

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

U.S. DISTRICT COURT  
2008 DEC 10 P 2:03  
CRIMINAL NO.: 08-cr-159-01-SM

**UNITED STATES OF AMERICA**

v.

**HOWARD KATZ,**

**Defendant.**

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**CRIMINAL NO.:**  
**18 U.S.C. § 1347-**  
**Health Care Fraud**

**INFORMATION**

**SEALED DOCUMENT**

The United States Attorney charges:

1. At all relevant times, HOWARD KATZ (“KATZ”) was a resident of Florida and the Chief Executive Officer and Chairman of the Board of Directors of MDwerks, Inc. (“MDwerks”), a company engaged in the business of offering electronic medical claims processing, claims management, and collections solutions for health care providers. MDwerks did business through three wholly-owned subsidiaries, Xeni Financial Services, Inc., Xeni Medical Billing Corp. and Xeni Medical Services, Inc. (MDwerks and its subsidiaries are hereafter referred to collectively as the “Katz Companies”).

2. In October 2007, the Katz Companies entered into a contract with Ortho Supply Management, Inc. (“OSMI”), a Massachusetts company, in which the Katz Companies agreed to accept the assignment of insurance claims for transdermal cream compounds dispensed to California workers compensation patients by physicians. OSMI originally purchased these claims from a California medical claims factoring company (“Factoring Company”). Factoring Company, in turn, represented to OSMI that it had purchased these claims from the dispensing physicians and that all the claims sold by Factoring Company involved an actual dispensing of a cream compound by a physician.

3. Pursuant to the Katz Companies' contractual relationship with OSMI, the Katz Companies processed the assigned claims by submitting the claims for payment to numerous health care benefit programs, including private health insurance companies, the State of California Insurance Fund, and the United States Department of Labor. The Katz Companies then paid the amount collected on these claims from the health care benefit programs to OSMI, minus a processing fee.

4. On or about March 11, 2008, several months after the Katz Companies assumed responsibility for the claims that OSMI bought from Factoring Company, the Katz Companies purchased similar claims directly from Factoring Company. To fund this purchase of claims from Factoring Company, on or about March 31, 2008, the Katz Companies received approximately \$6.8 million from a hedge fund operating in New York and Florida. In exchange for this funding and other additional debt that the Katz Companies already owed the hedge fund, the Katz companies gave a \$10 million Note to the hedge fund. It was KATZ's intention to use proceeds from the collection of the claims purchased from Factoring Company to resolve the debt to the hedge fund.

5. To assist the Katz Companies in billing the health care benefit programs for the claims that it owned and that OSMI assigned to it, the Katz Companies engaged a New Hampshire company with expertise in health care billing (hereafter "Billing Agency"). Billing Agency submitted the claims to health care benefit programs, and the Katz Companies paid Billing Agency a percentage of the amount collected.

6. In the summer of 2008, Billing Agency identified various problems with the claims that were being submitted for payment to health care benefit programs on behalf of the Katz Companies. These problems included the discovery that billings were being

submitted for creams purportedly dispensed to a patient who was deceased on the purported dates of service.

7. In or about August 2008, Billing Agency informed KATZ by telephone that there appeared to be substantial problems with the claims. KATZ later traveled to New Hampshire for a meeting regarding the claims, at which time Billing Agency explained to KATZ the basis for its concern. At the meeting, KATZ stated that he would investigate the situation further, but that pending the result of the investigation, claims should continue to be submitted without interruption.

8. As a result of KATZ's investigation and other information that KATZ received, by no later than September 15, 2008, KATZ knew that the claims OSMI had assigned to the Katz Companies, and also the claims that the Katz Companies had purchased directly from Factoring Company, were largely fraudulent in that the claims involved erroneous dates of service and, in many cases, were based on services that had not in fact been rendered. Despite knowing the fraudulent nature of the claims, KATZ continued to cause claims to be submitted to health care benefit programs for payment until on or about September 23, 2008.

9. After September 23, 2008, KATZ continued to develop fraudulent methods by which the Katz Companies could collect on the claims. In furtherance of this goal, KATZ made four payments to Billing Agency totaling \$146,847.50 to pay for related costs and expenses.

**COUNT ONE**

**18 U.S.C. § 1347 – Health Care Fraud**

10. Paragraphs 1 through 9 of this Information are incorporated by reference.

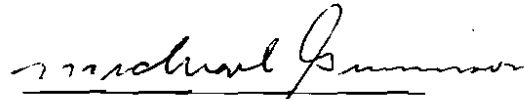
11. From on or about September 15, 2008 through on or about December 3, 2008, within the District of New Hampshire and elsewhere, defendant HOWARD KATZ knowingly and willfully executed and attempted to execute, a scheme and artifice (1) to defraud health care benefit programs and (2) to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, health care benefit programs in connection with the delivery of and payment for health care benefits, items, and services.

All in violation of Title 18, United States Code, Section 1347.

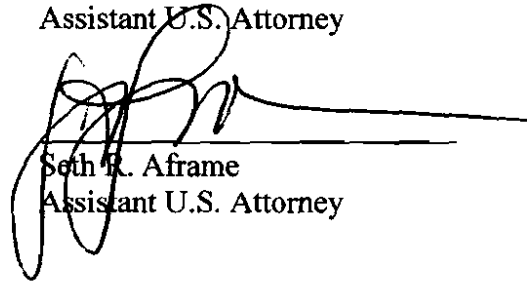
THOMAS P. COLANTUONO  
UNITED STATES ATTORNEY

Dated: December 10, 2008

By:



Michael J. Gunnison  
Assistant U.S. Attorney



Seth R. Aframe  
Assistant U.S. Attorney