



Department of Justice

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District of Massachusetts

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HEALTH INSURANCE EXECUTIVES INDICTED

BOSTON, Mass...Seven men and two women have been indicted for a wide array of crimes committed between 2006 and 2010 through a Massachusetts health insurance company that did business as HMA Direct.

The 29-count superseding indictment unsealed today in Federal court brings charges against several senior executives of the company, including former Chief Executive Officer **JEDEDIAH L. BRETTSCHEIDER**, 35, of Phoenix. The indictment also charges several of the principal investors in the company.

At the heart of the conspiracy charged in the indictment was HMA Direct's practice of excluding from coverage, or "carving out," clients with health risks so severe that they might interfere with HMA Direct's bottom line. It is alleged that **BRETTSCHEIDER** and many of the other defendants knew, such "carving out" was illegal (albeit not criminal). It is alleged that **BRETTSCHEIDER** and the other defendants knew that in order to succeed with a business model that relied on fundamentally unlawful behavior, they needed to conceal important aspects of their business from clients, other health insurance companies and government agencies.

The indictment alleges dozens of false statements and misrepresentations that the conspirators made in furtherance of their scheme. This includes that **BRETTSCHEIDER** made false statements to several government agencies about his criminal background in order to obtain insurance producer licenses; after **BRETTSCHEIDER**'s criminal history received widespread publicity, he made further false statements about his background to business associates in order to perpetuate the scheme; the conspirators made false statements to clients in order to obtain health information to facilitate the "carving out" employees with expensive medical conditions; the conspirators arranged for two HMA Direct investors, **FRANCIS GAETANI**, a/k/a "FRAN," a/k/a "GUIDO" and **RONALD ANGER**, to pretend that they were satisfied customers of the company and to provide fake references to prospective clients; the conspirators invented fictitious companies and fabricated documents, including employee wage reports, in order to disguise their "carving out" of employees with expensive medical conditions; the conspirators impersonated insured employees in telephone calls.

The indictment also charges **BRETTSCHEIDER** with intentionally misapplying funds that clients had entrusted to HMA Direct to pay health claims. According to the indictment, HMA Direct's controller calculated that by May 2009, **BRETTSCHEIDER** had shortchanged the account that held client claims moneys by more than \$1.7 million. At the same time, **BRETTSCHEIDER** allegedly used money from HMA Direct to purchase the following: a

membership at an exclusive golf club (\$86,945); a BMW that he used during personal time (\$23,049); clothing from Neiman Marcus, including Armani and Zegna apparel (\$13,492); cigars (\$3,627 over an 18-month period); and a night at the luxury New York Palace Hotel on New Year's Eve 2009 (\$1,077).

In addition, the indictment charges **BRETTSCHEIDER** with embezzling a total of \$401,724 from HMA Direct on two occasions in the spring of 2010.

Finally, the indictment charges **BRETTSCHEIDER** and co-defendants **SHELLEY LENKUTIS** and **RACHEL ANGER** with obstruction of justice. According to the indictment, when HMA Direct came under investigation by various state insurance regulators in the Spring of 2009, the defendants altered, destroyed, mutilated, and concealed documents in the company's files that referred to "carve-outs." For example, it is alleged that the defendants moved some incriminating documents – which they referred to as the "secret James Bond files" – to secluded parts of the building or to locations off-site. It is further alleged that the defendants and others also used white-out to cover up the word "carve-out"; shredded incriminating documents; forged signatures; and created fake documents.

U.S. Attorney Carmen M. Ortiz noted, "At a time when health insurance costs are straining American workers and businesses, we put a high priority on those who would profit by manipulating the system and by fraudulently dumping expenses on others."

"What is noteworthy about this otherwise basic scheme is that when Messrs. Gaetani and Cassandro discovered Mr. Brettschneider's alleged fraud, instead of reporting his fraud to law enforcement authorities, they allegedly chose to look the other way. By doing so, they, and other employees who also knew of the fraud, placed the health and well-being of those insured by HMA Direct at risk. The joint investigation of the financial fraud aspect of this case should be a warning to managers in private and public companies that not reporting illegal conduct has severe repercussions," said Richard DesLauriers, Special Agent in Charge of the Federal Bureau of Investigation, Boston Field Office.

"This criminal action demonstrates the Labor Department's resolve to vigorously enforce the laws to ensure that those who scheme, misappropriate, misrepresent and deceive small business self-insured health plans as well as the health insurance market for their own financial gain are brought to justice," said Edward Maloney, Acting Director of the Boston Regional Office for the U.S. Department of Labor, Employee Benefits Security Administration.

"The U.S. Postal Inspection Service is proud to join our law enforcement partners in announcing this indictment," said Robert Bethel, Inspector in Charge of the U.S. Postal Inspection Service. "The Postal Inspection Service has a long standing commitment protecting consumers from fraud. This indictment sends a clear message to anyone who would prey on the American consumer: you will be caught and will be prosecuted."

"Today's indictment serves as a stern warning to those who would commit health care fraud against Employee Retirement Income Security Act covered employer benefit plans. The OIG remains firmly committed to work with our law enforcement partners to investigate these types of crimes," stated Robert Panella, Special Agent-in-Charge for the New York Region of the

U.S. Department of Labor's Office of Inspector General, Office of Labor Racketeering and Fraud Investigations.

If convicted, **BRETTSCHNEIDER** faces up to 20 years imprisonment on the obstruction of justice count and on each count of wire fraud; up to 10 years imprisonment for each count of health care fraud, intentional misapplication of funds of a health care benefit program, theft or embezzlement in connection with health care, and making false material statements to an insurance regulatory agency; mandatory two year sentence, consecutive to the sentence he would otherwise receive, for aggravated identity theft; and up to five years imprisonment on each of the remaining crimes.

MICHAEL CASSANDRO, 44, of Middleton, R.I., owned part of HMA Direct and variously oversaw the sales and third party administrative arms of the company. **CASSANDRO** is charged with health care fraud and conspiracy. If convicted on these charges, he faces up to 10 years imprisonment for each count of health care fraud and up to five years imprisonment on the conspiracy count. **CASSANDRO** is also subject to a fine of up to \$250,000 and up to three years of supervised release on each count.

FRANCIS GAETANI, a/k/a "FRAN," a/k/a "GUIDO", 56, of Sutton, Mass., was an investor in HMA Direct. **GAETANI** is charged with wire fraud and conspiracy. If convicted on these charges, he faces up to 20 years imprisonment for each count of wire fraud and up to five years imprisonment on the conspiracy count.

RONALD ANGER, 54, of Sutton, was an investor in HMA Direct. He is charged with wire fraud and one count of conspiracy. If convicted on these charges, he faces up to 20 years imprisonment for the wire fraud count and up to five years imprisonment on the conspiracy count.

WILLIAM O'BRIEN, 47, of West Barnstable, Mass. was both a sales agent for HMA Direct and a manager of other sales agents. **O'BRIEN** is charged with wire fraud, health care fraud, obtaining customer information from a financial institution by false representation, aggravated identity theft, and conspiracy. If convicted, **O'BRIEN** faces up to 20 years imprisonment on each count of wire fraud; up to 10 years imprisonment for each count of health care fraud; a mandatory two year sentence, consecutive to the sentence he would otherwise receive, for aggravated identity theft; and up to five years imprisonment for conspiracy and obtaining customer information from a financial institution by false representation.

MARK CELENTANO, 60, of Ipswich, Mass., was both a sales agent for HMA Direct and a manager of other sales agents. **CELENTANO** is charged with two counts of health care fraud, one count of obstruction of a criminal investigation of health care offenses and one count of conspiracy. If convicted on these charges, **CELENTANO** faces up to 10 years imprisonment for each count of health care fraud and up to five years imprisonment on the obstruction and conspiracy counts.

KEVIN BROWN, 46, of Stuart, Fla., oversaw the underwriting arm of HMA Direct. **BROWN** is charged with two counts of health care fraud, one count of aggravated identity theft and one count of conspiracy. If convicted on these charges, he faces up to 10 years imprisonment for each count of health care fraud, up to five years imprisonment on the conspiracy count and a

mandatory two year sentence, consecutive to the sentence he would otherwise receive, for aggravated identity theft.

SHELLEY LENKUTIS, 37, of Waltham, Mass., oversaw the underwriting arm of HMA Direct. **LENKUTIS** is charged with one count of obstruction of justice and one count of conspiracy. If convicted on these charges, she faces up to 20 years imprisonment for obstruction of justice and up to five years imprisonment for conspiracy.

RACHEL ANGER, 23, of Sutton, worked in the sales, third party administrative, and underwriting arms of the company. She is charged with health care fraud, wire fraud, obstruction of justice and conspiracy. If convicted on these charges, she faces up to 20 years imprisonment for wire fraud and obstruction of justice, up to 10 years imprisonment for health care fraud, and up to five years imprisonment for conspiracy.

U.S. Attorney Ortiz; SAC Panella; Acting Director Maloney; SAC DesLauriers; and Inspector in Charge Bethel made the announcement today.

The details contained in the indictment are allegations. The defendants are presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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