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CENTRAL DIST. OF CALIF.
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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 2011 Grand Jury

CR12-0712

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| UNITED STATES OF AMERICA,<br>Plaintiff,<br>v.<br>WON SUK LEE and<br>EDDIE CHOI,<br>Defendants. | CR _____<br>I N D I C T M E N T<br>[18 U.S.C. § 1347: Health Care Fraud; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done] |

The Grand Jury charges:

COUNTS ONE THROUGH SIX

[18 U.S.C. § 1347]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

The Defendants

1. Defendant WON SUK LEE ("defendant LEE"), an acupuncturist, was not a physician, physical therapist ("PT"), or PT assistant licensed to practice in California.

2. Defendant LEE owned and operated Won Suk Lee Acupuncture & Herb, Inc. ("Huntington Park Acupuncture Clinic"),

a business located at 2677 Zoe Avenue, Suites 107 and 120, in Huntington Park, California.

3. Beginning on or about a date no later than December 15, 2010, defendant LEE also owned and operated Variety Choice, Inc. ("Variety Choice"), a business located at 2677 Zoe Avenue, Suite 120, in Huntington Park, California.

4. Defendant EDDIE CHOI ("defendant CHOI") was a PT licensed to practice in California and an enrolled Medicare provider.

5. Beginning on or about January 1, 2006, and continuing until at least on or about July 26, 2012, defendant CHOI was the Chief Executive Officer for California Neuro-Rehabilitation Institute, Inc. ("CNR"), a physical therapy clinic located at 520 S. Virgil Avenue, Suite 401, in Los Angeles, California.

6. CNR was enrolled as a Medicare provider as a physical therapy group.

7. Between in or about May 2008 and continuing until at least in or about March 2011, Medicare paid CNR on claims CNR submitted for physical therapy services allegedly provided through CNR by electronic funds transferred into CNR's Bank of America bank account (account number ending 2294) (the "CNR Bank Account"). Defendant CHOI was a signatory on the CNR Bank Account.

The Medicare Program

8. 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 ("CMS"), a

federal agency under the United States Department of Health and Human Services ("HHS").

9. Individuals who qualified for Medicare benefits were referred to as Medicare "beneficiaries." Each Medicare beneficiary was given a Health Identification Card containing a unique Identification number ("HICN").

10. Health care providers, including PTs and physical therapy group practices, who provided medical services that were reimbursed by Medicare were referred to as Medicare "providers."

11. Medicare had various parts relating to the nature of the services rendered to beneficiaries. Medicare Part B covered the cost of physical therapy services.

12. To obtain reimbursement from Medicare, a PT or physical therapy group first had to apply for and obtain a provider number. By signing the provider application, the PT or physical therapy group agreed to (a) abide by Medicare rules and regulations; and (b) not submit claims to Medicare knowing they were false or fraudulent or with deliberate ignorance or reckless disregard of their truth or falsity.

13. If Medicare approved a provider's application, Medicare assigned the provider a Medicare provider number, which enabled the provider to submit claims to Medicare for services rendered to Medicare beneficiaries.

14. Palmetto GBA ("Palmetto") processed and paid Medicare Part B claims in Southern California.

15. Medicare reimbursed providers only for services that were medically necessary to the treatment of a beneficiary's illness or injury, were prescribed by a beneficiary's physician,

and were provided in accordance with Medicare regulations and guidelines that governed whether a particular item or service would be reimbursed by Medicare.

16. Medicare required that physical therapy services be performed by (a) a physician, (b) a PT, or (c) a PT assistant acting under the direct supervision of a physician or a PT. "Direct supervision" meant that the doctor or PT was physically present in the same office suite and immediately available to provide assistance and direction throughout the time the PT assistant was performing physical therapy services. Therapy services provided by aides or physical therapy students were not reimbursable by Medicare, regardless of the level of supervision.

17. Medicare did not cover acupuncture or reimburse providers for acupuncture services. Medicare did not cover massages unless they were therapeutic massages provided by a licensed therapist as a part of a beneficiary's plan of care.

18. To bill Medicare for services provided to a beneficiary, a PT or physical therapy group was required to submit a claim to Palmetto. Medicare required claims to be truthful, complete, and not misleading. In addition, when a claim was submitted, the PT or physical therapy group was required to certify that the services covered by the claim were medically necessary.

19. Medicare required a claim for Medicare reimbursement of physical therapy services to set forth, among other things, the beneficiary's name and HICN, the Current Procedural Terminology ("CPT") code for the service provided to the beneficiary, the date the service was provided, the location where the service was

provided, and the name and national provider identifier ("NPI") of the PT who performed the service.

B. THE SCHEME TO DEFRAUD

20. Beginning in or about August 2009, and continuing until on or about November 22, 2011, in Los Angeles County, within the Central District of California, and elsewhere, defendants LEE and CHOI, together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely Medicare, as to material matters in connection with the delivery of and payment for health care benefits, items, and services; and (b) to obtain money from Medicare by means of material false and fraudulent pretenses and representations and the concealment of material facts in connection with the delivery of and payment for health care benefits, items, and services.

21. The fraudulent scheme operated, in substance, in the following manner:

a. Between in or about August 2009, and continuing through in or about February 2011, Medicare beneficiaries received services at the Huntington Park Acupuncture Clinic that were not covered by Medicare, including acupuncture and massage, from defendant LEE and others working at defendant LEE's instruction who were not physicians, PTs, or PT assistants.

b. Defendant LEE provided and willfully caused to be provided copies of the beneficiaries' Medicare Health Identification Cards, HICNs, and other personal and medical information to employees at CNR, knowing and intending that CNR's owner, defendant CHOI, together with others known and unknown to

the Grand Jury, would use and cause that information to be used to submit false claims to Medicare for Medicare-covered services such as physical therapy.

c. Using the information defendant LEE provided, defendant CHOI submitted and willfully caused to be submitted, and aided and abetted in the submission of, false claims to Medicare on CNR's behalf for physical therapy services purportedly provided to the beneficiaries by defendant CHOI or other PTs at CNR, even though defendant CHOI knew that the beneficiaries had not received any services at CNR or from himself or any other PT working at CNR. Between on or about August 4, 2009, and continuing through on or about August 10, 2011, CNR submitted approximately $2,138,760 in claims to Medicare for the beneficiaries whose information defendant LEE provided.

d. Defendant CHOI created and willfully caused to be created, and aided and abetted in the creation of, patient files for the beneficiaries that included false documentation for covered services allegedly provided to beneficiaries at CNR in order to support CNR's fraudulent claims for these services to Medicare. As a part of this false documentation, defendant CHOI signed physical therapy evaluations, notes, and discharge forms for beneficiaries to whom he provided no services and for whom he was unaware whether any services had been provided.

e. Between on or about August 14, 2009, and continuing through on or about November 22, 2011, Medicare paid CNR approximately $1,284,387 for these fraudulent claims by electronic funds transfers made into the CNR Bank Account, for

which defendant CHOI had signatory authority.

f. From the Medicare claim reimbursements, defendant CHOI, together with others known and unknown to the Grand Jury, wrote checks from the CNR Bank Account to defendant LEE through the Huntington Park Acupuncture Clinic and Variety Choice. The checks were for amounts representing approximately 60% of the Medicare reimbursement amount CNR received and were deposited into the Huntington Park Acupuncture Clinic's Bank of America bank account (account number ending 4661) and the JPMorgan Chase bank account for Variety Choice (account number ending 3643).

C. EXECUTION OF THE SCHEME TO DEFRAUD

22. On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendants LEE and CHOI, together with others known and unknown to the Grand Jury, for the purpose of executing the scheme to defraud described above, knowingly and willfully submitted and caused to be submitted, and aided and abetted in the submission of, the following false and fraudulent claims to Medicare:

| Count | Claim Number | Approx. Date Submitted | Amount Paid | Beneficiary | CPT Code and Nature of Claim |
|---|---|---|---|---|---|
| ONE | 55110933 8397660 | 12/4/2009 | $157.56 | A.D. | 97001 (Physical therapy evaluation), 97110 (Therapeutic procedure), 97140 (Manual therapy techniques) |

| Count | Claim Number | Approx. Date Submitted | Amount Paid | Beneficiary | CPT Code and Nature of Claim |
|---|---|---|---|---|---|
| TWO | 55110935 0459570 | 12/16/2009 | $95.97 | A.D. | 97110 (Therapeutic procedure), 97140 (Manual therapy techniques) |
| THREE | 55111013 7239790 | 5/17/2010 and 8/10/2011 | $227.46 | M.G. | 97110 (Therapeutic procedure), 97112 (Neuromuscular reeducation), 97140 (Manual therapy techniques) |
| FOUR | 55111013 7239750 | 5/17/2010 | $98.37 | M.G. | 97110 (Therapeutic procedure), 97140 (Manual therapy techniques) |
| FIVE | 55181029 1537390 | 10/16/2010 | $164.35 | M.F. | 97001 (Physical therapy evaluation), 97110 (Therapeutic procedure), 97140 (Manual therapy techniques) |

| Count | Claim Number | Approx. Date Submitted | Amount Paid | Beneficiary | CPT Code and Nature of Claim |
|---|---|---|---|---|---|
| SIX | 55111031 5586690 | 11/11/10 | $103.31 | M.F. | 97110 (Therapeutic procedure), 97112 (Neuromuscular reeducation), 97140 (Manual therapy techniques) |

A TRUE BILL

/S/
Foreperson

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United States Attorney

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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

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| UNITED STATES OF AMERICA,<br>Plaintiff,<br>v.<br>WON SUK LEE,<br>Defendant. | CR No. 12-712-DDP<br>DOCUMENT<br>PLEA AGREEMENT FOR DEFENDANT WON SUK LEE |

1. This constitutes the plea agreement between Won Suk Lee ("defendant") and the United States Attorney's Office for the Central District of California ("the USAO") in the investigation of health care fraud. This agreement is limited to the USAO and cannot bind any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authorities.

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a) Plead guilty to Count 1 of the indictment in the above-captioned case, which charges defendant with health care fraud in violation of 18 U.S.C. § 1347.

b) Not contest facts agreed to in this agreement.

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

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

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

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

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

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

3. Defendant further agrees to cooperate fully with the USAO, the Federal Bureau of Investigation, Department of Health and Human Services - Office of the Inspector General, and, as

directed by the USAO, any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authority. This cooperation requires defendant to:

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

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

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

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

THE USAO'S OBLIGATIONS

5. The USAO agrees to:

a) Not contest facts agreed to in this agreement.

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

c) At the time of sentencing, provided that defendant demonstrates an acceptance of responsibility for the offense up to and including the time of sentencing, recommend a two-level reduction in the applicable Sentencing Guidelines offense level,

pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an additional one-level reduction if available under that section.

6. The USAO further agrees:

a) Not to offer as evidence in its case-in-chief in the above-captioned case or any other criminal prosecution that may be brought against defendant by the USAO, or in connection with any sentencing proceeding in any criminal case that may be brought against defendant by the USAO, any Cooperation Information. Defendant agrees, however, that the USAO may use both Cooperation Information and Plea Information: (1) to obtain and pursue leads to other evidence, which evidence may be used for any purpose, including any criminal prosecution of defendant; (2) to cross-examine defendant should defendant testify, or to rebut any evidence offered, or argument or representation made, by defendant, defendant's counsel, or a witness called by defendant in any trial, sentencing hearing, or other court proceeding; and (3) in any criminal prosecution of defendant for false statement, obstruction of justice, or perjury.

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

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

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

d) If the USAO determines, in its exclusive judgment, that defendant has both complied with defendant's obligations under paragraphs 2 and 3 above and provided substantial assistance to law enforcement in the prosecution or investigation of another ("substantial assistance"), to move the Court pursuant to U.S.S.G. § 5K1.1 to fix an offense level and corresponding guideline range below that otherwise dictated by the sentencing guidelines, and to recommend a term of imprisonment within this reduced range.

DEFENDANT'S UNDERSTANDINGS REGARDING COOPERATION

7. Defendant understands the following:

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

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

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

USAO motion but elects to sentence above the reduced range.

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

e) The USAO's determination whether defendant has provided substantial assistance will not depend in any way on whether the government prevails at any trial or court hearing in which defendant testifies or in which the government otherwise presents information resulting from defendant's cooperation.

NATURE OF THE OFFENSE

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

PENALTIES AND RESTITUTION

9. Defendant understands that the statutory maximum sentence that the Court can impose for a violation of Title 18, United States Code, Section 1347, is 10 years imprisonment; a 3-

year period of supervised release; a fine of $250,000 or twice the gross gain or gross loss resulting from the offense, whichever is greatest; and a mandatory special assessment of $100.

10. Defendant understands that defendant will be required to pay full restitution to the victim(s) of the offense to which defendant is pleading guilty. Defendant agrees that, in return for the USAO's compliance with its obligations under this agreement, the Court may order restitution to persons other than the victim(s) of the offenses to which defendant is pleading guilty and in amounts greater than those alleged in the count to which defendant is pleading guilty. In particular, defendant agrees that the Court may order restitution to any victim of any of the following for any losses suffered by that victim as a result: any relevant conduct, as defined in U.S.S.G. § 1B1.3, in connection with the offenses to which defendant is pleading guilty. The parties currently believe that the applicable amount of restitution is approximately $1,058,047.26, but recognize and agree that this amount could change based on facts that come to the attention of the parties prior to sentencing.

11. Defendant understands that supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant understands that if defendant violates one or more of the conditions of any supervised release imposed, defendant may be returned to prison for all or part of the term of supervised release authorized by statute for the offense that resulted in the term of supervised release, which could result in defendant

serving a total term of imprisonment greater than the statutory maximum stated above.

12. Defendant understands that, by pleading guilty, defendant may be giving up valuable government benefits and valuable civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to serve on a jury. Defendant understands that once the court accepts defendant's guilty plea, it will be a federal felony for defendant to possess a firearm or ammunition. Defendant understands that the conviction in this case may also subject defendant to other collateral consequences, including but not limited to mandatory exclusion from federal health care benefit programs for a minimum of five years, suspension or revocation of a professional license, and revocation of probation, parole, or supervised release in another case. Defendant understands that unanticipated collateral consequences will not serve as grounds to withdraw defendant's guilty plea.

13. Defendant understands that, if defendant is not a United States citizen, the felony conviction in this case may subject defendant to: removal, also known as deportation, which may, under some circumstances, be mandatory; denial of citizenship; and denial of admission to the United States in the future. The court cannot, and defendant's attorney also may not be able to, advise defendant fully regarding the immigration consequences of the felony conviction in this case. Defendant understands that unexpected immigration consequences will not serve as grounds to withdraw defendant's guilty plea.

FACTUAL BASIS

14. Defendant admits that defendant is, in fact, guilty of the offense to which defendant is agreeing to plead guilty. Defendant and the USAO agree to the statement of facts provided below and agree that this statement of facts is sufficient to support a plea of guilty to the charge described in this agreement and to establish the Sentencing Guidelines factors set forth in paragraph 16 below but is not meant to be a complete recitation of all facts relevant to the underlying criminal conduct or all facts known to either party that relate to that conduct.

Factual Basis

At all times relevant to this case, defendant was a licensed acupuncturist who owned and operated Won Suk Lee Acupuncture & Herb, Inc., an acupuncture clinic, and Variety Choice, Inc., both located in Huntington Park, California. Medicare is a federal health care benefit program affecting commerce that provides reimbursement of medically necessary services to persons aged sixty-five years and older and to certain disabled persons.

From in or about August 2009 to in or about November 2011, defendant participated in a scheme to defraud Medicare in which he knowingly provided information on Medicare beneficiaries who received acupuncture and massages at his clinic (services not covered by Medicare) to California Neuro-Rehabilitation Institute, Inc. ("CNR"), a physical therapy clinic, knowing that CNR would bill Medicare for physical therapy services (services covered by Medicare) and intending that Medicare would pay for physical therapy services that had not in fact been provided.

Defendant and others working at defendant's instruction who were not physicians, physical therapists (PTs), or PT assistants provided Medicare beneficiaries with services that were not covered by Medicare, including acupuncture and massage. These services were provided at defendant's acupuncture clinic. Defendant knew that acupuncture and massages were not covered by Medicare. Defendant provided copies of the beneficiaries' Medicare Health Identification Cards and other personal and medical information to CNR. The owners of CNR -- Eddie Choi and S.K. -- were licensed PTs who were enrolled as Medicare providers. Defendant knew and intended that CNR would use the Medicare beneficiary information he provided to submit false claims to Medicare for Medicare-covered services such as physical therapy.

In furtherance of the scheme, defendant knowingly and willfully caused false and fraudulent claims, which he knew to be material to payment by Medicare, to be submitted by CNR, including the claim described below:

On or December 4, 2009, CNR submitted a claim, claim # 551109338397660, for physical therapy services allegedly provided to Medicare beneficiary A.D, and Medicare paid $157.56 on that claim. A.D. was a patient who visited defendant's acupuncture clinic for non-reimbursable services and whose information was transmitted to CNR for billing to Medicare as though A.D. had received physical therapy services at CNR.

In all, defendant sent patient information for approximately 220 Medicare beneficiaries to CNR, which did not provide any services to the beneficiaries. CNR then submitted false claims

to Medicare for physical therapy services CNR had purportedly provided to the beneficiaries. In exchange for these referrals, CNR paid defendant 60% of the amount Medicare reimbursed CNR for the claimed physical therapy services.

The amount Medicare paid CNR for patients referred by defendant is approximately $1,058,047.

SENTENCING FACTORS

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

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

| | | | |
|---|---|---|---|
| Base Offense Level | : | 6 | [U.S.S.G. § 2B1.1(a)(1)] |
| Loss Amount Between $1 million and $2.5 million | : | +16 | [U.S.S.G. § 2B1.1(b)(1)(H)] |

Defendant and the USAO reserve the right to argue that additional specific offense characteristics, adjustments, and departures under the Sentencing Guidelines are appropriate.

17. Defendant understands that there is no agreement as to

defendant's criminal history or criminal history category.

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

WAIVER OF CONSTITUTIONAL RIGHTS

19. Defendant understands that by pleading guilty, defendant gives up the following rights:

a) The right to persist in a plea of not guilty.

b) The right to a speedy and public trial by jury.

c) The right to be represented by counsel - and if necessary have the court appoint counsel - at trial. Defendant understands, however, that, defendant retains the right to be represented by counsel - and if necessary have the court appoint counsel - at every other stage of the proceeding.

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

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

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

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

h) Any and all rights to pursue any affirmative defenses, Fourth Amendment or Fifth Amendment claims, and other

pretrial motions that have been filed or could be filed.

WAIVER OF APPEAL OF CONVICTION

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

LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

21. Defendant agrees that, provided the Court imposes a total term of imprisonment on all counts of conviction of no more than 37 months, defendant gives up the right to appeal all of the following: (a) the procedures and calculations used to determine and impose any portion of the sentence; (b) the term of imprisonment imposed by the Court; (c) the fine imposed by the court, provided it is within the statutory maximum; (d) the amount and terms of any restitution order, provided it requires payment of no more than $1,058,047; (e) the term of probation or supervised release imposed by the Court, provided it is within the statutory maximum; and (f) any of the following conditions of probation or supervised release imposed by the Court: the standard conditions set forth in General Orders 318, 01-05, and/or 05-02 of this Court; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

22. The USAO agrees that, provided (a) all portions of the sentence are at or below the statutory maximum specified above and (b) the Court imposes a term of imprisonment of no less than 30 months, the USAO gives up its right to appeal any portion of

the sentence, with the exception that the USAO reserves the right to appeal the amount of restitution ordered if that amount is less than $1,058,047.

RESULT OF WITHDRAWAL OF GUILTY PLEA

23. Defendant agrees that if, after entering a guilty plea pursuant to this agreement, defendant seeks to withdraw and succeeds in withdrawing defendant's guilty plea on any basis other than a claim and finding that entry into this plea agreement was involuntary, then (a) the USAO will be relieved of all of its obligations under this agreement, including in particular its obligations regarding the use of Cooperation Information; and (b) in any investigation, criminal prosecution, or civil, administrative, or regulatory action, defendant agrees that any Cooperation Information and any evidence derived from any Cooperation Information shall be admissible against defendant, and defendant will not assert, and hereby waives and gives up, any claim under the United States Constitution, any statute, or any federal rule, that any Cooperation Information or any evidence derived from any Cooperation Information should be suppressed or is inadmissible.

EFFECTIVE DATE OF AGREEMENT

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

BREACH OF AGREEMENT

25. Defendant agrees that if defendant, at any time after the signature of this agreement and execution of all required certifications by defendant, defendant's counsel, and an

Assistant United States Attorney, knowingly violates or fails to perform any of defendant's obligations under this agreement ("a breach"), the USAO may declare this agreement breached. For example, if defendant knowingly, in an interview, before a grand jury, or at trial, falsely accuses another person of criminal conduct or falsely minimizes defendant's own role, or the role of another, in criminal conduct, defendant will have breached this agreement. All of defendant's obligations are material, a single breach of this agreement is sufficient for the USAO to declare a breach, and defendant shall not be deemed to have cured a breach without the express agreement of the USAO in writing. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, then:

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

(b) The USAO will be relieved of all its obligations under this agreement; in particular, the USAO will no longer be bound by any agreements concerning sentencing and will be free to seek any sentence up to the statutory maximum for the crime to which defendant has pleaded guilty.

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

d) In any investigation, criminal prosecution, or civil, administrative, or regulatory action: (i) defendant will not assert, and hereby waives and gives up, any claim that any

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

COURT AND PROBATION OFFICE NOT PARTIES

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

27. Defendant understands that both defendant and the USAO are free to: (a) supplement the facts by supplying relevant information to the United States Probation Office and the Court, (b) correct any and all factual misstatements relating to the Court's Sentencing Guidelines calculations and determination of sentence, and (c) argue on appeal and collateral review that the Court's Sentencing Guidelines calculations and the sentence it chooses to impose are not error, although each party agrees to maintain its view that the calculations in paragraph 16 are consistent with the facts of this case. While this paragraph

permits both the USAO and defendant to submit full and complete factual information to the United States Probation Office and the Court, even if that factual information may be viewed as inconsistent with the facts agreed to in this agreement, this paragraph does not affect defendant's and the USAO's obligations not to contest the facts agreed to in this agreement.

28. Defendant understands that even if the Court ignores any sentencing recommendation, finds facts or reaches conclusions different from those agreed to, and/or imposes any sentence up to the maximum established by statute, defendant cannot, for that reason, withdraw defendant's guilty plea, and defendant will remain bound to fulfill all defendant's obligations under this agreement. Defendant understands that no one -- not the prosecutor, defendant's attorney, or the Court -- can make a binding prediction or promise regarding the sentence defendant will receive, except that it will be within the statutory maximum.

NO ADDITIONAL AGREEMENTS

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

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

30. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing

//

as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

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

ANDRÉ BIROTTE JR.
United States Attorney

for

CONSUELO S. WOODHEAD
Assistant United States Attorney

11/7/2013
Date

11/7/2013

Lee Won Suk

WON SUK LEE
Defendant

10/29/2013
Date

11/7/2013

10/29/2013
Date

GARY A. LAFF
Attorney for Defendant
WON SUK LEE

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.

Lee Won Suk — 11/7/2013

WON SUK LEE — Date 10/29/2013
Defendant

Approved as to form & content

Gary G. Lafferty Attorney for Won Suk Lee — 11/7/2013 — Date 10/29/2013

CERTIFICATION OF INTERPRETER

I, Kathy Sim, am fluent in the written and spoken English and Korean languages. I accurately translated this entire agreement from English into Korean to defendant WON SUK LEE on this date.

Interpreter

11/7/13
Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

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

11/7/2013

GARRY DAFF
Attorney for Defendant
WON SUK LEE

10/29/2013
Date

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

Case No. CR 12-00712 DDP (1) Date: November 22, 2013

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PRESENT: HONORABLE DEAN D. PREGERSON, JUDGE

| | | |
|---|---|---|
| John A. Chambers<br>Courtroom Deputy | Maria Bustillos<br>Court Reporter | Kristen A. Williams<br>Asst. U.S. Attorney |
| | Chinsook Kim Moore<br>Korean Interpreter | |

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| U.S.A. vs (Dfts listed below) | Attorneys for Defendants |
|---|---|
| 1) WON SUK LEE<br>present in custody | 1) Gary Asher Laff<br>present retained |

PROCEEDINGS: **CHANGE OF PLEA**

Court and counsel confer re the change of plea. Defendant moves to change plea to the Indictment. Defendant now enters a new and different plea of Guilty to Count One of the Indictment. 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 June 2, 2014 at 1:30 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.**



Initials of Deputy Clerk: JAC

**United States District Court**
**Central District of California**

**UNITED STATES OF AMERICA vs.** **Docket No.** **CR 12-00712 DDP (1)**

**Defendant** WON SUK LEE **Social Security No.** [redacted]
akas: none (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 |
|---|---|---|
| Nov. | 06 | 2014 |

**COUNSEL** [ ] Gary Asher Laff, retained.
(Name of Counsel)

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

**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 Count 1 of the Indictment.

**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, Won Suk Lee, is hereby committed on Count 1 of the Indictment to the custody of the Bureau of Prisons for a term of **time served.** The Court orders his release forthwith consistent with noting that he be returned to the United States voluntarily for purposes of this case and the Court orders that he be processed to return to South Korea immediately.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 3 years under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation Office, General Order 05-02, and General Order 01-05, including the three special conditions delineated in General Order 01-05.

2. The defendant shall not commit any violation of local, state, or federal law or ordinance.

3. 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.

4. The defendant shall comply with the immigration rules and regulations of the United States, and if deported from this country, either voluntarily or involuntarily, not reenter the United States illegally. The defendant is not required to report to the Probation Office while residing outside of the United States; however, within 72 hours of release from any custody or any reentry to the United States during the period

of Court-ordered supervision, the defendant shall report for instructions to the United States Probation Office located at United States Court House, 312 North Spring Street, Room 600, Los Angeles, California 90012.

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.

6. The defendant shall apply monies received from income tax refunds, lottery winnings, inheritance, judgments, and any anticipated or unexpected financial gains to the outstanding Court-ordered financial obligation.

7. 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.

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 $1,035,149.03 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.

Nominal monthly restitution payments of at least 10% of defendant's gross monthly income but not less than $25, whichever is greater, 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.

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 be held jointly and severally liable with co-participants Eddie Choi (Docket No. CR12-00712(A)-DDP) and Seonweon Kim (Docket No. CR12-00009-DDP) for the amount of restitution ordered in this judgment. The victim's recovery is limited to the amount of its loss and the defendant's liability for restitution ceases if and when the victim receives full restitution.

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.

SPECIAL ASSESSMENT: It is ordered that the defendant shall pay to the United States a special assessment of $100, which is due immediately.

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. WON SUK LEE Docket No.: CR 12-00712 DDP (1)

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.

November 6, 2014
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

November 6, 2014
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.

☐ 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.

## RETURN

I have executed the within Judgment and Commitment as follows:

USA vs. WON SUK LEE Docket No.: CR 12-00712 DDP (1)

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

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**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) _____ _____
Defendant Date

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

**BEFORE THE**
**ACUPUNCTURE BOARD**
**DEPARTMENT OF CONSUMER AFFAIRS**
**STATE OF CALIFORNIA**

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>**WON SUK LEE, L.Ac.**<br>**2677 Zoe Avenue, #107**<br>**Huntington Park, CA 90255**<br>**Acupuncturist License No. AC8115,**<br><br>Respondent. | Case No. 1A-2014-37<br><br>**ORDER WITHDRAWING ACCUSATION** |

**IT IS SO ORDERED** that Respondent's license having been cancelled effective February 28, 2016, the accusation is hereby withdrawn. Respondent is no longer licensed to practice acupuncture in the State of California.

It is so ORDERED OCT 26 2016

EXECUTIVE OFFICER, ACUPUNCTURE BOARD
DEPARTMENT OF CONSUMER AFFAIRS