

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 V) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

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1 every bottle of OxyContin that ships to a pharmacy; is that
2 right?

3 A Correct.

4 Q

5 MS. MORTON-OWENS: If you can turn to page ten...
6 Blow up the "abuse" section.

7 BY MS. MORTON-OWENS:

8 Q Dr. Sullivan, are these some of the warning labels that
9 are provided on each bottle of OxyContin that is delivered to
10 a pharmacy?

11 A Yes.

12 Q Turn to page 12...

13 And, Dr. Sullivan, are these some of the
14 precautions that are listed on each one of the package
15 inserts that accompanies the bottle of OxyContin sent to a
16 pharmacy?

17 A Yes.

18 MR. SHERMAN: Excuse me, I'll object. I can
19 approach sidebar; but basically, this is irrelevant.

20 THE COURT: Well, he's just saying what is there.
21 He's not offering opinions about it. Overruled.

22 MS. MORTON-OWENS: If you can blow up the "general
23 advice" about OxyContin...

24 MR. SHERMAN: Your Honor, if we could have a
25 sidebar about this...

1 what that there are limits placed, regardless of what they
2 are, by drug wholesalers on the amount they sell to
3 individual pharmacies?

4 A I've heard that from pharmacists, but I've never seen
5 anything -- any concrete data as to what those are or
6 anything; but I've heard pharmacies tell me that.

7 Q Okay. And have you ever heard pharmacies tell you that
8 in order to exceed those threshold limits, they have to
9 provide information to the drug wholesaler about why they
10 need more controlled substances?

11 A I never -- I never have talked to them beyond that as to
12 what they needed to do to get what they ordered. So I'm
13 sorry.

14 THE COURT: Is this a convenient time?

15 MS. PODBERESKY: Yes, this is fine, Your Honor.

16 Okay. Thank you. Very well.

17 I will see you tomorrow, ladies and gentlemen, at
18 9:00 a.m.

19 (Whereupon proceedings adjourned.)

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1 LOS ANGELES, CALIFORNIA; THURSDAY, OCTOBER 9, 2014

2 -o0o-

3 (COURT IN SESSION AT 9:07 A.M.)

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

5 COURTROOM DEPUTY: Calling items 1 through 5,
6 CR 11-00922(B)-DDP: United States of America v. Mikaelian,
7 et al.

8 Let the record reflect that all counsel and parties
9 are present. To the witness, you've been previously sworn.
10 You are still under oath.

11 THE WITNESS: Yes.

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

13 **GOVERNMENT'S WITNESS, DONALD SULLIVAN, PREVIOUSLY SWORN.**

14 THE CLERK: Please state your name for the record.

15 THE WITNESS: Donald Sullivan.

16 THE CLERK: Thank you very much.

17 THE COURT: Okay. All right.

18 Okay. Good morning, folks.

19 **CROSS-EXAMINATION (RESUMED)**

20 BY MS. PODBERESKY:

21 Q Good morning, Dr. Sullivan.

22 A Good morning.

23 Q How are you?

24 A Fine.

25 Q I just have a few more points I want to go over with you

1 Did I get that right?

2 A Yes.

3 Q Let's publish Government's Exhibit 954, page 25...

4 And this sheet indicates whether or not the patient
5 in the last six months had been dispensed a controlled
6 substance. Did I get that right?

7 A Yes.

8 Q And this says no they had not?

9 A There was no prescription dispensed for a controlled
10 substance.

11 Q Can you withdraw from a substance you're not taking?

12 A No.

13 MS. MORTON-OWENS: One moment.

14 No further questions.

15 THE COURT: Very well. Thank you. You're excused.

16 THE WITNESS: Thank you so much.

17 THE COURT: Okay. We'll take a 20-minute break.

18 (Recess.)

19
20 (Whereupon the following held in the presence of the jury:)

21 THE COURT: Mr. Gelberg?

22 MR. GELBERG: Thank you, Your Honor. The
23 Government calls Jeanette Tachedjian to the stand.
24 Ms. Tachedjian will be assisted by Armenian-language
25 interpreter.

1 the microphone -- or once we resolve our technical
2 difficulties, it will pop up on the screen.

3 There we are...

4 Ma'am, do you see the name at the bottom page one
5 of this -- of this exhibit?

6 A Yes, this is my name.

7 Q And if we could turn to page eight, please. And if we
8 can blow that up for the witness.

9 Now, again, thinking back to that medical clinic in
10 Los Angeles that you went to, when you got there, do you
11 remember filling out forms -- paperwork?

12 A Paper? I was signing only. I didn't read.

13 Q I'm sorry. What was that last part.

14 A I was only signing papers.

15 Q I understand.

16 And looking at the very top of this page eight, do
17 you recognize the handwriting there?

18 A Yes.

19 Q And is that your handwriting?

20 A No, this is not.

21 Q Now, if we could bring up pages 3 and 7 of Exhibit 277
22 next to each other, please.

23 A Can you turn the picture a little bit big --

24 Q Now, ma'am, looking at the document on the left-hand
25 side first which is page three of Exhibit 277, if we could

1 blow up the handwriting and the signature.

2 A This is not my handwriting.

3 Q And what about the signature, is that your signature?

4 A It is similar, but not the same signature. The
5 signature is my signature but a little different.

6 Q So it looks similar to your signature but the
7 handwriting is not yours?

8 A Handwriting is not mine.

9 Q Now, if we could back out for page seven --

10 A Oh, no.

11 Q -- and blow up the bottom where the sticker is, please.

12 Do you see that sticker, ma'am, on the screen?

13 A Yes, I am seeing that.

14 Q Have you ever had someone named Ash or Ash take care of
15 you?

16 A Ashot -- Ashot?

17 Q Ash S.?

18 A No.

19 Q Has someone named Ash S. ever delivered medications to
20 you?

21 A No.

22 Q Has someone named Ash. S. ever brought you OxyContin?

23 A No.

24 Q Now, if we could look at please page five of
25 Exhibit 277. And if we could blow up that -- including the

1 signature too at the bottom, please.

2 A Yes, this is my signature.

3 Q So looking at the bottom of page five of Exhibit 277,
4 you recognize that as your signature?

5 A Yes.

6 Q What about the handwritten name further up?

7 A No.

8 Q That clinic in Los Angeles, do you see the address there
9 on 8th Street -- are you able to read that?

10 A Yes. I'm not familiar with the address.

11 Q But the clinic that you went to with your neighbor where
12 the person came and picked you up, do you ever remember going
13 back to that clinic to pick up OxyContin?

14 A No.

15 Q Now, thinking about the first time you went to the
16 clinic, did you get an examination?

17 A Yes, blood test.

18 Q A blood test?

19 A Yes.

20 Q Did you see a doctor?

21 A I don't remember. I don't remember.

22 Q But you remember getting a blood test?

23 A Yes.

24 Q Did you ever receive a prescription on that first time
25 that you went there -- receive a prescription for a

1 medication?

2 A No.

3 Q Did anyone tell you -- did you ask for a prescription
4 for OxyContin?

5 A No.

6 Q Did anyone at the clinic ever tell you that you needed
7 to take OxyContin?

8 A No.

9 Q If we could bring up page 27 of Exhibit 277, please --
10 I'm sorry 27.

11 Now, without highlighting it too much, ma'am, can
12 you read that on the page. Are you able to see what's there?

13 A Here to the left? No, I cannot see.

14 Q Let's blow it up.

15 A It's very small.

16 Q I know. It's very small.

17 Ma'am, is that a copy of your California
18 identification?

19 A Yes.

20 Q And is that a copy of your Medi-cal card?

21 A Yes.

22 Q And do you remember providing information to the clinic
23 in Los Angeles like your driver's license and Medi-cal card?

24 A Medi-cal card and medical card.

25 Q Ma'am, if we could -- let me ask it this way: Do you --

1 an exam when she went there?

2 A I don't remember if I went with her inside or I waited
3 for her outside. I don't remember that much.

4 Q And do you know from being at the clinic with her if she
5 was given a prescription for OxyContin?

6 A I don't know if they gave her prescription. She takes
7 only her regular medications, not pain killers.

8 Q As far as you know, she's not taken a pain killer?

9 A No.

10 Q Now, ma'am, did you ever go to that clinic in
11 Los Angeles on consecutive days, say like a Monday and then
12 go back on a Tuesday to get more tests done?

13 A No.

14 Q So you never went on back-to-back days?

15 A No.

16 Q And do you know if Ms. Jalnekrian ever went on
17 back-to-back days to get tests done?

18 A I don't know. I have no idea.

19 MR. GELBERG: Now, let me -- if I may show you a
20 few prescriptions, and I'll just use the overhead here -- I'm
21 sorry. Actually, before we do that -- before we do that, if
22 we could bring up -- the Government would move into evidence
23 Government's Exhibit 800 which is a photograph.

24 THE COURT: Very well.

25 (Whereupon Government's Exhibit 800 is admitted hereto.)

1 BY MR. GELBERG:

2 Q Ma'am, looking at the screen, do you see that picture?

3 A Yes, I see.

4 Q It says -- it has a sign B&B Pharmacy; do you see that?

5 A Yes.

6 Q Have you ever gotten OxyContin from B&B Pharmacy?

7 A No, no.

8 Q Now, ma'am, at the clinic, were you ever paid for going
9 to the clinic?

10 A Yes.

11 Q How much were you paid?

12 A \$100.

13 Q Each time that you went?

14 A Yes.

15 Q And about how many times did you go to the clinic?

16 A Maybe two times.

17 Q And who paid you?

18 A Somebody, I don't know. A guy. I don't remember. When
19 we reached home, he gave us money.

20 Q So you don't remember the person, but it was the man who
21 brought you from home to the clinic and back?

22 A No -- yes. Yes, it was a long time. I don't remember
23 the face or who -- his name. I don't remember.

24 Q But he gave you a hundred dollars for going?

25 A Yes.

1 Q And do you know if he paid your mother when she went?

2 A Yes.

3 Q And do you know if he paid Ms. Jalnekrian when she went
4 to the clinic?

5 A I think so.

6 Q Ma'am, are you able to read that okay?

7 A Yes.

8 Q Now, do you see it's a prescription in your name -- and
9 I apologize. I think I mispronounced your name when I called
10 you to the stand. How do you pronounce your name?

11 A T-a-c-h-e-d-j-i-a-n.

12 Q And that's a prescription for you for OxyContin,
13 80 milligrams. And do you see the date down there,
14 November of 2009?

15 A Yeah, I have never taken this medication.

16 Q Never taken OxyContin?

17 A No.

18 Q And there's a doctor's name at the top. It says, Knebel
19 August, MD?

20 A I don't know.

21 Q You don't know that doctor?

22 A I don't know this, no.

23 Q Now, let me -- let me blow this up. Are you able to
24 read that, ma'am?

25 A Yes.

1 Q So this -- again, this has your name, Jeanette
2 Tachedjian?

3 A Yes.

4 Q And it says OxyContin?

5 A Again, OxyContin here.

6 Q Do you see that in the middle? It's a little bit small.
7 And at the bottom, do you see it says "patient paid \$1,245"
8 and then it's cut off?

9 A What is this?

10 Q Well, let me ask you, ma'am: Have you ever -- did you
11 ever have \$1,245 to pay for medication?

12 A Oh, no. No, no. Never, no.

13 Q And I'll just show you one more. There's a few
14 prescriptions. I'll just show you a couple more, so we can
15 keep moving. So again, this is for your name -- in your
16 name, can you read that?

17 A Yes.

18 Q Have you ever been to a Kenneth Thomas as a doctor?

19 A No.

20 Q And what about David Garrison as a physician assistant?

21 A No.

22 Q And this is, again, for OxyContin. And this is the next
23 month. Do you see at the bottom December of 2009?

24 A Uh-huh.

25 Q And this is the back again in your name. And here, it

1 says "patient paid \$1,245.22"?

2 A No, I never paid this amount.

3 Q You never paid that amount of money for a prescription?

4 A No, never.

5 Q I'm going to show you -- I'm sorry. For the record,
6 that was Government's Exhibit 814, in evidence. And the
7 prior exhibit was Government's Exhibit 813, in evidence.

8 I'm publishing Government's Exhibit 816...

9 Is this your neighbor -- is that a copy of an
10 identification for your neighbor?

11 A Yes, Juliette. This is Juliette.

12 Q And this is a prescription in her name for OxyContin?

13 A I don't know.

14 Q Oh, can you -- are you able to read that? It's a little
15 bit hard to read.

16 A It's kind of hard. A little bit hard for me to read. I
17 am able -- the other rest, I cannot read what --

18 Q Do you know what kind of medical insurance
19 Ms. Jalnekrian has?

20 A I don't know about her, what kind of insurance she has.

21 Q Okay.

22 MR. GELBERG: Thank you. One moment, Your Honor.
23 No additional questions at this time.

24 THE COURT: Any questions?

25 **CROSS-EXAMINATION**

1 BY MR. BELTER:

2 Q Good morning.

3 You told us that you went to the clinic with your
4 mom -- your mother --

5 A Yes.

6 Q -- and Ms. Jalnekrian?

7 A Juliette.

8 Q Juliette. You all WENT -- you went together?

9 A Yes.

10 Q Who had the idea to go to the clinic?

11 A I don't remember. I had very back pain. I needed
12 doctor.

13 Q Well, did you speak to somebody to get a referral to the
14 clinic?

15 A I don't remember who took me over there.

16 Q Okay. Was -- was the gentleman a male?

17 A Yes.

18 Q Would he -- would you be able to characterize him as
19 a -- an Armenian gentleman?

20 A Yes, he was Armenian.

21 Q Okay. And did you know him from the community?

22 A No.

23 Q Did you -- you didn't know him at all?

24 A No.

25 Q But you trusted him to get in the car with him?

1 A Yeah.

2 Q So how did you get to -- to that point? Did you get a
3 referral that this gentleman would come by and take you and
4 your mother and your neighbor to the clinic?

5 A Yes.

6 Q Okay. Who -- who gave you the referral?

7 A I don't remember how I heard about this method. I heard
8 that they will -- we will go there and we will cut our nails
9 for seniors for my mother -- especially for my mother.

10 Q So you were looking to have your nails cut?

11 A Yes.

12 Q Okay. And your mom -- excuse me -- your mother was
13 about 90 years old at the time?

14 A 88, 89 -- five years ago.

15 Q So you were told that this was a clinic where those
16 types of --

17 A Where they cut nails for elderly people.

18 Q And when you arrived at the clinic, were you assisted to
19 get into the clinic? Did somebody help you to get into the
20 clinic? Did somebody direct you to the clinic? It was the
21 first time you'd ever been there; correct?

22 A Yes.

23 Q So did somebody help you find --

24 A The nurses -- oh, there were nurses coming, giving me
25 papers and signing. I am only signing.

1 Q And the nurses that were helping you sign the papers,
2 would you describe them as Armenian ladies?

3 A They were speaking english. I don't -- they were not
4 speaking Armenian with me.

5 Q Was anybody at the clinic who could speak Armenian?

6 A I don't know.

7 Q When you -- when you were filling out the papers, did
8 anybody help go through the papers with you or read the
9 papers?

10 A No. They just gave me the papers, sign here; I sign and
11 give back to them.

12 Q And was -- were people directing your neighbor,
13 Juliette and your mother to do the same thing?

14 A Yes.

15 Q And was that an in Armenian or english?

16 A I don't know.

17 Q You don't remember?

18 A The nurse talked to me. She was talking english with
19 me.

20 Q Okay. And you were then speaking with your neighbor and
21 your mom?

22 A Yes.

23 Q Were you speaking Armenian to them?

24 A Yes.

25 Q Okay.

1 Do you only go to the -- did you go to the clinic
2 just one time or did you go a number of times?

3 A Maybe two or three times; maybe two times. I don't
4 remember exactly.

5 Q Okay. Did you go with the idea that you were going to
6 have your nails manicured or have your nails done?

7 A The -- the nails cutting only, not nail polish.

8 Q Okay. Thank you.

9 But did you ever go to the clinic with the idea
10 that you were going to get medication?

11 A No, I did not.

12 Q When you went to the clinic, the other times, the either
13 one or two more times, did you -- were you given a ride to
14 the clinic?

15 A Yes.

16 Q And was that by the same gentleman?

17 A I don't remember if he was the same guy.

18 Q Okay. Each time that you went to the clinic, would this
19 be correct that you were given a ride by an Armenian
20 gentleman?

21 A Yes, he was Armenian gentleman.

22 Q Okay. And the individual who was -- who gave you the
23 money, you told us you received a hundred dollars at least
24 once or maybe twice?

25 A Yes.

1 Q How are you familiar with that phrase?

2 A We just -- we take it as when somebody sends a claim to
3 us, whether that's paper or through electronic means -- we
4 expect that claim to be true, accurate and complete when it
5 comes in -- when it leaves the provider office and comes in
6 for processing no matter how it gets to us.

7 Q Does Medi-cal require its providers, like doctors or
8 clinics to keep any records?

9 A Yes.

10 Q What kind of records?

11 A Medical records.

12 Q So like the patient chart?

13 A Patients' medical records.

14 Q And for how long are the providers, like doctors
15 required to keep those patient records for Medi-cal?

16 A They're actually required to keep them for a minimum of
17 three years from date of service.

18 Q And why does Medi-cal require its doctors or other
19 providers to keep records?

20 A In case our audits and investigations needs to go back
21 and pull records. Our over-utilization team, our auditors.

22 Q So if Medi-cal wants to check up on what was going on,
23 it wants to make sure there are records it can look at?

24 A Yes.

25 Q Have you reviewed Medi-cal claims that were submitted

1 between 2008 and 2010 from a medical clinic located at
2 2120 West 8th Street, in Los Angeles?

3 A Yes.

4 Q And was that for a specific provider?

5 A Yes.

6 Q And who was the provider?

7 A Eleanor Santiago.

8 Q And I think you have it right in front of you,
9 Government's Exhibit 1652 in a folder. Do you see that?

10 A Yes.

11 Q Do you recognize Government's Exhibit 1652?

12 A Yes.

13 Q How do you recognize it?

14 A My initials are on the CD.

15 Q And what's on the CD -- Government's Exhibit 1652?

16 A It was a records of claims data that I reviewed.

17 Q For Eleanor Santiago at 2120 West 8th Street?

18 A Yes.

19 MR. GELBERG: Your Honor, at this time, the
20 Government moves Government's Exhibit 1652 into evidence.

21 THE COURT: Very well.

22 (Whereupon Government's Exhibit 1652 is admitted hereto.)

23 BY MS. MORTON-OWENS:

24 Q Now, the fact that there are Medi-cal claims for Eleanor
25 Santiago at that address on 8th Street, does that mean she

1 was a Medi-cal provider at the time?

2 A Yes.

3 Q Are you familiar with the term "medical necessity"?

4 A Yes.

5 Q Does Medi-cal have a -- a working definition of medical
6 necessity that it uses?

7 A There's a basic term; that when we train, we actually
8 state that services being provided need to be deemed
9 reasonable and necessary -- so justified.

10 Q So for someone who is part of the Medi-cal program, they
11 can only submit -- is it right to say they can only submit
12 claims for payment for services that are medically needed for
13 the patient?

14 A Correct.

15 Q Now, the claim -- the -- the disc of data, we won't look
16 at it, but did that include claims for payment for nerve
17 conduction velocity studies?

18 A Yes.

19 Q For various types of ultrasound?

20 A Yes.

21 MR. SHERMAN: Excuse me. I'm going to object
22 because I think this is all irrelevant.

23 THE COURT: Overruled.

24 BY MR. GELBERG:

25 Q I'm sorry. For ultrasounds -- are there claims for

1 ultrasounds?

2 A Yes.

3 Q And pulmonary function tests?

4 A Yes.

5 Q Among other types of tests?

6 A Yes.

7 Q Now, would Medi-cal consider a claim submitted by a
8 provider to be true, accurate and complete if the services
9 being billed for were never actually performed?

10 A Can you repeat that question.

11 Q Sure. So let's say I'm a doctor --

12 A Uh-huh.

13 Q -- and I'm billing for an ultrasound, would it be right
14 to say that the claim is true, accurate and complete if I
15 never actually did the ultrasound that I'm billing for?

16 A Yes, when we receive it without knowing, yes.

17 Q Medi-cal wouldn't know whether I did it or not, but if I
18 didn't do the service and I billed for it, is it accurate to
19 bill for something I didn't do?

20 A No.

21 Q And what about if the -- it was not medically necessary
22 to perform the services. Does that information Medi-cal
23 would want to know before it paid a claim?

24 A Yes.

25 Q Now, as part of the data that you provided, were you

1 asked to look at specific types of ultrasounds?

2 A Yes.

3 Q And were those ultrasounds for both the upper part of
4 the body and the lower part of the body?

5 A Yes.

6 Q Going back to that time period of 2000 to 2010, did
7 Medi-cal have any rules about providers billing for
8 ultrasounds on the upper part of the body and the lower part
9 of the body on the same day?

10 A Yes, we did. There was policy in place that states one
11 service per recipient per provider, per date of service.

12 Q So one ultrasound per patient by a certain doctor per
13 day?

14 A Yes.

15 MR. GELBERG: Thank you, Your Honor. No further
16 questions.

17 THE COURT: Any questions?

18 **CROSS-EXAMINATION**

19 BY MR. BELTER:

20 Q Hi. Good morning.

21 A Good morning.

22 Q Are you familiar with the NPI number that a medical
23 provider has?

24 A Yes.

25 Q And just -- just to -- what is the NPI number?

1 Ms. Shishalovsky, what city do you live in?

2 A I currently live in Canoga Park, California.

3 Q Are you at all trained in the medical field?

4 A Yes.

5 Q What is your training in the medical field?

6 A I am a medical assistant.

7 Q What is a medical assistant?

8 A We're trained in basic medical skills which is taking
9 blood pressure, vena punctures, and taking some of the
10 history for the patients.

11 Q Are you familiar with a medical clinic called Lake
12 Medical Group, located at 2120 West 8th Street?

13 A Yes, I am.

14 MS. MORTON-OWENS: Your Honor, we will be
15 publishing page two of Government's Exhibit 2 which is
16 already in evidence.

17 BY MS. MORTON-OWENS:

18 Q Is that the entrance to Lake Medical Group?

19 A Yes, it is.

20 Q And how are you familiar with the clinic?

21 A I used to be employed there.

22 Q Who hired you?

23 A I was hired by Anjelika Sanamian and Mike Mikaelian.

24 MS. MORTON-OWENS: Can you put side by side
25 Government's Exhibits 9 and 10 which are already in

1 evidence...

2 BY MS. MORTON-OWENS:

3 Q And, Ms. Shishalovsky, are these photographs Exhibit 9,
4 being Mike Mikaelian and Exhibit 10 being Anjelika Sanamian?

5 A Yes, it is.

6 Q When did they hire you?

7 A About 2008.

8 Q Was the clinic already open when you started working
9 there?

10 A No.

11 Q So were you one of the first employees at the
12 Lake Medical Group?

13 A Yes.

14 Q Who else was hired alongside you to work at Lake Medical
15 Group?

16 A There were several doctors and medical assistants and
17 MA.

18 Q Were you hired?

19 MS. PODBERESKY: I'm sorry. I'm just having
20 trouble hearing the witness.

21 THE COURT: I'm having a little trouble too, ma'am.

22 BY MS. MORTON-OWENS:

23 Q You said that there was an MA. Were you hired to be an
24 MA originally at the Lake Medical Group in 2008?

25 A No.

1 Q What were you hired to do?

2 A I was hired as a receptionist at the front desk.

3 Q And did you work for Lake Medical Group the entire time
4 it was open?

5 A Yes.

6 Q What was Mike Mikaelian's job at the clinic based on
7 your working there?

8 A He was one of the bosses.

9 Q And Anjelika Sanamian?

10 A As well, one of the bosses.

11 Q Let me publish Government's Exhibit 11, which is already
12 in evidence.

13 Who is depicted in Government's Exhibit 11?

14 A That is Ashot Sanamian. He is the son of
15 Anjelika Sanamian.

16 MS. MORTON-OWENS: May we publish Government's
17 Exhibit 12 and 13...

18 BY MS. MORTON-OWENS:

19 Q And who is depicted in Government's Exhibit 12?

20 A That is Dr. Halfon and Dr. Santiago.

21 Q And did they work at the Lake Medical Group with you?

22 A Yes.

23 Q Did you based on that have an opportunity to interact
24 with them on a daily basis during the week?

25 A Yes.

1 Q And did you get to know their schedules for how
2 frequently they would come in?

3 A Yes.

4 Q And how many patients they would see?

5 A Yes.

6 Q And generally what they would do in their conduct at the
7 clinic?

8 A Yes.

9 Q What was Dr. Halfon's schedule?

10 A He was mostly there everyday from opening till closing.

11 Q And what about Dr. Santiago?

12 A Mostly she was there everyday in the morning.

13 MS. MORTON-OWENS: Can we publish -- one second,
14 please -- can you please place Government's Exhibit 14. It
15 is also a photograph in front of the witness...

16 Unless there is any objection, I would move
17 Government's Exhibit 14 into evidence.

18 THE COURT: Very well.

19 (Whereupon Government's Exhibit 14 is admitted hereto.)

20 MS. MORTON-OWENS: Can you publish Government's
21 Exhibit 14.

22 BY MS. MORTON-OWENS:

23 Q Who is depicted in Government's Exhibit 14?

24 A That is Dr. Woodward.

25 Q Did Dr. Woodward actually work at the Lake Medical

1 Group?

2 A He was employed there.

3 Q How long was he employed there?

4 A The whole time we were there.

5 Q And how frequently would you see Dr. Woodward?

6 A Not very often.

7 Q When you say "not very often," was he there every week?

8 A No.

9 Q Once a month?

10 A About that.

11 Q So Government's Exhibit 16 which is already in
12 evidence...

13 And who is depicted in Government's Exhibit 16?

14 A That is Dr. Susan Seideman.

15 Q Did Dr. Seideman go to the clinic everyday?

16 A Not everyday.

17 Q How frequently did Seideman go to the clinic?

18 A I -- I could say probably two to four times a week.

19 Q What about a Dr. August Knebel. If you could show
20 Government's Exhibit 15...

21 How often did Dr. Knebel go to the clinic?

22 A He was there everyday.

23 Q Based on working at the clinic, did you also become
24 familiar with an Elza Budagova?

25 A Yes, I was.

1 Q And if you could look in this courtroom, do you see
2 Elza Budagova in this courtroom?

3 A Yes.

4 Q Can you please point out what she's wearing?

5 A She is wearing a black blouse.

6 Q And is there anything -- is she -- besides the black --
7 Your Honor, for the record may the record reflect --

8 MR. CANTALUPO: I stipulate that it's
9 Elza Budagova.

10 BY MS. MORTON-OWENS:

11 Q Based on working at the clinic, did you all become
12 friendly while working at the clinic?

13 A Yes.

14 Q Can you look at Government's Exhibit 44...

15 MS. MORTON-OWENS: May I have 44 before the
16 witness...

17 Thank you.

18 BY MS. MORTON-OWENS:

19 Q Are you familiar with this photograph?

20 A Yes, I am.

21 Q How are you familiar with the photograph?

22 A That was a picture taken at the Christmas party.

23 MS. MORTON-OWENS: The Government would move
24 Government's Exhibit 44 into evidence.

25 THE COURT: Very well.

1 (Whereupon Government's Exhibit 44 is admitted hereto.)

2 MS. MORTON-OWENS: Publish page 44.

3 BY MS. MORTON-OWENS:

4 Q You said this was a photograph taken during the
5 Christmas party; is that right?

6 A Correct.

7 Q And are these all people who worked at Lake Medical
8 Group?

9 A Yes.

10 Q Can you please going from left to right, starting in the
11 back, explain who the people are.

12 A The first person on there is Mr. Ceboyan (phonetic).

13 Q What's his first name?

14 A Suckle (phonetic).

15 Q And next to him?

16 A Next to him is Alex' girlfriend at that time.

17 Q Who is Alex?

18 A Alex is our MA.

19 Q And next to the girlfriend?

20 A Next to the girlfriend is Alex.

21 Q That's the MA?

22 A The MA.

23 Q And the back in the red shirt?

24 A Edgar; Betty; Mike; Marine; myself; Angela; and then at
25 the bottom row is Anjelika Sanamian, Jenny; Elza Budagova,

1 where did you sit?

2 A I sat at the front desk.

3 Q Based on that, did you see how patients came to Lake
4 Medical Group?

5 A I did.

6 Q How were patients brought working -- how did patients
7 get to Lake Medical Group?

8 A They usually came several people at a time or were
9 brought in by somebody who was responsible for them -- a
10 capper.

11 Q When you say -- you use the word "capper," what is a
12 capper?

13 A A capper is somebody who brought patients into the
14 clinic in return for money.

15 Q Did the clinic accept walk-in patients?

16 A No, it did not.

17 Q So no one could just go to this clinic?

18 A No.

19 Q What about call and make an appointment. Could you just
20 call and make an appointment to Lake Medical Group?

21 A No.

22 Q Did you have to come in through a capper?

23 A Yes.

24 Q I'm going to show you Government's Exhibit 1745 which is
25 a CD?

1 They're admitted. Correct, except the last one
2 that you mentioned.

3 MS. MORTON-OWENS: Correct, Your Honor. 1745 is
4 the entirety of the video. We're only going to move in the
5 clips instead of the --

6 THE COURT: So not 1745 but everything else; right?

7 MS. MORTON-OWENS: Yes, Your Honor.

8 THE COURT: Okay. Those are all admitted.

9 MS. MORTON-OWENS: Thank you for that
10 clarification.

11 (Whereupon Government's Exhibits Government's Exhibit 1746
12 through 1753; 1755 through 1757; and 1760 through 1768 are
13 admitted hereto.)

14 MS. MORTON-OWENS: You may continue publishing.

15 (Whereupon video is played in open court.)

16 BY MS. MORTON-OWENS:

17 Q Do you recognize that as being one of the receptionists,
18 informing someone that they do not -- that the clinic does
19 not accept walk-ins?

20 A Yes.

21 Q Was there a specific population that you observed being
22 capped or recruited into the clinic?

23 A Yes, I have.

24 Q And what population was that?

25 A Mostly homeless people and low income people.

1 Q Based on -- of the population that was being recruited
2 to the -- to the clinic, how frequently did fights break out
3 at the clinic?

4 A Mostly everyday.

5 Q And the individuals, how did you know that they were
6 mostly from the homeless population?

7 A Usually by the way they dressed, the way they looked and
8 the way they acted and the way they smelled at times.

9 MS. MORTON-OWENS: Could you publish Government's
10 Exhibit 1753, which is in evidence...

11 (Whereupon video is played in open court.)

12 BY MS. MORTON-OWENS:

13 Q How frequently did activities like that take place where
14 the office actually smelled so bad someone had to come in and
15 spray it?

16 A Usually everyday.

17 MR. SHERMAN: I'll object as being irrelevant.

18 THE COURT: Overruled.

19 BY MS. MORTON-OWENS:

20 Q You mentioned that there were specific individuals that
21 did the recruiting, the capping; is that right?

22 A Yes.

23 MS. MORTON-OWENS: The Government moves
24 Government's Exhibit 31 into evidence. It's also a
25 photograph.

1 THE COURT: Very well.

2 (Whereupon Government's Exhibit 31 is admitted hereto.)

3 MS. MORTON-OWENS: You may publish Exhibit 31...

4 BY MS. MORTON-OWENS:

5 Q Who's depicted in Government's Exhibit 31?

6 A That is Maria.

7 Q And who is Maria?

8 A She was one of the cappers.

9 Q She was one of the cappers as well?

10 A Yes.

11 Q And did she cap in specific types of people -- a
12 specific population?

13 A Usually Hispanics.

14 Q And was Maria responsible for capping in individuals
15 with any specific healthcare insurance?

16 A Yes.

17 Q What healthcare insurance?

18 A Medi-cal and medicare.

19 MS. MORTON-OWENS: Can you publish Government's
20 Exhibit 32 which is already in evidence...

21 BY MS. MORTON-OWENS:

22 Q And who's that?

23 A That is David Smith.

24 Q Did he go by any other name besides David Smith?

25 A Yes, Green Eyes.

1 Q And what was Green Eyes' job at the clinic?

2 A He was also one of the cappers.

3 Q Did the clinic also issue prescriptions for OxyContin in
4 David Smith's name?

5 A Yes.

6 Q And how do you know that?

7 A Because he had the charts in the clinic.

8 Q Are you familiar with someone named Bernard Harris?

9 A Yes.

10 MS. MORTON-OWENS: The Government would move
11 Government's Exhibit 34, Mr. Clerk, into evidence.

12 THE COURT: Is that a photo?

13 MS. MORTON-OWENS: It is, Your Honor.

14 THE COURT: Very well.

15 (Whereupon Government's Exhibit 34 is admitted hereto.)

16 BY MS. MORTON-OWENS:

17 Q Do you recognize the person depicted in Government's
18 Exhibit 34?

19 A Yes.

20 Q And who is that?

21 A That's Mr. Harris.

22 Q Did Mr. Harris have a job at Lake Medical Group?

23 A Yes, he was a capper.

24 Q He brought in patients as well?

25 A Yes.

1 release?

2 A Yes.

3 Q And was that true?

4 A No.

5 Q Based on work at the clinic, do you know if the cappers,
6 like Mr. Harris, Green Eyes, and Maria, were they paid?

7 A Yes.

8 Q Who paid them?

9 A Mike Mikaelian.

10 Q Did you pay cappers at times?

11 A Yes.

12 Q What about the patients; were the patients paid?

13 A Yes.

14 Q How do you know that?

15 A Because we would hand them money for -- to the capper
16 for the patients.

17 Q How much -- how would the money be delivered from the
18 people at the clinic -- working at the clinic to the capper?

19 A In an envelope.

20 Q And did you ever hand the envelopes of cash to the
21 cappers?

22 A I did.

23 Q Was there a difference in how much a capper would be
24 paid based on if the person had Government insurance like
25 medicare or medi-cal?

1 A Yes.

2 Q What was the difference?

3 A We would pay them more if they had both medicare and
4 medi-cal.

5 Q Why?

6 A Because then we could get the prescription for them --
7 written out for them.

8 Q Would medicare and Medi-cal also be billed for tests
9 that were never performed if the person had medicare and
10 Medi-cal and no tests be performed if they did not have that
11 insurance?

12 A Correct.

13 Q Was that for almost all patients?

14 A Yes.

15 Q If a patient had -- are you familiar with something
16 called medicare, part D coverage?

17 A Yes, I am.

18 Q What is medicare, part D coverage?

19 A It covers prescription medications.

20 Q And was medicare, part D coverage something that the
21 cappers were instructed to try to get?

22 A Yes.

23 Q And if an individual had medicare, part D coverage how
24 much were they paid to come to the clinic?

25 A Anywhere from 450 to \$500.

1 Q And was that with your understanding that then the
2 OxyContin would be covered by medicare, part D?

3 A Yes.

4 Q And approximately how much was each patient paid if they
5 had no insurance?

6 A About \$50.

7 Q About how many individuals came into the clinic for
8 purported treatment on a given day?

9 A Anywhere from 20 to 50 people a day.

10 Q Once a patient was recruited to the clinic, what was the
11 first step in processing that individual?

12 A We would ask them for their insurance cards and check
13 their eligibility, and then we would give them the patient
14 forms to fill out and complete.

15 Q Were the patients, based on your observations, ever
16 given instructions on how to complete the forms?

17 A Yes.

18 Q What were they told to do?

19 A They were told to fill out the top part which is the
20 basic information: address, phone number and to sign all the
21 papers.

22 Q Were they told not to date the papers?

23 A Yes.

24 Q Why were they told not to date the paperwork?

25 A Because we could manipulate the chart at a later date.

1 A They were Dr. Santiago's charts.

2 Q And were there other colored charts -- and it was based
3 on which purported doctor was going to see the patients?

4 A Yes.

5 Q Once a patient completed the paperwork, what was the
6 next step in processing the patient?

7 A They would go in to see the medical assistant.

8 Q Before they went to see any kind of doctor?

9 A Correct.

10 Q And what would be done typically once the patient was
11 brought in with the medical assistant?

12 A They would take their blood pressure, height, and
13 weight, and then the puncture, and the EKG.

14 MR. JOHNSTON: I'm sorry, Your Honor. Could the
15 witness repeat that. It's hard to hear.

16 THE WITNESS: I'm sorry. We would take their blood
17 pressure; height and weight; blood work, then the puncture,
18 and an EKG.

19 BY MS. MORTON-OWENS:

20 Q So EKG's and blood work were performed before any
21 purported medical professional saw the patient?

22 A Yes.

23 Q Performed on the patient, regardless of why the patient
24 was there?

25 A Yes.

1 MS. MORTON-OWENS: May we have Government's
2 Exhibit 349 placed before the witness...

3 BY MS. MORTON-OWENS:

4 Q Is this one of the medical charts from Lake Medical
5 Group?

6 A Yes.

7 Q And this is the from the 8th Street location?

8 A Correct.

9 MS. MORTON-OWENS: Government moves Government's
10 Exhibit 349 into evidence.

11 THE COURT: Very well.

12 (Whereupon Government's Exhibit 849 is admitted hereto.)

13 MS. MORTON-OWENS: Publish 849.

14 BY MS. MORTON-OWENS:

15 Q Ms. Shishalovsky, what is this form?

16 A This is a flow sheet that would demonstrate what tests
17 were performed on that particular date.

18 Q Was this form fraudulently created?

19 A Yes.

20 Q You'd pretend that tests were being performed when, in
21 fact, they weren't?

22 A Yes.

23 Q And the doctors weren't really ordering the majority of
24 the tests, were they?

25 A Yes.

1 Q Is that right?

2 A Correct.

3 Q In fact, the doctors weren't seeing the majority of the
4 patients, were they?

5 A No.

6 Q Who decided which tests were being performed?

7 A Anjelika Sanamian gave us instructions on how to
8 complete the forms.

9 Q Who -- besides yourself, who did Anjelika instruct on
10 how to complete the forms?

11 A Several girls at the front desk and myself and the
12 doctors.

13 Q Did Anjelika Sanamian instruct Elza Budagova on these
14 forms?

15 A Yes.

16 Q Did the 8th Street location have an ultrasound machine?

17 A Yes.

18 Q And were ultrasound machines performed on patients
19 regardless of if the patient needed it or not?

20 A Yes.

21 Q Did you observe situations where the ultrasounds weren't
22 even performed at all, but it was the chart reflected that
23 they were?

24 A Yes.

25 Q How frequently did that happen?

1 A Most of the time usually.

2 Q Did a patient ever actually return two days in a row,
3 meaning on a Monday and then a Tuesday to get two different
4 ultrasounds?

5 A No.

6 Q How were the charts created in order to make it look
7 like that happened?

8 A The ultrasounds would reflect a date to a later day.

9 Q So they were bogus?

10 A Yes.

11 Q Did you see circumstances where defendant Budagova would
12 alter the patient chart in order to make it appear as if an
13 ultrasound had been ordered and conducted?

14 A Yes.

15 Q How frequently did you see that?

16 A Usually most of the time.

17 MS. MORTON-OWENS: May I have Exhibit 268 placed
18 before the witness.

19 The Government moves Exhibit 268 into evidence.
20 Mr. Clerk, 268...

21 THE COURT: Very well.

22 (Whereupon Government's Exhibit 268 is admitted hereto.)

23 BY MS. MORTON-OWENS:

24 Q Ms. Shishalovsky, is this another medical chart from the
25 Lake Medical Group, the 8th Street location?

1 A Yes.

2 MS. MORTON-OWENS: If you could publish page 62...

3 BY MS. MORTON-OWENS:

4 Q Is this an example of some of the fraudulent reports
5 that would come back that would say that an ultrasound had
6 been done on various days but it had not been?

7 A Yes.

8 Q You can pull that down.

9 Did the 8th Street location have an NCV machine?

10 A No.

11 Q What is an NCV?

12 A I believe, it's a nerve conduction machine.

13 Q But the 8th Street location didn't even have the
14 equipment to perform that test?

15 A No.

16 Q Did you observe circumstances where defendant Budagova
17 would alter charts to make it appear as if an NCV had been
18 conducted when it had not?

19 A Yes.

20 Q How frequently did you see that happen?

21 A Several times.

22 MS. MORTON-OWENS: And you go again to Government's
23 Exhibit 349, which was just admitted -- and go to page 56...

24 BY MS. MORTON-OWENS:

25 Q Do you recognize these reports?

1 A Yes, I do.

2 Q And how do you recognize them?

3 A Those are NCV reports.

4 Q Where did the clinic get these reports?

5 A They were brought back into the clinic after they were
6 ordered.

7 Q But they weren't really reflecting that any test had
8 actually been performed, did they?

9 A No.

10 Q These were all made up?

11 A Yes.

12 Q And the patients' names were changed; is that right?

13 A Yes.

14 Q But the information, otherwise would stay the same?

15 A Correct.

16 Q Who brought these -- these reports into the clinic?

17 A Ashot Sanamian.

18 Q What about a PFT machine; did the clinic have a PFT
19 machine?

20 A Yes, we did.

21 Q Did anyone ever use the PFT machine?

22 A No.

23 Q So if the charts reflect PFT tests being performed, is
24 that a lie?

25 A Yes.

1 Q Did you ever see defendant Budagova ordering tests for
2 PFT and then reflecting those tests being done when in fact
3 they had not?

4 A Yes.

5 Q Are you familiar with a drug called OxyContin?

6 A Yes.

7 Q How are you familiar with that drug?

8 A It's a drug that we used to prescribe to the patients in
9 the clinic.

10 Q All the patients?

11 A All the patients.

12 Q Based on your observations and what you and your -- what
13 you, in fact did, did, all the patients -- or most of the
14 patients get OxyContin, 80 milligrams?

15 A Yes.

16 Q And who gave the instructions that OxyContin,
17 80-milligram prescriptions were to be written for every
18 patient?

19 A Anjelika and Mike Sanamian -- Anjelika Sanamian and Mike
20 Mikaelian?

21 Q And did you know when you were assisting them in filling
22 out those prescriptions for OxyContin, that those OxyContin
23 bottles were going to come without legitimate medical
24 purpose?

25 A Yes.

1 Q As no one at the clinic actually need OxyContin; is that
2 right?

3 A No.

4 Q And the patients in whose names the prescriptions for
5 OxyContin were written, they didn't actually get the drugs,
6 did they?

7 A No.

8 Q Did you ever observe the doctor's pre-signing
9 prescriptions?

10 A I have.

11 Q How frequently did that happen?

12 A All the time.

13 Q Do you see -- I'm sorry -- do you know defendant
14 David Garrison?

15 A I do.

16 Q And do you see him in this courtroom?

17 A I do.

18 Q What's it for he wearing?

19 A He's wearing a suit and a brown and black tie.

20 Q Did you work with defendant -- I'm sorry -- would the
21 record reflect that defendant David Garrison has been
22 identified?

23 THE COURT: Yes.

24 BY MS. MORTON-OWENS:

25 Q Did you work with David Garrison on a regular basis?

1 A Yes.

2 Q How soon after you started did defendant Garrison start
3 working at the clinic?

4 A I don't exactly remember the time but about a couple of
5 months into it.

6 Q And what is your understanding of his medical training?

7 A I believe he is a physician's assistant.

8 Q Did you see defendant David Garrison pre-signing
9 prescriptions?

10 A Yes.

11 Q Based on your working with both defendants Garrison and
12 defendant Budagova, did you become very familiar with their
13 handwriting?

14 A Yes, I have.

15 Q Do you recognize their handwriting when you see it?

16 A Yes, I do.

17 Q What about their signatures, do you recognize their
18 signatures when you see it?

19 A Yes.

20 MS. MORTON-OWENS: At this time, we'd publish
21 Government's Exhibit 131 that is already in evidence...

22 If could you blow that up...

23 BY MS. MORTON-OWENS:

24 Q Do you see the bottom there, that signature; who's
25 signature is that?

1 Q After the prescriptions were pre-signed, you'd get them
2 in stacks; is that right?

3 A Yes.

4 Q And who would complete the pre-signed prescriptions?

5 A Either myself or a PA, Elza, whoever saw the patient at
6 that time.

7 Q You mentioned Elza Budagova. Did I get that right?

8 A Yes.

9 Q What was your understanding of her medical training?

10 A I believe she was a doctor in Russia.

11 Q Why do you believe she was a doctor in Russia?

12 A I believe that was told to me on one of the
13 conversations we had.

14 Q How do people refer to defendant Budagova at the clinic?

15 A Dr. Elza.

16 Q The same as people referred to Dr. Garrison?

17 A Yes.

18 Q And how frequently did you see Elza Budagova completing
19 the pre-signed prescriptions?

20 A All the time.

21 Q Did you actually sit next to her at times and the both
22 of you would complete the pre-signed prescriptions?

23 A Yes.

24 Q And the patients were actually nowhere near you when you
25 were doing that, were they?

1 A Correct.

2 Q What about defendant Garrison, did you see defendant
3 Garrison completing the pre-signed prescriptions?

4 A Yes.

5 Q How often?

6 A Very often.

7 Q Did you see how frequently defendant Garrison would
8 interact with the actual doctors, like Dr. Santiago and
9 Dr. Halfon?

10 A Other than just greeting and saying hello, not very
11 often.

12 Q There would be no interaction that you observed?

13 A No.

14 Q What about between defendant Budagova and the actual
15 doctors, like Dr. Santiago or Dr. Halfon?

16 A No, not that I remember.

17 Q Once the prescriptions were completed, that's usually in
18 a stack; right?

19 A Correct.

20 Q Once the prescriptions were completed, what would happen
21 with them?

22 A They would go to the capper -- back to the capper and
23 back for all the patients.

24 MS. MORTON-OWENS: At this time, the Government
25 move -- oh -- I apologize -- Government's Exhibit 26 is

1 the runner went to the pharmacy and got the OxyContin?

2 A We would generally get a phone call to verify the
3 prescription.

4 Q And what would you do when you got the phone calls?

5 A We would go over the names and what was written on them
6 and verify that they're legitimate prescriptions.

7 MS. PODBERESKY: I'm really sorry, Your Honor. I'm
8 just having such trouble hearing the witness.

9 THE COURT: Bend that right up.

10 BY MS. MORTON-OWENS:

11 Q So if I heard you right, you would verify that the
12 prescriptions were legitimate?

13 A Correct.

14 Q You'd get phone calls and say, Yes, these prescriptions
15 were written out of this clinic?

16 A Yes.

17 Q Was that for K-Mack's patients?

18 A For all patients.

19 Q And what would happen after the bottles of OxyContin
20 would come -- what would happen next with the bottles of
21 OxyContin?

22 A They would come back to the clinic.

23 Q And then what would happen?

24 A They would be given to Mike Mikaelian.

25 Q Did you ever see the labels removed from the bottles of

1 OxyContin?

2 A Yes.

3 Q Did you ever see the pills counted?

4 A Yes.

5 Q Do you know what Mike Mikaelian would do with the
6 OxyContin once he got it?

7 A He would sell it.

8 Q Do you know who he sold it to?

9 A No.

10 Q And were you ever there when it was sold?

11 A No.

12 Q How do you know he sold it?

13 A Because he paid me with the money that he would get from
14 that.

15 Q Were almost everyone at the clinic paid in cash?

16 A Yes.

17 Q And did you see large sums of cash at the clinic?

18 A Yes.

19 Q How frequently did you see large sums of cash?

20 A Most of the time.

21 Q You mentioned before that the doctors would pre-sign
22 prescriptions and documents would be forged. Did I get that
23 right?

24 A Yes.

25 Q Was that including prescriptions and other

1 documentation?

2 A Correct.

3 MS. MORTON-OWENS: The Government would publish
4 Government's Exhibit 165, which is in evidence...

5 THE COURT: Very well.

6 BY MS. MORTON-OWENS:

7 Q Is this a sheet of someone practicing Dr. Halfon's name?

8 A Yes.

9 Q And did you see that happen frequently?

10 A Yes.

11 MS. MORTON-OWENS: Government's Exhibit 166 which
12 is already in evidence...

13 If you could go to page two, please...

14 BY MS. MORTON-OWENS:

15 Q Is this someone who's forged Dr. Seideman's name and
16 actually spelled it wrong?

17 A Yes.

18 Q Going back to defendant Garrison...

19 You mentioned that you would see him interacting
20 with patients. Did I get that right?

21 A Correct.

22 Q Did you ever hear David Garrison refuse to write a
23 prescription for OxyContin?

24 A Not that I know of.

25 Q What about defendant Budagova, did you ever hear

1 defendant Budagova refuse to write a prescription for
2 OxyContin?

3 A No.

4 Q Are you familiar with a delegation of services?

5 A Somewhat.

6 Q Did the 8th Street clinic keep files related to the
7 delegation of services?

8 A Yes.

9 MS. MORTON-OWENS: Publish Government's
10 Exhibit 100, which is already in evidence...

11 If could you go to, I believe, it's page three and
12 highlight the top...

13 BY MS. MORTON-OWENS:

14 Q Based on your familiarity with this handwriting, is that
15 David Garrison's handwriting?

16 A Yes.

17 Q And is this the delegation of services that the clinic
18 had with David Garrison?

19 A Yes.

20 Q If you could look at the pages showing page one,
21 page two, and page three; this one is blank. Did the clinic
22 ever have a completed one that you know of, or is this the
23 one they had?

24 A This is the one.

25 MS. MORTON-OWENS: Turn to Government's

1 defendant Garrison writing in charts for patients who never
2 came in?

3 A Yes.

4 Q Did you see defendant Budagova writing in charts for
5 patients who never came in?

6 A Yes.

7 Q How frequently would that happen?

8 A All the time.

9 Q Based on your working at the clinic, did you see
10 defendant Garrison writing prescriptions for OxyContin for
11 patients who never came in?

12 A Yes.

13 Q Based on your work at the clinic, did you see
14 defendant Budagova writing prescriptions for OxyContin for
15 patients who never came in?

16 A Yes.

17 Q How frequently would you see that happen?

18 A All the time.

19 Q Did defendant Budagova ever tell you while you were
20 working together, what she would tell the police if she ever
21 got in trouble?

22 A Yes, we did have a conversation.

23 Q What did she tell you she would tell the police if she
24 ever got in trouble?

25 A She told me that she would say that she was a volunteer.

1 Q Was she a volunteer?

2 A No.

3 MS. MORTON-OWENS: Can you publish
4 Government's Exhibit 1401 which I confirmed was in
5 evidence...

6 THE COURT: What is it?

7 MS. MORTON-OWENS: This is a document from the
8 clinic.

9 COURTROOM DEPUTY: It is in evidence.

10 THE COURT: It is?

11 THE CLERK: It is, Your Honor.

12 THE COURT: Very well.

13 BY MS. MORTON-OWENS:

14 Q Are you familiar with this as being the Rolodex that was
15 located at this time the Victory location of the 8th Street
16 clinic?

17 A Yes.

18 Q Can you highlight where it says "Elza." Is that
19 defendant Budagova?

20 A Dr. Elza, yes.

21 Q And based on your work at the clinic --

22 MR. CANTALUPO: Excuse me. What Exhibit Number was
23 that?

24 MS. MORTON-OWENS: 141.

25 BY MS. MORTON-OWENS:

1 BY MS. MORTON-OWENS:

2 Q Are you familiar with this pharmacy as being Mission
3 Pharmacy?

4 A Yes.

5 Q Was Mission Pharmacy one of the pharmacies that didn't
6 ever refuse the 8th Street clinic prescriptions?

7 A Yes, as far as I know.

8 Q And you personally went to Mission Pharmacy?

9 A Yes.

10 Q How many times did you personally go to Mission
11 Pharmacy?

12 A Once.

13 Q And why did you go there?

14 A To fill a prescription for OxyContin.

15 Q In your own name?

16 A Yes.

17 Q Did you go alone?

18 A No.

19 Q Who did you go with?

20 A I went with Dr. Elza and another girl from the front
21 desk.

22 Q And were prescriptions for OxyContin frequently written
23 in the employee's own name?

24 A Yes.

25 Q And you were one of those employees that got OxyContin

1 in your own name; is that right?

2 A Yes.

3 Q Let's talk about when you went to Mission Pharmacy with
4 defendant Budagova...

5 Can you bring us back to that day?

6 A Yes.

7 Q And were prescriptions written for OxyContin in both
8 your name and defendant Budagova's?

9 A Yes.

10 MS. MORTON-OWENS: Your Honor, at this time, we'd
11 -- one moment, Your Honor.

12 Your Honor, at this time we would move
13 Government's Exhibit 357 into evidence.

14 THE COURT: Very well.

15 (Whereupon Government's Exhibit 357 is admitted hereto.)

16 MS. MORTON-OWENS: Can you publish 357.

17 BY MS. MORTON-OWENS:

18 Q And is this a prescription for OxyContin written on
19 January 1st, 2009 in your name?

20 A Yes.

21 MS. MORTON-OWENS: Can you show that side by side,
22 Government's Exhibit 252 that I believe is in evidence...

23 COURTROOM DEPUTY: 252 is in evidence.

24 MS. MORTON-OWENS: Thank you.

25 One moment, Your Honor. That's the wrong exhibit.

1 I apologize. It's 255 which is also in evidence...

2 First one is 357 and 255 -- okay. 357 and 255...

3 BY MS. MORTON-OWENS:

4 Q And is that the prescription that was issued for

5 Elza Budagova?

6 A Yes.

7 Q For OxyContin?

8 A Yes.

9 Q Did you actually write that prescription for

10 Elza Budagova?

11 A I did.

12 Q And did you spell her name wrong?

13 A I did.

14 Q Why?

15 A Just a misspelled name.

16 BY MS. MORTON-OWENS:

17 Q Can you turn to page two of each of those exhibits.

18 Tell the jury what happened when you actually went to the

19 pharmacy with the prescriptions for OxyContin?

20 A We went in to the pharmacy and handed in our

21 prescriptions and we were told to wait for a few minutes and

22 then somebody called us up and we put our information on the

23 back of it and signed it and then we were told to wait.

24 Q And Government's Exhibit 357 which is on the left side

25 of your screen, is that your handwriting with your

1 information?

2 A Yes.

3 Q And on the right side of the page, which is Government's
4 Exhibit 255, is that defendant's Budagova handwriting?

5 A I believe so.

6 Q And what did you see her do when she walked up to the
7 counter in the pharmacy?

8 A The same thing I did; hand over the prescription and
9 write something on the prescription.

10 Q And after you and defendant Budagova completed the back
11 side of the prescription, what happened?

12 A We were told to wait.

13 Q How long did you wait?

14 A About ten minutes.

15 Q And then what happened?

16 A We were told that somebody is going to come and pick up
17 our -- our medication for us.

18 Q Did you actually pick get the OxyContin bottle?

19 A No.

20 Q And do you see where it says, "pick up Edgar"; do you
21 know who Edgar is?

22 A Yes, he is one of the drivers -- one of the runners.

23 Q Edgar Hovannisyan?

24 A Yes.

25 Q Do you know what happened to the bottle of OxyContin

1 that was written in your name?

2 A No.

3 Q Do you know what happened to the bottle of OxyContin in
4 defendant Budagova's name?

5 A No.

6 Q But neither of you needed OxyContin, did you?

7 A No.

8 Q Are you familiar with the pharmacies B&B Pharmacy,
9 Better Value, East L.A., Ontario, Rancho Cucamonga, and
10 Huntington pharmacies?

11 A Yes, I am.

12 Q Did you understand those pharmacies to be collectively
13 owned by one individual?

14 A I believe so.

15 Q And who did you believe owned all those pharmacies?

16 A Mr. Ted Yoon.

17 Q Do you see Mr. Ted Yoon in this courtroom?

18 A Yes, I do.

19 MR. NASATIR: The record can reflect --

20 THE COURT: The record will reflect that he's been
21 identified.

22 BY MS. MORTON-OWENS:

23 Q And how did the clinic first begin working with
24 defendant Yoon?

25 A Well, in the beginning, some of the runners would get

1 Q What about Dr. Seideman -- as far as you know, did
2 Dr. Seideman work at the Santa Monica location?

3 A I don't -- I don't believe so.

4 Q After the -- did the Santa Monica location close?

5 A I don't know.

6 Q You never worked there?

7 A No.

8 Q Did -- besides the Santa Monica location, did the
9 8th Street -- excuse me -- did Lake Medical Group ever
10 relocate to another location?

11 A Yes.

12 Q And where was that?

13 A On Victory Boulevard.

14 MS. MORTON-OWENS: Publish Government's Exhibit 6,
15 which is already in evidence...

16 BY MS. MORTON-OWENS:

17 Q And is this the Victory location?

18 A Yes, it is.

19 Q Did you work personally at this location?

20 A Yes.

21 Q And who worked with you at this location?

22 A Um, Alex, which is the MA; Elza Budagova; and Vicki at
23 the front desk.

24 Q What about David Garrison, did he work at the Victory
25 location?

1 A Yes. He signed the prescriptions and left them for us
2 to use.

3 Q Did you ever meet a Dr. Kenneth Thomas?

4 A No.

5 Q Did you ever see documents that were purportedly signed
6 by a Dr. Kenneth Thomas?

7 A Yes.

8 Q Do you know if they actually were signed by a
9 Dr. Kenneth Thomas?

10 A I don't know.

11 Q And who would use the pre-signed prescriptions for
12 Dr. Peter Farmer?

13 A Elza Budagova.

14 Q What about defendant David Garrison?

15 A Yes.

16 Q Who would use the pre-signed prescriptions for
17 Dr. Kenneth Thomas?

18 A Elza Budagova and Dr. Garrison and myself.

19 Q Did you ever get any telephone calls from what you
20 understood was defendant Yoon's pharmacies asking why
21 Dr. Santiago wasn't there anymore?

22 MS. PODBERESKY: Objection; leading.

23 THE COURT: Sustained on leading.

24 BY MS. MORTON-OWENS:

25 Q You mention that Dr. Santiago left and wasn't at the

1 Victory location; did I get that right?

2 A Yes.

3 Q When, if ever, did anyone call and ask what happened to
4 Dr. Santiago?

5 MR. SHERMAN: Your Honor, excuse me; that calls for
6 hearsay.

7 THE COURT: The date? She can answer the date.

8 MS. MORTON-OWENS: Yes. Did anyone?

9 THE WITNESS: No.

10 BY MS. MORTON-OWENS:

11 Q Did the police come and search the Victory location in
12 September of 2010?

13 A Yes.

14 Q Were you there when that happened?

15 A Yes.

16 Q Were there any doctors at the Victory location in
17 September when the police came and searched?

18 A No.

19 Q Was defendant Budagova there?

20 A Yes.

21 Q Did you see what defendant Budagova was doing when the
22 police came in to search the location?

23 A The same thing she was doing previously before they
24 came.

25 Q What is that?

1 Q All right. So you came in December of 2010 and you told
2 the Government a lot of things; isn't that right?

3 A Yes.

4 Q And were you honest at that point in time?

5 A About most of the things, yes.

6 Q But not everything; just most of the things?

7 A Yes, not everything.

8 Q Okay. And you told them at that time one of the things
9 you told them is that the clinic was designed to look as if
10 it was a real clinic; isn't that right?

11 A Yes.

12 Q Okay. And people at the clinic did everything possible
13 to make it look like it was a real medical clinic; isn't that
14 correct?

15 A Yes.

16 Q And there was a receptionist; right?

17 A Correct.

18 Q And there were patient files; isn't that correct?

19 A Yes.

20 Q And you actually were responsible at some point in time
21 for helping to create these patient files; isn't that right?

22 A Correct.

23 Q And there were examining rooms at the clinic?

24 A Yes.

25 Q And there was a whole staff of doctors, weren't there?

1 A Yes.

2 Q It was Dr. Halfon; is that right?

3 A Yes.

4 Q He was there every single day at 8th Street; isn't that
5 correct?

6 A Correct.

7 Q And there was Dr. Santiago; is that right?

8 A Yes.

9 Q And she came every single morning at the 8th Street
10 clinic?

11 A Yes.

12 Q And there was a Dr. Susan Seideman; isn't that correct?

13 A Correct.

14 Q And there was a Dr. Knebel; is that right?

15 A Yes.

16 Q And there was a Dr. Woodward -- or Woodward,
17 I believe?

18 A Yes.

19 Q And am I missing any other doctors? Was there any other
20 doctors there?

21 A There was.

22 Q Who else?

23 A Dr. Marine.

24 Q Okay. And who else?

25 A Don't remember anybody else.

1 Q So those seven doctors were at the clinic either all day
2 or part-time; isn't that right?

3 A Correct.

4 Q All right. In addition to having doctors, there were
5 also medical equipment around; wasn't there?

6 A Yes.

7 Q There was an ultrasound; is that correct?

8 A Yes.

9 Q And there was also testing being done; isn't that right?

10 A Yes.

11 Q People were weighed; isn't that correct?

12 A Correct.

13 Q Their blood pressure was taken?

14 A Yes.

15 Q Blood was drawn; isn't that right?

16 A Yes.

17 Q And urine samples were taken?

18 A Yes.

19 Q And those were actually sent out to an outside
20 laboratory; isn't that right?

21 A Correct.

22 Q And results were gotten back from all those testings;
23 right?

24 A Yes.

25 Q And that was all put into patient files?

1 A Yes.

2 Q And you put that stuff in patient files, didn't you?

3 A Yes.

4 Q Okay. And you knew all along that these were just
5 phony-baloney tests and phony-baloney patients; right?

6 A Yes.

7 Q Okay. Now, the purpose of creating these patient files
8 was to make them look -- and put all this documentation in
9 was to make it look real; isn't that right?

10 A Correct.

11 Q In case anybody was going to look in those files or ask
12 any questions, there would be something that looked real;
13 isn't that correct?

14 A Yes.

15 Q And it was also important to you that the clinic itself
16 looked real in case anybody walked in that my question it;
17 isn't that right?

18 A Yes.

19 Q Now, you started off -- you started off as a
20 receptionist you told us; is that right?

21 A Yes.

22 Q And then eventually you became a medical assistant?

23 A I was a medical assistant at the time I was a
24 receptionist.

25 Q So you were both, a receptionist and a medical

1 assistant?

2 A Yes.

3 Q And then at some point in time, you then became the
4 office manager?

5 A Correct.

6 Q All right. And you became the office manager around
7 September of 2009; isn't that right?

8 A About right.

9 Q Okay. And that's what you told the Government when they
10 first interviewed you; correct?

11 A Yes.

12 Q All right. Now, the doctors in this case, some of them
13 really didn't even know what was going on; isn't that right?

14 A Yes, that's right.

15 Q Okay. Especially I think Dr. -- you said Dr. Halfon,
16 you weren't even sure he really knew what was happening at
17 the clinic; right?

18 A Correct.

19 Q And he was there every single day; correct?

20 Now, you came after your interview in
21 December of 2010. You came back for another interview with
22 the Government in September of 2011 and that time you had a
23 lawyer; do you remember that?

24 A Yes.

25 Q Okay. And at that time, you actually signed something

1 called a "queen for a day"; do you remember that?

2 A Yes.

3 Q All right. And that is an agreement whereby you're
4 given basically what we call a limited immunity for what you
5 tell the Government. Whatever you say to them can't be used
6 against you, so long as you're truthful; right?

7 A Correct.

8 Q But if you lie, all bets are off; that's what you were
9 told; correct?

10 A Yes.

11 Q All right. So you signed an agreement on
12 September 21st, to tell the truth; right?

13 A Right.

14 Q To be candid; correct?

15 A Yes.

16 Q All right. And then the next day, you went in and you
17 had an interview with the Government; isn't that right?

18 A Yes.

19 Q Okay. Now, the first interview you had with the
20 Government in December of 2010, you never told them anything
21 about you receiving or selling any OxyContin pres --
22 OxyContin, did you?

23 A No.

24 Q All right. And the second time when you met with the
25 Government when you had this agreement, you were going to be

1 truthful and be candid, you didn't tell them anything about
2 your arrangement for selling OxyContin or OxyContin
3 prescriptions, did you?

4 A No.

5 Q You lied to them, didn't you?

6 A I did.

7 Q You did; right?

8 A Yes.

9 Q Yeah. And you lied a couple of times over the course of
10 your life?

11 A Over the course of -- yes.

12 Q Yeah. You lied every single time you wrote out a forged
13 prescription under Dr. Halfon's signature; right?

14 A Yes.

15 Q And there were -- how many of those prescriptions did
16 you write?

17 A I don't know.

18 Q Hundreds?

19 A I don't know.

20 Q Do you have a guess?

21 A No.

22 Q Lots anyway; right?

23 A Yes.

24 Q More than one?

25 A Yes.

1 another queen for a day letter; do you remember that?

2 A Yes.

3 Q Signed another agreement where you said, "I'm going to
4 be truthful"; right?

5 A Uh-huh.

6 Q "And I'm going to give you all the information I have";
7 right?

8 A Yes.

9 Q "And if I do all that, you won't use any of that
10 information against me," that was the terms of that
11 agreement; right?

12 A Yes.

13 Q Okay. Now, when you went in that time, which was on
14 February 3rd, 2012, at that time for the first time, you told
15 the Government that Mikaelian -- Mike Mikaelian offered you a
16 piece of the business; right?

17 A Yes.

18 Q He asked you if you wanted to get into the OxyContin
19 prescription business; right?

20 A No.

21 Q Well, didn't you tell the Government that Mike Mikaelian
22 explained to you that you would get \$450 for each OxyContin
23 prescription; remember that?

24 A Yes.

25 Q Okay. And that you agreed and you dealt with four to

1 five patients per month; right?

2 A Correct.

3 Q At \$450 a patient; correct?

4 A Yes.

5 Q All right. And eventually your business grew; right?
6 You got up to 15 patients a month; isn't that right?

7 A Yes.

8 Q And your patients went to the clinic on their own, and
9 they automatically went to you because they were people you
10 knew; right?

11 A Correct.

12 Q You recruited your friends -- and did you recruit some
13 family members?

14 A I did.

15 Q Okay. So you got your family involved in this scam;
16 right?

17 A I did.

18 Q You got some of your friends involved too?

19 A Yes.

20 Q And you profited on them, didn't you?

21 A I did.

22 Q You made \$450 on every single one of them; isn't that
23 right?

24 A No. I paid for the prescription \$450.

25 Q For every prescription that you got; right?

1 A Yes.

2 Q Every prescription that you gave to the clinic by
3 recruiting a person --

4 A Correct.

5 Q -- you were a recruiter, weren't you?

6 A No, they came to me. I wasn't recruiting anybody.

7 Q Well what? You went to your friends and you said, Hey,
8 come on over to the clinic; right?

9 A No, not to my friends. They were patients at the clinic
10 already.

11 Q Oh, okay. People that you already knew --

12 A Yes.

13 Q -- at the clinic.

14 And for those people, you got paid; right?

15 A Yes.

16 Q All right. So it was sort of like your private line of
17 patients, is that what it was?

18 A Yes.

19 Q And for every OxyContin prescription that the clinic
20 could generate for them, you got paid?

21 A Yes.

22 Q All right. So you were part of this drug conspiracy,
23 weren't you?

24 A In a way, yes.

25 Q Yeah, in a big way; right?

1 A Yes.

2 Q Because what was happening with those OxyContin
3 prescriptions is that OxyContin wasn't going to a patient;
4 was it?

5 A No.

6 Q It was going back to Mike Mikaelian; right?

7 A Correct.

8 Q And he was ripping the labels off the bottles; right?

9 A Correct.

10 Q You helped him rip those labels off the bottle at times?

11 A Yes.

12 Q Yeah. You did that too.

13 And he counted out the pills; right?

14 A Yes.

15 Q You saw him do that --

16 A Yes.

17 Q -- right?

18 A Yes.

19 Q And you counted the pills too, didn't you?

20 A I did.

21 Q And then those pills were sold to other people who sold
22 them out onto the streets; isn't that right?

23 A Yes.

24 Q And that's where all that cash came from --

25 A Correct.

1 Q -- wasn't it?

2 A Correct.

3 Q And you knew that all that; right?

4 A Yes.

5 Q And not withstanding that you were part of this drug

6 conspiracy, you didn't have to plead guilty to it, did you?

7 A No.

8 Q That's a deal of the century; isn't it? Wouldn't you

9 say?

10 A It's a good deal, yes.

11 Q Its a great deal; isn't it?

12 A Yes.

13 Q Now, do you know who Bernard Harris is?

14 A Yes.

15 Q Okay. Bernard Harris was a capper; wasn't he?

16 A Yes.

17 Q He was a guy who brought in patients at the clinic and

18 he got paid for doing that; isn't that right?

19 A Yes.

20 Q And you in the beginning of 2009, you assisted

21 Bernard Harris in lying to this Court, didn't you?

22 A I did.

23 Q And you did that because Bernard Harris had brought his

24 lawyer, David McLane, to the clinic; do you remember that?

25 A I don't remember that day.

1 the setting of the clinic; isn't that right?

2 A Yes.

3 Q Okay. And you indicated that you worked for his primary
4 care physician, Eleanor Santiago. Eleanor Santiago was never
5 his primary care physician, was she?

6 A No.

7 Q Now, you say here that you drop off -- well, you say
8 that you volunteered your time to help him outside the office
9 as his caregiver; is that true?

10 A Yes.

11 Q You did?

12 A Oh, he was my patient. Yes, I got paid for him. So I
13 did.

14 Q You have patients?

15 A No, he was one of my patients -- I bought prescriptions
16 for him from Mikaelian.

17 Q Oh, I see. So as -- as buying prescriptions for him, is
18 that what you said -- or from him?

19 A For him.

20 Q You bought prescriptions for him from Mikaelian?

21 A Yes.

22 Q And so that makes you his caregiver; is that right?

23 A Yes.

24 Q Okay. So you got these prescriptions for him. And then
25 what would he do with those prescriptions?

1 A I would get the prescriptions and they would be filled.
2 Q And they would be filled?
3 A And he would get paid.
4 Q And he would get paid for them --
5 A Correct.
6 Q -- And those were prescriptions for OxyContin?
7 A Yes.
8 Q And that was part of your drug dealing; right?
9 A Yes.
10 Q Okay. And you had -- you also represent in this letter
11 that you drop off and pick up his medication to and from the
12 pharmacy; right? That's true because that was part of the
13 drug dealing; right?
14 A I wrote that, but I've never dropped off at the pharmacy
15 these prescriptions.
16 Q Okay. Did you monitor his blood pressure?
17 A We did.
18 Q Okay. Did you do it?
19 A No.
20 Q Okay. Did you monitor the intake of his medication?
21 A No.
22 Q You never did that; right?
23 A No.
24 Q The only thing you monitored was the amount of OxyContin
25 prescriptions; right?

1 A Correct.

2 Q The ones that he was paid for and you were paid for;
3 right?

4 A Yes.

5 Q Okay. Now, you say here that you see the patient two to
6 three times a week. I guess that's true, because he came in
7 to cap at least that much; right?

8 A Yes.

9 Q Okay. So that's sort of true; isn't it?

10 A Sort of, yes.

11 Q Okay. But he really wasn't a patient of the clinic, was
12 he?

13 A No.

14 Q You represented that you were providing him some kind of
15 healthcare service; isn't that right?

16 A Yes.

17 Q And that's absolutely false?

18 A Yes.

19 Q And whoever was going to receive this letter, whether it
20 was his probation officer or his attorney or the Court, the
21 purpose was to fool them; wasn't it?

22 A Correct.

23 Q Now, in this letter, you say that he has several medical
24 conditions. He has hypertension; that's not true; is it?

25 A He told me he did.

1 LOS ANGELES, CALIFORNIA; FRIDAY, OCTOBER 10, 2014

2 -o0o-

3 (COURT IN SESSION AT 9:07 A.M.)

4 (Whereupon the following was held before the jury:)

5 THE CLERK: Calling items 1 through 5,

6 CR 11-00922-DDP: *United States of America v. David James*

7 *Garrison, Theodore Changki Yoon, Elza, Budagova, Phic Lim,*

8 *Perry Tan Nguyen.*

9 Let the record reflect that all counsel and parties
10 are present.

11 **GOVERNMENT'S WITNESS, JULIE SHISHALOVSKY, PREVIOUSLY SWORN.**

12 THE CLERK: To the witness, you've been previously
13 sworn. You are still under oath.

14 Please state your name for the record.

15 THE WITNESS: Julie Shishalovsky.

16 **CROSS-EXAMINATION (RESUMED)**

17 BY MS. PODBERESKY:

18 Q Ms. Shishalovsky, I would like to take you back to
19 April 8th, 2014...

20 Do you recall that you had a meeting with the
21 U.S. Attorney's office on that day?

22 A Yes.

23 Q And at that time, you told the U.S. Attorney's office
24 that you started working at the clinic. You were actually
25 given a salary; isn't that right?

1 A Correct.

2 Q What was the salary you started at the clinic?

3 A I started at \$1,000 every paycheck which is two weeks.

4 Q Okay. So \$2,000 a month?

5 A Yes.

6 Q And you were paid that and that was for your duties as a
7 receptionist; is that right -- you started at?

8 A Correct.

9 Q And then you moved on to the medical assistant; correct?

10 A Yes.

11 Q And during that period of time you were assisting in
12 creating false patient records; isn't that right?

13 A Correct.

14 Q Now, at some point in time while you were working at the
15 clinic, you also made a deal with Mike Mikaelian where you
16 would get prescriptions for free and then you could have
17 patients, and Mike Mikaelian or a capper would sell your
18 medications for you; isn't that right?

19 A Correct.

20 Q When did that start?

21 A I would say about six months into the job.

22 Q Okay. So you started in or about August of 2008; is
23 that right?

24 A About that.

25 Q Okay. So by February, March of 2009, you had

1 established your own patient base for drug dealing; isn't
2 that right?

3 A Yes.

4 Q Okay. Now, do you know a person named Sharon or
5 Sharon Russell?

6 A Yes.

7 Q Okay. And Sharon Russell is somebody that you sold
8 OxyContin to; isn't that right?

9 A Yes.

10 Q And Sharon Russell would purchase 10 to 20 bottles of
11 OxyContin, each containing 90 pills from you, wouldn't she?

12 A No, I never had that many.

13 Q You never had that many?

14 A No.

15 Q Do you know who Mike Derderian is; excuse me?

16 A Yes.

17 Q Okay. You identified him in one of the photos here in
18 court?

19 A Correct.

20 Q Would it surprise you to know that he told the
21 Government that you were selling Ms. Russell 10 to 20 bottles
22 of Oxy at a time?

23 A I don't know what he said to them.

24 Q How many times did you sell OxyContin to Ms. Russell?

25 A Several times.

1 Q How many is several?

2 A More than five.

3 Q More than five.

4 And that started in February, March of 2009?

5 A Yes.

6 Q And did that go all the way through towards to the end
7 of your employment at Lake Medical Group?

8 A No.

9 Q When did it end?

10 A When Mike Mikaelian became friends with Sharon.

11 Q And then Mike took her from you as a customer?

12 A Correct.

13 Q Okay. So you had one drug arrangement with
14 Mike Mikaelian whereby you would get prescriptions for free;
15 those are prescriptions written at the clinic; is that right?

16 A Yes.

17 Q And then you could have Mikaelian or a capper sell your
18 medications for you; is that right?

19 A Yes.

20 Q So that was one drug plan scheme that you had; correct?

21 A Yes.

22 Q And then another one that you had was with
23 Sharon Russell and other people where you would directly sell
24 them OxyContin; isn't that right?

25 A Yes.

1 Q And when you sold OxyContin to Sharon Russell and
2 others, how much money did you make?

3 A I don't know.

4 Q How much did you make?

5 A I don't know.

6 Q How much did you sell your Oxy for per pill?

7 A I didn't sell them per pill.

8 Q You sold them per bottle?

9 A Correct.

10 Q Okay. How much did you get per bottle?

11 A I don't remember. It was different every time.

12 Q How many people besides Sharon Russell did you sell
13 OxyContin to?

14 A I don't know.

15 Q More than five?

16 A About that.

17 Q About five, somewhere between 5 and 10 you'd say?

18 A About that.

19 Q Okay. And did you ever in any of the meetings you had
20 with the Government, did you ever tell them about Sharon
21 Russell?

22 A No.

23 Q You never told them that you were selling OxyContin?

24 A No.

25 Q To Sharon Russell, did you?

1 A Correct.

2 Q What was the salary you started at the clinic?

3 A I started at \$1,000 every paycheck which is two weeks.

4 Q Okay. So \$2,000 a month?

5 A Yes.

6 Q And you were paid that and that was for your duties as a
7 receptionist; is that right -- you started at?

8 A Correct.

9 Q And then you moved on to the medical assistant; correct?

10 A Yes.

11 Q And during that period of time you were assisting in
12 creating false patient records; isn't that right?

13 A Correct.

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15 clinic, you also made a deal with Mike Mikaelian where you
16 would get prescriptions for free and then you could have
17 patients, and Mike Mikaelian or a capper would sell your
18 medications for you; isn't that right?

19 A Correct.

20 Q When did that start?

21 A I would say about six months into the job.

22 Q Okay. So you started in or about August of 2008; is
23 that right?

24 A About that.

25 Q Okay. So by February, March of 2009, you had

1 A Correct.

2 Q And your close relationship with Mike and Anjelika is
3 how you ultimately got involved in selling OxyContin to your
4 own customers; isn't that correct?

5 A Correct.

6 Q And you were making before the 8th Street clinic closed,
7 you were making at least \$4,000 a month; right?

8 A Correct.

9 Q Plus you were also making money from your sale of
10 OxyContin; correct?

11 A That was a part of it.

12 Q That was a part of it?

13 A Yes.

14 Q The 4,000 was a part of it?

15 A Yes.

16 Q But that was pretty good money for you, wasn't it?

17 A Yes, it was.

18 Q And in December of 2010 when the 8th Street clinic
19 closed, it moved to where?

20 A Well, I was moved to the Victory location.

21 Q But wasn't there another location in between the
22 8th Street and the Victory location?

23 A Yes.

24 Q And you weren't asked to go there, were you?

25 A No.

1 Q And that's a date book; isn't it?

2 A Yes.

3 Q And can you flip through it and estimate about how many
4 pages are written in that date book?

5 A Two pages.

6 Q And there's more than a hundred pages; isn't there?

7 A Yes.

8 Q And the first date in that date book is August 20th of
9 2010?

10 A Yes.

11 Q And you were at the Victory clinic at that time?

12 A Yes.

13 Q And that is -- I'll show it to you -- show it to the
14 jury, so we know what we're talking about.

15 That is the document that has a notation that says
16 Elza paid 81815 a thousand dollars. And you created that
17 document; correct?

18 A Yes.

19 Q And that document is a lie just like all the other
20 documents you created; isn't it?

21 A No.

22 Q You paid Elza Budagova a thousand dollars?

23 A Yes, the money was given to me.

24 Q Money was given to you and given to her?

25 A Yes, to pay for all these things that are listed.

1 A We didn't see walk-ins. We would turn them either away
2 or pass them on to Dr. Maroney.

3 Q So which is the answer yes, there were walk-ins or no
4 there were not walk-ins?

5 A There were walk-ins, but we did not see them. We did
6 not accept walk-ins.

7 Q A person had to call and arrange to go to the clinic; is
8 that right?

9 A No, they were brought in.

10 Q So there was nothing legitimate about this clinic?

11 A No.

12 Q And is it your testimony that everyone who worked there
13 knew there was nothing legitimate about this clinic?

14 A Yes.

15 Q Even though the lady -- even the lady who was doing the
16 medical pedicures and manicures?

17 A I don't know about her. I never really talked to her.

18 Q So she might be the only one as far as you know who
19 didn't know this was a false clinic?

20 A Most likely, yes.

21 Q Did you give her instructions on what to do?

22 A No.

23 Q Do you know who did?

24 A No.

25 Q You knew that the -- the clinic was falsifying

1 prescriptions pretty much from August of 2008 when you
2 started to work there; correct?

3 A About that, yes.

4 Q And you knew that at least some of the doctors knew that
5 they were participating in these false prescriptions;
6 correct?

7 A Yes.

8 Q And you believed Dr. Santiago knew from the beginning
9 that -- that this was a false clinic; correct?

10 A I believe so.

11 Q Now, isn't it true that there was a period of time when
12 Ms. Budagova stopped coming to the clinic?

13 A Yes, there was.

14 Q A period of months; correct?

15 A Yes.

16 Q And that was before the 8th Street clinic closed;
17 correct?

18 A Yes.

19 Q And she didn't come back to work or assist at the clinic
20 until it moved to Victory; correct?

21 A Correct.

22 Q And she came there because she you called her and asked
23 her to come back?

24 A Yes.

25 Q You remember the Rolodex exhibit?

1 A Yes.

2 Q That was Exhibit 141...

3 You wrote that; correct?

4 A No.

5 Q Do you know who wrote it?

6 A No.

7 Q Don't recognize the handwriting?

8 A No.

9 Q But you have a good recollection of Ms. Budagova's
10 handwriting?

11 A Yes.

12 Q And you have a good recollection of other people's
13 handwriting?

14 A Yes.

15 Q But not this handwriting?

16 A No.

17 Q That prescription that you wrote that was on Exhibit 255
18 that was purportedly made to out to Elza Budagova, do you
19 remember discussing that with the prosecutors back in
20 September of 2011?

21 A Yes, I do.

22 Q And do you remember at that time, you did not recall the
23 pharmacy you went to?

24 A Yes.

25 Q But on your direct examination you recalled specifically

1 what pharmacy it was, huh?

2 A Yes.

3 Q Did somebody remind you what pharmacy that was?

4 A No, I did not know the name, but I recognized the
5 picture of it.

6 Q So you were shown a bunch of pictures of different
7 pharmacies until you said, ah, that's the one?

8 A Yes.

9 Q And you were shown those photographs recently?

10 A Yes.

11 Q You weren't shown the photographs back in
12 September of 2011?

13 A I don't remember.

14 Q Did you ever win that lottery you were talking about?

15 A No, I don't think so.

16 Q Were there any other kinds of games that the employees
17 participated in?

18 A No.

19 Q I mentioned like betting on the Super Bowl, none of
20 that?

21 A No.

22 Q You never worked at the Santa Monica clinic; right?

23 A No.

24 Q And as far as you know, neither did Ms. Budagova;
25 correct?

1 A I don't know.

2 Q The date that Ms. Budagova left the 8th Street clinic,
3 would you agree it was somewhere around the spring of 2010?

4 A The 8th Street clinic?

5 Q Yes.

6 A No, it was more like winter; I would say February --
7 January, February.

8 Q January, February of 2010?

9 A Yes.

10 MR. CANTALUPO: Thank you. No further questions.

11 **CROSS-EXAMINATION**

12 BY MR. BELTER:

13 Q Good morning, Ms. Shishalovsky.

14 A Good morning.

15 Q I'd like to start with your relationship with
16 Anjelika Sanamian. You told us just now that you worked with
17 Anjelika prior to working at the Lake Street clinic?

18 A Yes.

19 Q And that was at a clinic on Santa Monica Boulevard?

20 A Yes.

21 Q Okay. And what type of clinic was that?

22 A It was an office -- a medical office.

23 Q And what type of medical office?

24 A It was a regular medical office and I was the
25 receptionist there.

1 Q Okay. And were you a receptionist conducting business
2 as you've described you conducted business at the Lake Street
3 clinic?

4 A Yes.

5 Q So it was a fraudulent business?

6 A Oh, no. I was just a receptionist of the there.

7 Q Okay. And what was Anjelika Sanamian?

8 A She was a biller.

9 Q So a biller being what exactly? What does that mean?

10 A She would bill for the services provided at the clinic.

11 Q All right. And did you work at this clinic with
12 Anjelika Sanamian prior to August of 2008?

13 A Not very long. I would say about six months or so.

14 Q Okay. So -- and you didn't know Mike Mikaelian at that
15 time?

16 A No.

17 Q You didn't socialize with Anjelika Sanamian?

18 A No.

19 Q Why did you go with Anjelika Sanamian in August of 2008
20 and start working at the Lake Street clinic?

21 A Because she offered me the job and I decided to go with
22 them.

23 Q Okay. Was it going to be more -- more money or more
24 compensation for you?

25 A Yes.

1 Q And were you going -- were you expecting to do the same
2 type of work?

3 A Yes.

4 Q Okay. Could I get Government's Exhibit 44 on the screen
5 and help me with it, because since I've become
6 technologically inept this morning. It is the Christmas
7 photo and that's already been admitted.

8 Ms. Shishalovsky, you've seen this photograph
9 before; you testified about it yesterday.

10 A Yes.

11 Q And that's a Christmas gathering in December of -- is it
12 2008?

13 A I don't remember. I think so.

14 Q Okay. So would it be sometime within four or
15 five months when you started?

16 A Yes.

17 Q And you started at the Lake Street clinic. When was the
18 first time you met Mike Mikaelian?

19 A I met him prior to starting at Lake Medical.

20 Q And would -- was he presented as the owner of the
21 Lake Street clinic?

22 A He was presented to me as Anjelika's friend and then he
23 would be part of the owners.

24 Q Was Anjelika going to be part of the owners?

25 A Yes.

1 Q And prior to August of 2008, did you -- if you knew --
2 or if you know was Anjelika Sanamian ever involved in the
3 ownership of a clinic?

4 A Not that I know of.

5 Q But now she was going to actually be an owner of a
6 clinic?

7 A Yes.

8 Q Was that part of the reason that you -- it was an
9 attractive offer to go with her?

10 A Yes.

11 Q Okay. Would this be correct or incorrect that when you
12 decided to go with Anjelika Sanamian on or about
13 August of 2008, that you knew that the clinic that she was
14 going to own and operate was going to be a -- some sort of a
15 prescription mill?

16 A No.

17 Q So you went in with your eyes wide open, thinking it was
18 completely legitimate?

19 A Yes.

20 Q Can you recall when you first met Mike Mikaelian?

21 A No.

22 Q You don't remember the circumstances?

23 A No.

24 Q Do you remember if it was at the clinic?

25 A It was at the -- yes, I believe it was at the clinic

1 that I was working at.

2 Q Okay. And would that be on the clinic at Santa Monica
3 or was that at the Lake Street clinic?

4 A No, Santa Monica.

5 Q Okay. So you met him before you actually moved over to
6 this new -- this new position?

7 A Yes.

8 Q And he was introduced to you as an owner or potential
9 owner and operator of a clinic that you were going to now
10 start to work at?

11 A Yes.

12 Q Okay. Did he present himself as a physician or a
13 medical doctor.

14 A No.

15 Q He just said that he was going to open up a clinic?

16 A Yes.

17 Q Okay. Did he give you any other description of what the
18 clinic was going to involve?

19 A No.

20 Q Okay. I'm going to ask you to take a look at
21 Exhibit 44 -- and you've already identified some of the
22 individuals in the -- in the photo. In the back -- on the
23 back row, the people standing --

24 A Uh-huh.

25 Q -- if you go looking at the photo from left to right,

1 the first gentleman, do you know who that is?

2 A Yes, I do.

3 Q And who is that?

4 A Saco Sevayan (phonetic).

5 Q And was he ever involved in the medical clinic?

6 A Yes.

7 Q And how was he involved in the medical clinic?

8 A He was a friend of Mike's and he was one of the bosses.

9 Q One of the bosses, being what type of a boss?

10 A I'm sorry. Let me rephrase that. He was a boss at the
11 Victory clinic. He was just a friend and a capper over at
12 Lake.

13 Q Lake Street?

14 A Yes.

15 Q So he was a friend of Mike's?

16 A Yes.

17 Q And he was a capper?

18 A Correct.

19 Q Was he a capper that brought in primarily Armenian
20 individuals?

21 A Yes.

22 Q Okay. Did you know that -- that gentleman before this
23 Christmas photo?

24 A No.

25 Q Okay. You never saw him at the clinic before?

1 A I seen him at the clinic.

2 Q Okay. But you didn't know him?

3 A No.

4 Q You just saw him.

5 A Yes.

6 Q And he would bring in individuals?

7 A Yes.

8 Q Would he drive them?

9 A I don't know.

10 Q Okay. You just saw him in the company of people who
11 looked as if they might be patients?

12 A Yes.

13 Q Okay. And this is all before this Christmas photo?

14 A Yes.

15 Q Okay. The two individuals standing to his -- well,
16 moving from left to right in the back, who is the young lady
17 in the silver dress with the gentleman?

18 A She's Amay's girlfriend -- Alex' girlfriend.

19 Q And Alex was a medical assistant?

20 A Yes.

21 Q And what was he doing at the clinic when you first
22 started working there?

23 A He came a little bit later after I was at the front
24 desk. He -- we needed a medical assistant. So he came
25 later. And he was dealing with the patients, taking their

1 Q And that would be a room that you wouldn't necessarily
2 be inside?

3 A Yes.

4 Q And so you wouldn't see what the examination involved?

5 A No.

6 Q Okay. If the paperwork was taken to either a medical
7 doctor or a PA and the patient was in the room with the
8 medical doctor or a PA, eventually, would that same form or
9 those forms be returned to somebody at the front desk?

10 A Yes.

11 Q Okay. And then what would happen to the forms?

12 A We would review the forms and either file them back if
13 they were done. If they weren't done we would pass them on
14 to be finished to the doctors or the PA.

15 Q Okay. And what do you mean by if they weren't
16 completed, you would be passing them back to the doctors?

17 A If something was missing from the notes, either a plan
18 of care or prescription, we would take them back to get
19 fixed.

20 Q Okay. And was that the -- what I'll call the
21 protocol --- was that the protocol that you recall from
22 the -- from the beginning and all the way until the search
23 warrants were served in September of 2010?

24 A Yes.

25 Q Okay. All right. And when would the prescriptions be

1 filled out, at the end of the day?

2 A Yes.

3 Q Primarily at the end of the day?

4 A Primarily, yes.

5 Q Okay. And those would be prescriptions that were either
6 pre-signed by doctors; correct?

7 A Correct.

8 Q Or had been written out by doctors?

9 A Sometimes, yes.

10 Q Sometimes yes; right?

11 A Uh-huh.

12 Q All right. And so would this be correct or incorrect
13 at -- toward the end of the day, right, that's when the final
14 paperwork would be sort of generated and the prescriptions
15 would be generated?

16 A Correct.

17 Q Okay. All right. You told us that you were at the --
18 started in August of 2008. You went until the Lake Street
19 clinic closed?

20 A And then I was moved to Victory location.

21 Q Okay. And then -- but there was a period of time where
22 you told us that you were pregnant?

23 A Yes.

24 Q You had a child?

25 A Yes.

1 work. And then you started up again, please, what was the
2 date approximately?

3 A Approximately two, three weeks after I had the baby.

4 Q Okay. So say July until September, you were at the
5 Victory Street clinic?

6 A Yes.

7 Q Would that be approximately accurate?

8 A Yes.

9 Q Okay. And then you were present when the search
10 warrants were served?

11 A Yes.

12 Q Okay. And you said Dr. Dr. Halfon was not; correct?

13 A No.

14 Q And Dr. Garrison was not?

15 A No.

16 Q He was not?

17 A Not there.

18 Q Okay. Who was there other than yourself?

19 A It was another front desk receptionist, Victoria, and
20 Elza Budagova.

21 Q And Ms. Budagova?

22 A Yes.

23 Q All right.

24 You -- if you go back to the Christmas photo,
25 that's the Exhibit 44, the gentleman standing next to

1 their office. She never had a title.

2 Q She never had a title. She was sort of a freelancer?

3 A Yes.

4 Q And she worked with the bosses. And who would you
5 identify as the bosses?

6 A Mike Mikaelian and Anjelika Sanamian.

7 Q And when you say "bosses," they were the owners?

8 A Yes.

9 Q And they were the individuals giving the orders or
10 telling people what to do?

11 A Correct.

12 Q Were they there every day?

13 A No.

14 Q They were -- would this be accurate that they were the
15 ones who showed up with the money?

16 A Yes.

17 Q And they would tell you who to pay?

18 A Yes.

19 Q And were you the individual paying -- were you the
20 individual who was handing out the envelopes with the cash?

21 A Frequently, yes.

22 Q Okay. You identified a photograph of some doctors
23 yesterday?

24 A Yes.

25 Q All right. Were any of those doctors that you

1 identified, were they ever part of the bosses -- were they
2 the inner circle of the bosses?

3 A No, but they were present at the functions.

4 Q They were present at what kind of functions?

5 A At this function; at the Christmas party.

6 Q At the Christmas party that we're looking at the
7 photograph of?

8 A Yes.

9 Q Who was there with the -- including this group, who else
10 was there at the Christmas party?

11 A Dr. Santiago and Dr. Woodward.

12 Q And Dr. who?

13 A Woodward.

14 Q All right. All right.

15 Now, if you continue in the back row from left to
16 right, that's Mike Mikaelian; correct?

17 A Correct.

18 Q Okay. And how often would Mike Mikaelian come to the
19 8th Street clinic or the Lake Street clinic?

20 A Everyday.

21 Q And from everyday around the same time or just everyday?

22 A Everyday.

23 Q Okay. And was it just he would pop in and leave or was
24 he there all day?

25 A He was there mostly all day.

1 Q Mostly all day?

2 A Yes.

3 Q Okay, because it was his business?

4 A Yes.

5 Q Okay.

6 And he was monitoring what was happening?

7 A Yes.

8 Q Did you see him interact with the doctors?

9 A Yes.

10 Q Did you see him interact with the gentlemen who we've
11 described as the cappers?

12 A Yes.

13 Q Did you see him interact with other individuals who were
14 working as staff at the clinic?

15 A Yes.

16 Q Going left to right as you -- there is -- there are
17 actually three young ladies. Who are they?

18 A Next to Mike Mikaelian, that's Maureen Sanamian. She is
19 the daughter of Anjelika.

20 Q Okay.

21 A And that's myself and Angela.

22 Q Okay. And did the daughter of Anjelika Sanamian work at
23 the clinic?

24 A Yes.

25 Q And what did she do?

1 Q And would you cause paperwork to go to
2 Quest Diagnostics?

3 A Yes.

4 Q And why would you do that?

5 A Because they asked me to send out to the lab -- our
6 laboratory stuff to the labs.

7 Q Who would ask you to do that?

8 A Anjelika.

9 Q Would ever the doctors ask you to do it?

10 A No.

11 Q Anjelika would ask you to do it?

12 A Yes.

13 Q And Anjelika was there almost everyday.

14 A Yes.

15 Q Almost all day everyday.

16 A Almost, yes.

17 Q What about the office or a Pac Tox office?

18 A Yes.

19 Q And who is that?

20 A That was a company that tested for drugs -- the urine
21 for drugs.

22 Q Okay. Did you have urine testing on-site?

23 A Yes.

24 Q And who conducted that?

25 A Alex.

1 Q And would Alex prepare some kind of paperwork that would
2 go to either the doctor or the physician's assistant as they
3 were examining the patients?

4 A Yes.

5 Q Would you see Alex do that on a regular basis?

6 A Yes.

7 Q Would this be accurate, that there were generally three
8 types of individuals that were being brought to the clinic --
9 and I and I know you described many individuals as
10 being either appearing to be homeless or lower socioeconomic
11 class individuals; correct?

12 A Correct.

13 Q Would you also -- could you break this down into that
14 there was a group of spanish-speaking or Hispanic patients --

15 A Yes.

16 Q -- is that right?

17 A Yes.

18 Q And there were a group of Armenian or Russian-speaking
19 or ethnic individuals?

20 A Yes.

21 Q And then there were African-American patients?

22 A Yes.

23 Q Do you know what an NPI number -- an NPI license number
24 is?

25 A Yes.

1 Q What is that?

2 A That is a national provider identification.

3 Q Okay. And who has those?

4 A Doctors.

5 Q Okay. And do you need an NPI number in order to bill?

6 A Yes.

7 Q Okay. And you knew that?

8 A I believe so, yes.

9 Q Okay. And what is a DEA number?

10 A It's a Drug Enforcement Number.

11 Q Okay. And do you need to have a DEA number in order to
12 dispense Schedule II medications or narcotics?

13 A Yes.

14 Q So in order for this clinic to work on the illegal side,
15 you would have to have an individual who has an NPI number
16 and a DEA number.

17 A Correct.

18 Q Because for example, Anjelika Sanamian could not do
19 that?

20 A No.

21 Q And neither could Mike Mikaelian?

22 A No.

23 Q So in order to have a diversion of -- of Schedule II
24 narcotics, you needed individuals who would have the ability
25 to not only prescribe those medications but also you'd have

1 A No.

2 Q Were you involved in -- in payment of any funds to the
3 pharmacies?

4 A No.

5 Q Were -- to your knowledge, were funds being paid to the
6 pharmacies?

7 A Yes.

8 Q And to your knowledge, who was paying the funds to the
9 pharmacies?

10 A Mike Mikaelian.

11 Q Okay. Mr. Garrison was not paying funds to the
12 pharmacies; correct?

13 A Not that I know of.

14 Q Not that you know of --

15 A No.

16 Q No one ever told that you that Mr. Garrison did that;
17 did they?

18 A No.

19 Q Mike Mikaelian was sort of the brains of this whole
20 operation?

21 A He was one of the bosses, yes.

22 Q I'm sorry?

23 A He was one of the bosses, yes.

24 Q And that's along with Anjelika?

25 A Correct.

1 Q Okay. You told us last week during either direct or one
2 of the cross-examinations that you -- you were also
3 personally involved in for lack of a better way of describing
4 it, some drug dealing; correct?

5 A Correct.

6 Q So you were selling some of the OxyContin pills for your
7 own benefit?

8 A Yes.

9 Q Okay. Who gave you permission to do that?

10 A Mike Mikaelian.

11 Q Mike? Mike said that was part of the compensation or
12 part of the deal is that you got to do that?

13 A I didn't sell it to him. I just get -- got the
14 prescriptions for my patients.

15 Q Okay so your patients were people who you were fronting
16 off as -- as patients or customers who would get OxyContin?

17 A Correct.

18 Q And you were taking the pills and you were doing with
19 them whatever you wanted?

20 A No, I gave them to Mike.

21 Q To Mike?

22 A Correct.

23 Q Did you sell them back to Mike?

24 A Yes.

25 Q Okay. And you were making how much money per either

1 Q Okay. And what about Anjelika?

2 A Sometimes.

3 Q Okay. Mr. Garrison didn't have any contact with the
4 pharmacies, did he?

5 A Not that I know of, no.

6 Q Not that you know of or not that you ever saw?

7 A Not that I ever saw.

8 Q You told us about recruiting patients, right -- that
9 they were cappers?

10 A Correct.

11 Q There were certain cappers that were bringing in
12 Hispanic individuals?

13 A Yes.

14 Q And they were cappers that were bringing in either
15 Armenian or Russian ethnic patients?

16 A Correct.

17 Q And they were also cappers who were bringing in
18 African-American patients; correct?

19 A Yes.

20 Q Mr. Garrison was not involved in bringing in any
21 patients to the clinic, was he?

22 A No.

23 Q Were you responsible in any way in keeping track of
24 either the amounts of money that was being paid to
25 Mr. Garrison or keeping track of his hours?

1 severance. Can the jury be admonished that this testimony is
2 not offered because of my client.

3 THE COURT: Well, I think it's going to be obvious
4 that it's not. So I'm not going to do that.

5 MR. JOHNSTON: Thank you, Your Honor.

6 (Sidebar is concluded.)

7 GOVERNMENT'S WITNESS, DR. JOHN FULLERTON, SWORN.

8 THE CLERK: Please state your full name and spell
9 your last name for the record, please.

10 THE WITNESS: John Hampton Fullerton,
11 F-u-l-l-e-r-t-o-n, M.D.

12 **DIRECT EXAMINATION**

13 BY MR. GELBERG:

14 Q Good afternoon, Dr. Fullerton.

15 A Good afternoon.

16 Q What do you do for a living?

17 A I'm a physician and a clinician educator; teach medical
18 students -- medical residents.

19 Q And did my office hire you to testify as an expert
20 witness in this case?

21 A Yes.

22 Q And in what general areas were you asked to provide
23 expert opinions?

24 A I was asked to provide expert opinions in terms of
25 looking at roughly a hundred files from the Lake Medical

1 Group Center and to make determinations on my review of those
2 files in terms of how they comported with the standard of
3 care or not.

4 Q And were you asked to look at specifically different
5 types of tests and other things that were evidenced in those
6 files?

7 A Yes, I was asked to look at various kinds of tests. I
8 was asked to look at, you know, various kinds of sort of
9 practice patterns, if you will. I was asked to look at the
10 PA versus physicians' sort of practice approach because I
11 have a background, you know, in doing -- in teaching and
12 working with PA's.

13 Q And how long have you been practicing medicine?

14 A I've been practicing medicine over 25 years.

15 Q And are you licensed in any states?

16 A Yes. I'm licensed in California and Florida.

17 Q And where did you go to medical school?

18 A I went to medical school in my hometown in Miami,
19 Florida, University of Miami Jackson Memorial Hospital, VA.

20 Q And did you receive any training after you finished
21 medical school?

22 A Yes.

23 Q What sort of training?

24 A After medical school, I went out to California and
25 trained at the old Stanford hospital. It was called Pacific

1 Presbyterian back then in internal medicine -- a three-year
2 training program -- standard training. And then I did a
3 fourth year as chief medical resident.

4 Q And are you board-certified in anything?

5 A Yes.

6 Q What areas are you board-certified in?

7 A I'm board-certified in internal medicine by the American
8 Board of Internal Medicine. I'm board-certified in
9 Geriatrics by the American Board of Internal Medicine. I'm
10 board-certified in Hospice and Palliative medicine by the
11 American Board of Hospice and Palliative Medicine. And I'm
12 board-certified in Addiction Medicine by the American Board
13 of Addiction Medicine.

14 Q And the jury has heard some testimony about what it
15 means to be board-certified, but could you just briefly tell
16 us what it means to be board-certified in those various
17 areas.

18 A Sure. So being board-certified means that one has
19 completed an accredited medical school and then completed an
20 accredited three-year, in this case, Internal Medicine
21 Residency program. And it's a national sort of accreditation
22 process. And then there's a national test, because you're
23 considered board-eligible then that you sit for. And if you
24 pass the test, it's called becoming board-certified.

25 Q Now, you mentioned that you teach; is that right?

1 A Yes.

2 Q Where have you taught?

3 A I'm on the clinical faculty and I teach at
4 University of California, San Francisco; University of
5 Southern California at Keck; at Yale on the East Coast.

6 I also teach the students and our residents at
7 California Pacific Medical Center, my alma mater; I also
8 teach as the director of internal medicine, geriatric
9 training at St. Mary's, in San Francisco. I'm also clinical
10 faculty at some other programs called Toro in the area and
11 some PA programs, Samuel Merritt and Stanford and St.
12 Francis, in Pennsylvania.

13 Q And have you written any scholarly articles in the
14 medical field?

15 A Yes.

16 Q And what general topics?

17 A Yes. What we've been doing the last few years, an
18 article or two has come out of -- and that is really working
19 with the frail elderly, in geriatrics in doing various tests
20 to try to determine if we can get an idea about -- if someone
21 is developing a dementia, like Alzheimer's disease and try to
22 get a head start on it, so we can start treating it early;
23 let the family know early; and that kind of thing.

24 Q And do you have our own medical practice?

25 A Yes.

1 Q And what is that practice focused on?

2 A So that practice it's called Hampton Health, my middle
3 name -- Hampton Health, Limited -- and it's named after my
4 102-year-old grandmother who passed. And that practice is
5 aimed at treating the baby boomers like a lot of us in the
6 room, in helping them with their parents or aging relatives
7 as they go through the phases of life and the stages of care.
8 So we help with the transitions of care from the hospital to
9 the nursing home; from the nursing home to the assisted
10 living to home care and even with dementia care. So we try
11 to help out in all those realms.

12 Q And do you see patients?

13 A On a daily basis.

14 Q About how many patients do you see each week?

15 A At least a hundred a week.

16 Q And you were talking about this -- this particular
17 practice that you have. Do you also have experience at a
18 general practice clinic?

19 A Yes.

20 Q And are you familiar with the concept of a pain
21 management clinic?

22 A Sure.

23 Q Are you familiar with the types of diagnostic tests
24 performed at a general practice clinic?

25 A Oh, yeah.

1 Q And before we go on, can you explain what is a
2 "diagnostic test"?

3 A Sure.

4 I mean, the area of diagnostics is using testing
5 equipment to try to help figure out what's going on with
6 somebody, so it's an add -- supposedly, it's an addition to
7 examining the patient; talking to the patient; getting labs
8 on the patient. And then various diagnostics are supposed to
9 add our ability to -- to make a diagnosis on top of that, so
10 whether it's an ultrasound or an EKG or a nerve conduction
11 study or a pulmonary-like spirometry test. Those would be
12 additional tests.

13 Q And what types of tests do you normally find at a
14 general practice clinic?

15 A Well, it certainly is common to find electrocardiograms,
16 lab draws.

17 Q Is that like an EKG?

18 A Yes. Yes, same thing; lab draws; various forms of
19 spirometry are common to use in a targeted way. And you
20 don't tend to find as much ultrasound, and you certainly
21 don't find so much nerve conduction, you know, in a primary
22 care screening clinic.

23 Q So we'll talk about those specific types of tests you
24 just mentioned in a little more detail; but I want to ask
25 you, you mentioned that you're involved in teaching of

1 physician assistants? Did I get that right?

2 A Yes.

3 Q Can you explain what you do in terms of the education of
4 physician assistants?

5 A Sure.

6 One of the -- one of the offices that we have is
7 within an assisted living facility. So you could imagine,
8 there's a lot of geriatric patients who come into the office.
9 And it has become an affiliate training site for a variety of
10 physician assistant nurses practitioner programs in the Bay
11 area. So Stanford has used it for over ten years as a
12 training site off and on. Samuel Merritt very actively uses
13 it, which is another PA training group that uses our site for
14 geriatric training. And then St. Francis, which is sort of a
15 sister PA training facility, in Pennsylvania, they fly them
16 in periodically.

17 Q I guess I should back up just so we make sure we're
18 clear. What is a physician assistant?

19 A Yeah. A physician assistant is a -- they call it a
20 non-physician provider -- which is not a physician or a
21 midlevel provider, who has gone through -- usually it's a lot
22 of hours of working as a tech -- maybe respiratory tech or an
23 emergency medical services person or a medical assistant. So
24 in other words, a whole range of things will qualify. If
25 it's thousands of hours of working and then a compressed time

1 in schooling which is like a medical school, but it's more
2 compressed into -- somewhere between one and a half and three
3 years, something like that for their schooling which includes
4 clinicals too. And so part of that schooling, the clinical
5 part near the end is part of the time they spend with us.

6 Q And, again, we'll talk a little bit more about PA's in a
7 few minutes; but I just want to ask you a few more general
8 questions.

9 Are you familiar with medicare?

10 A Sure.

11 Q And Medi-cal?

12 A Sure.

13 Q And are you a medicare provider?

14 A Oh, yeah.

15 Q I assume that means you submit claims -- payment --
16 request for payment to medicare, and medicare pays you?

17 A You bet.

18 Q What about Medi-cal?

19 A Really both. Less Medi-cal than medicare, but because
20 I'm faculty, it's part of faculty payments to hospitals and
21 so forth. So I'm on those panels too.

22 Q So you -- you mentioned earlier, you've been retained as
23 an expert witness.

24 How much if you ballpark it, percentage of your
25 time, do you spend offering expert testimony or expert --

1 expert work, in general, I should say?

2 A Sure. It's well under 10 percent of my time. I mean,
3 I'm -- I'm six -- at least six and a half days a week. I'm
4 working as a doctor, and I'm either doing house calls,
5 nursing facility rounds or urgent care even on the weekends,
6 working with PA's a lot of times. So it's only 10 percent or
7 less of my time.

8 Q And have you testified as an expert witness in a case
9 for the United States before?

10 A Yes.

11 Q And what about on behalf of a defendant before -- a
12 criminal defendant?

13 A I've testified on behalf of a criminal defendant, as
14 well on several occasions.

15 Q Now, I take it you're being paid for your work for the
16 United States?

17 A Yes.

18 Q What's your hourly rate?

19 A Yeah. So I get paid \$300 an hour for review all the way
20 through to trial. And then the equivalent of 350 an hour to
21 testify, although they give me a lump sum of 3,000 per day
22 for coming to testify at trial.

23 MR. GELBERG: Your Honor, at this time,
24 the United States would tender Dr. Fullerton as an expert in
25 internal medicine, the operation of medical clinics in

1 you couldn't go but once every three months, but I went every
2 month.

3 Q And approximately how much were you paid go to these
4 various medical clinics?

5 A Anywhere from 50 to a hundred dollars.

6 Q And why were you being paid to go to the clinics?

7 A Well, I was buying drugs with the money, and they was
8 paying -- getting paid to go to the clinic to get medication
9 for the people that -- that -- the people that -- the doctor
10 at the clinic you went to. You would -- you got the
11 prescription and returned the medication; and they kept the
12 prescription and filled it themselves.

13 Q Can you please publish Government's Exhibit 2, page
14 two...

15 Mr. Jackson, is one -- is this one of the locations
16 that you went to that you were paid to go to?

17 A Yes, ma'am.

18 Q And do you recall about where this is located?

19 A It -- it's on 8th and Alvarado. It's right off the
20 corner. It's about within the next block. I'm not sure what
21 the name of that street -- Wall street or something. I'm not
22 sure, but it's right on 8th Street, south block of Alvarado.

23 Q And do you remember who approached you to go to this
24 medical clinic?

25 A A gentleman called Green Eyes. And I found out later

1 his name was Alex Smith.

2 MS. MORTON-OWENS: Can you publish Government's
3 Exhibit 32?

4 Is this Green Eyes?

5 A Yes, that's Green Eyes.

6 Q And what did Green Eyes tell you about why you were
7 going go to 8th and Alvarado medical clinic?

8 A Well, you you're going to get medication. Sometimes it
9 was Oxies -- you know, most of the time it was Oxy there; but
10 that's what you would do; you'd go there and you'd see the
11 doctor -- you know, and the doctor asked you a few questions.
12 Then the next thing you know, he tell you, you can go but
13 they write a scrip. They give the scrip to the front desk
14 and that's where it all ends. They keep the scrip; you get
15 the money.

16 Q I'm going to show you --

17 MS. MORTON-OWENS: Mr. Clerk, can you check if
18 Government's Exhibit 280 is already in evidence.

19 THE CLERK: Number again.

20 MS. MORTON-OWENS: 280, please.

21 THE CLERK: Exhibit 280 is identified only.

22 MS. MORTON-OWENS: Your Honor, at this time, the
23 Government would move Government's Exhibit 280 into evidence.

24 THE COURT: Very Well.

25 (Whereupon Government's Exhibit 280 is admitted hereto.)

1 THE COURT: Very well.

2 MS. MORTON-OWENS: And if you could publish
3 page 3 of Government's Exhibit 280.

4 BY MS. MORTON-OWENS

5 Q Mr. Jackson, is that your information? And did you
6 complete these forms at the 8th and Alvarado clinic?

7 A Yes, I did.

8 Q Can you go to the bottom there and check the signature.

9 A Yes.

10 Q Is that your signature?

11 A Uh-huh.

12 Q Did you complete a bunch of other forms as well?

13 A I didn't complete the forms. They would mark it with
14 yellow, green X and they fill out most of your name, address,
15 stuff like that. And you give it back to them; that's what
16 it was.

17 Q When you went to the -- about how many times did you go
18 to that specific clinic on 8th and Alvarado.

19 A I didn't go there a lot; say maybe what? Five, six times
20 maybe.

21 Q When you went there, did you ever receive any tests, any
22 medical diagnostic tests?

23 A No, ma'am. None.

24 Q Did you ever see an African-American doctor?

25 A Not that I recall.

1 these notes at all?

2 A No, I don't, because my A, I don't make my A like that.
3 I don't make a C like that. They try to make the K like I do
4 and the JO. So it's all messed up and the R and most of it.

5 Q It's not you?

6 A I write bad; but, you know, that's not me.

7 Q Understood.

8 Ms. MORTON-OWENS: If you could highlight the
9 bottom under "plan."

10 BY MS. MORTON-OWENS:

11 Q Mr. Jackson, did you ever get an allergy test on 8th and
12 Alvarado?

13 A Not to my knowledge. No, not into this -- no, none of
14 hat. There was no -- there was no tests done. There was not
15 a test done to me at 8th and Alvarado. You talk to the
16 doctor about five or ten minutes and you out. You know,
17 that's it; there's no tests.

18 MS. MORTON-OWENS: Can you highlight page 88. And
19 the middle of the page under -- I believe it says "plan."

20 By MS. MORTON-OWENS:

21 Q What about an NCV or ultrasound, did you receive any of
22 those at the 8th and Alvarado clinic?

23 A No, ma'am.

24 MS. MORTON-OWENS: Now, can you -- can you publish
25 page 86 of Mr. Jackson's chart. You mention that you

1 received a prescription -- received several prescriptions for
2 OxyContin; is that right?

3 A Uh-huh, yes.

4 Q And when -- did you actually get to hold the
5 prescription?

6 A No.

7 Q Where did the prescription go?

8 A See, the guy Green Eyes he took care of us, and then
9 there was another gentleman around there. His name was
10 Carlos. A couple of names, Robert, Carlos -- and he would be
11 there to pay you for your scrip. They would buy the scrip.

12 Q But did you get handed the prescription or did the
13 prescription get handed to somebody else?

14 A It got handed to someone else.

15 Q Can you highlight the Government's Exhibit 280, page
16 178.

17 BY MS. MORTON-OWENS:

18 Q That you know of, do you know -- were you ever treated
19 by a Dr. Eleanor Santiago?

20 A No.

21 Q And if this prescription was written in your name, did
22 you actually receive the OxyContin, 80 milligrams?

23 A No, I didn't.

24 Q If you can turn to --

25 A It's not even my signature the top of the list. I

1 didn't -- I can tell my bad writing. So that's not me.

2 Q And can you publish one last one,
3 Government's Exhibit 280, page 176.

4 BY MS. MORTON-OWENS:

5 Q Fair to say the same thing, Mr. Jackson, you did not
6 actually receive these prescriptions for OxyContin?

7 A No. And this is -- this is -- I mean, both of these
8 that is not my signature at the top at all. I know my
9 writing.

10 Q And, Mr. Jackson, my question was, did you actually get
11 the prescriptions at all, whether it's your signature or not?

12 A No, I didn't. No.

13 MS. MORTON-OWENS: The Government at this point
14 would move Government's Exhibit 22 into evidence...

15 THE COURT: Very well.

16 (Whereupon Government's Exhibit 282 is admitted hereto.)

17 MS. MORTON-OWENS: If you can publish
18 Government's Exhibit 282.

19 By ms. MORTON-OWENS:

20 Q Is that a copy of your actual driver's license?

21 A It is.

22 Q And --

23 A Yeah.

24 Q And if you could highlight the prescription there.

25 A No way.

1 A This was a CD that was submitted to me for review and
2 verification of applications and claims data for that
3 particular clinic. And I was to sign it and return it after
4 I reviewed and verified it.

5 Q And so did you, in fact, sign it?

6 A Yes, I did.

7 Q And that indicates you reviewed and verified the claims
8 data that's on that CD?

9 A Correct.

10 MR. GELBERG: Your Honor, at this time, the
11 Government would move -- or moves Government's Exhibit 1650
12 into evidence.

13 THE COURT: Very well.

14 (Whereupon Government's Exhibit 1650 is admitted hereto.)

15 BY MR. GELBERG:

16 Q Now, Ms. Montoya, you mentioned the term "medical
17 necessity" a few moments ago. Would medicare pay for claims
18 for tests, such as ultrasounds if it was determined later
19 that the tests were not medically necessary?

20 A No, we would not.

21 Q Would medicare pay for tests that were billed, such as
22 ultrasounds if medicare determined that the tests had never
23 been performed at all?

24 A No, we would not.

25 Q All right. If I could have just a moment Your Honor?

GOVERNMENT'S WITNESS CHOU TRAN, SWORN.

THE CLERK: Please state your full name and spell your last name for the record.

THE WITNESS: My name is Chou Tran, T-r-a-n.

MS. MORTON-OWENS: May I proceed?

THE COURT: Yes.

DIRECT EXAMINATION

BY MS. MORTON-OWENS:

Q Agent Tran, who do you work for?

A I work for the California Department of Justice.

Q Is there any specific portion of the California Department of Justice that you work for?

A Yes. I work for the Bureau of Medi-Cal Fraud and Elder Abuse.

Q How long have you been with that agency?

A Since February of 2008.

Q And what -- how long have you been a sworn officer?

A Four days, shy of 17 years.

Q What experience do you have in investigating, specifically healthcare fraud cases?

A I've had over ten years of experience investigating healthcare fraud.

Q Do you focus on any specific types of healthcare fraud?

A Currently at the Department of Justice, I'm assigned to investigate fraud committed against the Medi-Cal program.

1 Q Can you explain for the members of the jury what that
2 operation was.

3 A It was an undercover investigation wherein we sent a
4 person into the clinic as a patient and he was to contact an
5 individual -- a capper named "Green Eyes."

6 Q And when you were sending the patient in, was there any
7 monitoring device put onto the undercover patient?

8 A Yes, he was wearing a body wire.

9 Q And how do you know that?

10 A Because I was present when my supervisor equipped him
11 with a body wire.

12 Q When this body wire was being worn with the patient,
13 were you able to monitor anything that was happening?

14 A Yes. I was able to monitor through audio the entire
15 operation.

16 Q And before the operation began, was surveillance set up
17 at the 8th Street location?

18 A Yes it was.

19 Q Did Dr. Seideman -- I'm sorry. Are you familiar with
20 who Dr. Seideman is?

21 A I am.

22 Q How are you familiar with her?

23 A Through surveillances of the clinic, as well as
24 interviews with her.

25 Q And on January 13th of 2010, are you aware of

1 you done with that notebook?

2 MS. MORTON-OWENS: Yes, Your Honor. They can be
3 removed from the jurors.

4 I'll re-ask the question.

5 BY MS. MORTON-OWENS:

6 Q Are you aware when the 8th Street location of
7 Lake Medical Group closed?

8 A Yes.

9 Q Approximately when was that?

10 A It was around February of 2010.

11 Q Were you able to get the records from the 8th Street
12 location -- the medical records?

13 A Yes, I was.

14 Q And how were you able to get those?

15 A We served a search warrant on the storage facility where
16 they were being maintained.

17 Q In whose name were the storage facilities that your team
18 searched in order to get the Lake Medical Group records?

19 A There was one storage facility held in the name of
20 Dr. Eleanor Santiago and the other one was held in the name
21 of David Garrison.

22 Q Approximately how many medical files did you seize as
23 part of those search warrants?

24 A Over 7,000.

25 Q That was 7,000 patient files?

1 consecutive days in every instance that I saw.

2 Q Just one more example of those...

3 Government moves Government's Exhibit 297 into
4 evidence, I believe without objection...

5 And that's Exhibit 297, Your Honor.

6 THE COURT: Very well.

7 (Whereupon Government's Exhibit 297 is admitted hereto.)

8 BY MS. MORTON-OWENS:

9 Q If you could turn to page 54...

10 And, Agent Tran, is this another example of what
11 you found in the ultrasounds of them being done -- if you
12 look at page 54 and compare it with 58...

13 So this is an example in the patient chart for
14 Lenore Andrade where the ultrasounds are supposedly performed
15 one day apart, May 16 and May 15th. And they're supposedly
16 performed just moments within each other?

17 A Exactly.

18 Q But on a separate day?

19 A Yes.

20 Q Have you interviewed both, Elza Budagova and defendant
21 Garrison?

22 A I have.

23 Q And did both of them admit their handwriting to you?

24 A Yes.

25 Q Based on those admissions of their handwriting, did you

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

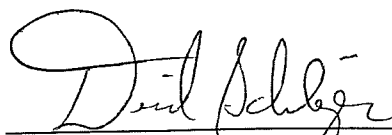
Additionally, I mailed a copy of the motion and the petition to my client,
Petitioner Elza Budagova., by depositing an envelope containing the documents in
the United States mail, postage prepaid, and sending it to the following address:

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

A handwritten signature in cursive script, appearing to read "David Schlesinger", written over a horizontal line.

DAVID A. SCHLESINGER
Declarant