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FEDERAL DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CR 12 00009

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
SEONWEON KIM,)
)
Defendant.)

I N F O R M A T I O N

[18 U.S.C. § 1347: Health Care
Fraud]

The United States Attorney charges:

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Information:

The Defendant

1. Defendant SEONWEON KIM ("defendant KIM") was a licensed physical therapist who purported to provide in-home physical therapy services to Medicare patients.

2. Defendant KIM worked for Greatcare Home Health, Inc. ("Greatcare"), a Medicare provider owned by a co-schemer, Hee Jung Mun ("co-schemer Mun").

3. Between on or about May 1, 2008, and on or about April

1 30, 2011, Medicare paid approximately \$831,902 for claims, a
2 component of which included physical therapy services allegedly
3 provided by defendant KIM.

4 The Medicare Program

5 4. Medicare was a federal health care benefit program,
6 affecting commerce, that provided benefits to individuals who
7 were over the age of 65 or disabled. Medicare was administered
8 by the Centers for Medicare and Medicaid Services, a federal
9 agency under the United States Department of Health and Human
10 Services.

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

14 6. Persons and entities that provided medical services
15 that were reimbursed by Medicare were called Medicare
16 "providers."

17 7. Medicare reimbursed providers for certain types of
18 medically necessary treatment, including home health services
19 provided by qualified home health agencies.

20 8. Medicare coverage for home health services was limited
21 to situations in which specified qualifying conditions were met.
22 These conditions included the following:

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

25 b. The beneficiary needed skilled nursing services or
26 physical or occupational therapy services;

27 c. The beneficiary was under the care of a qualified
28 physician who established a written plan of care for the

1 beneficiary, signed by the physician and a registered nurse
2 ("RN") (or by a therapist if only therapy services were
3 provided) from the home health agency;

4 d. Skilled nursing or therapy services were provided
5 by or under the supervision of an RN or physical therapist in
6 accordance with the plan of care; and

7 e. The services were medically necessary.

8 9. Physical therapy services are medically necessary only
9 where (1) the therapy is inherently complex such that it can
10 only be performed safely or effectively by or under the
11 supervision of a qualified physical therapist, and (2) the
12 therapy is reasonable and necessary to the treatment of the
13 patient's illness or injury.

14 10. To determine the proper level of care for a particular
15 beneficiary and the amount of payment, Medicare required home
16 health agencies to perform an initial assessment of the
17 patient's current health and living conditions, using a tool
18 called the Outcome and Assessment Information Set ("OASIS").

19 11. Medicare required the initial assessment and OASIS
20 form to be completed by an RN or a qualified therapist.

21 12. Medicare also required a home health agency to
22 maintain a clinical record of services provided to each
23 beneficiary, including signed and dated clinical and progress
24 notes recording each home visit.

25 13. Medicare paid home health agencies based on a payment
26 system under which Medicare paid home health agencies for each
27 sixty-day episode of services. The amount of the payment was
28 based primarily on the severity of the beneficiary's health

1 condition and care needs as represented by the OASIS data.

2 B. THE SCHEME TO DEFRAUD

3 14. Beginning on or about May 1, 2008, and continuing to
4 on or about March 2, 2011, in Los Angeles County, within the
5 Central District of California, and elsewhere, defendant KIM,
6 together with co-schemer Mun and others known and unknown to the
7 United States Attorney, knowingly, willfully, and with intent to
8 defraud, executed and attempted to execute a scheme and
9 artifice: (a) to defraud a health care benefit program, namely
10 Medicare, as to material matters in connection with the delivery
11 of and payment for health care benefits, items, and services;
12 and (b) to obtain money from Medicare by means of material false
13 and fraudulent pretenses and representations and the concealment
14 of material facts in connection with the delivery of and payment
15 for health care benefits, items, and services.

16 15. The scheme operated, in substance, as follows:

17 a. Defendant KIM signed false physical therapy
18 evaluation and plan of care forms and discharge summaries for
19 Medicare beneficiaries enrolled with Greatcare for physical
20 therapy services, making it appear as though he had conducted
21 initial and discharge assessments and developed plans of care
22 for those beneficiaries when, in fact, he had not. Defendant
23 KIM knew some of the assessments were being conducted by
24 individuals who were not licensed physical therapists, while
25 other assessments were not conducted at all.

26 b. Defendant KIM also signed physical therapy
27 treatment notes, falsely representing that he had visited the
28 beneficiaries and provided physical therapy treatment to them

1 when, in fact, he had done neither and was out of the country
2 during some of the purported visits.

3 c. As defendant KIM well knew, at co-schemer Mun's
4 direction, individuals who were not licensed physical therapists
5 or assistant physical therapists visited some of the
6 beneficiaries defendant KIM purported to visit.

7 d. As defendant KIM also well knew, some of the
8 beneficiaries visited by the unlicensed individuals had been
9 recruited for Greatcare by marketers and did not need physical
10 therapy.

11 e. Defendant KIM submitted the falsified initial
12 evaluation and plan of care forms, discharge summaries, and
13 physical therapy treatment notes to Greatcare, knowing and
14 intending that Greatcare would use those records to support
15 false claims seeking payment from Medicare.

16 f. As a direct and intended result of defendant
17 KIM's conduct, Greatcare billed Medicare for physical therapy
18 services to beneficiaries who did not qualify for or need
19 physical therapy, and for beneficiaries who did not, in fact,
20 receive the services for which Greatcare billed or received them
21 from unlicensed individuals.

22 g. By means of the above-described conduct,
23 defendant KIM caused Greatcare to submit false and fraudulent
24 claims for physical therapy services between May 1, 2008, and
25 April 30, 2011. Greatcare received approximately \$831,902 from
26 Medicare for those claims.

1 C. EXECUTION OF THE SCHEME TO DEFRAUD

2 16. On or about August 15, 2010, in Los Angeles County,
3 within the Central District of California, and elsewhere,
4 defendant KIM, together with others known and unknown to the
5 United States Attorney, for the purpose of executing the scheme
6 to defraud described above, knowingly and willfully submitted
7 and caused to be submitted to Medicare a false and fraudulent
8 claim (claim number 21022800288602CAR) for approximately \$5,955
9 for services allegedly provided to beneficiary Y.P. between
10 April 21, 2010, and June 19, 2010, for which Medicare paid
11 Greatcare approximately \$5,338.

12
13 ANDRÉ BIROTTE JR.
United States Attorney

14 *DM*
Dorothy C. Kim
15 Dep. Chief, Crim. Div. - For.

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

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

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

21
22 KRISTEN A. WILLIAMS
Assistant United States Attorney
Major Frauds Section

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CRIMINAL MINUTES -- CHANGE OF PLEA

Case No. CR 12-00009 DDP

Date: April 9, 2012

=====

PRESENT: HONORABLE DEAN D. PREGERSON, JUDGE

John A. Chambers
Courtroom Deputy

Maria Bustillos
Court Reporter

Kristen A. Williams
Asst. U.S. Attorney

=====

U.S.A. vs (Dfts listed below)

Attorneys for Defendants

1) SEONWEON KIM
present on bond

1) Garo B. Ghazarian
present retained

PROCEEDINGS: **PLEA**

Court and counsel confer re the plea of Guilty. Defendant moves to plea Guilty to the Information. Defendant now enters a plea of Guilty to the Single Count Information. The Court questions the defendant regarding the plea of Guilty and finds a factual and legal basis for the plea; waivers of constitutional rights are freely, voluntarily and intelligently made; plea is provident; plea is accepted and entered.

The Court refers the defendant to the Probation Office for the preparation of a presentence report and continues the matter to November 5, 2012, at 2:30 p.m., for sentencing.

The Court vacates the court and/or jury trial date.

Counsel are notified that Federal Rule of Criminal Procedure 32(b)(6)(B) requires the parties to notify the Probation Officer, and each other, of any objections to the Presentence Report within fourteen (14) days of receipt. Alternatively, the Court will permit counsel to file such objections no later than twenty-one (21) days before Sentencing. The Court construes "objections" to include departure arguments. Requests for continuances shall be filed no later than twenty-one (21) days before Sentencing. Strict compliance with the above is mandatory because untimely filings impede the abilities of the Probation Office and of the Court to prepare for Sentencing. Failure to meet these deadlines is grounds for sanctions.

cc: P. O. & P. S. A. L. A.

United States District Court
Central District of California

SECOND AMENDED J&C AS TO HIGHLIGHTED RESTITUTION AMOUNT ONLY

UNITED STATES OF AMERICA vs.

Docket No. CR 12-00009 DDP

Defendant SEONWEON KIM

Social Security No.
(Last 4 digits)

akas: none

JUDGMENT AND PROBATION/COMMITMENT ORDER

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

MONTH	DAY	YEAR
Jan.	15	2015

COUNSEL Garo B. Ghazarian, retained.
(Name of Counsel)

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

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, Seonweon Kim, is hereby committed on the Single Count Information to the custody of the Bureau of Prisons to be imprisoned for a term of 21 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 cooperate in the collection of a DNA sample from the defendant;

USA vs. SEONWEON KIM

Docket No.:

CR 12-00009 DDP

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;
5. The defendant shall not be employed in any position that requires licensing and/or certification by any local, state, or federal agency without the prior written approval of the Probation Officer.

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.

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 \$1,867,051.03 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 10% of defendant's gross monthly income shall be made during the period of supervised release and 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. Amounts paid to the medicare program from seized funds or as a result of resolution of Civil False Claims Act liability for the same conduct shall be credited to the restitution obligation

The defendant shall be held jointly and severally liable with co-participants, Hee Jung Mun (Docket No. CR 11-01196 DDP) and Yeong Ja Lee (Docket No. CR-12-00397-DDP) for \$831,902, representing losses suffered by Medicare, as a result of the fraud scheme involving Greatcare. The defendant shall be held jointly and severally liable with co-participants, for the losses attributable to California Neuro-Rehabilitation Institute, Eddie Choi and Won Suk Lee, both charged in related case (Docket No. CR 12-00712 DDP) for ~~\$1,035,149.03~~, representing the losses suffered by Medicare. 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.

FINE: Pursuant to Section 5E1.2 (e) of the Guidelines, all fines are waived as it is found that the defendant does not have the ability to pay a fine.

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.

USA vs. SEONWEON KIM

Docket No.: CR 12-00009 DDP

IT IS ORDERED that the defendant shall self-surrender to the institution designated by the BOP on or before 12 noon, March 17, 2015 and, on the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal at 255 East Temple Street, Los Angeles, California, 90012.

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 21, 2015

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 21, 2015

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:

- | | |
|--|--|
| <ol style="list-style-type: none"> 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; | <ol style="list-style-type: none"> 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, <u>for felony cases only</u>: not possess a firearm, destructive device, or any other dangerous weapon. |
|--|--|

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

USA vs. SEONWEON KIM

Docket No.: CR 12-00009 DDP

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.

RETURN

I have executed the within Judgment and Commitment as follows:

USA vs. SEONWEON KIM Docket No.: CR 12-00009 DDP

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

Date By _____
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

Filed Date By _____
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

U. S. Probation Officer/Designated Witness Date

BEFORE THE
PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

Seonweon Kim, PT
1733 Highland Oaks Drive
Arcadia, California 91006

Physical Therapist License No. PT 32717

Respondent.

Case No.: 1D 2013 74630

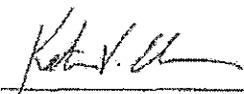
OAH Case No.: 2015041228

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This decision shall become effective on April 7, 2016.

It is so ordered on March 8, 2016.


Katarina V. Eleby, PRESIDENT
FOR THE PHYSICAL THERAPY BOARD
OF CALIFORNIA, DEPARTMENT OF
CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 REBECCA L. SMITH
Deputy Attorney General
4 State Bar No. 179733
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-2655
Facsimile: (213) 897-9395
7 Attorneys for Complainant

8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 SEONWEON KIM, P.T.
13 1733 Highland Oaks Drive
14 Arcadia, California 91006
15 Physical Therapist License No. PT 32717,
16 Respondent.

Case No. ID-2013-74630
OAH No. 2015041228
**STIPULATED REVOCATION OF
LICENSE AND ORDER**

17
18 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

- 21 1. Jason Kaiser (Complainant) is the Executive Officer of the Physical Therapy Board of
22 California. He brought this action solely in his official capacity and is represented in this matter
23 by Kamala D. Harris, Attorney General of the State of California, by Rebecca L. Smith, Deputy
24 Attorney General.
- 25 2. Seonweon Kim, P.T. (Respondent) is represented in this proceeding by attorney Scott
26 J. Harris, 8383 Wilshire Boulevard, Suite 830, Beverly Hills, California 90211.
- 27 3. On March 22, 2006, the Physical Therapy Board of California issued Physical
28 Therapist License No. PT 32717 to Respondent. That license was in full force and effect at all

1 times relevant to the charges brought in Accusation No. ID-2013-74630 and will expire on
2 November 30, 2015, unless renewed.

3 JURISDICTION

4 4. Accusation No. ID-2013-74630 was filed before the Physical Therapy Board of
5 California (Board) and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on April 17, 2015.
7 Respondent timely filed a Notice of Defense contesting the Accusation. A copy of Accusation
8 No. ID-2013-74630 is attached as Exhibit A and is incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. ID-2013-74630. Respondent also has carefully read,
12 fully discussed with counsel, and understands the effects of this Stipulated Revocation of License
13 and Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. ID-2013-74630, and agrees that cause exists for discipline and hereby stipulates to the
26 revocation of his Physical Therapist License No. PT 32717 for the Board's formal acceptance.

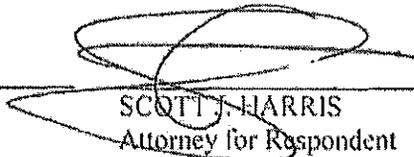
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I have read and fully discussed with Respondent Seonweon Kim, P.T. the terms and conditions and other matters contained in this Stipulated Revocation of License and Order. I approve its form and content.

DATED: 2.4.16


SCOTT J. HARRIS
Attorney for Respondent

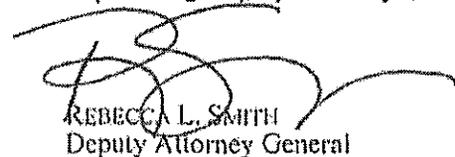
ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

Dated: 2/5/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General


REBECCA L. SMITH
Deputy Attorney General

Attorneys for Complainant

LA2015600941

Exhibit A

Accusation No. 1D-2013-74630

1 4. Section 2602.1 of the Code states:

2 "Protection of the public shall be the highest priority for the Physical Therapy Board of
3 California in exercising its licensing, regulatory, and disciplinary functions. Whenever the
4 protection of the public is inconsistent with other interests sought to be promoted, the protection
5 of the public shall be paramount."

6 5. Section 2605 of the Code states:

7 "The board shall do all of the following:

8 "..."

9 "(d) Suspend and revoke licenses and otherwise enforce the provisions of this chapter.

10 "..."

11 6. Section 2660 of the Code states:

12 "Unprofessional conduct constitutes grounds for citation, discipline, denial of a license, or
13 issuance of a probationary license. The board may, after the conduct of appropriate proceedings
14 under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1
15 of Division 3 of Title 2 of the Government Code), issue a citation, impose discipline, deny a
16 license, suspend for not more than 12 months, or revoke, or impose probationary conditions upon
17 any license issued under this chapter for unprofessional conduct that includes, in addition to other
18 provisions of this chapter, but is not limited to, the following:

19 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
20 violation of, or conspiring to violate any provision of this chapter, any regulations duly adopted
21 under this chapter, or the Medical Practice Act (Chapter 5 (commencing with Section 2000)).

22 "..."

23 "(e) Conviction of a crime that substantially relates to the qualifications, functions, or duties
24 of a physical therapist or physical therapist assistant. The record of conviction or a certified copy
25 thereof shall be conclusive evidence of that conviction.

26 "..."

27 "(j) The commission of any fraudulent, dishonest, or corrupt act that is substantially related
28 to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

1 "...

2 "(r) Charging a fee for services not performed.

3 "(s) Misrepresenting documentation of patient care or deliberate falsifying of patient
4 records.

5 "..."

6 7. Section 2661 of the Code states:

7 "A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to
8 be a conviction within the meaning of this article. The board may order discipline of the licensee
9 in accordance with Section 2660 or the board may take action as authorized in Section 2660.2 on
10 an application when the time for appeal has elapsed, or the judgment of conviction has been
11 affirmed on appeal or when an order granting probation is made suspending the imposition of
12 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that
13 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
14 verdict of guilty, or dismissing the accusation, information, or indictment."

15 8. Section 490 of the Code states:

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

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

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

3 9. Section 493 of the Code states:

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

13 "..."

14 10. Section 810 of the Code states:

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

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

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

23 (b) It shall constitute cause for revocation or suspension of a license or certificate for a
24 health care professional to engage in any conduct prohibited under Section 1871.4 of the
25 Insurance Code or Section 549 or 550 of the Penal Code.

26 "..."

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1 11. California Code of Regulations, Title 16, section 1399.20, states:

2 "For the purposes of denial, suspension or revocation of a license, pursuant to Division 1.5
3 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially
4 related to the qualifications, functions or duties of a person holding a license under the Physical
5 Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a
6 person to perform the functions authorized by the license or approval in a manner consistent with
7 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the
8 following:

9 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act.

11 "(b) Conviction of a crime involving fiscal dishonesty arising out of or in connection with
12 the practice of physical therapy.

13 "(c) Violating or attempting to violate any provision or term of the Medical Practice Act."

14 12. United States Code, Title 18, section 1347 pertaining to Health Care Fraud states:

15 "(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or
16 artifice--

17 "(1) to defraud any health care benefit program; or

18 "(2) to obtain, by means of false or fraudulent pretenses, representations, or promises,
19 any of the money or property owned by, or under the custody or control of, any health care
20 benefit program, in connection with the delivery of or payment for health care benefits, items, or
21 services, shall be fined under this title or imprisoned not more than 10 years, or both. If the
22 violation results in serious bodily injury (as defined in section 1365 of this title), such person shall
23 be fined under this title or imprisoned not more than 20 years, or both; and if the violation results
24 in death, such person shall be fined under this title, or imprisoned for any term of years or for life,
25 or both.

26 "(b) With respect to violations of this section, a person need not have actual knowledge of
27 this section or specific intent to commit a violation of this section. "

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1 **COST RECOVERY**

2 13. Section 2661.5 of the Code states:

3 "(a) In any order issued in resolution of a disciplinary proceeding before the board, the
4 board may request the administrative law judge to direct any licensee found guilty of
5 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
6 the investigation and prosecution of the case.

7 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in
8 any event be increased by the board. When the board does not adopt a proposed decision and
9 remands the case to an administrative law judge, the administrative law judge shall not increase
10 the amount of the assessed costs specified in the proposed decision.

11 "(c) When the payment directed in an order for payment of costs is not made by the
12 licensee, the board may enforce the order of payment by bringing an action in any appropriate
13 court. This right of enforcement shall be in addition to any other rights the board may have as to
14 any licensee directed to pay costs.

15 "(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
16 conclusive proof of the validity of the order of payment and the terms for payment.

17 "(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the
18 license or approval of any person who has failed to pay all of the costs ordered under this section.

19 "(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or
20 reinstate for a maximum of one year the license or approval of any person who demonstrates
21 financial hardship and who enters into a formal agreement with the board to reimburse the board
22 within that one year period for those unpaid costs.

23 "(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund
24 as a reimbursement in either the fiscal year in which the costs are actually recovered or the
25 previous fiscal year, as the board may direct."

26 **FACTUAL SUMMARY**

27 14. On January 15, 2015, in proceedings in United States District Court for the Central
28 District of California entitled, United States of America v. Seonweon Kim, case number CR 12-

1 00009, Respondent plead guilty to the single felony offense as alleged in the Single Count
2 Information, Health Care Fraud in violation of 18 U.S.C. § 1347.

3 15. The Single Count Information alleged that Respondent practiced physical therapy,
4 purporting to provide in-home physical therapy services to Medicare patients, and that between or
5 about May 1, 2008 and on or about April 30, 2011, Medicare paid approximately \$831,902 for
6 claims, a component of which included physical therapy services allegedly provided by
7 Respondent.

8 16. With respect to Respondent's scheme to defraud, the Single Count Information
9 alleged that beginning on or about May 1, 2008, and continuing to on or about March 2, 2011, in
10 Los Angeles County and elsewhere, Respondent and others "knowingly, willfully, and with intent
11 to defraud, executed and attempted to execute a scheme and artifice: (a) to defraud a health care
12 benefit program, namely Medicare, as to material matters in connection with the delivery of and
13 payment for health care benefits, items, and services; and (b) to obtain money from Medicare by
14 means of material false and fraudulent pretenses and representations and the concealment of
15 material facts in connection with the delivery of and payment for health care benefits, items, and
16 services." The Single Count Information detailed the scheme to defraud, as follows:

17 A. Respondent signed false physical therapy evaluation and plan of care forms
18 and discharge summaries for Medicare beneficiaries for physical therapy services, making it
19 appear as though he had conducted initial and discharge assessments and developed plans of care
20 for those beneficiaries when, in fact, he had not. Respondent knew some of the assessments were
21 being conducted by individuals who were not licensed physical therapists, while other
22 assessments were not conducted at all.

23 B. Respondent signed physical therapy treatment notes, falsely representing
24 that he had visited the beneficiaries and provided physical therapy treatment to them when, in
25 fact, he had done neither and was out of the country during some of the purported visits.

26 C. Respondent knew that individuals who were not licensed physical
27 therapists or assistant physical therapists visited some of the beneficiaries Respondent purported
28 to visit.

1 section 2660, subdivisions (a), (j), (r), and (s) of the Code, California Code of Regulations, Title
2 16, section 1399.20, subdivisions (a), (b) and (c) and United States Code, Title 18, section 1347.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Conviction of a Crime)**

5 21. By reason of the facts set forth above in paragraphs 14 through 16, Respondent is
6 subject to disciplinary action pursuant to sections 490, 493, 2660(e), and 2661 of the Code and
7 Title 16, section 1399.20, subdivisions (a), (b) and (c) for conviction of a crime which is
8 substantially related to the qualifications, functions, or duties of his profession. The
9 circumstances are as follows:

10 22. Respondent's acts and/or omissions set forth in paragraphs 14 through 16 above,
11 whether proven individually, jointly, or in any combination thereof, constitute conviction of a
12 crime substantially related to the practice of a physical therapist in violation of sections 490, 493,
13 2660(e), and 2661 of the Code and Title 16, section 1399.20, subdivisions (a), (b) and (c).
14 Therefore, cause for discipline exists.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 23. By reason of the facts set forth above in paragraphs 14 through 16, Respondent is
18 subject to disciplinary action under section 2660, subdivisions (a), (e), (j), (r), and (s) of the Code
19 in that he engaged in unprofessional conduct.

20 24. Respondent's acts and/or omissions set forth in paragraphs 14 through 16 above,
21 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
22 conduct related to the practice of a physical therapist in violation of section 2660, subdivisions
23 (a), (e), (j), (r), and (s) of the Code. Therefore, cause for discipline exists.

24 **DISCIPLINE CONSIDERATIONS**

25 25. To determine the degree of discipline, if any, to be imposed on Respondent,
26 Complainant alleges that on or about January 15, 2015, in Case No. CR 12-00009, Respondent
27 was sentenced to 21 months in prison. He was ordered to pay restitution pursuant to 18 U.S.C. §
28 3663(A) in the total amount of \$1,867,051.03 to victims whose identities are to remain

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4. Taking such other and further action as deemed necessary and proper.

DATED:



JASON KAISER
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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