United States Department of Justice

THE UNITED STATES ATTORNEY'S OFFICE
NORTHERN DISTRICT of TEXAS

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U.S. Attorney's Office

Northern District of Texas

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Anesthesiologist and Forest Park Medical Center Founder Pleads Guilty to $40 Million Kickback Scheme

DALLAS — Richard Ferdinand Toussaint, Jr., 58, of Dallas appeared today before U.S. District Judge Sidney A. Fitzwater and pleaded guilty to one count of conspiracy to pay health care bribes and kickbacks and one count of offering or paying illegal remuneration and aiding and abetting under the Travel Act announced U.S. Attorney John Parker of the Northern District of Texas.

Toussaint faces a maximum statutory penalty of five years in federal prison and a $250,000 fine for each count. Sentencing will be scheduled at a later date.

Co-defendants Andrea Kay Smith, 37, of Rockwall, Kelly Wade Loter, 48, of Dallas, and Israel Ortiz, 49, also of Dallas previously pleaded guilty to their role in the conspiracy. The remaining 17 defendants are awaiting trial scheduled for July 10, 2017.

According to plea documents filed in the case, Toussaint, an anesthesiologist, met co-defendant Barker in approximately 2003 and began providing anesthesia services for his cases around 2005. Around 2008, Toussaint and Barker decided to start their own physician-owned hospital, Forest Park Medical Center (FPMC). All the surgeries at FPMC were to be elective in nature. FPMC targeted bariatric and spinal surgeons because their surgeries generated the most money. The original plan was for FPMC to go in-network with the major insurance carriers when possible. Instead, FPMC attempted to negotiate better reimbursement rates and remained out-of-network so it could collect more in reimbursements.

All of the founders at FPMC, including Toussaint and co-defendants Beauchamp, Burt, Barker, and the other founders knew that FPMC would pay surgeons marketing checks in exchange for bringing surgeries, especially lucrative out-of-network surgeries, to FPMC as opposed to other facilities. Beauchamp discussed the details of the payments with each doctor, and he kept tabs on how many surgeries they brought to FPMC. Beauchamp used a metric to calculate the payments based on the surgeons anticipated case volumes at FPMC. The payments quickly grew from $300,000 a month to $1.2 million a month. Beauchamp would update Toussaint and Barker on the bribe payments. Toussaint would often be copied on emails where Barker would ask Beauchamp how much certain doctors were being paid.

To induce patients with both in-network and out-of-network benefits to come to FPMC, and to facilitate the bribe and kickback payments, FPMC systematically waived coinsurance or reduced it to in-network levels.

According to Toussaint, this practice was concealed or misrepresented to insurance carriers so they would not refuse to reimburse the hospital. Everyone associated with FPMC, including Beauchamp, Burt, Toussaint, Barker, and the surgeons receiving bribe and kickback payments, knew that FPMC guaranteed patients prior to surgery that they would not pay or would pay only the equivalent of in-network patient-responsibility payments.

Toussaint and Barker owned a commercial real estate company that was working on the continued development of FPMC. Beauchamp used the company to funnel bribe and kickback payments in exchange for patient referrals.

FPMC also made bribe and kickback payments to chiropractors to induce them to send their patients that needed surgery to FPMC as opposed to other facilities. Toussaint would often meet with chiropractors for these discussions and there was a clear quid-pro-quo, that is, the chiropractors were paid to refer their patients to FPMC.

In addition to paying surgeons bribes and kickbacks for cases being performed at FPMC in the form of marketing money, FPMC also used the opportunity to invest in FPMC, and the number of investment units a surgeon could purchase, to induce surgeons to bring their patients to FPMC. The more surgeries a surgeon could bring to FPMC, the more they were allowed to invest and profit from the hospital's billings. Beauchamp, Barker, and Toussaint often decided how many shares a surgeon should be able to purchase based on the number of surgical cases the surgeon could steer to FPMC. Surgeon-investors who did not bring enough surgical cases to FPMC were divested or their shares were cut.

The case was investigated by the FBI, the U.S. Department of Labor Office of Inspector General, the U.S. Department of Labor Employee Benefits Security Administration, the U.S. Department of Defense - Defense Criminal Investigative Service, the U.S. Office of Personnel Management Office of Inspector General, and Internal Revenue Service Criminal Investigation, with assistance from the Food and Drug Administration and the U.S. Postal Inspection Service.

Assistant U.S. Attorneys Andrew Wirmani, Kate Pfeifle and Mark Tindall are prosecuting the case.

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Topic(s):
Health Care Fraud

Component(s):
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