
9 or about March 14, 2010, for which Medicare paid Greatcare
10 approximately \$2,663.

11 ANDRÉ BIROTTE JR.
12 United States Attorney

Don
Dorothy C. Kim
Occ. Chief, Crim. Div. PDN
13 ROBERT E. DUGDALE
14 Assistant United States Attorney
15 Chief, Criminal Division

16 BEONG-SOO KIM
17 Assistant United States Attorney
18 Chief, Major Frauds Section

19 CONSUELO S. WOODHEAD
20 Assistant United States Attorney
21 Deputy Chief, Major Frauds Section

22 KRISTEN A. WILLIAMS
23 Assistant United States Attorney
24 Major Frauds Section
25
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1 a) Give up the right to indictment by a grand jury and,
2 at the earliest opportunity requested by the USAO and provided by
3 the Court, appear and plead guilty to a single-count information
4 in the form attached to this agreement as Exhibit A or a
5 substantially similar form.

6 b) Not contest facts agreed to in this agreement.

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

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

12 e) Not commit any crime; however, offenses that would
13 be excluded for sentencing purposes under United States
14 Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines")
15 § 4A1.2(c) are not within the scope of this agreement.

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

18 g) Pay the applicable special assessment at or before
19 the time of sentencing unless defendant lacks the ability to pay
20 and submits a completed financial statement (form OBD-500) to the
21 USAO prior to sentencing.

22 h) Not seek the discharge of any restitution
23 obligation, in whole or in part, in any present or future
24 bankruptcy proceeding.

25 3. Defendant further agrees to truthfully disclose to law
26 enforcement officials, at a date and time to be set by the USAO,
27 the location of, defendant's ownership interest in, and all other
28

1 information known to defendant about, all monies, properties,
2 and/or assets of any kind.

3 4. Defendant further agrees to cooperate fully with the
4 USAO, the Federal Bureau of Investigation, and Department of
5 Health and Human Services - Office of the Inspector General, and,
6 as directed by the USAO, any other federal, state, local, or
7 foreign prosecuting, enforcement, administrative, or regulatory
8 authority. This cooperation requires defendant to:

9 a) Respond truthfully and completely to all questions
10 that may be put to defendant, whether in interviews, before a
11 grand jury, or at any trial or other court proceeding.

12 b) Attend all meetings, grand jury sessions, trials
13 or other proceedings at which defendant's presence is requested
14 by the USAO or compelled by subpoena or court order.

15 c) Produce voluntarily all documents, records, or
16 other tangible evidence relating to matters about which the USAO,
17 or its designee, inquires.

18 5. For purposes of this agreement: (1) "Cooperation
19 Information" shall mean any statements made, or documents,
20 records, tangible evidence, or other information provided, by
21 defendant pursuant to defendant's cooperation under this
22 agreement; and (2) "Plea Information" shall mean any statements
23 made by defendant, under oath, at the guilty plea hearing and the
24 agreed-to factual basis statement in this agreement.

25 THE USAO'S OBLIGATIONS

26 6. The USAO agrees to:

27 a) Not contest facts agreed to in this agreement.

28 b) Abide by all agreements regarding sentencing

1 contained in this agreement.

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

9 d) Recommend that defendant be sentenced to a term of
10 imprisonment no higher than the low end of the applicable
11 Sentencing Guidelines range, provided that the offense level used
12 by the Court to determine that range is 19 or higher prior to any
13 departure downward in offense level pursuant to U.S.S.G. § 5K1.1
14 and provided that the Court does not depart downward in criminal
15 history category or offense level except to the extent requested
16 by the USAO pursuant to U.S.S.G. § 5K1.1. For purposes of this
17 agreement, the low end of the Sentencing Guidelines range is that
18 defined by the Sentencing Table in U.S.S.G. Chapter 5, Part A,
19 without regard to reductions in the term of imprisonment that may
20 be permissible through the substitution of community confinement
21 or home detention as a result of the offense level falling within
22 Zone B or Zone C of the Sentencing Table.

23 7. The USAO further agrees:

24 a) Not to offer as evidence in its case-in-chief in
25 the above-captioned case or any other criminal prosecution that
26 may be brought against defendant by the USAO, or in connection
27 with any sentencing proceeding in any criminal case that may be
28 brought against defendant by the USAO, any Cooperation

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

11 b) Not to use Cooperation Information against
12 defendant at sentencing for the purpose of determining the
13 applicable guideline range, including the appropriateness of an
14 upward departure, or the sentence to be imposed, and to recommend
15 to the Court that Cooperation Information not be used in
16 determining the applicable guideline range or the sentence to be
17 imposed. Defendant understands, however, that Cooperation
18 Information will be disclosed to the probation office and the
19 Court, and that the Court may use Cooperation Information for the
20 purposes set forth in U.S.S.G § 1B1.8(b) and for determining the
21 sentence to be imposed.

22 c) In connection with defendant's sentencing, to
23 bring to the Court's attention the nature and extent of
24 defendant's cooperation.

25 d) If the USAO determines, in its exclusive judgment,
26 that defendant has both complied with defendant's obligations
27 under paragraphs 2 through 4 above and provided substantial
28 assistance to law enforcement in the prosecution or investigation

1 of another ("substantial assistance"), to move the Court pursuant
2 to U.S.S.G. § 5K1.1 to fix an offense level and corresponding
3 guideline range below that otherwise dictated by the sentencing
4 guidelines, and to recommend a term of imprisonment within this
5 reduced range.

6 DEFENDANT'S UNDERSTANDINGS REGARDING COOPERATION

7 8. Defendant understands the following:

8 a) Any knowingly false or misleading statement by
9 defendant will subject defendant to prosecution for false
10 statement, obstruction of justice, and perjury and will
11 constitute a breach by defendant of this agreement.

12 b) Nothing in this agreement requires the USAO or any
13 other prosecuting, enforcement, administrative, or regulatory
14 authority to accept any cooperation or assistance that defendant
15 may offer, or to use it in any particular way.

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

21 d) At this time the USAO makes no agreement or
22 representation as to whether any cooperation that defendant has
23 provided or intends to provide constitutes or will constitute
24 substantial assistance. The decision whether defendant has
25 provided substantial assistance will rest solely within the
26 exclusive judgment of the USAO.

27 e) The USAO's determination whether defendant has
28 provided substantial assistance will not depend in any way on

1 whether the government prevails at any trial or court hearing in
2 which defendant testifies or in which the government otherwise
3 presents information resulting from defendant's cooperation.

4 NATURE OF THE OFFENSE

5 9. Defendant understands that for defendant to be guilty of
6 the crime charged in the single-count information (violation of
7 Title 18, United States Code, Section 1347), the following must
8 be true: (1) defendant knowingly and willfully devised or
9 participated in a scheme to defraud a health care benefit
10 program; (2) the statements made or facts omitted as part of the
11 scheme were material; (3) defendant acted with intent to defraud;
12 and (4) the scheme involved the delivery of or payment for health
13 care benefits, items, or services. Defendant admits that
14 defendant is, in fact, guilty of this offense as described in the
15 single-count information.

16 PENALTIES AND RESTITUTION

17 10. Defendant understands that the statutory maximum
18 sentence that the Court can impose for a violation of Title 18,
19 United States Code, Section 1347, is 10 years imprisonment; a 3-
20 year period of supervised release; a fine of \$250,000 or twice
21 the gross gain or gross loss resulting from the offense,
22 whichever is greatest; and a mandatory special assessment of
23 \$100.

24 11. Defendant understands that defendant will be required
25 to pay full restitution to the victim(s) of the offense.
26 Defendant agrees that, in return for the USAO's compliance with
27 its obligations under this agreement, the amount of restitution
28 is not restricted to the amounts alleged in the count to which

1 defendant is pleading guilty and may include losses arising from
2 all relevant conduct in connection with that count. The parties
3 currently believe that the applicable amount of restitution is
4 approximately \$1,004,240.67, but recognize and agree that this
5 amount could change based on facts that come to the attention of
6 the parties prior to sentencing.

7 12. Defendant understands that supervised release is a
8 period of time following imprisonment during which defendant will
9 be subject to various restrictions and requirements. Defendant
10 understands that if defendant violates one or more of the
11 conditions of any supervised release imposed, defendant may be
12 returned to prison for all or part of the term of supervised
13 release authorized by statute for the offense that resulted in
14 the term of supervised release, which could result in defendant
15 serving a total term of imprisonment greater than the statutory
16 maximum stated above.

17 13. Defendant understands that, by pleading guilty,
18 defendant may be giving up valuable government benefits and
19 valuable civic rights, such as the right to vote, the right to
20 possess a firearm, the right to hold office, and the right to
21 serve on a jury. Defendant understands that once the court
22 accepts defendant's guilty plea, it will be a federal felony for
23 defendant to possess a firearm or ammunition. Defendant
24 understands that the conviction in this case may also subject
25 defendant to various other collateral consequences, including but
26 not limited to mandatory exclusion from federal health care
27 benefit programs for a minimum of five years, suspension or
28 revocation of a professional license, and revocation of

1 probation, parole, or supervised release in another case.
2 Defendant understands that unanticipated collateral consequences
3 will not serve as grounds to withdraw defendant's guilty plea.

4 14. Defendant understands that, if defendant is not a
5 United States citizen, the felony conviction in this case may
6 subject defendant to removal, also known as deportation, which
7 may, under some circumstances, be mandatory. The court cannot,
8 and defendant's attorney also may not be able to, advise
9 defendant fully regarding the immigration consequences of the
10 felony conviction in this case. Defendant understands that
11 unexpected immigration consequences will not serve as grounds to
12 withdraw defendant's guilty plea.

13 FACTUAL BASIS

14 15. Defendant and the USAO agree to the statement of facts
15 provided below. Defendant and the USAO agree that this statement
16 of facts is sufficient to support a plea of guilty to the charge
17 described in this agreement and to establish the Sentencing
18 Guidelines factors set forth in paragraph 17 below but is not
19 meant to be a complete recitation of all facts relevant to the
20 underlying criminal conduct or all facts known to either party
21 that relate to that conduct.

22 Background

23 From in or about May 2008 through in or about July 2010,
24 defendant, a registered nurse ("RN"), worked for a home health
25 agency called Greatcare Home Health, Inc. ("Greatcare"). During
26 that time period, Greatcare was owned by co-schemer Hee Jung Mun,
27 also known as "Angela Mun" ("co-schemer Mun"), and was enrolled
28 as a provider with Medicare, a federal health care benefit

1 program that provides reimbursement for medically necessary
2 services to persons aged sixty-five years and older and to
3 certain disabled persons. Greatcare purported to provide home
4 health services, including skilled nursing services, to Medicare
5 beneficiaries.

6 During the time period defendant worked at Greatcare,
7 defendant knew the Medicare requirements for home health
8 services, including the requirements that (a) the patient be
9 confined to a home and lack a willing caregiver, (b) the patient
10 has a medical need for the services, (c) the services must be
11 provided by persons licensed within the state in which they are
12 practicing to provide those services, (d) and the home health
13 agency must maintain signed and dated clinical notes for each
14 home visit that accurately detail the services provided on those
15 visits.

16 The Fraudulent Scheme

17 Beginning in or about May 2008 and continuing through in or
18 about July 2010, in Los Angeles County, within the Central
19 District of California, defendant, together with co-schemer Mun
20 and others working at Greatcare, engaged in a scheme to defraud
21 Medicare in which they (a) billed Medicare for patients who were
22 not homebound or otherwise did not qualify for home health
23 services, (b) billed Medicare for services that were either not
24 provided or provided by unlicensed nurses, (c) used false and
25 exaggerated patient diagnoses to generate higher Medicare
26 reimbursement, and (d) created false medical records to support
27 false claims Greatcare submitted to Medicare.

28 During the time period defendant worked at Greatcare,

1 defendant signed off on fraudulent Outcome and Assessment
2 Information Set ("OASIS") forms for Greatcare patients. The
3 OASIS form is part of an initial assessment conducted by a
4 registered nurse for all Medicare patients receiving home health
5 services and is used in determining Medicare reimbursement. The
6 severity of the beneficiary's health condition and care needs as
7 indicated on the OASIS form affected the level of Medicare
8 reimbursement to the provider. On Greatcare's OASIS forms,
9 defendant (a) falsely claimed defendant had conducted assessments
10 of the patients' conditions, (b) falsely claimed that patients
11 were unable or unwilling to administer their own medication and
12 required skilled nursing services, and (c) entered diagnoses that
13 defendant knew the patients did not have and which were different
14 from the diagnoses reflected on the doctors' orders for home
15 health services. The false statements made by defendant were
16 material, in that Medicare relied upon the information from the
17 OASIS forms about the severity of the patient's condition and
18 necessity for home health services in determining Greatcare's
19 reimbursement.

20 Defendant also signed route sheets and skilled nursing
21 notes, falsely claiming she had conducted skilled nursing visits
22 for Medicare beneficiaries. In fact, defendant was not aware
23 who, if anyone, visited these patients. Defendant's false
24 statements were material, in that Medicare required Greatcare to
25 maintain accurate and detailed skilled nursing notes to support
26 the services for which Greatcare billed Medicare.

27 Execution of the Scheme to Defraud

28 On or about May 26, 2010, in furtherance of the scheme to

1 defraud Medicare, defendant knowingly, willfully, and with the
2 intent to defraud Medicare caused Greatcare to submit a false
3 claim to Medicare for skilled nursing services purportedly
4 provided by defendant to Medicare beneficiary P.K. between
5 February 18, 2010, and March 14, 2010. At the time, defendant
6 knew that (a) beneficiary P.K. did not medically need home health
7 services, and (b) defendant had conducted neither the skilled
8 nursing visits of P.K. on March 2, 5, 9, and 12, 2010, nor the
9 discharge assessment of P.K. on March 14, 2010, despite claiming
10 she had performed those visits and that assessment on the skilled
11 nursing notes and OASIS forms.

12 Loss to Medicare

13 The loss to Medicare was approximately \$1,004,240 for
14 skilled nursing services defendant purportedly provided to
15 Medicare beneficiaries while working at Greatcare.

16 SENTENCING FACTORS

17 16. Defendant understands that in determining defendant's
18 sentence the Court is required to consider the factors set forth
19 in 18 U.S.C. § 3553(a)(1)-(7), including the kinds of sentence
20 and sentencing range established under the Sentencing Guidelines.
21 Defendant understands that the Sentencing Guidelines are advisory
22 only, that defendant cannot have any expectation of receiving a
23 sentence within the Sentencing Guidelines range, and that after
24 considering the Sentencing Guidelines and the other § 3553(a)
25 factors, the Court will be free to exercise its discretion to
26 impose any sentence it finds appropriate up to the maximum set by
27 statute for the crime of conviction.

28 17. Defendant and the USAO agree to the following

1 applicable Sentencing Guidelines factors:

2 Base Offense Level : 6 [U.S.S.G. § 2B1.1(a)(1)]
3 Loss Amount Between
4 \$1 Million and : +16 [U.S.S.G. § 2B1.1(b)(1)(I)]
5 \$2.5 Million

6 Defendant and the USAO reserve the right to argue that additional
7 specific offense characteristics, adjustments, and departures
8 under the Sentencing Guidelines are appropriate. Specifically,
9 the government reserves the right to argue for an enhancement for
10 abuse of a position of trust under U.S.S.G. § 3C1.1.

11 18. Defendant understands that there is no agreement as to
12 defendant's criminal history or criminal history category.

13 19. Defendant and the USAO reserve the right to argue for a
14 sentence outside the sentencing range established by the
15 Sentencing Guidelines based on the factors set forth in 18 U.S.C.
16 § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7).

17 WAIVER OF CONSTITUTIONAL RIGHTS

18 20. Defendant understands that by pleading guilty,
19 defendant gives up the following rights:
20 a) The right to persist in a plea of not guilty.
21 b) The right to a speedy and public trial by jury.
22 c) The right to the assistance of an attorney at trial,
23 including the right to have the Court appoint an attorney to
24 represent defendant at trial. Defendant understands, however,
25 that, despite defendant's guilty plea, defendant retains the
26 right to be represented by an attorney -- and, if necessary, to
27 have the Court appoint an attorney if defendant cannot afford one
28 -- at every other stage of the proceeding.

d) The right to be presumed innocent and to have the

1 burden of proof placed on the government to prove defendant
2 guilty beyond a reasonable doubt.

3 e) The right to confront and cross-examine witnesses
4 against defendant.

5 f) The right to testify on defendant's own behalf and
6 present evidence in opposition to the charges, including calling
7 witnesses and subpoenaing those witnesses to testify.

8 g) The right not to be compelled to testify, and, if
9 defendant chose not to testify or present evidence, to have that
10 choice not be used against defendant.

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

14 WAIVER OF APPEAL OF CONVICTION

15 21. Defendant understands that, with the exception of an
16 appeal based on a claim that defendant's guilty plea was
17 involuntary, by pleading guilty defendant is waiving and giving
18 up any right to appeal defendant's conviction on the offense to
19 which defendant is pleading guilty.

20 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

21 22. Defendant agrees that, provided the Court imposes a
22 total term of imprisonment on all counts of conviction of no more
23 than 37 months, defendant gives up the right to appeal all of the
24 following: (a) the procedures and calculations used to determine
25 and impose any portion of the sentence; (b) the term of
26 imprisonment imposed by the Court; (c) the fine imposed by the
27 court, provided it is within the statutory maximum; (d) the
28 amount and terms of any restitution order, provided it requires

1 payment of no more than \$1,004,240.67; (e) the term of probation
2 or supervised release imposed by the Court, provided it is within
3 the statutory maximum; and (f) any of the following conditions of
4 probation or supervised release imposed by the Court: the
5 standard conditions set forth in General Orders 318, 01-05,
6 and/or 05-02 of this Court; the drug testing conditions mandated
7 by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug
8 use conditions authorized by 18 U.S.C. § 3563(b)(7).

9 23. The USAO agrees that, provided (a) all portions of the
10 sentence are at or below the statutory maximum specified above
11 and (b) the Court imposes a term of imprisonment of no less than
12 30 months, the USAO gives up its right to appeal any portion of
13 the sentence, with the exception that the USAO reserves the right
14 to appeal the amount of restitution ordered if that amount is
15 less than \$1,004,240.67.

16 RESULT OF WITHDRAWAL OF GUILTY PLEA

17 24. Defendant agrees that if, after entering a guilty plea
18 pursuant to this agreement, defendant seeks to withdraw and
19 succeeds in withdrawing defendant's guilty pleas on any basis
20 other than a claim and finding that entry into this plea
21 agreement was involuntary, then (a) the USAO will be relieved of
22 all of its obligations under this agreement, including in
23 particular its obligations regarding the use of Cooperation
24 Information; and (b) in any investigation, criminal prosecution,
25 or civil, administrative, or regulatory action, defendant agrees
26 that any Cooperation Information and any evidence derived from
27 any Cooperation Information shall be admissible against
28 defendant, and defendant will not assert, and hereby waives and

1 gives up, any claim under the United States Constitution, any
2 statute, or any federal rule, that any Cooperation Information or
3 any evidence derived from any Cooperation Information should be
4 suppressed or is inadmissible.

5 EFFECTIVE DATE OF AGREEMENT

6 25. This agreement is effective upon signature and
7 execution of all required certifications by defendant,
8 defendant's counsel, and an Assistant United States Attorney.

9 BREACH OF AGREEMENT

10 26. Defendant agrees that if defendant, at any time after
11 the signature of this agreement and execution of all required
12 certifications by defendant, defendant's counsel, and an
13 Assistant United States Attorney, knowingly violates or fails to
14 perform any of defendant's obligations under this agreement ("a
15 breach"), the USAO may declare this agreement breached. For
16 example, if defendant knowingly, in an interview, before a grand
17 jury, or at trial, falsely accuses another person of criminal
18 conduct or falsely minimizes defendant's own role, or the role of
19 another, in criminal conduct, defendant will have breached this
20 agreement. All of defendant's obligations are material, a single
21 breach of this agreement is sufficient for the USAO to declare a
22 breach, and defendant shall not be deemed to have cured a breach
23 without the express agreement of the USAO in writing. If the
24 USAO declares this agreement breached, and the Court finds such a
25 breach to have occurred, then:

26 (a) If defendant has previously entered a guilty plea
27 pursuant to this agreement, defendant will not be able to
28 withdraw the guilty plea.

1 (b) The USAO will be relieved of all its obligations
2 under this agreement; in particular, the USAO: (i) will no longer
3 be bound by any agreements concerning sentencing and will be free
4 to seek any sentence up to the statutory maximum for the crime to
5 which defendant has pleaded guilty; and (ii) will no longer be
6 bound by any agreement regarding the use of Cooperation
7 Information and will be free to use any Cooperation Information
8 in any way in any investigation, criminal prosecution, or civil,
9 administrative, or regulatory action.

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

14 d) In any investigation, criminal prosecution, or
15 civil, administrative, or regulatory action: (i) defendant will
16 not assert, and hereby waives and gives up, any claim that any
17 Cooperation Information was obtained in violation of the Fifth
18 Amendment privilege against compelled self-incrimination; and
19 (ii) defendant agrees that any Cooperation Information and any
20 Plea Information, as well as any evidence derived from any
21 Cooperation Information or any Plea Information, shall be
22 admissible against defendant, and defendant will not assert, and
23 hereby waives and gives up, any claim under the United States
24 Constitution, any statute, Rule 410 of the Federal Rules of
25 Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure,
26 or any other federal rule, that any Cooperation Information, any
27 Plea Information, or any evidence derived from any Cooperation
28 Information or any Plea Information should be suppressed or is

1 inadmissible.

2 COURT AND PROBATION OFFICE NOT PARTIES

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

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

22 29. Defendant understands that even if the Court ignores
23 any sentencing recommendation, finds facts or reaches conclusions
24 different from those agreed to, and/or imposes any sentence up to
25 the maximum established by statute, defendant cannot, for that
26 reason, withdraw defendant's guilty plea, and defendant will
27 remain bound to fulfill all defendant's obligations under this
28 agreement. Defendant understands that no one -- not the

1 prosecutor, defendant's attorney, or the Court -- can make a
2 binding prediction or promise regarding the sentence defendant
3 will receive, except that it will be within the statutory
4 maximum.

5 NO ADDITIONAL AGREEMENTS

6 30. 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
9 additional promise, understanding, or agreement may be entered
10 into unless in a writing signed by all parties or on the record
11 in court.

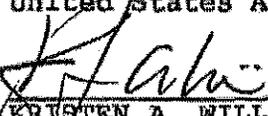
12 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

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

17 AGREED AND ACCEPTED

18 UNITED STATES ATTORNEY'S OFFICE
19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

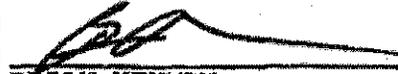
20 ANDRÉ BIROTTE JR.
21 United States Attorney

22 
23 KRISTEN A. WILLIAMS
24 Assistant United States Attorney

1/12/12
Date

25 
26 HWA JA KIM
27 Defendant

1/11/12
Date

28 
29 BRIAN NEWMAN
30 Attorney for Defendant
31 HWA JA KIM

1/11/12
Date

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CERTIFICATION OF DEFENDANT

This agreement has been read to me in Korean, the language I understand best. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has 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 attorney 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.



HWA JA KIM
Defendant



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CERTIFICATION OF INTERPRETER

I, Ames Woo, am fluent in the written and spoken English and Korean languages. I accurately translated this entire agreement from English into Korean to defendant Hwa Ja Kim on this date.

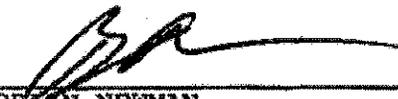
Ames Woo
Interpreter

1/11/2012
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CERTIFICATION OF DEFENDANT'S ATTORNEY

I am Hwa Ja Kim's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of her 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 a guilty plea pursuant to this agreement.



BRIAN NEWMAN
Attorney for Defendant
HWA JA KIM



Date

Exhibit A

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
HWA JA KIM,
aka "Helen Kim,"
Defendant.

CR _____
I N F O R M A T I O N
[18 U.S.C. § 1349: Conspiracy
to Commit Health Care Fraud]

The United States Attorney charges:

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Information:

1. Defendant HWA JA KIM, also known as "Helen Kim" ("defendant KIM"), was a registered nurse ("RN") working for Greatcare Home Health, Inc. ("Greatcare"), a Medicare provider owned by Hee Jung Mun ("co-schemer Mun").

2. Medicare was a federal health care benefit program, affecting commerce, that provided benefits to individuals who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services, a federal

AD

1 agency under the United States Department of Health and Human
2 Services.

3 3. Individuals who qualified for Medicare benefits were
4 referred to as "beneficiaries" and were issued Medicare
5 identification cards with unique Health Insurance Claim Numbers.

6 4. Persons and entities that provided medical services
7 that were reimbursed by Medicare were called Medicare
8 "providers."

9 5. Medicare reimbursed providers for certain types of
10 medically necessary treatment, including home health services
11 provided by qualified home health agencies.

12 6. Medicare coverage for home health services was limited
13 to situations in which specified qualifying conditions were met.
14 These conditions included the following:

15 a. The Medicare beneficiary was confined to the home
16 and did not have a willing care-giver to assist him or her;

17 b. The beneficiary needed skilled nursing services or
18 physical or occupational therapy services;

19 c. The beneficiary was under the care of a qualified
20 physician who established a written plan of care for the
21 beneficiary, signed by the physician and an RN from the home
22 health agency;

23 d. Skilled nursing services were provided by an RN or
24 ~~by a licensed vocational nurse under the supervision of an RN in~~
25 accordance with the plan of care; and

26 e. The services were medically necessary.

27 7. To determine the proper level of care for a particular
28 beneficiary and the amount of payment, Medicare required home

1 health agencies to perform an initial evaluation reflecting the
2 patient's current health and living conditions, using a tool
3 called the Outcome and Assessment Information Set ("OASIS") that
4 Medicare required an RN or a qualified therapist to complete.

5 8. At the conclusion of each episode of treatment, an RN
6 must fill out and sign another OASIS assessment, evaluating the
7 patient's condition and recommending either termination or
8 recertification for another episode.

9 9. Medicare also required a home health agency to
10 maintain a clinical record of services provided to each
11 beneficiary, including signed and dated clinical and progress
12 notes recording each home visit.

13 B. THE SCHEME TO DEFRAUD

14 10. Beginning on or about May 1, 2008, and continuing to
15 in or about July 2010, in Los Angeles County, within the Central
16 District of California, and elsewhere, defendant KIM, together
17 with co-schemer Mun and others known and unknown to the United
18 States Attorney, knowingly, willfully, and with intent to
19 defraud, executed and attempted to execute a scheme and
20 artifice: (a) to defraud a health care benefit program, namely
21 Medicare, as to material matters in connection with the delivery
22 of and payment for health care benefits, items, and services;
23 and (b) to obtain money from Medicare by means of material false
24 and fraudulent pretenses and representations and the concealment

25 of material facts in connection with the delivery of and payment
26 for health care benefits, items, and services.

27 11. The scheme operated, in substance, as follows:

28 a. While working at Greatcare, at co-schemer MUN's

1 direction, defendant KIM:

2 i. Signed false OASIS forms for Medicare
3 beneficiaries receiving home health services from Greatcare,
4 making it appear as though the beneficiaries' medical condition
5 and lack of willing caregivers made home health services
6 medically necessary, when in fact they were not and defendant
7 KIM often never conducted any assessment of the patients;

8 ii. Signed OASIS forms that listed false or
9 misleading diagnoses for the beneficiaries (including diagnoses
10 that made the beneficiaries' conditions seem more severe than
11 they in fact were); and

12 iii. Signed skilled nursing notes containing
13 falsified information regarding the beneficiaries' conditions
14 and falsely represented that patients had been visited by
15 defendant KIM, when in fact they had not.

16 b. Defendant KIM gave co-schemer Mun and other
17 Greatcare employees these signed OASIS forms and notes
18 documenting the services she had purportedly provided to
19 patients. Defendant KIM knew and intended that Greatcare
20 employees would use that documentation to support false and
21 fraudulent claims to Medicare for home health services that were
22 not medically necessary and either not provided or provided by
23 unlicensed individuals.

24 c. Medicare paid Greatcare approximately \$1,004,240
25 for false and fraudulent claims for home health services
26 allegedly provided by defendant KIM.

27 C. EXECUTION OF THE SCHEME TO DEFRAUD

28 12. On or about May 26, 2010, in Los Angeles County,

1 within the Central District of California, and elsewhere,
2 defendant KIM, together with co-schemer Mun and others known and
3 unknown to the United States Attorney, for the purpose of
4 executing the above-described scheme to defraud, knowingly and
5 willfully submitted and caused to be submitted to Medicare a
6 false and fraudulent claim (claim number 21014600319602CAR) for
7 skilled nursing services allegedly provided by defendant KIM to
8 beneficiary P.K. between on or about February 18, 2010, and on
9 or about March 14, 2010, for which Medicare paid Greatcare
10 approximately \$2,663.

11 ANDRÉ BIROTTE JR.
12 United States Attorney

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

16 BEONG-SOO KIM
17 Assistant United States Attorney
18 Chief, Major Frauds Section

19 CONSUELO S. WOODHEAD
20 Assistant United States Attorney
21 Deputy Chief, Major Frauds Section

22 KRISTEN A. WILLIAMS
23 Assistant United States Attorney
24 Major Frauds Section

United States District Court
Central District of California

UNITED STATES OF AMERICA vs.

Docket No. CR 12-00059 DDP

Defendant HWA JA KIM
akas: Helen Kim

Social Security
No. - - - -
(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person

MONTH	DAY	YEAR
Jan.	14	2013

COUNSEL Brian A. Newman and Ryan T. Okabe, retained.
(Name of Counsel)

PLEA **GUILTY**, and the court being satisfied that there is a factual basis for **NOLO** **NOT GUILTY**
the plea. **CONTENDERE**

FINDING There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:
18 U.S.C. § 1347: Health Care Fraud as charged in the single-count information.

JUDGMENT AND PROB/ COMM ORDER The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of:

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Hwa Ja Kim, is hereby committed on count one of the single-count information to the custody of the Bureau of Prisons to be imprisoned for a term of 18 months.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the U. S. Probation Office, General Order 05-02, and General Order 01-05, including the three special conditions delineated in General Order 01-05;
2. During the period of community supervision the defendant shall pay the special assessment and restitution in accordance with this judgment's orders pertaining to such payment;
3. The defendant shall not be employed in any position that requires licensing and/or certification by any local, state or federal agency without prior approval of the Probation Officer;
4. The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritance, judgements and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation; and

USA vs. HWA JA KIM

Docket No.:

CR 12-00059 DDP

5. The defendant shall cooperate in the collection of a DNA sample from the defendant.

The drug testing condition mandated by statute is suspended based on the Court's determination that the defendant poses a low risk of future substance abuse.

It is further ordered that the defendant surrender herself to the institution designated by the Bureau of Prisons on or before 12 noon, on March 15, 2013. In the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal located at the Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012.

RESTITUTION: It is ordered that the defendant shall pay restitution pursuant to 18 U.S.C. § 3663 (A). Defendant shall pay restitution in the total amount of \$1,004,240.67 to victims as set forth in a separate victim list prepared by the probation office which this Court adopts and which reflects the Court's determination of the amount of restitution due to each victim. The victim list, which shall be forwarded to the fiscal section of the clerk's office, shall remain confidential to protect the privacy interests of the victims.

Restitution shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program. If any amount of the restitution remains unpaid after release from custody, nominal monthly payments of at least \$50 shall be made during the period of supervised release. These payments shall begin 30 days after the commencement of supervision. Nominal restitution payments are ordered as the court finds that the defendant's economic circumstances do not allow for either immediate or future payment of the amount ordered.

The defendant shall be held jointly and severally liable with the following co-participants to the extent and for the amount that each is determined liable for the same victim losses:

Ji Hae Kim, Docket No. CR 11-01082-DDP;
Hee Jung Mun, Docket No. CR 11-01196-DDP;
Jung Sook Lee, Docket No. CR 12-00015-DDP;
Seonweon Kim, Docket No. CR 12-00009-DDP;
Whan Sil Kim, Docket No. CR 12-00572-DDP;
Yeong Ja Lee, Docket No. CR 12-397-DDP; and
Sang Whan Ahn, Docket No. CR 12-588-DDP.

The victims' recovery is limited to the amount of their loss and the defendant's liability for restitution ceases if and when the victims receive full restitution.

Pursuant to 18 U.S.C. § 3612(f)(3)(A), interest on the restitution ordered is waived because the defendant does not have the ability to pay interest. Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

The defendant shall comply with General Order No. 01-05.

FINE: All fines are waived as it is found that the defendant does not have the ability to pay a fine in addition to restitution.

USA vs. HWA JA KIM

Docket No.:

CR 12-00059 DDP

SPECIAL ASSESSMENT: It is ordered that the defendant shall pay to the United States a special assessment of \$100, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

SENTENCING FACTORS: The sentence is based upon the factors set forth in 18 U.S.C. § 3553, including the applicable sentencing range set forth in the guidelines.

The Court **RECOMMENDS** a BOP facility as close to the Southern California vicinity as possible.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

January 14, 2013

Date

United States District Judge



It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

January 14, 2013

Filed Date

By John A. Chambers

Deputy Clerk

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

USA vs. HWA JA KIM

Docket No.:

CR 12-00059 DDP

The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. HWA JA KIM Docket No.: CR 12-00059 DDP

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

_____ By _____
 Date Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

_____ By _____
 Filed Date Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____ Date _____
 Defendant

_____ Date _____
 U. S. Probation Officer/Designated Witness

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:
**HWA JA KIM
1354 Shadow Brook Terrace
Harbor City, CA 90710**
Registered Nurse License No. 223733
RESPONDENT

Case No. 2014-808
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 10, 2014, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2014-808 against Hwa Ja Kim (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)
2. On or about May 31, 1972, the Board of Registered Nursing (Board) issued Registered Nurse License No. 223733 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2014, unless renewed.
3. On or about January 10, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2014-808, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136

1 and/Title 16, California Code of Regulation, section 1409.1, is required to be reported and
2 maintained with the Board, which was and is:

3 1354 Shadow Brook Terrace
4 Harbor City, CA 90710.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about January 23, 2014, the Domestic Return Receipt for the Accusation served
9 by Certified mail was returned by U. S. Postal Service acknowledging receipt.

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
12 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
13 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
14 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

15 7. Respondent failed to file a Notice of Defense within 15 days after service of the
16 Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation No.
17 2014-808.

18 8. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
20 agency may take action based upon the respondent's express admissions or upon other evidence
21 and affidavits may be used as evidence without any notice to respondent.

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on
24 Accusation No. 2014-808 and the documents contained in Default Decision Investigatory
25 Evidence Packet in this matter which includes:

26 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation Case No. 2014-
27 808, Statement to Respondent, Notice of Defense (two blank copies),
28 Request for Discovery and Discovery Statutes (Government Code sections

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11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail receipt or copy of returned mail envelopes;

Exhibit 2: License History Certification for Hwa Ja Kim, Registered Nurse License No. 223733;

Exhibit 3: Court Records;

Exhibit 4: Affidavit of Kami Pratab;

Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of Case No. 2014-808.

The Board finds that the charges and allegations in Accusation No. 2014-808 are separately and severally true and correct by clear and convincing evidence.

10. Taking official notice of Certification of Board Costs and the Declaration of Costs by the Office of the Attorney General contained in the Default Decision Investigatory Evidence Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement in connection with the Accusation are \$1,367.50 as of March 17, 2014.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Hwa Ja Kim has subjected her following license(s) to discipline:

a. Registered Nurse License No. 223733

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's license(s) based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

a. Violation of Business and Professions Code section 2761(a) - Unprofessional Conduct.

b. Violation of Business and Professions Code section 2761(d) - Violating or attempting to violate, directly, or assisting in or abetting the violating of,

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or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

c. Violation of Business and Professions Code section 2761(f) - Conviction substantially related to the qualifications, functions and duties of a registered nurse.

d. Violation of Business and Professions Code section 810 (b) - Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or allow it to be presented or used in support of any false or fraudulent claim.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 223733, heretofore issued to Respondent Hwa Ja Kim, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 15, 2014.

It is so ORDERED July 17, 2014.



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2014-808

Exhibit A

Accusation No. 2014-808

1 KAMALA D. HARRIS
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Supervising Deputy Attorney General
3 MICHAEL BROWN
Supervising Deputy Attorney General
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5 Los Angeles, CA 90013
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E-mail: MichaelB.Brown@doj.ca.gov
7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2014-800

12 **HWA JA KIM**
13 1354 Shadow Brook Terrace
Harbor City, CA 90710

ACCUSATION

14 Registered Nurse License No. 223733

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about May 31, 1972, the Board of Registered Nursing (Board) issued
23 Registered Nurse License No. 223733 to Hwa Ja Kim (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on May 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

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2 4. Section 118, subdivision (b), of the Code provides that the
3 suspension/expiration/surrender/cancellation of a license shall not deprive the
4 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
5 within which the license may be renewed, restored, reissued or reinstated.

6 5. Section 490 of the Code states:

7 "(a) In addition to any other action that a board is permitted to take against a licensee, a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
10 or profession for which the license was issued.

11 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
12 discipline a licensee for conviction of a crime that is independent of the authority granted under
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
14 of the business or profession for which the licensee's license was issued.

15 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
16 conviction following a plea of nolo contendere. An action that a board is permitted to take
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order under the
20 provisions of Section 1203.4 of the Penal Code.

21 "(d) The Legislature hereby finds and declares that the application of this section has been
22 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
23 554, and that the holding in that case has placed a significant number of statutes and regulations
24 in question, resulting in potential harm to the consumers of California from licensees who have
25 been convicted of crimes. Therefore, the Legislature finds and declares that this section
26 establishes an independent basis for a board to impose discipline upon a licensee, and that the
27 amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change
28 to, but rather are declaratory of, existing law."

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6. Section 493 states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question. As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

7. Section 810 states, in pertinent part:

"(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

"(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

"(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim."

8. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

9. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

.....

1 d. Respondent signed skilled nursing notes prepared by her by other Greatcare
2 employees and falsified daily route sheets that made it seem as though she had conducted the
3 visits, knowing that such documentation would be used to support the fraudulent Medicare claims
4 for those beneficiaries. Some of these signed nursing notes claimed that Respondent had seen
5 two patients at the same time, and saw up to 23 patients, each for forty-five minutes, in a single
6 day.

7 e. Respondent, while working for Greatcare also engaged in similar fraud at Jubilee
8 Health Care Management, Inc. (Jubilee), another home health agency, associated with Greatcare.
9 Respondent admitted that she saw none of the patients for whom she signed skilled nursing notes
10 while working at Jubilee. Many of these alleged Jubilee patient visits overlapped with alleged
11 Greatcare patient visits.

12 f. Medicare paid Greatcare approximately \$5,144,277.54 for claims submitted for
13 services between May 2008 and March 2011, of which approximately \$1,004,240.67 was for
14 services allegedly provided by Respondent between May 2008 and August 2010.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Insurance Fraud)**

17 15. Respondent is subject to disciplinary action under section 2761, subdivision (a) and
18 810, subdivision (a)(2), in that from in or about May 2008 to in or about August 2010,
19 Respondent prepared a writing, with the intent to present or use the same, or to allow it to be
20 presented or used, in support of a false or fraudulent claim. Complainant refers to, and by this
21 reference incorporates, the allegations set forth above in paragraph 14, as though set forth fully.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct)**

24 16. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and
25 (d), in that from in or about May 2008 to in or about August 2010, Respondent used her registered
26 nurse license to create fraudulent supporting documentation for services that she did not perform
27 and that were often not medically necessary. Complainant refers to, and by this reference
28 incorporates, the allegations set forth above in paragraph 14, as though set forth fully.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoeking or suspending Registered Nurse License No. 223733, issued to Hwa Ja Kim;
2. Ordering Hwa Ja Kim to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: JANUARY 10, 2014


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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