

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ELZA BUDAGOVA.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

**APPENDIX (VOLUME III) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

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1 if I could.

2 MR. JOHNSTON: I'm sorry, Your Honor, if I can
3 just have a second...

4 BY MR. JOHNSTON:

5 Q Earlier you identified a photograph as being
6 the driver you knew as Little Mike; do you remember
7 that?

8 A Yes, sir.

9 Q Do you ever identify anyone else -- as a
10 photograph of anyone else as being Little Mike?

11 A Did I ever identify anybody else?

12 Q Right. A photograph of anyone else as being
13 Little Mike?

14 A No.

15 MR. JOHNSTON: I have nothing further, Your
16 Honor.

17 THE COURT: Very well.

18 **CROSS-EXAMINATION**

19 BY MR. NASATIR:

20 Q Good afternoon, Mr. Harris.

21 My name is Michael Nasatir. I represent
22 Theodore Yoon in this case.

23 Mr. Harris, the prosecutor asked you about
24 supervised release.

25 A Yes.

1 medication?

2 A No.

3 Q Did she see you as a patient two or three times
4 a week?

5 A No.

6 Q Did you have hypertension, heart disease,
7 severe chronic back pain?

8 A No.

9 Q Did you have radiculopathy into your bilateral
10 legs?

11 A No.

12 Q Did you have edema of your lower extremities?

13 A No.

14 Q Did you have arthritis?

15 A No.

16 Q Did you have chronic fatigue?

17 A No.

18 Q Did you have headaches?

19 A No.

20 Q Joint pain?

21 A No.

22 Q Anxiety?

23 A No.

24 Q Did you tell her about your past history, both
25 about your -- your -- this being in jail and stuff like

1 A Okay.

2 Q And they're more about Lake than they are you,
3 okay?

4 A Okay.

5 Q Lake had you going to be a number of different
6 pharmacies; correct?

7 A Um, just the one in the Valley and we tried
8 three or four other ones, and they didn't pan out. The
9 only two that -- that I was going to was -- was the one
10 in the Valley and the one by the blue water tank.

11 Q But you went to CVS Pharmacy, didn't you?

12 A Who?

13 Q CVS Pharmacy on Harold Way, in Los Angeles?

14 A Did I go there?

15 Q Yes.

16 A No.

17 Q You never tried get OxyContin from CVS?

18 A If -- if -- if I did, somebody got them for me.

19 Q Okay. What about Rite-Aid? Did you try to get
20 the drugs from Rite-Aid?

21 A No. It had to be somebody getting them for me.
22 I never -- I never personally got OxyContin. I think
23 maybe personally had gotten OxyContin maybe once was the
24 place in -- in the Valley with the -- with the ID card.
25 I was one of the patients -- one of the five patients.

1 Now, is it up there on the screen for you,
2 Mr. Galindo?

3 A Yeah, the where I working?

4 Q Yes but I want to ask you about that.

5 Do you recognize what's pictured in
6 Government's Exhibit 2 at page two?

7 A Yeah. It's 2120 West 8th Street.

8 Q And did you work 2120 West 8th Street?

9 A Yeah, I was.

10 Q And when did you start working there?

11 A November 1st, 2008.

12 Q Is that 20 -- you said 2008?

13 A 2008.

14 Q And how long did you work there?

15 A Till November 1st, 2013.

16 Q And what was your job at 2120 West 8th Street?

17 A I was a security guard and maintenance person.

18 Q I'm sorry? The last part.

19 A Security guard and maintenance person --
20 janitor, something like that.

21 Q And where in the building did you spend most of
22 your time?

23 A On my office.

24 Q And where was your office located?

25 A At the first floor.

1 Q And if we're looking at the -- the door there,
2 is it the door by the palm tree?

3 A Yes, that is the main entrance. As soon as you
4 get inside to the left -- to the right -- sorry -- to
5 the right hand, it was my office over there.

6 Q And what were your hours at 2120 West 8th
7 Street?

8 A From 7:00 a.m. in the morning till -- anytime
9 at night -- 7:00 at night, 8:00.

10 Q And how many days each week would you work?

11 A Seven days a week.

12 Q And you said your job was a security guard and
13 a maintenance person?

14 A Maintenance person, yeah.

15 Q And your office was on the first floor?

16 A Yes, sir.

17 Q And could you see people coming and going out
18 of that main door from your office?

19 A It was one of my duties, like -- like see who's
20 getting in and who's getting out from the building.

21 Q So just -- to make sure I understand, one of
22 your jobs was to see who was coming and going out of the
23 building?

24 A Yeah, yeah.

25 Q Now, I'd like to publish Government's Exhibit 9

1 which is in evidence and put it side by side with
2 Government's Exhibit 10, which is also in evidence. --
3 oh, let's just do Exhibit 9 to start with.

4 That's fine. Thank you.

5 Do you recognize the person in
6 Government's Exhibit 9 in this photo?

7 A Yes, sir.

8 Q And how do you recognize them?

9 A He was one of us tenants.

10 Q At 2120 West 8th Street?

11 A Yes.

12 Q And do you know his name?

13 A Mike.

14 Q You knew him by Mike?

15 A Yeah.

16 Q And how did you meet Mike?

17 A Because one day he was walking to the building,
18 asking for a place to rent.

19 Q And was he with anyone that day when you met
20 him, asking for a place to rent?

21 A Two person, him and Anjelika.

22 Q Let me show you Government's Exhibit 10 which
23 is also in evidence...

24 Do you recognize the person in this photo?

25 A Yeah, she's Anjelika.

1 Q So that's the person Mike came with about
2 renting a space in the building?

3 A Yes, yes.

4 Q And did they -- Mike and Anjelika, in fact,
5 rent space at 2120 West 8th Street?

6 A Yes, on third floor.

7 Q And do you know what their business was?

8 A I asked them. They said medical office.

9 Q And do you know who signed the lease?

10 A The lease? She signed the lease, but the name
11 of the person who is supposed to rent the space was a
12 Dr. Fernando something.

13 Q And do you know who paid the rent for the
14 office space that Mike and Anjelika rented in the
15 building?

16 A She paid the rent.

17 Q And by "she" you mean Anjelika?

18 A Yes.

19 Q I want to show you a few more photographs.

20 A Okay.

21 Q If I could bring up Government's Exhibit 11
22 which is also in evidence...

23 Looking at this photo, do you recognize this
24 person?

25 A Yeah, he's Ash.

1 Q And how do you know Ash?

2 A Because he's Anjelika's son.

3 Q And do you know him from 2120 West 8th Street?

4 A Yes.

5 Q And would you see him there on a regular basis?

6 A Yeah.

7 Q And do you know by seeing him what his job was

8 there?

9 A Not exactly. I don't know.

10 Q Let me show you Government's Exhibit 12, which

11 is in evidence...

12 Do you recognize this person?

13 A I don't know his name, but he was a doctor from

14 those days.

15 Q And how do you know that --

16 A Opferman -- something -- I'm not sure the last

17 name.

18 Q You can't quite remember the name --

19 A No.

20 Q -- but you recall he was a doctor at 2120

21 West 8th?

22 A Yeah.

23 Q And how do you know he was a doctor?

24 A Because he introduced himself like a doctor.

25 Q He said, My name is Dr. so and so?

1 A Yeah.

2 Q And please bring up Government's Exhibit --
3 well, sorry before the next one -- did you see how often
4 that person we were looking at in Government's
5 Exhibit 12 -- how often he would be at the clinic?

6 A Not everyday. Like twice a week.

7 Q And the days that he would come, do you know
8 how long he would stay?

9 A Probably six hours, 5 hours.

10 Q Now, let's please bring up Government's
11 Exhibit 13, which is also in evidence.

12 Do you recognize this person?

13 A Yeah. Dr. Santiago.

14 Q And do you know her from the clinic,
15 2120 West 8th Street?

16 A Yes.

17 Q And how often was she there?

18 A Everyday.

19 Q And do you know what her hours were?

20 A Like -- I don't know -- eight hours -- like --
21 all day.

22 Q A full day?

23 A Yeah, a full day.

24 Q And I want to show you just a few more
25 pictures. If we could bring up -- can we do the

1 side-by-side.

2 If we could bring up Government's Exhibit 15
3 and 16, which are both in evidence...

4 Now, starting, Mr. Galindo, with the gentleman,
5 do you recognize him, Government Exhibit 15?

6 A Yes, both are up. The gentleman was a doctor.

7 Q And he was a doctor at the clinic at
8 2120 West 8th Street?

9 A Yes, sir.

10 Q And do you know how often he would come to the
11 building?

12 A Like twice a week -- like once a week.

13 Q And what about the woman in Government's
14 Exhibit 16?

15 A She was a doctor too.

16 Q Also at the clinic?

17 A At the clinic, yeah.

18 Q And how often would she be there?

19 A The same, like once a week.

20 Q Now, did you get a chance by the fact that you
21 worked at the building, it sounds like you were there a
22 lot of the day to get to know some of the people who
23 worked in the medical clinic that Mike and Anjelika
24 opened?

25 A Yeah, I -- I know everybody.

1 Q And would you -- would you socialize with them;
2 have lunch with them; what -- what kind of relationship
3 did you have with them?

4 A Yeah, I socialized with them -- with everybody
5 in the building.

6 Q Now, do you know somebody named David Garrison?

7 A Dr. David, yeah.

8 Q And can you look around in the courtroom and
9 tell me if you see David Garrison?

10 A Yeah. Yeah, I saw him.

11 Q And can you please describe something that he's
12 wearing for the record.

13 A Yeah, he's dressing a black suit with a blue
14 shirt.

15 MR. GELBERG: Your Honor, may the record
16 reflect that the witness has identified defendant David
17 Garrison?

18 THE COURT: Yes.

19 BY MR. GELBERG:

20 Q And would you see defendant Garrison at the
21 clinic?

22 A Yes.

23 Q And how often was he there?

24 A Everyday.

25 Q And in terms of his hours on those days?

1 A Regular hours, like eight -- like a full day
2 sometimes.

3 Q And you called him Dr. David; is that right?

4 A Yes.

5 Q And why did you call him Dr. David?

6 A The same -- because he introduced himself like
7 a doctor.

8 Q And if you could take a look around the
9 courtroom, as well. Do you see anyone else in the
10 courtroom that you recognize from 2120 West 8th Street?

11 A A female person.

12 Q And can you describe the female person what
13 she's wearing?

14 A She's wearing a black suit with dark
15 something and she's hearing by earphones.

16 Q And she's sitting in that bench over there?

17 A In the first bench.

18 Q And do you know her name?

19 A No, I don't recall her name.

20 Q But do you know her from the clinic at
21 2120 West 8th Street?

22 A Yes.

23 Q And how do you know her from the clinic?

24 A How?

25 Q Would you see her coming in?

1 A Yeah, everyday.

2 Q So she was there everyday?

3 A Yes, sir.

4 Q And do you know what her hours were?

5 A Regular hours, like full day.

6 Q And by interacting with the clinic and talking
7 with people, do you know what her job was?

8 A Not for sure, but she looked like --

9 MR. CANTALUPO: Objection; hearsay.

10 THE COURT: Sustained.

11 BY MR. GELBERG:

12 Q Did you ever see what she was wearing at the
13 clinic?

14 A A white coat, like, you know --

15 Q Like a lab coat?

16 A Yes.

17 Q And do you know how long the woman that you
18 pointed out here on the back bench -- you can't recall
19 her name -- do you know for how many months she worked
20 at the clinic at

21 2120 West 8th Street?

22 A Well, like for more than a year.

23 Q And what about David Garrison, how many -- how
24 long did he work at the clinic?

25 A He -- maybe same time like for a year.

1 Q Now, based on where you were located there on
2 the first floor, seeing people -- as you said, part of
3 your job was seeing people coming and going. Did you
4 see if the clinic had patients?

5 A Yes.

6 Q And can you describe what those patients looked
7 like, their general appearance?

8 A Well, 90 percent looked --

9 MR. MESEREAU: Objection; vague.

10 THE COURT: Overruled.

11 BY MR. GELBERG:

12 Q You can go ahead and answer, sir.

13 A Yeah, 90 percent was for Americans and dirty --
14 like homeless people.

15 Q And you said "homeless people." Why do you say
16 that they appeared to be homeless?

17 A Because most of them they carry like sleeping
18 bags or, you know, backpacks, something like that. You
19 know, you can tell when somebody is living in the
20 street.

21 Q They just had an appearance. They looked like
22 they had been living on the street?

23 A Yeah.

24 Q And do you know how the clinic at 2120
25 West 8th Street got its patients?

1 There was six. You know, I put my ID card, and it was
2 paid for.

3 Q Right. Okay. And these were probably fake
4 patients; right?

5 A Yes.

6 Q Fake -- fake patients that you took to the
7 pharmacy to fool the pharmacy; right?

8 A Yes. They was getting paid -- they was getting
9 paid \$50, yes.

10 Q Yes. And they were designed to fool the
11 pharmacist into thinking they were being treated by
12 Lake --

13 MS. MORTON-OWENS: Objection. Calls for
14 speculation; move to strike.

15 THE COURT: Overruled.

16 BY MR. MESEREAU:

17 Q -- right? They -- this whole thing was a
18 fake -- they were not real patients. Their documents
19 prepared by Lake, as far as you knew were fake -- it was
20 all part of a fraud scam, right, as far as you knew?

21 A Well, I don't -- I don't quite understand.

22 Q Okay. As far as you knew, these were not
23 people really being treated; right? They weren't meant
24 to look like patients for the pharmacy; is that right?

25 A Well, all I did was -- was -- was recruit

1 people.

2 Q Sure.

3 A And -- and bring them down and they fill out
4 the --

5 Q Yes.

6 A -- the forms.

7 Q Okay?

8 A That's all I did.

9 Q And you went to convalescent homes, and you
10 went to -- I mean, you were trying to recruit people
11 yourself?

12 A Yeah, I did. I was recruiting people on --
13 on --

14 Q Yeah.

15 A -- on -- like I say, on Skid Row.

16 Q Right. Right. Okay. And Lake Pharmacy is
17 near MacArthur Park?

18 A Right.

19 Q And MacArthur Park is what a few miles from
20 Skid Row would you say if you're just going downtown?

21 A Yeah, yeah. Uh-huh.

22 Q And it's kind of a low-income area; correct?

23 A Yes, yes.

24 Q A lot of -- a lot of people -- immigrants from
25 all parts of the word -- kind of without much money go

1 there; is that true?

2 A It -- it --

3 Q A lot of other people from other parts of the
4 world settle in MacArthur Park, people, who aren't -- as
5 you said, are low-income people; is that true?

6 A Well, not at MacArthur Park. MacArthur Park is
7 the park. Skid Row is Skid Row.

8 MR. MESEREAU: Right. Right. Okay. Okay. No
9 further questions.

10 MR. NASATIR: Can I just ask Mr. Mesereau to
11 ask a question for me.

12 (Pause in the proceedings.)

13 MR. NASATIR: Nothing further.

14 MR. MESEREAU: Nothing further.

15 MS. MORTON-OWENS: I have no questions, Your
16 Honor.

17 THE COURT: Okay. Thank you. Thank you, sir.
18 You're excused. Step down. We'll recess until
19 9 o'clock tomorrow morning. I'll excuse the jury.
20 Thank you very much, ladies and gentlemen. I'll see you
21 at 9:00 tomorrow. We'll go from 9:00 to 3:00 tomorrow.
22 Thank you.

23 (The following held outside the presence of the jury:)

24 MS. MORTON-OWENS: Your Honor, may the witness
25 be excused?

1 Q Patient and patient?

2 A Yeah, sometimes they have like problems between

3 patient and patient.

4 Q What kind of problems?

5 A Sometimes money -- money problems, like one of

6 them get more money to the other one and they start --

7 Q Did you ever see fights about money?

8 A Yeah, on -- like two, three times on the

9 hallway on third floor.

10 Q Now, I want to show you a few more photographs.

11 If we could bring up Government's Exhibit 26,

12 which I believe is in evidence... Do you see that on

13 the screen, sir?

14 A Yes.

15 Q And do you recognize the person on the

16 Government's Exhibit 26?

17 A Yeah, Little Mike.

18 Q And how do you know Little Mike?

19 A He was one of the drivers.

20 Q And when you say "drivers," can you explain

21 what you mean?

22 A Yeah, his job was drive patients from their

23 homes to the clinic, and I am pretty sure from the

24 clinic to their homes or whatever.

25 Q Do you know if Little Mike ever drove from the

1 clinic to pharmacies?

2 A Yeah, sometimes, yes.

3 Q And can you describe what you would see when
4 Little Mike would drive from the clinic to pharmacies?

5 A Sometimes he -- he take a patient and drive to
6 the pharmacy and come back with the patient.

7 Q Now, do you ever see Little Mike go with more
8 than one patient to a pharmacy?

9 A Sometimes two -- two patients at the time or
10 three patients.

11 Q And you would -- I take it you would see him
12 with the patients get into a car and drive away?

13 A Yes.

14 Q And would you see Little Mike when he would
15 come back from the pharmacies?

16 A Yeah. Sometimes I was -- I was outside. And
17 yeah, I saw him come back.

18 Q And would you see if Little Mike would be
19 carrying anything when he came back from driving to a
20 pharmacy?

21 A Yeah, sometimes he carried like a paper bag.

22 Q And like a --

23 A Medicine.

24 Q If you could describe what you mean by
25 "medicine"?

1 A Like you know the paper bags they give you
2 in -- in the pharmacies, small brown paper bag.

3 Q So like a small pharmacy bag?

4 A Yeah, something like that.

5 Q And would you see -- Little Mike would be
6 carrying it?

7 A Yeah, sometimes, yes.

8 Q And would you he carry it into the clinic?

9 A Into the clinic, yeah.

10 Q Did you ever see the patients with those
11 pharmacy bags?

12 A No. No, no. Patients no.

13 Q Now, you talked about just a moment ago about
14 being outside and -- and sort of seeing what was going
15 on outside of the clinic?

16 A Yeah.

17 Q Were you also in charge of the parking lot?

18 A Yeah. Yeah, in the parking lot.

19 Q And would you see cars come and go?

20 A Yeah.

21 Q Do you remember a gentleman coming with a
22 silver Mercedes Benz to the clinic?

23 A It was a lot of people driving a silver
24 Mercedes.

25 (Laughter.)

1 THE WITNESS: Yes, sir.

2 BY MR. GELBERG:

3 Q And how often would you see him come to the
4 clinic?

5 A Probably twice a month.

6 Q And do you know who he was going to see at the
7 clinic?

8 A Mike.

9 Q Mike who we were looking at his picture
10 earlier?

11 A Yes, sir.

12 Q And did you ever see defendant Yoon when he
13 would leave the building after meeting with Mike. Would
14 he ever be carrying anything?

15 A Yeah, the -- sometimes medicine I think.

16 Q Why do you say "medicine"?

17 A Because it's the same paper bag.

18 Q So you saw him holding a paper bag?

19 A Yeah -- yeah, I remember.

20 Q But do you know what was inside of that bag?

21 A Oh, no, no, no.

22 Q And did you ever talk to defendant Yoon?

23 A Just -- the first time when I asked everybody
24 what they visiting. And every time when he go to the
25 building just say hi and bye. That's it.

1 Q For those of us who aren't car people, what car
2 is a Compressor?

3 A It's a Mercedes Benz.

4 Q And what about Anjelika, what was she driving
5 when you first met her?

6 A I'm not sure, but I remember it was a mini
7 van -- a white mini van.

8 Q And was it an older or newer mini van?

9 A Like old mini van, like '90's.

10 Q And did the car that Anjelika that she was
11 driving, did that change at any time that you saw?

12 A Oh, yeah.

13 Q What did she get?

14 A She get the SUV. It was a black Audi.

15 Q An Audi SUV?

16 A Yeah.

17 Q Was it new?

18 A Brand new, yeah.

19 Q Now, at some point, did the clinic that Mike
20 and Anjelika operated, did it close at some point?

21 A Yes -- yeah, they -- they closed like after two
22 years.

23 Q And do you know how long the lease that they
24 had signed -- how long the lease was for?

25 A Yeah, the lease was for -- in the beginning

1 they rent one -- one space. After a year, they rent
2 another -- another office right next to the first one.
3 Then they -- the lease was for -- I think for five
4 years, both -- both offices.

5 Q So -- just so I understand, so they started
6 with one office?

7 A Yeah.

8 Q And were they getting busier?

9 A Yeah.

10 Q And so they expanded to a second office?

11 A They expanded to the second office.

12 Q And they had a -- a lease of several years --
13 of maybe five years?

14 A Five -- five years or --

15 Q But they closed the clinic after two years?

16 A Yes.

17 Q Can you tell me about -- do you remember the
18 closing of the clinic?

19 A Well, one morning he -- Mike, he -- he was in
20 the building really early in the morning, and he told me
21 they need to -- to -- to close the clinic.

22 Q So you spoke with Mike, and he said, We have to
23 close the clinic?

24 A Yes.

25 Q And it was early in the morning?

1 A Yes.

2 Q And how -- how long did it take them to close
3 the clinic?

4 A Like three hours.

5 Q Oh, so that one day, they -- they closed and --

6 A They packaged everything they can, like files
7 and computers, and they left.

8 Q And do you know why the clinic closed?

9 MR. BELTER: Objection; speculation.

10 THE COURT: Sustained.

11 THE WITNESS: Why the clinic closed?

12 THE COURT: Don't answer that question.

13 MR. GELBERG: Don't answer that question.

14 THE COURT: If you hear me say, "sustained,"
15 that means don't say anything.

16 THE WITNESS: Okay.

17 BY MR. GELBERG:

18 Q Did you -- did you ask Mike why the clinic was
19 closing?

20 A Yeah. He told me he's going to close the --

21 MR. CANTALUPO: Objection; hearsay.

22 THE COURT: Sustained.

23 BY MR. GELBERG:

24 Q When you were working at the clinic, did you
25 ever see any signs that there was surveillance going on

1 Q And when you went to the building on Santa
2 Monica Boulevard, did you find Mike and Anjelika?

3 A No.

4 Q Were they renting any space there?

5 A Yes.

6 Q So they -- were they currently renting space
7 when you -- when you went to the building?

8 A When I went there, I spoke with the manager
9 from that building, and he told me they rent the space
10 for -- I think for a month and a half and they -- they
11 moved -- moved out.

12 Q So they had already moved out by the time you
13 got there?

14 A Yeah.

15 Q Three months later?

16 A Yes.

17 MR. GELBERG: Your Honor, may I have just a
18 moment?

19 THE COURT: Yes.

20 MR. GELBERG: No additional questions at this
21 time. Thank you.

22 THE COURT: Thank you.

23 **CROSS-EXAMINATION**

24 BY MR. BELTER:

25 Q Good morning, Mr. Galindo.

1 A Good morning, sir.

2 Q Mr. Galindo, your -- your responsibility was
3 security of the building?

4 A Yes, sir.

5 Q And you sort of watched people come and go?

6 A Yeah.

7 Q Okay. You told us that Mike and Anjelika
8 opened the office -- or the clinic in the year 2008?

9 A No, sir.

10 Q Well, when did they open the building -- when
11 did they open the clinic?

12 A The clinic, they opened -- it was a long time
13 ago, but it was around 2009.

14 Q 2009? How long was the clinic opened at that
15 location?

16 A Two years.

17 Q Okay. And during those two years, you were
18 called -- you recall the date that it closed?

19 A No, no.

20 Q You don't remember?

21 A No, I don't remember.

22 Q You told us that at some point you felt that
23 Mike and Anjelika had skipped out on the rent?

24 A Yeah.

25 Q Okay. And you don't recall when that was?

1 A No, not the month or the year. No, I don't
2 remember.

3 Q You're not sure?

4 A No.

5 Q All right. But you recall that the clinic was
6 there for about two years?

7 A Yeah, for two years.

8 Q And for about one year, you just testified that
9 you saw Mr. Garrison coming to the clinic?

10 A He wasn't on the -- on the -- the first months.
11 After a little while, he start working on the clinic.

12 Q Okay. You told us -- I believe you testified
13 that he was -- you saw him for about a year?

14 A Yeah, something like that.

15 Q Okay. So when the clinic closed, using that as
16 a point of reference, was Mr. Garrison still working at
17 the clinic?

18 A Yes, sir.

19 Q Okay. So from that point back -- back a year,
20 that's when you recall?

21 A Yeah, something like that.

22 Q That's an approximate; is that right?

23 A Yeah, approximately, yeah.

24 Q Okay. And you recall seeing Mr. Garrison just
25 about everyday?

1 A Yes, sir.

2 Q Do you recall seeing him come in the morning?

3 A Yes, sir.

4 Q Okay. And as far when he left, you're not sure
5 exactly when he left everyday; would that be accurate?

6 A What -- what time he left?

7 Q Yeah, what time he left.

8 A Around 4:00 or 5:00.

9 Q Okay. So you're certain that he came in the
10 mornings though?

11 A Yeah.

12 Q All right. You told us that you felt like
13 there was some surveillance of the clinic or
14 surveillance of the building?

15 A Yes, sir.

16 Q And that was because you actually walked up to
17 some -- some cars where individuals were sitting?

18 A Yes, sir.

19 Q Okay. And you actually -- you would ask them
20 or confront or engaged in conversation with those
21 individuals?

22 A Yes, sir.

23 Q Can you -- can you describe for us what those
24 individuals looked like? Were they men, women?

25 A It was a different -- sometimes a man and a

1 Q Yeah, just approximate -- if you can; maybe you
2 can't.

3 A By August 2010, something like that; a long
4 time ago. I don't recall.

5 Q Okay. You mentioned that -- and I believe when
6 counsel for the Government was asking some questions,
7 you mentioned that -- and I may have misunderstood, but
8 you said 90 percent -- I believe you said 90 percent of
9 the patients were African-Americans?

10 A Yes, sir.

11 Q Okay. Was that during the entire two years or
12 was that a -- was that something that seemed to
13 increase -- that is that the patients who would come
14 into the clinic became more and more African-American?

15 A From the beginning, it was African-American
16 persons in a small group; but after a year, it was a lot
17 of people.

18 Q Okay. Did you recognize -- or did you see a
19 number of patients come into the clinic who appeared to
20 be Hispanic?

21 A Oh yes, sir. It was a couple Hispanics, yeah.

22 Q And -- and I'm going to use my -- well, would
23 you see individuals that appeared to be -- they're white
24 individuals but they were either Armenian or Russian?

25 A Yes, sir.

1 Q And did you hear individuals speaking either
2 Armenian or Russian?

3 A Yes, sir.

4 MR. BELTER: Thank you. I have no further
5 questions.

6 **CROSS-EXAMINATION**

7 BY MR. CANTALUPO:

8 Q Good morning.

9 A Good morning, sir.

10 Q You recall the clinic closing around August of
11 2010; is that correct?

12 A No. I assume -- I don't exactly remember the
13 time.

14 Q Okay. But let's try to figure out what the
15 time is that we're talking about in your testimony.

16 Do you recall when the clinic opened?

17 A By middle of 2009 I'm pretty sure.

18 Q Okay. And do you think the clinic closed
19 sometime around August of 2010; correct?

20 A After two years, when they opened, yes.

21 Q Okay. So the time period we're talking about
22 is about four or five years from today; correct?

23 A I think so.

24 Q Yes?

25 A Yes.

1 with her?

2 A No, sir.

3 Q And you have no knowledge of the work she
4 performed at the clinic, do you?

5 A Not by her.

6 Q Okay. And you did observe patients of Armenian
7 or Russian dissent arriving at the clinic; is that
8 right?

9 A Yes, sir.

10 Q And you heard them talking in their native
11 language with Armenian or Russian?

12 A Yes, sir.

13 Q Do you understand Armenian or Russian?

14 A No, sir.

15 MR. CANTALUPO: Thank you. No further
16 questions.

17 MR. JOHNSTON: May I, Your Honor?

18 **CROSS-EXAMINATION**

19 BY MR. JOHNSTON:

20 Q Good morning, Mr. Galindo.

21 A Good morning, sir.

22 Q Could you stand up, Mr. Nguyen. Can you see
23 the fellow standing up?

24 A Yes, sir.

25 Q Did you ever see him at the 8th Street clinic?

1 Q Well somebody paid you the rent before they
2 skipped out on the rent; right?
3 A They paid to the management office.
4 Q Oh, did you see them pay the rent to the
5 management office?
6 A Sometimes I get their check, and I bring it to
7 the management office.
8 Q So they paid by check?
9 A Yes, sir.
10 Q Regular business check?
11 A It was a personal check.
12 Q Personal check. And inside the clinic, what
13 was -- wasn't there a doctor -- wasn't there doctors in
14 there?
15 A Yeah.
16 Q You went in there; right?
17 A Many times.
18 Q You saw doctors; right?
19 A Yes.
20 Q You saw nurses?
21 A Yes.
22 Q Did it look like a medical clinic to you?
23 A Yeah, absolutely. Yes.
24 Q And there were machines there; right?
25 A Yeah.

1 Q In fact, you even hooked up one machine --

2 A Absolutely, yes.

3 Q -- and helped the lady. What kind of machine
4 was that; do you remember?

5 A It was ultrasound machine.

6 Q Ultrasound. And when you -- did you hook up
7 any other machines in --

8 A Machines? No.

9 Q Did you help around the clinic with various
10 duties as part of your maintenance work?

11 A Not like part of my maintenance work.

12 Sometimes it was like a favor, like courtesy. When they
13 need something, I helped them.

14 Q And you got along with the people that were
15 managing this clinic, didn't you?

16 A Yes.

17 Q In fact, you told the prosecutors that they
18 were good people, -- Mike Mikaelian was good people;
19 right?

20 A Yes, they was good. Yeah.

21 Q And sometimes you would eat lunch and stuff
22 with

23 Mike Mikaelian and the other people that ran the clinic?

24 A Yeah, many times with everybody in the
25 building.

1 Q And you socialized with them?

2 A With everybody.

3 Q With the doctors?

4 A With the doctors, yeah.

5 Q With the nurses?

6 A Yes.

7 Q And was there a receptionist there at -- at the
8 medical building?

9 A It was around three receptionists.

10 Q So the scene inside the clinic was like any
11 other medical clinic or doctor's office you've ever been
12 to; right?

13 A Yes.

14 MR. NASATIR: I have nothing further. Thank
15 you very much.

16 MR. MESEREAU: No questions, Your Honor.

17 THE COURT: Anything further?

18 MR. GELBERG: Just briefly, Your Honor.

19 **REDIRECT EXAMINATION**

20 BY MR. GELBERG:

21 Q Mr. Galindo, you were asked questions about
22 when the clinic opened and how long it stayed open, and
23 it seemed like you were -- because it was a long time
24 ago, trying to remember the dates. Do you remember
25 that?

1 Thank you, sir. Now, having had a chance to take a look at
2 the report of the interview, does that refresh your memory of
3 about when Mike and Anjelika opened the clinic?

4 A Yeah. Maybe -- I'm a little bit confused of
5 the year, but basically, the one -- the one -- the what
6 you showed me, it was 2008.

7 Q Do you remember that it was 2008 having --

8 A Yeah, 2008.

9 Q Now, you talked about when you testified that
10 at first when the clinic was open, they had one office?

11 A Yes, sir.

12 Q And but then they expanded to two offices, both
13 on the third floor of the building?

14 A Yeah, one next to the other one.

15 Q And was that because it was getting busy?

16 A Yes, sir.

17 Q Did you notice if the clinic appeared crowded
18 with patients?

19 A Like --

20 Q Would you see a lot of patients coming to the
21 clinic --

22 A Yes.

23 Q -- as it got busier?

24 A Yeah.

25 Q And the patients that would come, could you

1 describe them?

2 MR. NASATIR: Asked and answered, Your Honor.

3 THE COURT: Sustained.

4 BY MR. GELBERG:

5 Q When you would be inside the clinic, would you
6 ever see patients in the waiting room?

7 A Yes, sir.

8 Q And was that reception area, was it -- did you
9 ever notice if it was very crowded?

10 A Oh, yeah.

11 Q So many patients would come?

12 A More than 50 sometimes.

13 Q In a single day?

14 A In a single day.

15 Q And when we -- we were talking about you saw
16 defendant Yoon, who drove his silver Mercedes to come to
17 the building?

18 MR. NASATIR: Excuse me, Your Honor. I don't
19 believe that was asked on cross-examination, and I would
20 object.

21 THE COURT: Sustained.

22 BY MR. GELBERG:

23 Q Did you ever see when you were inside the
24 clinic any conflict, any problems between either the
25 patients and the patients -- or the patients and the

3 THE WITNESS: Eleanor M. Santiago,
4 S-a-n-t-i-a-g-o.

5 Q Thank you.

DIRECT EXAMINATION

7 BY MR. GELBERG:

8 Q Your Honor, may I have just a moment to confer
9 with defense counsel?

10 THE COURT: Yes.

11 MR. GELBERG: Thank you.

12 Your Honor, may I proceed?

13 THE COURT: Yes.

14 BY MR. GELBERG:

15 Q Good morning. Are you currently working?

16 A No.

17 Q Are you retired?

18 A Yes.

19 Q What did you do before you were retired?

20 A I was working part-time at the 8th Street
21 clinic from

22 19 -- from 2008 to 2010.

23 Q And was your profession -- were you a medical
24 doctor?

25 A Yes, I am.

1 Q And so I'll call you Dr. Santiago.
2 Q How old are you, Dr. Santiago?
3 A 76.
4 Q And where did you go to medical school?
5 A In the Philippines.
6 Q And when did you graduate from medical school?
7 A 1961.
8 Q And did you do any medical training in
9 the United States?
10 A Yes. Internship, three years of internal
11 medicine and two years of pulmonology.
12 Q And internal medicine and pulmonology, were
13 those your areas of specialty?
14 A That's correct.
15 Q Dr. Santiago, are you Board-certified in any
16 particular area of medicine?
17 A No, I'm not.
18 Q So you're not Board-certified in pain
19 management?
20 A No, I'm not.
21 Q Do you have any training in pain management?
22 A Yes, I had a one-week course on pain management
23 in 2009.
24 MR. GELBERG: And, Your Honor, I believe
25 there's no objection to conditionally admitting

1 Exhibit 1153, subject to the agent's testimony.

2 THE COURT: Very well.

3 THE COURT REPORTER: What exhibit number?

4 MR. GELBERG: Exhibit 1153. The Government
5 would move it conditionally in at this time.

6 THE COURT: Very well.

7 (Whereupon Government's Exhibit 1153 is admitted
8 hereto.)

11 BY MR. GELBERG:

12 Q Dr. Santiago, do you see that document on the
13 screen in front of you?

14 A Yes, I do.

15 Q And do you recognize this?

16 A Yes.

17 Q What are we looking at?

18 A It's the certificate given to me after one week
19 of training in pain management.

20 Q And where was that -- that week training?

21 A In Honolulu.

22 Q Now, if we can bring up Government's Exhibit 2,
23 at page two, which is in evidence...

24 Now, you spoke a moment ago that before you
25 retired, you worked as a doctor at the 8th Street

1 clinic; is that right?

2 A That's correct.

3 Q And is this a photograph of the 8th Street
4 clinic?

5 A The entrance, yes.

6 Q And who hired you to work at the 8th Street
7 clinic?

8 A Anjelika Sanamian.

9 Q If we could bring up Government's Exhibit 10,
10 which is in evidence...

11 Do you recognize this person?

12 A Yes.

13 Q Who is that?

14 A Anjelika Sanamian.

15 Q And do you know what Anjelika Sanamian's job
16 was at the clinic?

17 A She ran the billing service.

18 Q Let me show you Government's Exhibit 9, which
19 is also in evidence...

20 Do you recognize this gentleman?

21 A Yes.

22 Q Who's that?

23 A Mike Mikaelian.

24 Q And how do you know Mike Mikaelian?

25 A He was the manager of the clinic.

1 Q And as the manager, what kinds of things did he
2 do?

3 A He helped recruit patients; he ran the staff
4 and provided other services for the patients.

5 Q Was he one of the bosses?

6 A Yes.

7 Q With Anjelika?

8 A Yes.

9 Q Now, Dr. Santiago, were you charged by my
10 office for your work at the 8th Street clinic -- were
11 you charged with a crime?

12 A I don't understand the question.

13 Q Have you been -- have you been charged by my
14 office with a crime --

15 A Yes.

16 Q -- for what you did at the 8th Street clinic?

17 A Yes.

18 Q And do you know what you were charged with?

19 A I pled guilty to -- are fraudulent billings.

20 Q To help healthcare fraud?

21 A Yes.

22 Q And were these fraudulent billings was that of
23 Medi-cal?

24 A Yes.

25 Q Now, the 8th Street clinic, that's not the only

1 Q Let me ask it this way: Did you not apply a
2 number at the 8th Street clinic because you knew you
3 probably wouldn't get one from medicare?

4 A That's correct.

5 Q Because you had had problems with medicare?

6 A Right.

7 Q What were your hours at the 8th Street clinic?

8 A From 9:00 to 1:00 o'clock.

9 Q And how many days a week?

10 A Mondays through Fridays.

11 Q Do you know how the 8th Street clinic got its
12 patients?

13 A Distributed fliers in the area and it had
14 recruiters.

15 Q And what did the recruiters do?

16 A They encouraged the patient to come to the
17 clinic and get appointments.

18 Q Do you know if the patients would sometimes be
19 paid for coming to the clinic?

20 A Yes.

21 Q And do you know if the recruiters would get
22 paid to go and fine the patients?

23 A Are yes.

24 Q Now, did you work with someone named Elza at
25 the clinic?

1 A Yes.

2 Q Now, please take a look around -- strike that
3 -- strike that -- do you -- let me ask it this way: How
4 often did you work with Elza?

5 A Only when she showed me charts.

6 Q Do you know how often Elza was at the clinic?

7 A Monday to Saturdays.

8 Q And do you know if Elza had any training in the
9 medical field?

10 A She claimed to be a physician in her country.

11 Q Do you know --

12 MR. CANTALUPO: Objection. Hearsay; move to
13 strike.

14 THE COURT: Sustained. The jury is instructed
15 to disregard the last answer.

16 MR. GELBERG: May I be heard briefly, Your
17 Honor?

18 THE COURT: It's just a question of foundation.

19 MR. GELBERG: Yes, Your Honor.

20 BY MR. GELBERG:

21 Q When you would work with Elza, did you ever see
22 Elza with patients?

23 A I didn't see it with her. She saw the patients
24 alone.

25 Q So you did not see patients with Elza?

1 A No.

2 Q Did you ever tell Elza what to write in medical
3 charts?

4 A No.

5 Q Did you ever tell Elza -- did you ever dictate
6 to her while she was sitting next to you to write in
7 medical charts?

8 A No.

9 Q Did you ever leave notes for Elza about what to
10 write in medical charts?

11 A No.

12 Q So based on observing Elza at the clinic while
13 you were there, what did you see her doing?

14 A She would take history and do physical exam on
15 Armenian-speaking patients.

16 Q Did you ever see her treating non-Armenian
17 patients?

18 A Sometimes.

19 Q Did you ever tell Elza what to write on
20 prescriptions?

21 A No.

22 Q Now, do you know someone named David Garrison?

23 A Yes.

24 Q Let me ask again: Based on what we just talked
25 about your observations of Elza and working with her,

1 did she ever tell you that she was a medical doctor?

2 A Yes.

3 Q And did she tell you where she was a medical
4 doctor?

5 A In Armenia.

6 Q And do you know someone named David Garrison?

7 A Yes.

8 Q And how do you know David Garrison?

9 A He was the physician assistant in the clinic.

10 Q And how often did you see him at the clinic?

11 A He was there Mondays through Fridays.

12 Q So he was there when you would be there, he
13 would be there too?

14 A Yes.

15 Q Did you ever treat patients in the same room
16 with

17 David Garrison?

18 A No, he saw the patients alone.

19 Q Did you ever tell David Garrison what to write
20 in the medical charts?

21 A No.

22 Q Did you ever tell David Garrison to -- what to
23 write on prescriptions?

24 A No.

25 Q Did you ever tell -- ever leave notes for David

1 Harris?

2 A Yes.

3 Q And did you read it before you signed it?

4 A Yes.

5 Q And so did you know that by reading it, things
6 in this letter were not true?

7 A Yes.

8 Q And you signed it anyway?

9 A Yes.

10 Q Now -- and we could pull that off the screen...

11 Dr. Santiago, you talked about pre-signing
12 medical doctors, including those pain reevaluation forms
13 at the

14 8th Street clinic. Did you also pre-sign prescriptions?

15 A Yes.

16 Q On average, how many prescriptions would you
17 pre-sign at a time?

18 A Anywhere from 10 to 20 a day.

19 Q Were these special prescriptions?

20 A Yes.

21 Q Why were they special?

22 A They were not for narcotics.

23 Q I'm sorry. Were they for narcotics?

24 A Yes.

25 Q So they were on a special prescription pad?

1 A Yes.

2 Q And do you know what would happen to the
3 pre-signed prescriptions after you would sign them 10 or
4 20 at a time?

5 A At the end of the day, it would be under lock
6 and key.

7 Q Where?

8 A With the manager's file cabinet.

9 Q And who's the manager, just to remind us?

10 A Mike Mikaelian.

11 Q So he kept it under lock and key?

12 A Yes.

13 Q Was that in a safe?

14 A Yes.

15 Q Did you have access to that safe?

16 A No.

17 Q Now, I would ask if Government's Exhibit 200
18 may be placed before the witness and also if you have
19 207 there as well.

20 COURTROOM DEPUTY: 207?

21 MR. GELBERG: Yes, Mr. Clerk. 200 and 207.

22 Thank you.

23 BY MR. GELBERG:

24 Now, Dr. Santiago, if you can take a look at what's been
25 marked as Government's Exhibit 200, do you see that?

1 A Yes, I do.

2 Q And what is it?

3 A It's the patient chart on Mike Mikaelian.

4 Q And where is it from?

5 A I'm sorry?

6 Q Is it from the 8th Street clinic?

7 A Yes, it is.

8 MR. GELBERG: Your Honor, the Government would
9 move Government's Exhibit 200 into evidence.

10 THE COURT: Very well.

11 (Whereupon Government's Exhibit 200 is admitted hereto.)

12 MR. GELBERG: And if we could bring up page 14
13 of Exhibit 200, please.

14 BY MR. GELBERG:

15 Q So, Dr. Santiago, this is going to be on the
16 screen in front of you.

17 AND do you see at the top of that page where it
18 says "name of patient"?

19 A Yes.

20 Q It says "Mike Mikaelian"; do you see that it's
21 sort of handwritten out?

22 A Yes.

23 Q And it says "patient physician" name Santiago;
24 do you see that?

25 A Yes.

1 Q Were you ever Mike Mikaelian's physician?

2 A No.

3 Q So you never provided him medical care?

4 A No.

5 Q Now, if you could now, Dr. Santiago, look at
6 the other folder that should be in front of you,
7 Exhibit 207...

8 Do you recognize the document that's
9 Government's Exhibit 207?

10 A Yes.

11 Q And how do you recognize it?

12 A It's the prescription -- special prescription
13 pad for narcotics.

14 Q And is it your prescription pad?

15 A Yes.

16 MR. GELBERG: Your Honor, the Government moves
17 in Exhibit 207 into evidence?

18 THE COURT: Very well.

19 (Whereupon Government's Exhibit 207 is admitted hereto.)

20 MR. GELBERG: We'll start at the bottom and see
21 if we could bring that up on the screen, please.

22 BY MR. GELBERG:

23 Q So let's just -- we'll start at the bottom and
24 then we'll go back to the top.

25 If you could look down to the bottom...

1 Do you see a signature?

2 A Yes.

3 Q And whose signature is that?

4 A My signature.

5 Q And let's now look at the top of the pad of the
6 prescription. It has your name, Eleanor Santiago; is
7 that right?

8 A Yes.

9 Q And this is your prescription?

10 A Correct.

11 Q And it's the address on there, is 2120 West 8th
12 Street?

13 A That's correct.

14 Q And that's the 8th Street clinic we've been
15 talking about?

16 A That's correct.

17 Q Now, other than your signature, do you
18 recognize any handwriting on the prescription?

19 A No.

20 Q So the body of the prescription, that's not
21 your handwriting?

22 A That's correct.

23 Q Did you ever prescribe Mike Mikaelian
24 80 milligrams of OxyContin?

25 A No.

1 Q Did you -- when you worked at the clinic, would
2 you see Mike Mikaelian on a regular basis?

3 A No -- well, on -- regarding his job -- as a
4 manager.

5 Q So you would see him as a manager, but you
6 didn't see him as a patient?

7 A No.

8 Q And would you see him walking around doing
9 things?

10 A Yes.

11 Q And based on your observations, do you know if
12 Mike Mikaelian needed a prescription for OxyContin,
13 80 milligrams?

14 A No.

15 Q So he did not need it?

16 A That's correct.

17 Q And when you signed this special prescription,
18 the narcotic prescription, you -- is this an example of
19 pre-signing a prescription?

20 A That's correct.

21 Q When you pre-signed prescriptions, did you know
22 that OxyContin would be filled in to the body like on
23 this prescription?

24 A Yes.

25 MR. GELBERG: If Exhibit 216 and 255 may be

1 placed before the witness, 216, please...

2 BY MR. GELBERG:

3 Q And, Dr. Santiago, please take a look at the
4 document that's Government's Exhibit 216.

5 Do you recognize it?

6 A Yes.

7 Q And how do you recognize it?

8 A It has my signature.

9 Q And what is the document?

10 A It's a prescription for Anjelika Sanamian for
11 OxyContin.

12 MR. GELBERG: Your Honor, the Government moves
13 Exhibit 216 into evidence.

14 THE COURT: Very well.

15 (Whereupon Government's Exhibit 216 is admitted hereto.)

16 MR. GELBERG: And if we cold bring that up on
17 the screen, please...

18 And if could blow up the prescription please...

19 BY MR. GELBERG:

20 Q So looking at the bottom again, I believe you
21 said that's your signature at the bottom?

22 A That's correct.

23 Q And what about the handwriting in the rest of
24 the prescription, do you recognize that handwriting?

25 A No.

1 Q So that's not your handwriting?
2 A That's correct.
3 Q And that's a prescription for Anjelika
4 Sanamian?
5 A That's correct.
6 Q For OxyContin?
7 A Correct.
8 Q At what strength?
9 A 80 milligrams.
10 Q And did you ever treat Anjelika Sanamian as a
11 patient?
12 A No.
13 Q So you were never her doctor?
14 A No.
15 Q And did you -- so you didn't treat her, but did
16 you ever see her around the clinic?
17 A Yes.
18 Q Do you -- you would see her come in on a
19 regular basis?
20 A Yes.
21 Q And based on those observations, do you know if
22 Anjelika Sanamian needed a prescription for OxyContin,
23 80 milligrams?
24 MR. NASATIR: Calls for speculation, Your
25 Honor.

1 THE COURT: Overruled.

2 THE WITNESS: No.

3 MR. GELBERG: Dr. Santiago, you may answer.

4 Did she need OxyContin, 80 milligrams.

5 THE WITNESS: No.

6 MR. GELBERG: Is this other example -- looking
7 at this prescription, an example of you pre-signing a
8 document?

9 A Yes.

10 Q Pre-signing a prescription?

11 A Yes.

12 Q And, Your Honor, I believe for the next
13 exhibit, there's no objection. So I would conditionally
14 move Exhibit 255 into evidence?

15 THE COURT: Very well.

16 (Whereupon Government's Exhibit 255 is admitted hereto.)

17 MR. GELBERG: And if could publish for the
18 jury, please.

19 BY MR. GELBERG:

20 Q Now, Dr. Santiago, do you see the signature
21 down at the bottom?

22 A Yes.

23 Q And do you recognize the signature?

24 A Yes, this is my signature.

25 Q And what about the handwriting on the rest of

1 the document?

2 A No.

3 Q You don't recognize it?

4 A No.

5 Q It's not yours?

6 A No.

7 Q And who's this a prescription for?

8 A Elza Budagova.

9 Q And what's it for; what medication?

10 A OxyContin.

11 Q At what strength?

12 A 80 milligrams.

13 Q Now, at the clinic at 8th Street -- thank
14 you -- is it fair to say that you pre-signed many, many
15 prescriptions on that special narcotic pad?

16 A Yes.

17 Q And you pre-signed them knowing that they would
18 be used to -- someone would fill in OxyContin,
19 80 milligrams?

20 A Yes.

21 Q How much were you paid for working at the 8th
22 Street clinic?

23 A 10,000 a month.

24 Q So that's \$10,000 a month?

25 A Yes.

1 A No.

2 Q And did you tell him that the patients that
3 came to the clinic, that they had very severe pain?

4 A No.

5 Q You don't remember telling that to the agents?

6 A No.

7 Q Did the patients that you saw at the clinic,
8 were they suffering in pain?

9 A They had some sort of pain.

10 Q But did they -- the patients that you -- do
11 you -- so you saw patients yourself?

12 A Yes.

13 Q And you would talk with them?

14 A Yes.

15 Q And you might examine them?

16 A Yes.

17 Q And based on seeing them and talking with them,
18 did they need prescriptions for OxyContin, 80
19 milligrams?

20 A No.

21 Q Now, do you know my colleague, AUSA Lana Morton
22 Owens?

23 A Yes.

24 Q And you've been interviewed by her in the past;
25 is that right?

1 A Yes.

2 Q And the first time you met with her, do you
3 remember that?

4 A Yes.

5 Q And the first time you met with her, were you
6 honest with her about what you were doing at the 8th
7 Street clinic?

8 A No.

9 Q And did you -- we'll leave it at that.

10 Do you know what happened after you had -- you
11 testified that you would pre-sign prescriptions knowing
12 that OxyContin would be filled in to the body of the
13 prescription; is that right?

14 A Right.

15 Q Do you know what would happen to those
16 prescriptions after you would pre-sign them and
17 OxyContin would be filled in?

18 A At the end of the day, it would be in a safe,
19 locked. We -- the combination only known to Mike
20 Mikaelian.

21 Q But do you know if those prescriptions -- which
22 pharmacies those prescriptions might go to; do you have
23 any idea?

24 A No.

25 Q So you weren't involved with anything to do

1 with pharmacies; is that right?

2 A No.

3 Q Do you remember if any pharmacist ever came to
4 the
5 8th Street clinic to talk with you about the
6 prescriptions for OxyContin?

7 A Just to --

8 Q Let's start with the first one that you
9 remember...

10 A A lady pharmacist from Orange county trying to
11 verify the prescription.

12 Q And so a lady pharmacist from Orange county
13 came to the clinic and you spoke with her?

14 A Yes.

15 Q And she wanted to know if the prescriptions
16 were legitimate?

17 A Yes.

18 Q And what did you tell her?

19 A Yes, it was.

20 Q And were you being honest with that pharmacist?

21 A No.

22 Q And the prescription -- why were the
23 prescriptions not legitimate?

24 A Well, it did not have my handwriting on it. It
25 just had my signature.

1 Q Now, you said that you remember a second
2 pharmacist who came to the clinic to talk with you about
3 OxyContin prescriptions?

4 A Yes.

5 Q What do you remember about that second
6 pharmacist?

7 A A Korean middle-aged pharmacy who -- pharmacist
8 in the L.A. area.

9 Q And he came to the clinic?

10 A Yes.

11 Q And what did you talk with him about?

12 A He was the one who requested if we could refer
13 prescriptions to him.

14 Q Did he ask you about patient care?

15 A No.

16 Q Did he ask you about whether the patients had
17 previously been on lower strength pain medications?

18 A No.

19 Q Now, as far as you can remember, did any other
20 pharmacist come into the clinic to talk with you about
21 your prescribing of OxyContin?

22 A No other pharmacists.

23 Q Now, I just want to take a look I think just at
24 one patient -- one more patient file from the clinic.

25 MR. GELBERG: If Exhibit 270 may be placed

1 before the witness.

2 COURTROOM DEPUTY: 270.

3 MR. GELBERG: 270, sir.

4 BY MR. GELBERG:

5 Q And, Dr. Santiago, do you recognize
6 Government's Exhibit 270?

7 MR. JOHNSTON: I'm sorry, counsel. What
8 number?

9 MR. GELBERG: 270.

10 MR. JOHNSTON: Thank you.

11 THE WITNESS: That's a patient chart from the
12 8th Street clinic of Veronica Foster.

13 MR. GELBERG: Your Honor, the Government would
14 move Exhibit 270 into evidence?

15 THE COURT: Very well.

16 (Whereupon Government's Exhibit 270 is admitted hereto.)

17 MR. GELBERG: And if we could bring up page 15,
18 please...

19 And if we could blow up the whole page.

20 BY MR. GELBERG:

21 Q Could you see that okay Dr. Santiago?

22 A Yes.

23 Q Do you see your signature on page 15 of
24 Exhibit 270?

25 A No.

1 Q Does it mean anything to you that your
2 signature does not appear on this page?

3 A It means that the patient was not presented to
4 me -- the patient's chart was not discussed with me.

5 Q So does it mean you did not treat the patient?

6 A Yes.

7 Q And that you did not review the chart?

8 A Yes.

9 Q Now, just in stepping back...

10 A In general, what is this document? What kind
11 of document is it?

12 A It's a -- it's a history and physical exam
13 document.

14 Q For when a patient would come in for an
15 examination, this type of document, just in medical
16 practice in general, it is common to take this type of
17 document?

18 A That's correct.

19 Q And do you recognize any of the handwriting on
20 page 15 of Exhibit 270?

21 A It belongs to David Garrison.

22 Q And your signature is not present?

23 A That's correct.

24 Q Now, you testified a little bit earlier about
25 that

1 David Garrison was a physician assistant at the clinic
2 while you worked there; is that right?

3 A Yes.

4 Q Are -- were there medical charts that -- well,
5 did

6 David Garrison ever give you medical charts to cosign?

7 A Yes.

8 Q And what would you do when you would cosign one
9 of his medical charts?

10 A I would go over the -- and look -- read over
11 the charts.

12 Q And you would put your signature on them?

13 A Yes.

14 Q Did you ever see charts where OxyContin was
15 being prescribed?

16 A All of them were given OxyContin.

17 Q And were you looking at these charts to see if
18 the patient really needed the OxyContin?

19 A Yes.

20 Q And what did you determine?

21 A Some of them did not need it. They could go in
22 a lower type of pain medication.

23 Q Did you ever tell defendant Garrison that?

24 A Yes.

25 Q And what would happen after you would tell him

1 that?

2 A He would still prescribe it.

3 Q OxyContin?

4 A Yes.

5 MR. GELBERG: If we could turn to page 18,

6 please...

7 But if we could blow up the document, just that
8 part there. Thank you.

9 BY MR. GELBERG:

10 Q Now, Dr. Santiago, do you see your signature on
11 page 18 of Exhibit 270?

12 A No.

13 Q And just so it's clear, what does that mean
14 that we don't see your signature on it?

15 A That the patient was not presented to me.

16 Q And does it mean that you didn't review the
17 chart?

18 A That's correct.

19 Q Do you recognize the handwriting in this chart?

20 A It's Elza's handwriting.

21 Q And let's look at just a couple more pages --
22 maybe if we can bring up 20 and 22 next to each other...

23 Thank you.

24 Q So just again, Dr. Santiago, do you see your
25 signature on either page, page 20 or 22 of Exhibit 270?

1 A No.

2 Q And, again, that indicates that you did not see
3 this patient --

4 A That's correct.

5 Q -- or review the chart?

6 A That's correct.

7 Q And do you recognize the handwriting on pages
8 20 and 22?

9 A David Garrison.

10 Q Now, let's bring up pages 26 and 28 side by
11 side...

12 And I apologize. Are you able to read that.

13 That looks a little faint.

14 A I could see it.

15 Q And let's look at the -- if we could blow that
16 one up...

17 Do you recognize the signature?

18 A Yes.

19 Q Whose signature is that?

20 A My signature.

21 Q And what about the body of the prescription, is
22 that your handwriting?

23 A No.

24 Q Do you recognize the handwriting?

25 A Yes. David Garrison.

1 Q And what's being prescribed?

2 A OxyContin.

3 Q At what strength?

4 A 80 milligrams.

5 Q If we could look at the next page, page 28.

6 Is that -- is that next -- sorry. If you could
7 blow up page 28, I apologize.

8 Is it already blown up? I'm sorry.

9 My eyes are going --

10 Dr. Santiago, can you read the -- the one that
11 has the blue background. Can you read that
12 prescription?

13 A Yes.

14 Q And do you see the signature at the bottom?

15 A Yes.

16 Q Is that your signature?

17 A Yes.

18 Q What about the handwriting on the rest of the
19 prescription?

20 A Not mine.

21 Q Do you recognize it?

22 A It's -- not really.

23 Q Now, does the fact that your signature is on
24 these prescriptions, does that mean that this patient
25 Veronica Foster needed 80 milligrams of OxyContin?

1 A Not necessarily.

2 Q Well, you testified you didn't even review the
3 chart, right? Your signature is not here?

4 A Right.

5 Q And did you pre-sign these prescriptions?

6 A Yes.

7 Q And do you recall or remember ordering medical
8 tests for patients at the 8th Street clinic who had
9 medicare or Medi-cal -- I'm sorry -- Medi-cal insurance?

10 A Yes.

11 Q And do you remember a test called an "NCV"?

12 A Yes.

13 Q Do you know what an "NCV" is?

14 A Nerve conduction studies.

15 Q And does an NCV require a particular machine?

16 A Yes.

17 Q And did the 8th Street clinic own and NCV
18 machine?

19 A No.

20 Q Was there one in the building?

21 A No.

22 Q So any -- what about ultrasounds? Did you
23 order ultrasounds?

24 A Yes.

25 Q Now, do you ever recall a patient who was there

1 say on a Monday to get an ultrasound? Do you ever
2 remember that patient coming back the next day, say on a
3 Tuesday to get an ultrasound?

4 A No, they usually get the test the same day that
5 I ordered it.

6 Q So the ultrasound would all be done on that
7 Monday, that same day?

8 A That's correct.

9 Q So if I told you Medi-cal -- excuse me -- if I
10 told you that Medi-cal was billed on consecutive days
11 for Monday and Tuesday for different ultrasound tests,
12 did that usually happen?

13 A No, they usually could run it the same day.

14 MR. GELBERG: Your Honor, if I may just have a
15 moment?

16 BY MR. GELBERG:

17 Q Dr. Santiago, do you know if Elza the woman at
18 the clinic, if she was a licensed physician's assistant?

19 A No, she was not.

20 Q She had no license?

21 A No.

22 Q Do you know if Mikaelian was selling OxyContin?

23 A I was not aware at that time.

24 MR. GELBERG: Thank you, Your Honor.

25 No additional questions at this time.

THE COURT: Do you want to take a break?

2 MS. PODBERESKY: Yes.

3 | (Recess.)

4 (Whereupon the following held in the presence of the
5 jury:)

6 THE COURT: Yes?

7 MR. BELTER: Thank you, Your Honor.

CROSS-EXAMINATION

9 BY MR. BELTER:

10 Q Ms. Santiago, I'd like to start by asking you
11 some questions about your medical -- medical background
12 and your experience.

13 You told us that you've been a physician for --
14 you were educated in the Philippines?

15 A That's correct.

16 Q And what school did you attend?

17 A University of Santa Thomas.

18 0 And what year did you graduate?

19 A 1961.

Okay. And did you do residency in Philippines?

21 A No. I had my internship and residency in
22 the United States.

23 0 And in which state?

24 A Internship in New York; two years of internal
25 medicine residency in Kansas and two years of

1 was she in the medical professional field?

2 A Carolyn Vasquez was a recruiter and dealer.

3 Q And she was the individual who told you that

4 the

5 8th Street clinic was looking for a physician?

6 A Yes.

7 Q Did you know anything about the 8th Street
8 clinic -- before you went over there for an interview?

9 A No.

10 Q Do you recall who you interviewed with?

11 A Anjelika Sanamian.

12 Q And Anjelika, how did she present herself as a
13 business manager, as the manager of a clinic, as a
14 doctor?

15 A As part of the management and billing service.

16 Q Did you meet other medical physicians or
17 medical doctors when you first started working at the
18 clinic?

19 A Yes, the previous doctors.

20 Q Okay. Did you ever meet August Knebel?

21 A Yes.

22 Q Why don't we start this way...

23 When is it that you actually started working at
24 the clinic -- the best estimate of the month and the
25 year?

1 A September 2008 -- or August 2008.

2 Q And when you started working there, what was
3 your expectation that -- what kind of patients you would
4 see?

5 A That was -- I would see general medicine
6 patients.

7 Q And when you started working in August of 2008,
8 there were other medical physicians or medical doctors
9 on staff?

10 A Yes.

11 Q Okay. And do you recall who they were?

12 A One of them was a -- an anesthesiologist, and
13 the other was an ER doctor.

14 Q Do you remember their names?

15 A Nothing is -- I don't -- I can't recall their
16 name. They left shortly when I started there.

17 Q Was there a doctor by the last name of
18 Marouni?

19 A No.

20 Q Payam Marouni?

21 A No.

22 Q You don't recall ever working with a physician
23 by that name?

24 A The first name, please.

25 Q Payem, P-a-y-e-m [sic].

1 A No.

2 Q How about Morris Halfon?

3 A Yes.

4 Q Do you remember that Dr. Halfon was working at
5 the clinic?

6 A Yes.

7 Q Was he working at the clinic when you first
8 arrived?

9 A No, later.

10 Q And can you tell us, if you know, what was
11 Dr. Halfon's specialty or what -- what was his area of
12 practice?

13 A General medicine.

14 Q And what about Dr. Susan Seideman?

15 A General medicine.

16 Q And she worked also at the clinic while you
17 were there?

18 A Later, yes.

19 Q And what about Dr. Artis Woodward?

20 A No.

21 Q You don't recall Dr. Woodward?

22 A No.

23 Q And I asked you about Dr. August Knebel?

24 A Yes.

25 Q And he also worked at the clinic?

1 A Later, yes.

2 Q Do you recall -- and what was Dr. Knebel's
3 specialty?

4 A General medicine.

5 Q Do you recall ever working at the clinic with a
6 Dr. Enrile, E-n-r-i-l-e?

7 A No.

8 Q And what about a Dr. Callus?

9 A No.

10 Q Ms. Santiago -- or Dr. Santiago, prior to
11 working at the 8th Street clinic in your practice, did
12 you ever work with physician assistants?

13 A Yes.

14 Q And in what manner did you work with
15 physician's assistants prior to working at the 8th
16 Street clinic?

17 A In the diagnosis and treatment of multiple
18 medical problems.

19 Q And was that in your private practice?

20 A No, it was as an employee.

21 Q Okay. And was it as you worked in other
22 clinics?

23 A Yes.

24 Q What was your expectation of working with a
25 physician's assistant? What did you --

1 A That they should present every patient to me
2 and discuss -- the diagnosis and management.

3 Q So was this true or accurate that a physician's
4 assistant assists in the evaluation and the treatment
5 plan of a particular patient that is under your care?

6 A Yes.

7 Q And it's expected that the physician's
8 assistant communicates with you and discusses with you a
9 treatment plan of patients?

10 A Yes.

11 Q Ultimately, you're responsible for the patient?

12 A Yes.

13 Q The physician's assistant is delegated
14 responsibilities by you; is that correct?

15 A Yes.

16 Q Okay. And a physician's assistant has to go
17 through you, in other words, in order to follow up in
18 any treatment plans?

19 A Yes.

20 Q You're ultimately the individual with the
21 responsibility; is that right?

22 A Yes.

23 Q And that's because you're the physician?

24 A That's correct.

25 Q When you were working at the 8th Street clinic

1 be -- or they were your patients, they were purple
2 files?

3 A Yes.

4 Q And if there was another color to a file, that
5 would mean that a different physician was to a primary
6 position or primarily responsible for that patient?

7 A That's correct.

8 Q Well, when you were working at the 8th Street
9 clinic, did you ever -- were you ever presented a file
10 that was not your patient?

11 A Yes, when the doctor was not available.

12 Q Okay. So there were times or instances where
13 you were at the clinic; correct?

14 A Yes.

15 Q And other -- the treating physician -- the
16 physician primarily responsible for that patient would
17 not be at the clinic?

18 A Yes.

19 Q And so if that patient was at the clinic, you
20 would be asked to look at the file?

21 A Yes.

22 Q Who would generally ask you to look at a file?

23 A The -- the nurse assistant -- the nurse.

24 Q Okay. The nurse -- what about the physician's
25 assistant?

1 A Yes.

2 Q Okay. So an individual other than yourself,
3 who might be examining or -- or having some
4 communication with a patient, they would -- they would
5 come to you with a file and have a communication with
6 you about a particular treatment plan.

7 A That's correct.

8 Q Do you ever recall Mr. Garrison doing that with
9 you?

10 A Yes.

11 Q And would he do that on a regular basis?

12 A Yes.

13 Q You told us that you worked at the clinic five
14 days a week?

15 A Yes.

16 Q And you worked from the 9:00 o'clock to
17 1:00 o'clock in the afternoon?

18 A Right.

19 Q And would Mr. Garrison -- generally, was he
20 working five days a week?

21 A Yes.

22 Q And so was he in the clinic around the same
23 time that you arrived?

24 A Yes, and farther in the afternoon with the
25 other physicians.

1 Q Well, how many physicians to your recollection
2 in the morning during the hours that you were there --
3 those four hours, how many other physicians would be at
4 the clinic?

5 A One.

6 Q One other, generally?

7 A Yes.

8 Q So there would be yourself and at least one
9 other physician?

10 A Right.

11 Q Do you recall who was a physician that you --
12 I'll use my phrase -- you sort of partnered up with
13 during those hours?

14 A August Knebel.

15 Q Knebel.

16 All right. So generally if Mr. Garrison was
17 working as a physician's assistant, you would expect
18 that he was communicating with either yourself or
19 Dr. Knebel?

20 A That's correct.

21 Q Do you know who the doctors or physicians were
22 that would come in and work in the afternoon?

23 A Suzanne Seideman and Halfon.

24 Q And Halfon?

25 And so if Mr. Garrison was working in the

1 afternoon, you would expect that if he had
2 communications with a treating physician, that it would
3 be with either
4 Dr. Halfon or Seideman?

5 A That's correct.

6 MR. GELBERG: Objection, Your Honor;
7 speculation.

8 THE COURT: Overruled.

9 MR. BELTER: Is that correct?

10 THE WITNESS: Correct.

11 BY MR. BELTER:

12 Q Did you have conversations during -- after you
13 were hired, was Mr. Garrison hired around the same time
14 as you?

15 A No, later.

16 Q Okay. And when you say "later" and you say you
17 started working in August of 2008, approximately how
18 much later was it that Mr. Garrison started?

19 A Two to three months later.

20 Q And when he started working there, did you have
21 an opportunity to sit down with him during his
22 interview?

23 A Yes.

24 Q Okay. So were you one of the individuals who
25 actually interviewed Mr. Garrison?

1 A Yes.

2 Q And were you involved in the decision-making
3 process of hiring Mr. Garrison?

4 A Yes.

5 Q And why is it you decided to hire Mr. Garrison?

6 A Because he had extensive experience as a
7 physician's assistant.

8 Q Okay. Were you aware whether or not he had a
9 physician's assistant license?

10 A He said he had.

11 Q Were you ever presented with any evidence or
12 any proof that he did?

13 A Well, several months later.

14 Q So you were -- at least, you were of the mind
15 that he was a licensed physician's assistant in the
16 state of California?

17 A Yes.

18 Q After Mr. Garrison was hired, did you have --
19 did you have an opportunity to sit down with him and
20 discuss with him what his responsibilities would be with
21 respect to patients that you were the primary physician?

22 A Yes.

23 Q And what was the nature of that conversation?

24 A Well, we needed to document in the chart as to
25 history and physical examination and basis for his

1 diagnosis and treatment.

2 Q And that was your expectation that he would do
3 that?

4 A Yes.

5 Q And so your expectation was that he would --
6 after he was examining a patient or having communication
7 with a patient that he would then have a conversation
8 with you and discuss with you the progress chart or the
9 evaluation notes; is that right?

10 A Yes.

11 Q And based on that, would there be a treatment
12 plan?

13 A Yes.

14 Q And would -- was part of that treatment plan,
15 could it include the prescription of medication?

16 A Yes.

17 Q And what kinds of medication?

18 A Usually some patients with high blood pressure,
19 diabetes, and pain management.

20 Q Okay. And you told us about pain management.
21 I'm going to get to that in a moment.

22 But for diabetes what kinds of prescriptions
23 would you be prescribing?

24 A Most of the patients were Type 2. So they had
25 oral medications. We had a few on insulin.

1 Q Okay. And would those be medication that you
2 would have to prepare a prescription?

3 A Yes.

4 Q And that prescription would then be given to
5 the patient?

6 A Yes.

7 Q That was your expectation; is that correct?

8 A Yes.

9 Q And what about the pain management?

10 A Well, most of the patients have been to other
11 physicians who already prescribed them OxyContin, so
12 that they were expecting to be refilled.

13 Q Prior to your employment at the 8th Street
14 clinic in August of 2008, did you have any experience in
15 treating patients for pain management?

16 A No.

17 Q And when you were hired in August of 2008, were
18 you informed or advised in the interview process and the
19 hiring process that that was going to be part of your
20 responsibilities is to evaluate and diagnose and
21 possibly prescribe OxyContin for pain management?

22 A Yes.

23 Q Okay. And who told you that?

24 A Anjelika.

25 Q Okay. At the time that Anjelika told you that,

1 was it your impression that that was one of the primary
2 types of patients that came to the 8th Street clinic?

3 A Yes.

4 Q Did you -- were you under the impression or
5 were you aware that the 8th Street clinic was quote,
6 unquote, a pain management clinic?

7 A Yes.

8 Q What did that mean to you?

9 A That they took care of chronic pain -- pain
10 patients with chronic pain.

11 Q And what does that mean in layman's terms?

12 A That these patients have already gone through
13 multiple levels of pain medication which have not worked
14 and that they were up at the level of OxyContin.

15 Q So they were up to the level of OxyContin?

16 A Yes.

17 Q And are there other medications that are
18 prescribed in say an elevated step up towards ultimately
19 OxyContin?

20 A Yes. If we saw them ourselves for the first
21 time, they would start with Tylenol; then Tylenol with
22 codeine; then nonsteroidal anti-inflammatory agents like
23 Motrin; then Vicodin before they get into OxyContin.

24 Q And that was your expectation?

25 A Yes.

1 Q That they would be in other words, a graduated
2 step up to OxyContin?

3 A Yes.

4 Q Dr. Santiago, at the time that you started in
5 August of 2008, could you give us an estimate of how
6 many of the patients that you saw starting in August of
7 2008, you were of the impression that they were
8 returning patients?

9 A Yes.

10 Q Okay. And what percentage of the patients that
11 you were seeing were returning patients?

12 A During the first three months, I didn't see
13 that many patients that required OxyContin. So I was
14 prescribing them steroidal and Tylenol with codeine for
15 their pains.

16 Q All right.

17 A But during 2009 and 10 we had accumulation of
18 patients who were chronically on OxyContin.

19 Q Okay. So starting in 2008, are you saying that
20 most of the patients you saw initially, you were
21 prescribing a -- a lower grade pain medication?

22 A That's correct.

23 Q And then as the year went into 2009, you
24 started to see returning patients?

25 A Yes.

1 Q And those returning patients were still
2 complaining of elevated pain?

3 A Yes.

4 Q And then you started to prescribe OxyContin?

5 A Yes.

6 Q To your recollection did Mr. Garrison start
7 working at the clinic before it moved?

8 A Before it moved where?

9 Q Mr. Garrison?

10 A He started late, something like November or
11 December of 2008.

12 Q That's your recollection?

13 A That's correct.

14 Q There were patient files that were being
15 prepared and being presented to you at some point in
16 your treatment of patients; correct?

17 A Correct.

18 Q Did you -- were you responsible for preparation
19 of those files?

20 A No.

21 Q Who was responsible for the preparation of the
22 files?

23 A We had the staff physicians -- medical
24 assistants.

25 Q Okay. And was one of the medical assistants a

1 gentleman by the name of Alex Mendez, if you recall?

2 A I don't recall that name.

3 Q Can you describe for us the medical assistants

4 that you recall were preparing the files?

5 A They were mostly women.

6 Q Mostly women?

7 A Uh-huh.

8 Q And do you remember any of their names?

9 A No.

10 Q Were there certain forms that were prepared or

11 they were part of the 8th Street medical clinics, you

12 know, general forms or evaluation forms?

13 A Yes, we had those general forms.

14 Q Were you involved in -- in the preparation of

15 those forms or -- or coming up with a format of the

16 forms?

17 A No.

18 Q Were they being used prior to your -- your --

19 A Yes.

20 Q -- starting work?

21 A Yes.

22 Q And did you ever recommend that additional

23 forms be prepared or used?

24 A No.

25 Q Was there an informed consent form if you're

1 correct?

2 A Yes.

3 Q Is that right?

4 A Yes.

5 Q You never examined any of those individuals?

6 A No.

7 Q You were never presented with any kind of a

8 patient file with respect to those individuals?

9 A No.

10 Q But your -- your prescriptions were actually

11 signed by you?

12 A Yes.

13 Q You've told us that you would sign

14 prescriptions and leave them blank?

15 A Yes.

16 Q How often would you do that?

17 A 10 to 20 times a day.

18 Q 10 to 20 prescriptions per day?

19 A Yes.

20 Q And you gave those to Mr. Mikaelian?

21 A Yes.

22 Q Dr. Santiago, I mean, how long did you do that?

23 A Through 2009 and '10.

24 Q So for at least a year or a year and a half you

25 did that?

1 A Yes.

2 Q Okay. Did you ever say to Mr. Mikaelian, you
3 know, what are you doing with those prescriptions?

4 A Well, he -- I see him lock it under -- in the
5 safe after office hours because had to return the forms
6 to him.

7 Q Okay. But I mean, it is clearly a very
8 suspicious activity; isn't it?

9 A Yes.

10 Q Okay. And it's completely inappropriate as a
11 medical physician to sign blank forms?

12 A Yes.

13 Q And you were doing that 10 to 20 a day?

14 A Yes.

15 Q Who asked you to do it?

16 A They requested it.

17 Q When you say "they," was that Anjelika and
18 Mike?

19 A Right.

20 Q And did you ever feel like if you didn't do it,
21 something would happen?

22 A I'm sorry?

23 Q Did you ever -- well, did you ever think if you
24 didn't do it -- if you said, Hey, I'm not going to do
25 that anymore, you know, what would happen?

1 Q Okay. And did you see medicare or medicaid
2 patients?

3 A I didn't see medicare patients. So any
4 Medi-cal patients.

5 Q And why is that?

6 A I didn't get a number from medicare.

7 Q Is that a number called an NFI number?

8 A Yes.

9 Q Do you have an NFI number?

10 A Well, that's a national ID number, but you have
11 to have a specific medicare number for a specific
12 clinic.

13 Q And you did not have one for the 8th Street
14 clinic?

15 A No.

16 Q Do you know if any patients were being billed
17 through medicare or medicaid that you would otherwise be
18 treating?

19 A No, they billed only Medi-cal patients.

20 Q In other words, you didn't see either of those
21 types of insured patients?

22 A No.

23 Q Is that correct?

24 A I didn't.

25 Q I asked you earlier, did Mr. Garrison and you

1 A No.

2 Q Were you aware that people were picking up
3 prescriptions at pharmacies?

4 A No.

5 Q Did you hand your prescriptions to the patients
6 or did you have somebody else in the clinic do that?

7 A I gave them directly to the patient.

8 Q Would you sit down and have this conversation
9 with them --

10 A Yes.

11 Q -- about informed consent or the use of -- of
12 the medication?

13 A Yes.

14 Q What kind of conversation, would you have with
15 the patient if you prescribed Oxycodone to them?

16 A Well, not to overuse it and -- and watch for
17 side effects.

18 Q And what would you tell us -- I'm not saying
19 verbatim, but what kind of -- generally, did you warn
20 them or give them some kind of information about the
21 misuse or the mishandling of the Oxycodone?

22 A If they misuse it, they will have drowsiness.
23 If they stopped it suddenly, they would have withdrawal
24 symptoms.

25 Q Did you know that -- did you know that prior to

1 working at the 8th Street clinic?

2 A No.

3 Q You told us that you took a pain management
4 class or course?

5 A Yes.

6 Q That was in Honolulu?

7 A Yes.

8 Q And that was for how long?

9 A One week.

10 Q And as a result of that one-week course or
11 training, did you receive a certificate?

12 A Yes.

13 Q And what was the certificate -- what did that
14 affirm as far as your skills or expertise?

15 A Yes. That I was trained in basic pain
16 management.

17 Q Well, during that course of pain management at
18 Honolulu, did you learn that it -- Oxycodone is a very
19 addictive Schedule II narcotic?

20 A Yes.

21 Q Okay. And that it needed to be prescribed with
22 some -- with due caution?

23 A Yes.

24 Q Did you feel that generally speaking that
25 that's what you did when you're working at the 8th

1 Street clinic?

2 A Yes. When I came back, I asked the staff to --
3 that we should have a graduated prescription scale where
4 we started in the lower level of analgesics and come up
5 only to the highest level if it failed.

6 Q Would this be accurate or inaccurate that there
7 were -- that there were patients who came to the 8th
8 Street clinic that were legitimate patients, seeking
9 medical treatment and that they were seen by doctors
10 and/or other staff and that they were treated as any
11 other patient; is that true?

12 A Yes. Most of the patients have already been to
13 area doctors for these medications.

14 Q Did you ever contact other physicians to see
15 if, in fact, a patient who had has a history of seeing
16 other physicians, that that's actually accurate or true?

17 A No.

18 Q You would take -- would you see a file from --
19 from another physician, or would you just take sort of a
20 reported history?

21 A Most of the physicians were retired or closed
22 the clinics. So they transferred to us, and we cannot
23 find any other source of the charts.

24 Q Would you also -- as you're telling us here in
25 court, there was also an aspect of the 8th Street clinic

1 that was illegal; is that right?

2 A Which one is that?

3 Q Well, if you're -- if you're sending out
4 prescriptions in the names of Mike Mikaelian and -- and
5 Anjelika for OxyContin and they're not being treated as
6 real patients, and now they're getting prescriptions,
7 80 milligrams, 90 pills of OxyContin that doesn't sound
8 as if that would be completely appropriate or legal; is
9 that correct?

10 A That's correct.

11 Q Okay. So there were certain activities at the
12 8th Street clinic that were illegal?

13 A Yes.

14 Q All right. So there's a portion of the 8th
15 Street clinic that it's a real -- it's a real clinic,
16 real doctors treating real patients?

17 A Yes.

18 Q And there's a side of the 8th Street clinic
19 that there's like an illegal side; correct?

20 A Right.

21 Q Have you ever heard the word "diversion" --

22 A No.

23 Q -- in the context of diverting Schedule II
24 narcotics -- have you ever heard that legal term --

25 A No.

1 Q -- or that law enforcement term?

2 A No.

3 Q Dr. Santiago, generally speaking, how are
4 patients paying for their visits and/or medications?

5 A They didn't pay for it. We billed Medi-cal for
6 the services.

7 Q And did you have -- I believe I already asked
8 this, but I'll just ask it again. Did you have anything
9 to do with designating how much to bill for particular
10 patient's visit?

11 A Well, the only involvement I had with what
12 services I rendered and what tests I ordered. I would
13 check on a flow sheet, so the biller would know what to
14 bill.

15 Q What kind of tests would you order?

16 A For the first time, routine blood test.

17 Q Why would you have a routine blood test?

18 A Well, we had -- they have chronic illnesses.
19 So we have to find out how the liver is; their kidneys
20 are; if they're anemic. For those who had been on --
21 already narcotics, check their urine and blood level; if
22 they're over 40, check their EKG; and then if they have
23 any abdominal pains, work up the ultrasound.

24 Q Okay. Were all those tests -- blood tests, the
25 EKG, and the ultrasound, were those tests or

1 examinations that could be billed through medicare or
2 Medi-cal?

3 A They were billed to Medi-cal.

4 Q And you told us why you would have a blood
5 test; but what about an EKG?

6 A If they're over 40 years of age, we check for
7 any silent heart attack.

8 Q And why would that be important?

9 A Well, these are usually smokers, those with
10 high cholesterol. Those with diabetes would be prone to
11 heart disease.

12 Q And so you would do that to -- before you would
13 prescribe OxyContin?

14 A Yes.

15 Q Codone?

16 And what about the ultrasound?

17 A Well, if they have complaint of abdominal pain,
18 check for gallstones, kidney stones.

19 Q Okay. Would you ever have ordered an MRI?

20 A For those who haven't had it -- because you
21 require preauthorization, most of them have had already
22 MRI of the spine from some other doctors.

23 Q How would you know that?

24 A The -- they would tell us they had MRI.

25 Q But would there be an MRI report or some kind

1 of evaluation or written memorandum in the -- in the
2 patient's file?

3 A Well, most of the time, we cannot retrieve any
4 old records; just history.

5 Q Okay. History is where you're sitting down
6 with a patient and you're talking with them?

7 A Yes.

8 Q It's not necessarily documented history. It's
9 oral history from the patient?

10 A Yes.

11 Q Is that an appropriate form of -- of examining
12 a perspective patient?

13 A Well, if we could get ahold of the MRI, we'll
14 get it; but usually, as I said, the clinics were closed
15 or the doctor is retired. And if we ask for an MRI of
16 the spine, we have to have a long waiting period for
17 Medi-cal to approve it.

18 Q So what does that mean, that you wouldn't get
19 the MRI?

20 A No. We would order it, but it has to be
21 approved by Medi-cal.

22 Q Well, would you still -- in that instance,
23 would you still prescribe some kind of medication?

24 A Yes.

25 Q Why would you do that if you were waiting for

1 an MRI that might take a while?

2 A Well, most of them can get intensity of pain,
3 and based on the intensity of pain, we give pain
4 medications.

5 Q And would you rely on the oral history, given
6 to you by the patient as -- as with respect to the level
7 of pain?

8 A No, but they're supposed to circle on a level
9 of pain based on a drawing of facial expression, the
10 degree of pain.

11 Q Now, but that would be the patient would do
12 that; is that right?

13 A Yes.

14 Q And you would rely on what the patient has
15 written on the form?

16 A Well, that's the only one -- the only source of
17 history.

18 Q Okay. So the answer is that you would rely on
19 that?

20 A Yes.

21 Q Okay. What if somebody just was outright going
22 to lie to you about it, how could you determine if
23 somebody was not telling you the truth?

24 A Well, we would know from the history, whether
25 the patient is lying or not. If he's got other signs

1 and symptoms of spine compression, for example,
2 radiation of pain to the legs, that would be a -- the --
3 history compatible with pinched nerve.

4 Q And would that be again relying on what the
5 patient is telling you?

6 A That's correct.

7 Q Okay. It is not on any particular test that
8 you're going to -- you're going to give the patient?

9 A No.

10 Q Where was the blood work done?

11 A It was sent out.

12 Q And what about the ultrasounds?

13 A Done on the -- in the clinic.

14 Q And who would do the ultrasounds?

15 A There's a technician -- full-time employment.

16 Q And what about the EKG's?

17 A By the medical assistant.

18 Q So at least the EKG's and the ultrasounds were
19 done on site; is that right?

20 A Right.

21 Q But the blood test work and the MRI's, if
22 necessary or appropriate, those were done off-site and
23 could take some time to get the results?

24 A Yes.

25 Q Did you ever do urine tests?

1 A Yes, on those we suspect to be on -- when we
2 check their compliance and medications, we check
3 their -- we have some tests to check on existence or
4 substance abuse.

5 Q And that would be -- would you order that if
6 you -- after you had some consultation with either the
7 patient or in those instances where you had a
8 physician's assistant assisting you -- would you order
9 that test after that consultation?

10 A Yes.

11 Q So, again, it's because you're primarily
12 responsible -- I guess the last gatekeeper before the
13 prescriptions are handed out; is that right?

14 A Yes.

15 Q I'm going to pull up 207 which has also been
16 admitted.

17 You can see that, Dr. Santiago?

18 A Yes.

19 Q Right underneath your name, there's a number
20 with a DEA, and then there's a number. Do you see that?

21 A Yes.

22 Q Okay. And what's that?

23 A DEA is the -- the control substance license.

24 Q And do you have to apply to have that?

25 A Yes.

1 Q Medi-cal. Do you know if the other doctors
2 that you worked with had an MPI number?

3 A Yes.

4 Q And did they?

5 A Yes.

6 Q In your practice as a doctor, are you aware of
7 what's a CURES report -- a tracking of Schedule II
8 medications?

9 A Yes.

10 Q And if you prescribed OxyContin or Oxycodone or
11 any other Schedule II medication or narcotic, there's a
12 national tracking system; is that right?

13 A Yes.

14 Q During your time at the 8th Street medical
15 clinic, were you aware of whether or not anybody is
16 trying to keep track of the prescriptions that you were
17 prescribing either Mike or Anjelika?

18 A No.

19 Q I'm going to turn now to Exhibit 270 which has
20 also been admitted...

21 Dr. Santiago, this is the patient file for
22 Veronica Foster.

23 And there's a number of pages that you were
24 asked questions about. I'm going to turn to the first
25 one, which is page 15.

1 Q The last year, meaning 2010?

2 A Yes.

3 Q And how did it come to your attention that the
4 biller was inflating the bills to medicare?

5 A Well, we didn't do nerve conduction velocity
6 test and she was billing them.

7 Q Okay. So at some point, you discovered that
8 tests were not being conducted. Yet, they were being
9 billed to medicare?

10 A That's correct.

11 Q Do you recall approximately how far into your
12 employment with the clinic you made that discovery?

13 A Probably about a year.

14 Q A year?

15 A Yes.

16 Q So now we're talking about August of 2009
17 approximately?

18 A Right.

19 Q And so for the next year and a half from
20 August 2009 to December 2010, you willingly went along
21 with this fraud; correct?

22 A Well, I told them to stop billing, but since
23 the billing was sent electronically, I didn't know what
24 was being billed.

25 Q So you assumed that because you told them to

1 stop billing for these tests that weren't being
2 conducted, that that was happening?

3 A Yes.

4 Q So as you continued in your employment from
5 August of '09 to December of 2010, you didn't believe
6 you were committing medicare fraud?

7 A That's correct.

8 Q But you were committing drug trafficking,
9 weren't you?

10 A Well, I wasn't aware that they were doing drug
11 trafficking either. It is prescriptions -- it was
12 prescriptions directly to the patient.

13 Q Okay. So when you were pre-signing those
14 prescription forms, you had no idea what they were going
15 to be used for?

16 A No.

17 Q Did you have a discussion with Mike Mikaelian
18 or Anjelika Sanamian about why they wanted you to
19 pre-sign forms?

20 A Well, they said that it was coming in late or I
21 wasn't there in the afternoon. They need somebody to
22 fill out the prescription.

23 Q And you had no idea that -- that they were
24 writing these OxyContin 80-milligram prescriptions?

25 A No.

1 Q You had no idea that people were being sent out
2 to the pharmacy to fill these prescriptions?

3 A No.

4 Q And you had no idea that after the
5 prescriptions were filled, Mike Mikaelian and Anjelika
6 Sanamian were then selling these OxyContin pills on the
7 street?

8 A No.

9 Q Why did you plead guilty?

10 A I did not plead guilty to that selling of
11 OxyContin. I pleaded guilty to Medi-cal billing fraud.

12 Q And was it your belief -- excuse me -- let me
13 strike that and rephrase it.

14 You pled guilty to medicare fraud; correct?

15 A Medi-cal billing fraud.

16 Q Medi-cal billing fraud. And only Medi-cal
17 billing fraud; is that right?

18 A Right.

19 Q And that was based on the tests that weren't
20 being done but were being billed?

21 A Yes.

22 Q Do you recall signing a plea agreement in this
23 case?

24 A I'm sorry?

25 Q Do you recall signing a plea agreement in this

1 A Yes, she was already there.

2 Q Had you ever seen Ms. Budagova as a patient?

3 A No.

4 Q Did you supervise her in any way?

5 A No.

6 Q Did you have any regular contact with her on
7 Monday through Friday when you were at the office?

8 A No. Sometimes she would ask me to sign her
9 chart.

10 Q A patient's chart?

11 A Yes.

12 Q Were you part of making the schedule as far as
13 when employees would work at the clinic?

14 A No.

15 Q And you were there Monday through Friday?

16 A Right.

17 Q Then how is it that you know Ms. Budagova
18 worked there on Saturday?

19 A That was the staffing that they told me because
20 I did not want to work on Saturday. So they had people
21 cover that day.

22 Q In addition to prescriptions being pre-signed
23 by you, there was also forms that are included in the
24 patient charts that were pre-signed by you; correct?

25 A Correct.

1 Q And what were you doing that was fraudulent at
2 the Buena Park clinic?

3 A Well, I wasn't -- I wasn't inactive there.
4 The -- the owners of the physical therapy clinic were
5 indicted for fraudulent practice.

6 Q But what were you doing that was fraudulent?

7 A I was countersigning the treatment plan of
8 physical therapists.

9 Q Okay. And you weren't charged in that case,
10 were you -- charged with a crime of committing fraud for
11 the

12 Buena Park --

13 A No.

14 Q Were you charged for your conduct at the South
15 Atlantic clinic?

16 A Yes.

17 Q Did you plead guilty in that case?

18 A It wasn't a court case. It was a medical Board
19 hearing.

20 Q And that's what got you on probation?

21 A Right.

22 Q So the first time you got caught committing
23 fraud was with the 8th Street clinic?

24 A Yes.

25 Q You saw patients at the 8th Street clinic;

1 isn't that correct?

2 A Yes.

3 Q You saw patients everyday you went to work
4 there; correct?

5 A Yes.

6 Q And with regards to those patients that you
7 saw, would you prescribe OxyContin?

8 A No, I would prescribe on a graduated scale.

9 Q I'm sorry. Could you please repeat that.

10 A I would prescribe on a graduated scale. We
11 started on lower levels of analgesics and go up the
12 scale if it did not work.

13 Q And when you refer to the lower doses and the
14 scale going up, you're referring to the drug, OxyContin?

15 A No, we would start with Tylenol, nonsteroidal,
16 analgesics, Tylenol with codeine, Vicodin. And if that
17 didn't work, then we would go to OxyContin on different
18 doses.

19 Q And approximately how many patients would you
20 see each day?

21 A Probably about five.

22 Q Five a day each day Monday through Friday?

23 A Right.

24 Q For the entire time you worked there?

25 A That's correct.

1 Q And so you would expect that those
2 prescriptions you wrote for Tylenol and Vicodin would be
3 included in the patient's file; correct?

4 A Yes.

5 Q What did you wear at the clinic?

6 A A coat -- a white coat.

7 Q Would you arrive wearing that white coat when
8 you -- I assume you took the car to the clinic?

9 A Yes. Uh-huh.

10 Q Would you wear the coat as you got out of the
11 car and walked into the clinic?

12 A No.

13 Q Did you keep the coat in the -- at the clinic?

14 A Yes.

15 MR. CANTALUPO: No further questions.

16 **CROSS-EXAMINATION**

17 BY MR. JOHNSTON:

18 Q Good afternoon. My name is Tom Johnston.

19 And I represent the fellow with the silvery
20 hair, Perry Nguyen.

21 May I ask you...

22 Do you recognize him?

23 A No.

24 Q Okay. You testified -- you can sit down,
25 Mr. Nguyen.

1 You testified that you recall meeting with two
2 pharmacists; do you remember that?

3 A Yes.

4 Q And you said one was apparently a female
5 pharmacist from Orange County?

6 A That's correct.

7 Q And she had come -- I take it first of all,
8 that she came to you because there were 8th Street
9 clinic patients who were having their prescriptions
10 filled at some drug store in Orange county?

11 A Yes.

12 Q I'm sorry.

13 And she came to you inquiring why all these
14 OxyContin prescriptions --

15 A Yes.

16 Q -- and you gave her an explanation of why there
17 was a lot of OxyContin and why the dosage was what it
18 was; is that right?

19 A Yes.

20 Q Now, and part of your explanation was that we
21 treat chronic pain and a lot of our clientele of our
22 patients come from other places where they've been on
23 pain medication and either had it stepped up before they
24 got to us, or we had to step it up in order to
25 effectively alleviate their pain?

1 A Yes.

2 Q And you explained that to her; right?

3 A Yes.

4 Q Let me ask you this: Did you believe it at the
5 time or were you lying to her?

6 A No. Most of the patients had been to other
7 physicians in the area, and they were on this dosage.
8 So while we attempted to drop the dosage, they would be
9 back in a few days, asking for the higher dose.

10 Q Now, I want to ask you, Dr. Santiago, as you
11 sit here today, do you believe that's true or is that
12 what you were told by the people at the clinic?

13 A This is what the patients would tell us.

14 Q And today, you -- you're telling us that's the
15 fact of what the patients would tell you?

16 A Yes.

17 Q And that's the fact of what you told this
18 pharmacist from Orange county?

19 A Yes.

20 Q And you have no recollection of meeting one
21 time with Mr. Nguyen and telling him exactly the same
22 thing?

23 A No.

24 Q If another -- well, if you know, had another
25 pharmacist come, you would have given the same response,

1 I presume?

2 A Yes.

3 Q And that would be that there is a legitimate
4 reason why so many prescriptions are for 80-milligram
5 OxyContin, 90 tablets within a month?

6 A Yes.

7 Q Now, you also mentioned that the clinic would
8 conduct urine tests to check with compliance with
9 medications; do you recall that?

10 A Yes.

11 Q In other words, you would have a patient's
12 urine tested to see if they're taking OxyContin if
13 that's their prescription?

14 A Yes.

15 Q And would you send out that urine sample to a
16 lab to have it tested?

17 A No, we had the reagent in the clinic.

18 Q And you had whatever machinery was necessary to
19 conduct that urinalysis?

20 A Yes.

21 Q Oh, and Mr. Cantalupo was going through your
22 involvement in other clinics that involved fraudulent
23 activity. Was there another clinic in North Hollywood
24 you were involved in.

25 A Yes, but that was dropped.

1 medical clinics?

2 A Yes.

3 Q Did those other mid medical clinics use patient
4 recruiters?

5 A Yes.

6 Q And those are known as marketers or cappers?

7 A Yes.

8 Q And when you came to the 8th Street clinic in
9 about August of 2008, is that right?

10 A Right.

11 Q And you testified it was your hope that you
12 could kind of leave all that fraud behind and start
13 fresh at the
14 8th Street clinic.

15 A Yes.

16 Q But when you came to the 8th Street clinic, you
17 testified earlier that that clinic also used paid
18 recruiters; right.

19 A Yes.

20 Q And it paid -- the 8th Street clinic also paid
21 the patients?

22 A Yes.

23 Q And so these were patients that had to be paid
24 to go to the doctor?

25 A Yes.

1 highest strength of OxyContin?

2 A Yes.

3 Q But you looked at examples earlier of you
4 pre-signing prescriptions; is that right?

5 A Yes.

6 Q And is it fair to say that a pre-signed
7 prescription is like a blank check?

8 A Yes.

9 Q And would you be there sitting alongside
10 someone watching the prescription get filled in?

11 A Usually I would have discussed this with the
12 one who was filling the prescription.

13 Q And what would be filled in was OxyContin?

14 A Yes.

15 Q But were you there every time the prescriptions
16 would be filled in?

17 A No.

18 Q Because once you pre-sign a prescription,
19 it's -- it's blank. Anything could be written there; is
20 that right?

21 A Right.

22 Q And you may not be there when it gets written
23 in?

24 A Right.

25 Q Now, he we looked at medical records from

1 Q Did you know Mike Mikaelian was getting it?

2 A No.

3 Q So there were things you know about what was
4 going on at the clinic?

5 A Yes.

6 Q And did you treat any of the employees at the
7 clinic as your patients?

8 A No.

9 Q So if other employees had prescriptions signed
10 for you by -- for OxyContin, 80 milligrams, that doesn't
11 mean they needed that prescription?

12 A That's correct.

13 Q And, in fact, that means you didn't treat them;
14 you have no idea one way or the other?

15 A Yes.

16 Q Do you know little Mike -- do you remember
17 little Mike?

18 A No.

19 Q Do you remember the name -- well, let's put up
20 exhibit -- I'm sorry -- if we could publish Exhibit 26,
21 please.

22 Do you recognize him?

23 A Yes.

24 Q Did he work at the clinic?

25 A Yes.

1 Q Was he your patient?

2 A No.

3 Q So if there's a prescription for OxyContin,
4 80 milligrams signed by you, does that mean it's
5 legitimate?

6 A No.

7 Q Now, if you're pre-signing prescriptions, you
8 testified that means you don't necessarily know when it
9 gets filled in?

10 A Yes, that's correct.

11 Q But you understood when you were pre-signing
12 prescriptions at the 8th Street clinic, that they would
13 be used for OxyContin, 80 milligrams?

14 A Yes.

15 Q And they would be used for patients that you
16 never saw?

17 A Yes.

18 Q You never treated?

19 A Yes.

20 Q You never did tests on?

21 A Yes.

22 Q And is it appropriate to pre-sign a
23 prescription, knowing that it's for OxyContin for a
24 patient that you're never going to see?

25 A I wouldn't have done it.

1 Q I'm sorry?

2 A No.

3 Q It's not appropriate?

4 A No.

5 Q And what about -- we looked at a chart. Let's
6 just look at one more. I think Exhibit 333 is in front
7 of you.

8 Do you have that there, Doctor?

9 A Yes.

10 Q Do you recognize what that is, Exhibit 333?

11 A It's a chart written by David Garrison.

12 Q And is it from the 8th Street clinic?

13 A Yes.

14 MR. GELBERG: Your Honor, the Government moves
15 Exhibit 333 into evidence?

16 THE COURT: Very well.

17 (Whereupon Government's Exhibit 333 is admitted hereto.)

18 MR. GELBERG: If we could bring up page nine,
19 please...

20 BY MR. GELBERG:

21 Q Do you see that in front -- do you see that in
22 front of you, Doctor?

23 A Yes.

24 Q And it says that the -- that the ordering
25 doctor -- do you see at top it says "Dr. Santiago"?

1 A Yes.

2 Q Do you see any signature on the bottom?

3 A No.

4 Q If we could look at page 12, please, and if we
5 could blow up the exam notes...

6 Now, are these examination notes, Dr. Santiago?

7 A Yes.

8 Q For -- for this patient?

9 A Yes.

10 Q Do you see your signature there?

11 A No.

12 Q And can you remind the jury what it means, if
13 your signature isn't on the examination notes?

14 A It means it was not shown -- the chart was not
15 shown to me or the patient was not discussed.

16 Q And if the chart was not shown to you, would
17 you be able to assess a treatment plan for the patient?

18 A No.

19 Q Would you be able to talk about what
20 medications the patient needs?

21 A No.

22 Q Would you be able to talk about what type of
23 pain killers, if any, are appropriate?

24 A No.

25 Q And would you be able to decide that OxyContin

1 A Yes.

2 Q And could that be dangerous?

3 A Yes.

4 Q You talked about -- on cross-examination some
5 of the tests that were ordered by the clinic?

6 A Yes.

7 Q And some of those tests were NCV's?

8 A Yes.

9 Q And those NCV's would be billed to medi-cal in
10 your name?

11 A Yes.

12 Q And you would get paid for them?

13 A Yes.

14 Q But the clinic did not have an NCV machine?

15 A Yes.

16 Q And so no NCV's were performed at the clinic?

17 A That's correct.

18 MR. GELBERG: May I have a moment, Your Honor?

19 THE COURT: Yes.

20 MR. GELBERG: Nothing further. Thank you.

21 **RECROSS EXAMINATION**

22 BY MR. BELTER:

23 Q Dr. Santiago, we're going to ask you to take a
24 look at -- I believe that is PAGE 13 of Exhibit 333
25 which was just proffered and admitted.

1 Those are the prescriptions that counsel was
2 just referring to with respect to Mr. Global Russell; is
3 that right?

4 A Yes.

5 Q And you're telling us that those, in fact, are
6 your signatures on the prescription; correct?

7 A Yes, that's correct.

8 Q And you're telling us -- or you testified that
9 that is not your handwriting as far as filling out the
10 prescription?

11 A That's correct.

12 Q Okay. Do you recognize whose handwriting it
13 is?

14 A No.

15 Q You've told us that you would give
16 Mr. Mikaelian anywhere from 10 to 20 prescriptions that
17 were blank a day?

18 A Yes.

19 Q And that's in essence almost everyday that you
20 worked there?

21 A Yes.

22 Q Did you know that Mr. Mikaelian was having your
23 prescriptions filled out and sent to pharmacies?

24 A No.

25 Q You never found that out?

1 Q Okay. Now, I'm showing you a page four of the
2 same patient file; do you recognize that gentleman in
3 that photograph? It looks as if it is Massachusetts --
4 like a driver's license?

5 A Uh-huh, no.

6 Q You never saw that gentleman?

7 A No.

8 Q Not that you recall; is that right?

9 A Right.

10 Q And we've -- we've already covered this, but
11 again, you worked until just like 1:00 o'clock. And
12 then you would leave everyday; is that right?

13 A That's right.

14 Q And there were -- Mr. Garrison would stay and
15 work with other doctors?

16 A That's correct.

17 Q That's what you understood; right?

18 A Yes.

19 Q Okay.

20 When the United States attorney asked you
21 whether or not you may have seen an upwards of 2,800
22 plus patients, I believe you just said that you think
23 you might have seen that many patients?

24 A Yes.

25 Q Now, making it clear, that's 2,800 patients,

1 not 2,800 files?

2 A Yes.

3 Q Okay. So to make it clear, you think you may
4 have seen upwards of 2,800 patients while you were
5 working at the Street clinic?

6 A Some of them might have -- might have seen with
7 the physician's assistants.

8 Q Some of them might have seen the physician
9 assistants?

10 A Uh-huh.

11 Q But otherwise, you may have seen that many
12 people?

13 A Uh-huh.

14 Q Is that yes?

15 A Yes.

16 Q Some additional questions with respect to the
17 step-up of the -- of the pain medication...

18 It sounds as if part of the evaluation was
19 based on oral history. That is, you waited -- that is
20 you had a patient tell you what kinds of medications
21 they'd received before?

22 A Yes.

23 Q And based on that oral history, you would
24 prescribe
25 a Schedule II medication or narcotic, based on just the

1 oral history?

2 A Yes.

3 Q Okay. Is that -- is that a practice that you
4 engaged in prior to working at the 8th Street clinic?

5 A No.

6 Q Something you started doing at the 8th Street
7 clinic?

8 A Right.

9 Q Did anyone tell you not do that?

10 A No.

11 Q Did you feel that that was an appropriate
12 practice of medicine?

13 A I -- I -- yes. I felt pressure on it though,
14 because the patient said they would have been -- they
15 would have been on it for quite a while.

16 Q Okay. I didn't quite hear everything you said.

17 A The patient would tell me that they had been on
18 the OxyContin for quite a while.

19 THE COURT: State your answer one more time. I
20 couldn't quite hear it.

21 THE WITNESS: The patient would claim to be on
22 OxyContin for quite a while.

23 BY MR. BELTER:

24 Q And that would be part of the oral history that
25 you would be taking as part of the evaluation or the

1 diagnoses prior to starting a treatment plan?

2 A Yes.

3 Q So you did rely on oral history --

4 A Yes.

5 Q -- in many cases; is that right?

6 A Yes.

7 Q And all your years of practicing as a
8 physician, is that an appropriate way to diagnose and to
9 set up a treatment plan based on oral history?

10 A It's only part of it. It would be nice to have
11 verification from other physicians but most of the
12 physicians have either closed their clinic or retired.

13 Q Okay. You know what a HIPAA release form is?

14 A Yes.

15 Q And what's that, just so the jury is aware?

16 A That's a release of medical information form to
17 get medical information from other medical providers.

18 Q Did you either direct other staff or -- or
19 Mr. Garrison to obtain HIPAA release forms --

20 A Yes, they --

21 Q -- from patients?

22 A Yes, we have a routine form in the chart for
23 medical information release.

24 Q All right. Okay. Thank you. No further
25 questions. Cross?

1 recruiters bringing patients who were being paid that
2 you knew in October of '08 and you knew that that was a
3 sign that fraud was being committed; right?

4 A Yes.

5 Q And you never told the jury that, did you?

6 A No.

7 Q It's another lie; right?

8 A Yes.

9 THE COURT: Anybody else?

10 MR. JOHNSTON: No, Your Honor.

11 MR. BELTER: No, Your Honor.

12 THE COURT: Thank you, ma'am. You're excused.

13

14 MS. MORTON-OWENS: Your Honor, the United
15 States calls Dr. Michael Ferrante.

16 GOVERNMENT'S WITNESS, FRANCIS FERRANTE, SWORN.

17 COURTROOM DEPUTY: Sir, please state your full
18 name and spell your last name for the record.

19 THE WITNESS: Francis Michael Ferrante, F as in
20 Frank, e-r-r-a-n-t-e.

21 COURTROOM DEPUTY: Thank you.

22 **DIRECT EXAMINATION**

23 BY MS. MORTON-OWENS:

24 Q Dr. Ferrante, what do you do for a living?

25 A I practice pain medicine.

1 Q And how long have you practiced pain medicine?

2 A Oh, for about 20 years.

3 Q Is pain medicine new?

4 A Um, as their specialty, it's relatively new,
5 yes. I was one of the first fellowship trained people
6 in the state. So it's only about 20 years old or so;
7 maybe a little longer.

8 Q And you said that you are licensed so practice
9 pain medicine, did I get that right?

10 A No. I'm licensed to practice in the state of
11 California, but pain medicine is really a Board
12 certification.

13 Q And can you briefly describe your educational
14 background for the jury.

15 A Sure. I attended Tulane University in New
16 Orleans and obtained a BS, Bachelors of Science. And I
17 then went to medical school at New York Medical College;
18 I graduated and did an internal medicine residency at
19 Emory University, in Atlanta. I then thought I was
20 going to go into infectious disease and spent a year
21 doing a fellowship at
22 Barnes Hospital in Washington University, in St. Louis.
23 I then decided to make a career change, went into
24 anesthesiology; went back to Emory and completed the
25 residency. Then I went to the Brigham and Women's

1 Hospital at Harvard to do a pain fellowship.

2 Q What is anesthesiology?

3 A Anesthesiology is a field of medicine or
4 specialty in medicine that has to deal with relieving
5 pain and making people insensate for surgery, though
6 it -- it's -- these days it has graduated from the
7 operating room to way outside the operating room.

8 Q When did you have your fellowship in pain
9 management at Harvard University?

10 A Oh, about 1986 to '87.

11 Q So they had fellowships for pain management
12 in -- in that year?

13 A Yes, they did.

14 Q Have you held any faculty positions?

15 A Yes, I have.

16 Q Can you briefly explain for the jury what
17 faculty positions you've held.

18 A I went on to be the associate director and the
19 director at -- of pain medicine at Brigham's Hospital at
20 Harvard; stayed there till 1995. I then went to the
21 University of Pennsylvania and Philadelphia and ran
22 their pain program till about 2001; 2001. In 2001 I
23 came to California and have been the director of pain
24 medicine at UCLA since that time.

25 Q You've been the director of pain management at

1 UCLA since 1991; did I get that right?

2 A 2001.

3 Q I'm sorry.

4 A No problem.

5 Q You mentioned a Board certification. What is
6 Board certification?

7 A When you complete a residency which is advanced
8 training outside of medical school which is basically in
9 your specialty area, you then pass an examination. That
10 examination may be written. It may be oral. It may be
11 both. And then basically you are deemed if you pass
12 that examination process to be certified as, you know, a
13 consultant in that particular field.

14 Q And you're Board-certified in pain management?

15 A Yes, I am.

16 Q How long have you been Board-certified in pain
17 management?

18 A Since they first gave it, which I think is
19 1993.

20 Q Are you a member of any associations related to
21 pain management?

22 A Sure. I'm a member of the American Society of
23 Regional Anesthesia in Pain Medicine. I am a member of
24 the -- you know, the American -- basically American Pain
25 Society; the International Association Study of Pain;

1 International Institution Research Society and a few
2 others.

3 Q Have you heard of the American Academy of Pain
4 Medicine?

5 A Yes, I have.

6 MS. MORTON-OWENS: Can you publish
7 Government's Exhibit 1153, page 35. It's already in
8 evidence.

9 BY MS. MORTON-OWENS:

10 Q Do you see that certificate?

11 A Yes.

12 Q And to join the American Academy of Pain
13 Medicine, do you have to be Board-certified?

14 A I don't know.

15 Q Would a one-week course in Honolulu qualify as
16 being Board-certified in pain management?

17 A No.

18 THE COURT: Sorry. Did you see there is a
19 Board in Pain Management?

20 THE WITNESS: It is -- it is -- the way you get
21 Board certification in pain management is through either
22 the American board of Anesthesiology the American Board
23 of Neurology, the American Board of Physical Medicine
24 and Rehabilitation. You have to go through their
25 residencies; then there's a collective examination from

1 those three groups, and you can then obtain the
2 certification that way.

3 THE COURT: But it's not a separate Board?

4 THE WITNESS: No, sir, it is not.

5 THE COURT: Because I think of Boarding like if
6 you go to a -- an orthopedic surgeon. Many of them are
7 boarded. They've had a very rigorous residency; they
8 have an oral exam; they -- they have written exam, and
9 then if they are successful, then they're Board.

10 THE WITNESS: Well, it's the same process. It
11 just comes from three different Boards.

12 THE COURT: Right. But it's not a separate --
13 I just want -- I just didn't understand. It's a
14 separate

15 pain -- there's not a separate pain management. If you
16 go to the doctor, it says "Boarded in pain management."

17 THE WITNESS: Well, it says Board certif- -- it
18 says "Qualifications in pain medicine from the Board
19 of," and then it's the three separate Boards.

20 THE COURT: So you're already Boarded in
21 those -- in one?

22 THE WITNESS: Correct. Correct, sir.

23 THE COURT: I see. But that's the exam; the
24 anesthesiology or the orthopedics or whatever it is.
25 That's where the Board is.

1 THE WITNESS: Well, you have to do at least a
2 year's worth of extra training in order to be able to
3 sit for the qualifications in pain medicine.

4 THE COURT: Is it a separate Board.

5 A It's not a separate Board.

6 THE COURT: Okay. Thank you. Go ahead.

7 BY MS. MORTON-OWENS:

8 Q But, Dr. Ferrante, you said you have to take a
9 full year beyond one of the three Boards you mentioned
10 in order to be certified in pain management.

11 A Correct.

12 Q So it's actually above and beyond being
13 certified in one of the other three that you mentioned?

14 A Correct.

15 Q And are you Board-certified in one of those
16 other three?

17 A I'm Board-certified in internal medicine and
18 anesthesiology.

19 Q Have you ever authored any materials related to
20 pain management?

21 A Yes.

22 Q And can you briefly describe some of the
23 materials you've drafted just in the last, say, decade?

24 A I've edited two books on pain medicine. I've
25 written maybe close to 50 peer-reviewed articles, maybe

1 25 chapters in books and a number of miscellaneous
2 publications.

3 Q Have you had any faculty positions related to
4 pain management?

5 A Yes, I have.

6 Q And can you describe the pain -- the faculty
7 pain management positions that you've held.

8 A I began as an assistant professor at Harvard;
9 and as I said, I was the director of the pain center at
10 Brigham & Women's Hospital at Harvard. I was an
11 associate and full professor of anesthesiology and
12 Internal Medicine at the University of Pennsylvania and
13 also ran their pain program. And then I came to
14 California where I am the director of the pain program
15 at UCLA and a full professor of anesthesiology and
16 internal medicine.

17 Q And are you licensed to practice in more than
18 just the state of California?

19 A No, I'm not.

20 Q Have you consulted with any drug companies?

21 A Yes, I have.

22 Q And can you describe what you -- what your
23 consultation activities have been with drug
24 manufacturers?

25 A Many times when a company wishes to have

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ELZA BUDAGOVA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

PROOF OF SERVICE

I, David A. Schlesinger, declare that on April 17, 2019, as required by Supreme Court Rule 29, I served Petitioner Elza Budagova's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to him, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

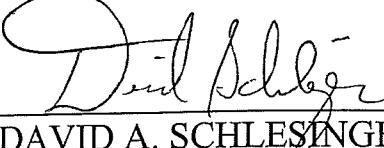
The Honorable Noel J. Francisco, Esq.
Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W., Room 5614
Washington, DC 20530-0001
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner Elza Budagova., by depositing an envelope containing the documents in the United States mail, postage prepaid, and sending it to the following address:

Elza Budagova
c/o Armen Shahbyza
Los Angeles, CA 90029

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 17, 2019



DAVID A. SCHLESINGER
Declarant