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Chief Approval _____

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:16-cr-176-~~del~~-19-0983

IRWIN CHARLES AGER

2016 SEP 12 AM 9:51
US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

FILED

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by A. Lee Bentley, III, United States Attorney for the Middle District of Florida, and the defendant, IRWIN CHARLES AGER, and the attorney for the defendant, Luke Lirot, mutually agree as follows:

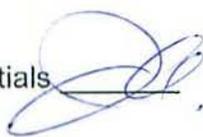
A. Particularized Terms

1. Count Pleading To

The defendant shall enter a plea of guilty to Count One of the Information. Count One charges the defendant with conspiracy to commit mail fraud and wire fraud, in violation of 18 U.S.C. § 1349.

2. Maximum Penalties

Count One carries a maximum sentence of 20 years' imprisonment, a fine of \$250,000, or twice the gross gain caused by the offense, or twice the gross loss caused by the offense, whichever is greater, a term of supervised release of not more than 3 years, and a special assessment of \$100. With respect to certain offenses, the Court shall order the defendant to make

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restitution to any victim of the offense, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense, or to the community, as set forth below.

3. Elements of the Offense

The defendant acknowledges understanding the nature and elements of the offense with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

First: two or more persons, in some way or manner, agreed to try to accomplish a common and unlawful plan to commit mail or wire fraud, as charged in the Information; and

Second: the Defendant knew the unlawful purpose of the plan and willfully joined in it;

4. Indictment Waiver

Defendant will waive the right to be charged by way of indictment before a federal grand jury.

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

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6. Mandatory Restitution to Victim of Offense of Conviction

Pursuant to 18 U.S.C. §§ 3663(a) and (b) and 3663A(a) and (b), the defendant agrees to make full restitution to each and every victim (as that term is defined in 18 U.S.C. § 3663A(a)(2)) who invested in any investment offered by Tri-Med Corporation or Tri-Med Associates. The amount of restitution shall be in the amount determined by the Probation Office. The defendant agrees and acknowledges that, as of the date of this Plea Agreement, the parties estimate that there are over 200 victims who are owed a total amount of restitution of \$10,347,226, which represents an estimate of the total amount that the defendant and his co-conspirators obtained, through fraud, from investors, less amounts that were paid back to investors or that were seized by the Receiver. The defendant agrees and acknowledges that the amount of restitution to be paid is an approximate amount and that the amount of total restitution and the number of victims may be higher or lower at the time of sentencing.

7. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines, as adjusted by any departure the United States has agreed to recommend in this plea agreement. The parties understand that such a recommendation is not binding on the Court and that, if it is not accepted

by this Court, neither the United States nor the defendant will be allowed to withdraw from the plea agreement, and the defendant will not be allowed to withdraw from the plea of guilty.

8. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG §3E1.1(b) and all terms of this Plea Agreement, including but not limited to, the timely submission of the financial affidavit referenced in Paragraph B.5., the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

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9. Low End

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will not oppose the defendant's request to the Court that the defendant receive a sentence at the low end of the applicable guideline range, as calculated by the Court. The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

10. Cooperation - Substantial Assistance to be Considered

Defendant agrees to cooperate fully with the United States in the investigation and prosecution of other persons, and to testify, subject to a prosecution for perjury or making a false statement, fully and truthfully before any federal court proceeding or federal grand jury in connection with the charges in this case and other matters, such cooperation to further include a full and complete disclosure of all relevant information, including production of any and all books, papers, documents, and other objects in defendant's possession or control, and to be reasonably available for interviews which the United States may require. If the cooperation is completed prior to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion at the time of sentencing recommending (1) a downward departure from the applicable

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guideline range pursuant to USSG §5K1.1, or (2) the imposition of a sentence below a statutory minimum, if any, pursuant to 18 U.S.C. § 3553(e), or (3) both. If the cooperation is completed subsequent to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion for a reduction of sentence within one year of the imposition of sentence pursuant to Fed. R. Crim. P. 35(b). In any case, the defendant understands that the determination as to whether "substantial assistance" has been provided or what type of motion related thereto will be filed, if any, rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

11. Use of Information - Section 1B1.8

Pursuant to USSG §1B1.8(a), the United States agrees that no self-incriminating information which the defendant may provide during the course of defendant's cooperation and pursuant to this agreement shall be used in determining the applicable sentencing guideline range, subject to the restrictions and limitations set forth in USSG §1B1.8(b).

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12. Cooperation - Responsibilities of Parties

a. The government will make known to the Court and other relevant authorities the nature and extent of defendant's cooperation and any other mitigating circumstances indicative of the defendant's rehabilitative intent by assuming the fundamental civic duty of reporting crime. However, the defendant understands that the government can make no representation that the Court will impose a lesser sentence solely on account of, or in consideration of, such cooperation.

b. It is understood that should the defendant knowingly provide incomplete or untruthful testimony, statements, or information pursuant to this agreement, or should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and unreservedly disclose and provide full, complete, truthful, and honest knowledge, information, and cooperation regarding any of the matters noted herein, the following conditions shall apply:

(1) The defendant may be prosecuted for any perjury or false declarations, if any, committed while testifying pursuant to this agreement, or for obstruction of justice.

(2) The United States may prosecute the defendant for the charges which are to be dismissed pursuant to this agreement, if any, and may either seek reinstatement of or refile such charges and prosecute the defendant thereon in the event such charges have been dismissed pursuant to this agreement. With regard to such charges, if any, which have been dismissed,

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the defendant, being fully aware of the nature of all such charges now pending in the instant case, and being further aware of defendant's rights, as to all felony charges pending in such cases (those offenses punishable by imprisonment for a term of over one year), to not be held to answer to said felony charges unless on a presentment or indictment of a grand jury, and further being aware that all such felony charges in the instant case have heretofore properly been returned by the indictment of a grand jury, does hereby agree to reinstatement of such charges by rescission of any order dismissing them or, alternatively, does hereby waive, in open court, prosecution by indictment and consents that the United States may proceed by information instead of by indictment with regard to any felony charges which may be dismissed in the instant case, pursuant to this plea agreement, and the defendant further agrees to waive the statute of limitations and any speedy trial claims on such charges.

(3) The United States may prosecute the defendant for any offenses set forth herein, if any, the prosecution of which in accordance with this agreement, the United States agrees to forego, and the defendant agrees to waive the statute of limitations and any speedy trial claims as to any such offenses.

(4) The government may use against the defendant the defendant's own admissions and statements and the information and books, papers, documents, and objects that the defendant has furnished in the course of the defendant's cooperation with the government.

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(5) The defendant will not be permitted to withdraw the guilty pleas to those counts to which defendant hereby agrees to plead in the instant case but, in that event, defendant will be entitled to the sentencing limitations, if any, set forth in this plea agreement, with regard to those counts to which the defendant has pled; or in the alternative, at the option of the United States, the United States may move the Court to declare this entire plea agreement null and void.

13. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), whether in the possession or control of the United States or in the possession or control of the defendant or defendant's nominees. The assets to be forfeited specifically include, but are not limited to, a money judgment of at least \$10,347,226, the exact amount to be determined at or before sentencing which amount will represent the amount of proceeds obtained as a result of the offense charged in Count One. The defendant also hereby agrees to waive all constitutional, statutory and procedural challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging

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instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to the provisions of Rule 32.2(b)(1)(A), the United States and the defendant request that promptly after accepting this Plea Agreement, the Court make a determination that the government has established the amount of the proceeds of the offense to which defendant is pleading guilty is at least \$10,347,226 and enter an order of forfeiture. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is omitted from the judgment, the defendant agrees that the forfeiture order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees that the United States shall, at its option, be entitled to the forfeiture of any property (substitute assets) of the defendant up to the value of the money judgment. The Court shall retain jurisdiction to settle any disputes arising from application of this clause. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

The defendant agrees to take all steps necessary to identify and locate all substitute assets and to transfer custody of such assets to the United

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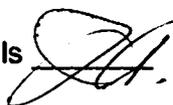
States before the defendant's sentencing. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant agrees that Federal Rule of Criminal Procedure 11 and USSG §1B1.8 will not protect from forfeiture assets disclosed by the defendant as part of his cooperation.

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to any substitute assets before the defendant's sentencing. In addition to providing full and complete information about substitute assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture.

The defendant agrees that, in the event the Court determines that the defendant has breached this section of the Plea Agreement, the defendant may be found ineligible for a reduction in the Guidelines calculation for acceptance of responsibility and substantial assistance, and may be eligible for an obstruction of justice enhancement.

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B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense, pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense, pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (18 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. To ensure that this obligation is satisfied, the Defendant agrees to deliver a check or money order to the Clerk of the Court in the amount of \$100, payable to "Clerk, U.S. District Court" within ten days of the change of plea hearing.

The defendant understands that this agreement imposes no limitation as to fine.

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2. Supervised Release

The defendant understands that the offense to which the defendant is pleading provides for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

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5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P.

32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that his financial statement and disclosures will be complete, accurate and truthful and will include all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

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6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United

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States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and

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defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as

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the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty.

The defendant certifies that defendant does hereby admit that the facts set forth in the attached "Factual Basis," which is incorporated herein by reference, are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

12. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

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13. Certification

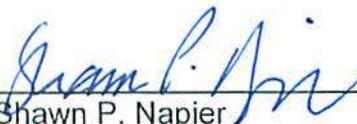
The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

DATED this 10th day of ~~June~~, 2016.
September

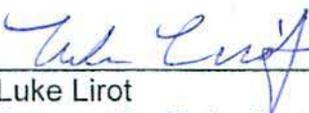
A. LEE BENTLEY, III
United States Attorney



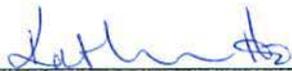
IRWIN CHARLES AGER
Defendant



Shawn P. Napier
Assistant United States Attorney



Luke Lirot
Attorney for Defendant



Katherine Ho
Assistant United States Attorney
Chief, Orlando Division



FILED

2016 SEP 12 AM 10:01

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 6:16-cr-176-ORL-130AB

IRWIN CHARLES AGER

PERSONALIZATION OF ELEMENTS

First: Did you and another person, in some way or manner, agree to try to accomplish a common and unlawful plan to commit mail or wire fraud, as charged in the Information; and

Second: Did you know the unlawful purpose of the plan and willfully join in it?

Defendant's Initials



UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:16-cr-

IRWIN CHARLES AGER

FACTUAL BASIS

At all times relevant to this case, Tri-Med Corporation (Tri-Med) was a Florida corporation that claimed to be in the business of purchasing medical receivables at a discount. IRWIN CHARLES AGER was one of the Marketing Directors for Tri-Med Associates (TMA), which was the "marketing arm" of Tri-Med. TMA's principal office was located in Seminole County, Florida, in the Middle District of Florida.

Starting on an unknown date and continuing through and including March 2014, IRWIN CHARLES AGER and his co-conspirators raised over \$17 million through an investment fraud scheme involving Tri-Med and TMA. The investment fraud scheme involved the alleged purchase of medical receivables by Tri-Med. In general, a medical receivable is money that a medical services professional has a right to receive as a result of providing a customer with medical services. The medical receivables allegedly purchased by Tri-Med involved services that were provided to accident victims who were represented by personal injury attorneys. Payment of those medical receivables was supposed to be made from the proceeds of litigation or an insurance claim made

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against a general liability or automobile insurance policy. Each of the medical receivables was also supposed to be secured by a "Letter of Protection" (LOP), which is a letter that is provided by a patient's personal injury attorney to a medical services professional as an incentive to provide services to a patient. A LOP is a contract involving a patient, the patient's attorney, and the medical services provider by which the patient and attorney agree to pay all or part of the total billed by the medical services provider from the proceeds of any pre-suit settlement, lawsuit settlement, or judgment that the patient may obtain.

To fund Tri-Med's alleged purchases of medical receivables, IRWIN CHARLES AGER and his co-conspirators solicited individuals to participate in an "investment program" in which investors' money purportedly would be used by Tri-Med to buy medical receivables "backed" by LOPs. TMA's role was to market the investment program, which it did through newspaper advertisements and direct mailings, as well as contacts by sales agents.

As part of its solicitations of investors, TMA used a website that represented, in part:

- "Hospitals and surgery centers no longer have to carry unpaid receivables for many months because of the available cash from Tri-Med Corporation."
- "Tri-Med Corporation works with investor money to purchase account receivables backed by letters of protection (LOPs or liens) from major healthcare providers."
- "Our investment program allows investors to receive a better return on their funds. Interest payments are made on a monthly, direct deposit. Terms are almost always less than 24 months. It's the perfect program for knowledgeable investors."



TMA's website further claimed:

This investment has been registered with and operates as an exempt security, as reviewed by the Florida Office of Financial Regulation.

IRWIN CHARLES AGER and his co-conspirators told investors that the funds invested by them would be used to purchase medical receivables. In return, investors were told that Tri-Med would assign the outstanding medical receivables, including the LOP, to the investor. Investors typically were promised an 8% annual percentage rate (APR) on their principal for a period of two years (the APR fluctuated for later investments). Once the period of two years expired, investors were entitled to the full amount of their principal.

To assure investors that their investments were secure, Tri-Med designated a certificate number to the purported LOP that had been assigned in its favor by the medical service professional. Tri-Med then transferred its interest in the LOP to the investor in a document called an "Assignment of Interest Certificate" ("AIC Certificate").

An "Investor Agreement" was executed by a sales agent on behalf of Tri-Med and investors as part of many investments.¹ In that agreement, Tri-Med promised to pay a particular interest rate (usually between 5.75% to 8%) and to return the invested principal at the earliest of (a) satisfaction of the underlying

¹ The term "Investor Agreement" is being used for ease of reference as IRWIN CHARLES AGER and his co-conspirators gave the agreement different titles throughout the relevant period. Some of these titles were "Monthly Income Agreement" and "Agreement."



medical account receivable, or (b) the end of a 24-month period after the initial investment. The Investor Agreement also addressed three different categories of risk associated with the investment:

- (1) **Time.** The "time" category referred to what would happen if a civil suit failed to reach a resolution within the contracted 24 month period. If that occurred, the investor would continue to receive the contracted interest rate until the civil suit was resolved, or the investor would receive their principal within 72 hours.
- (2) **Settlements.** The "settlements" category referred to a civil suit settling for less than what is owed. If that occurred, Tri-Med would execute a Bank of America letter of credit to make up the difference.
- (3) **Attorney Privilege.** The "attorney privilege" category referred to the patient's attorney dropping the civil suit or losing in litigation. If that occurred, Tri-Med would execute a Bank of America letter of credit to repay the entire principal within 72 hours.²

IRWIN CHARLES AGER was responsible for recruiting, and managing, many of the sales people who sold investments in Tri-Med. In addition, IRWIN CHARLES AGER personally solicited at least 23 investors, who made 60 separate investments, totaling over \$2 million, from January 2012 to February 2014.

The investment pitch made by IRWIN CHARLES AGER and the sales people managed by him focused on the alleged safety and security of the investment. It started with the first advertisement that potential investors read in the Tampa Tribune and other newspapers (for example, IRWIN CHARLES

² In later agreements, the reference to the Bank of America line of credit in the Agreement was dropped and was replaced with a representation that \$500,000 would be maintained at a bank account at Wells Fargo or a major bank.



AGER placed one of the advertisements in the Tampa Tribune in November 2011). In those advertisements, the investment was represented as being better than a certificate of deposit:

WHY TAKE LESS?
TODAY, A 24 MONTH CD PAYS ABOUT
1.5% APR
TODAY, OUR 24 MONTH PLAN PAYS YOU,
8% APR
Paid Monthly
\$10,000
ACCREDITED BUSINESS

**& EVERY DOLLAR
IS BACKED BY A
MAJOR INSURANCE COMPANY!**
WITHOUT THE RISKS OF:
MORTGAGES, TRUST DEEDS, ANNUITIES OR VIATICALS!
FOR A FREE, No Obligation BROCHURE
CALL Today! Our TOLL FREE BROCHURE LINE:
1-866-570-0390
THIS IS A LIMITED OFFERING.

The advertisement claimed that "Every Dollar is Backed by a Major Insurance Company!" and that the investment did not have the risk associated with other investments. It was also represented that the investment was being sold by a business that was "accredited" by the Better Business Bureau.

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Investors who went to TMA's website received further representations regarding the safety of the investment. They were told that Tri-Med would "screen the patient's personal injury case" and that it would "guarantee prompt payment directly to the surgical provider when services are performed." TMA's website claimed that Tri-Med was able to achieve these results due to its "extensive experience in personal injury litigation," as well as its "in-house specialists in personal injury litigation." In addition, TMA's website claimed that the investment was "registered with and operate[d] as an exempt security, as reviewed by the Florida Office of Financial Regulation."

Prospective investors were also sent correspondence that represented that "Tri-Med Corporation, is a group of prominent professional doctors and surgeons who have put together an investment program ***which is backed by some of the largest Insurance Companies in the World[.]***" The correspondence stated that "[t]hese doctors, along with attorneys, and CPAs, with a Bank of America Letter of Credit in hand, have taken every possible precaution to ensure the safety of this investment." One version of the marketing materials represented that "Nine Hospitals now participate in the best investment in Florida!"

Investors who met with a sales person were provided with additional representations regarding the alleged safety of the investment. One of the primary representations that was made to investors throughout the process was that any invested funds would be kept in an attorney's trust account that was

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FDIC insured and that the money would stay in that account until it was needed to purchase a medical receivable purportedly backed by an LOP that met Tri-Med's purchase criteria. This representation was specifically set forth to investors in a document called an "Investor Agreement:"

Until an appropriate case is identified and funded, Investor funds will be held in trust at the law firm of Trust Account Law Firm ... under the sole control of Trust Account Lawyer.³

It was also included in the "Memorandum" that was shown to some investors:

The main balance of the investment funds necessary to purchase LOPs (liens) are then placed in an **FDIC Insured Trust Account** with the **Trust Account Law Firm of Tampa, FL.**

Some investors, such as one of IRWIN CHARLES AGER's investors with the initials of K.H., were shown or provided a letter written by the Trust Account Lawyer that represented:

All funds received by or through Tri Med from investors will be deposited into a Trust Account Law Firm Trust Account established for this purpose.

This representation was then repeated in a confirmation letter that was sent to each investor by United States Mail:

Your funds have been placed in an FDIC Insured Trust Account under the control and direction of one

³ For purposes of this Plea Agreement, the name of the law firm that was supposed to be handling the Trust Account will be referred to as the "Trust Account Law Firm," and the name of the lead attorney for that firm will be referred to as the "Trust Account Lawyer."



of Florida's most respected law firms, Trust Account
Law Firm[.]

To assure investors about the security of the investment, IRWIN
CHARLES AGER and his co-conspirators and the sales people managed by him
made additional representations, including:

- Claims in some investment agreements that: "THIS INVESTMENT HAS BEEN SUBMITTED TO THE STATE OF FLORIDA OFFICE OF FINANCIAL REGULATION AS AN EXEMPT SECURITY."
- Representations that Tri-Med had purchased medical receivables from specific hospitals and doctors.
- Promises that Tri-Med backed each Letter of Protection investment and that if an account receivable backed by a Letter of Protection was not paid within the 24 month period or if the amount received was less than the full amount of the account receivable backed by a Letter of Protection, then Tri-Med would pay to the investor the difference, so that the investor would receive the full amount of the investors original investment, in addition to the interest paid.
- Claims that Tri-Med would execute a "Bank of America Letter of Credit" to repay any investor whose LOP did not cover the amount due for their investment.

To further assure investors as to the safety of the investment, sales
people were provided with an opinion letter that purported to be from a national
law firm. That letter concluded that "Tri Med Corporation will be exempt from the
registration requirements of the Securities Act of 1933, as amended (Securities
Act) and the main 'Blue Sky' laws of the state of Florida, according to Regulation
D, Rule 504, 505, 506, and recently passed 507."

The representations that were made by IRWIN CHARLES AGER and his
co-conspirators to get individuals to invest money with Tri-Med were false.

Defendant's Initials



There were at least three types of false representations made by IRWIN CHARLES AGER and his co-conspirators in the execution of the conspiracy and scheme.

First, as part of his effort to assure investors of the safety of the investment, IRWIN CHARLES AGER repeatedly told investors that their money would be held in an account controlled by the Trust Account Law Firm. Of the over \$17 million raised from over 200 investors, however, only approximately \$2,783,800 was ever transferred from Tri-Med to the escrow account of the Trust Account Law Firm. The vast majority of the funds raised from investors never made it to the attorney escrow account. The following is a break-down of what happened to the investors' money:

- \$3,843,599 was used to purchase medical receivables, including the \$2,783,800 that was transferred to the escrow account of the Trust Account Law Firm;
- \$2,308,413 was distributed to investors as "profit distribution" and return of principal; and,
- \$6,503,867 was distributed to the operators of Tri-Med and the sales people, or was used for their benefit or to pay business expenses.

There was an additional \$4,625,508 that was retained in Tri-Med's bank accounts, which was seized by the Receiver in 2014 (the Receiver was appointed after the State of Florida, Office of Financial Regulation, filed a complaint on March 5, 2014 in the Circuit Court for the Sixth Judicial Circuit in Pinellas County against Tri-Med, TMA, IRWIN CHARLES AGER, and others to



enjoin their violations of Florida laws in connection with a scheme to offer and sell unregistered securities).

In other words, the investors' money was not held in an attorney escrow account as was represented to investors. This fact was known by IRWIN CHARLES AGER and other sales people from the very beginning of the scheme.

On January 23, 2012, a sales person sent an email to IRWIN CHARLES AGER and others. The title of the email was "Meeting Issues," and the sales person was sending it on behalf of himself and two other sales people. In the email, the sales person expressed several concerns that the three sales people had with Tri-Med and TMA. One of the concerns raised by the sales people was the fact that the account into which the investor funds would be deposited was not controlled by the attorney as was claimed:

Regarding the "Tri-Med Payment Escrow Account":
This account should not be under the control of Tri-Med; it should be controlled by Trust Account Lawyer.
This account should also be audited monthly.

In response, IRWIN CHARLES AGER stated:

This account will continue to be under the control of Tri-Med not Trust Account Lawyer. It is not up for discussion.

Second, IRWIN CHARLES AGER repeatedly told investors that their investments were "backed" by a major insurance company. IRWIN CHARLES AGER knew, however, from as early as December 7, 2011 that it was not an insured investment.

Defendant's Initials



On that day, IRWIN CHARLES AGER sent an email to several co-conspirators. The email was entitled, "Leads and Info," and the purpose of the email was to encourage the sales people to sell the security. IRWIN CHARLES AGER explained that "Madoff and Rothstein have imbedded mistrust in everyone's mind." IRWIN CHARLES AGER stated:

The only way that you can convince people today is with "the safety of this investment' The absolute magical words are; (Which technically you cannot say!) "This is an insured investment".

SO- Although technically, it is not, telling people that their principle is going to be paid by "A Major Insurance Company" is exactly what they want to hear!

They absolutely DO NOT want to hear that "Tri-Med" owes them the money.

In other words, IRWIN CHARLES AGER and the others on the email understood that they were not allowed to say that the investment was "insured" and that it was "technically" incorrect to tell people that a "Major Insurance Company" was going to pay the their principal, but that they needed to do that to "tell the investors what they needed to hear to get them to invest."

Third, IRWIN CHARLES AGER failed to advise investors that he had been told that the investment program violated federal and Florida law. In late 2012, Tri-Med hired a law firm, which prepared a document dated December 7, 2012 entitled, "Legal Memo." Investigators have obtained a copy of the document that has IRWIN CHARLES AGER's handwriting on it. In addition, IRWIN CHARLES AGER wrote an email in December 2013 in which he admitted that "it seems like

Defendant's Initials



we have been operating illegally for all this time." The Receiver for Tri-Med and TMA has waived any claim of attorney-client privilege related to the Legal Memo.⁴

The Legal Memo advised IRWIN CHARLES AGER and his co-conspirators that the materials used to market Tri-Med "contain[] several statements that might be inaccurate or misleading." The representation about the investment being "backed by an insurance company" was specifically identified as one such inaccurate or misleading statement:

The documentation contains several statements that might be inaccurate or misleading. For example, the Monthly Income Agreement states that the investment is backed by an insurance company.

The Legal Memo advised IRWIN CHARLES AGER and his co-conspirators that the investments offered by Tri-Med and TMA constituted securities under federal and Florida securities laws. The Legal Memo noted that it was possible that the securities might be exempt from federal registration or within the safe-harbor provisions of Regulation D under the Securities Act of 1933, but that "Tri-Med's current level of due diligence and documentation are probably not sufficient to allow Tri-Med to confidently rely on these exemptions." The Legal Memo similarly concluded that "[d]ue to the deficiencies" described in

⁴ In the order appointing the Receiver for Tri-Med and TMA, the state court specifically provided that, "the Receiver shall hold and possess and may exercise, assert and/or waive all of the powers, authority, rights, privileges and immunities which are held or possessed or may have been exercised, asserted and/or waived by the Receivership Entities, including without limitation the attorney-client privilege and the accountant-client privilege."

the Legal Memo that "Tri-Med cannot confidentially rely on the Florida Private Placement Exemption for its prior sales of Monthly Income Agreements."

The Legal Memo advised IRWIN CHARLES AGER and his co-conspirators that several actions needed to be taken with respect to the prior offerings and any future offerings. For investments that had already been made, the Legal Memo stated that "Tri-Med and its principals have potential exposure to liability for claims by purchasers, as well as exposure for sanctions by Florida securities regulators." As a result, IRWIN CHARLES AGER and his co-conspirators were advised that "the only way to eliminate potential claims by purchasers would be to conduct a rescission offer to all prior purchasers who purchased Monthly Income Agreements from the Operating Entities." IRWIN CHARLES AGER and his co-conspirators were further advised that efforts to conduct a rescission offer would not eliminate possible sanctions by Florida's securities regulators:

Regardless of whether Tri-Med proceeds with the prior offerings of Monthly Income Agreements to Investors, Tri-Med cannot eliminate its potential exposure for sanctions or other actions by Florida securities regulators.

IRWIN CHARLES AGER and his co-conspirators were told that voluntary disclosure "might reduce the potential consequences associated with any securities violations, but that course of action is difficult to predict." IRWIN CHARLES AGER and his co-conspirators were warned that the situation was serious enough that "Florida securities regulators could impose sanctions,

require a rescission offer or pursue other civil or criminal remedies.”

IRWIN CHARLES AGER and his co-conspirators were also advised that any new investment could be obtained only by making substantial changes to the investment program. For example, IRWIN CHARLES AGER and his co-conspirators were advised to “[r]efrain from any advertising or general solicitation,” to “[l]imit offering to accredited investors only,” and to “[e]nsure that anyone receiving a commission in connection with the sale of Monthly Income Agreements is registered as a dealer with the Florida Securities Act.”

IRWIN CHARLES AGER and his co-conspirators did not follow any of the recommendations set forth in the Legal Memo. Nor did they advise past investors of the various legal issues with the investment that were identified in the Legal Memo or offer them an opportunity to rescind their investment. As a result, past investors never learned from IRWIN CHARLES AGER or any of his co-conspirators that their investments did not comply with federal or Florida law.

IRWIN CHARLES AGER and his co-conspirators also failed to change any of the representations that were made to prospective investors. IRWIN CHARLES AGER and his co-conspirators continued to solicit investors through newspaper advertisements that made the same types of representations identified above. IRWIN CHARLES AGER and his co-conspirators never told prospective investors that the investments in Tri-Med did not comply with federal or Florida law, that legal counsel had identified the “backed by an insurance company claim” as being “false or misleading,” and that they had been instructed



to “refrain” from advertising or soliciting investors. IRWIN CHARLES AGER and his co-conspirators also continued to solicit and offer securities of Tri-Med for investment despite the fact that he and the sales people he managed were not registered to sell securities in Florida.

The reason why IRWIN CHARLES AGER and his co-conspirators failed to disclose to past investors or to warn prospective investors about the illegality of the investments in Tri-Med was that they did not want to refund any investor money and wanted to continue to receive new investor money. The result of that decision was that investors continued to renew their investments with Tri-Med and to provide additional funds to invest.

After December 12, 2012 (the date of the Legal Memo), over 200 investors provided over \$11 million in new investments with Tri-Med. Over \$650,000 of these new investments were made in response to direct solicitations by IRWIN CHARLES AGER; the remaining new sales were made by sales people managed by IRWIN CHARLES AGER. Each of those sales pitches were made by using the same type of representations that had been made from the beginning of the scheme. IRWIN CHARLES AGER continued to solicit investments and renewals of investments with Tri-Med, even after he had admitted in a December 2013 email that “it seems like we have been operating illegally for all this time.” IRWIN CHARLES AGER continued to solicit such investments and renewals of investments, despite the fact that he knew that the representations that were being made to investors of Tri-Med were false, that he



was involved in securities violations, and that those investors were being deceived into purchasing a security that violated federal and Florida law.

For example, A.F. was one of the investors solicited by IRWIN CHARLES AGER after December 2013. A.F. made several investments from May 2013 to February 2014. Two of the investments made by A.F. were in February 2014. For those investments, A.F. and IRWIN CHARLES AGER signed two Investor Agreements in which Tri-Med continued to represent that the investment had been "submitted to the State of Florida, Office of Financial regulations as an exempt security," which, as IRWIN CHARLES AGER knew from the Legal Memo, was not true. One of the Agreements also continued to represent that the investment was "backed & paid by a major insurance company," which, as IRWIN CHARLES AGER knew, was also false, as was the representation that a portion of A.F.'s investments of \$20,000 would be held in "an FDIC Insured Attorney Trust Account to be controlled solely by the Trust Account Law Firm of Tampa, Florida." On February 19, 2014, A.F. received by mail a copy of a letter that represented "[y]our funds have been placed in an FDIC Insured Trust Account under the control and direction of one of Florida's most respected law firms, Trust Account Law Firm," which, as IRWIN CHARLES AGER knew, was false.

Other representations made to investors by IRWIN CHARLES AGER and his co-conspirators were also false, as follows:

- Tri-Med was not "accredited" with the Better Business Bureau.

- The Office of Financial Regulation had never found that the investment was exempt.
- There was no Bank of America "letter of credit."
- The letter purportedly written by an attorney from a national law firm was a fabrication.

As part of the effort to cover up the fraudulent scheme, investors were provided with AIC Certificates that falsely represented that specific medical receivables had been purchased by Tri-Med and assigned to the specific investors. Each AIC Certificate given to an investor identified the investor, the associated LOP by number, the "assigned value" (that corresponded to the amount of the investment), and the name of the insurance company. Investors were told that the AIC Certificates provided to them were for the medical receivables that had been purchased with their investments.

If Tri-Med was operating as was represented to its investors, each AIC Certificate would relate to an actual medical receivable that had been purchased by Tri-Med. As noted above, however, Tri-Med only used a portion of the investor funds (about 20%) to purchase medical receivables. Because Tri-Med did not purchase enough medical receivables to secure the incoming investments, Tri-Med began fabricating AIC Certificates that were not secured by medical receivables.

The fabricated AIC Certificates falsely represented that the investors had an "indisputable lien" upon an "individual case." The AIC Certificates also falsely represented that a particular insurance company was the one associated with

the case. To assure investors of the legitimacy of the AIC Certificates, each AIC Certificate was signed by a corporate representative and an attorney.

One of the documents found by the Receiver was an internal spreadsheet that reflected which AIC Certificate was assigned to which investor. According to that internal spreadsheet, Tri-Med issued at least 186 AIC Certificates with an assigned value of over \$3 million for which there was no medical receivable connected to the AIC Certificate.

The parties agree and acknowledge that the amount of loss in this case for which IRWIN CHARLES AGER will be held accountable for purposes of the federal sentencing guidelines is at least \$10,347,226 and that there were more than 200 victims, who are individuals who have suffered an actual loss as a result of the conspiracy and scheme of which IRWIN CHARLES AGER was a willing participant. Many of the investors in this case have been interviewed. The following is a summary of interviews and/or statements of three of the victims who had personal contact with IRWIN CHARLES AGER:

- B.R. met IRWIN CHARLES AGER in September 2012. IRWIN CHARLES AGER represented that B.R.'s money would be used to invest in medical companies and hospitals that were buying new equipment. IRWIN CHARLES AGER stated that everything was guaranteed and bonded through a letter of credit. IRWIN CHARLES AGER also provided a list of hospitals involved in the investment. IRWIN CHARLES AGER never told B.R. that her funds were not being deposited into the trust account of the Trust Account Law Firm, that Bank of America had closed Tri-Med's accounts involuntarily, and that state regulators had contacted Tri-Med concerning registering the investment. B.R. considered that information to be material to her investment decision.

- A.F. met IRWIN CHARLES AGER in February 2012 after A.F. saw an advertisement in the Orlando Sentinel offering a high interest rate. IRWIN CHARLES AGER represented that his money would be invested in medical, hospitals, and doctors. A.F. invested on more than one occasion, starting in February 2012 to February 2014. A.F., a resident of Orange County, Florida, received his interest checks by United States Mail. IRWIN CHARLES AGER never told A.F. that his funds were not being deposited into the trust account of the Trust Account Law Firm, that Bank of America had closed Tri-Med's accounts involuntarily, that state regulators had contacted Tri-Med concerning registering the investment, and that IRWIN CHARLES AGER had been told that the investment needed to be registered. A.F. considered that information to be material to his investment decision. After the receivership took over in 2014, IRWIN CHARLES AGER sent an email to A.F. asking him to lead a group of investors to file an involuntary Chapter 11 bankruptcy against Tri-Med. IRWIN CHARLES AGER told A.F. not to tell the bankruptcy attorney that he (IRWIN CHARLES AGER) had anything to do with "enlisting" him, because "[t]his cannot be arranged or directed by anyone involved with the States Case again tri-Med corp. or Tri-Med Associates or anyone connected to the States case."

- A.N. was one of the investors solicited by IRWIN CHARLES AGER. A.N. signed her Investor Agreement in July 2013. In that Agreement, Tri-Med continued to falsely represent that the investment had been "submitted to the State of Florida, Office of Financial regulations as an exempt security." The Agreement also continued to represent that the investment was "backed & paid by a major insurance company," which, as IRWIN CHARLES AGER knew, was also false, as was the representation that a portion of A.N.'s investment of \$10,000 would be held in "an FDIC Insured Attorney Trust Account to be controlled solely by the Trust Account Law Firm of Tampa, Florida." On November 7, 2013, A.N. received by mail a copy of a letter and an "AIC Certificate," which falsely represented that A.N. had been assigned a \$10,000 "indisputable lien" on the proceeds of the patient's civil suit to be paid by Peak Casualty. In fact, no such "indisputable lien" for A.N. or Tri-Med actually existed.



To further this conspiracy and scheme, IRWIN CHARLES AGER and his co-conspirators used the United States Mail and interstate wires, including by sending by United States Mail interest checks and copies of correspondence and various documents to investors located in the Middle District of Florida, by making interstate telephone calls from the Middle District of Florida to a conspirator located outside of Florida, by receiving interstate telephone calls in the Middle District of Florida from a conspirator located outside of Florida, by using interstate wires to send emails to a conspirator located outside of Florida, by using interstate wires to receive emails in the Middle District of Florida from a conspirator located outside of Florida, by using interstate wires in the Middle District of Florida to communicate with investors by telephone and email, and by causing wire transfers of funds to be made from the Tri-Med account in the Middle District of Florida to an account outside of Florida.

At times relevant to this case, IRWIN CHARLES AGER was a resident of Seminole County, Florida, which is where he had an office and from where he sometimes communicated with investors and co-conspirators.

