

THE UNITED STATES ATTORNEY'S OFFICE
DISTRICT of UTAH

FOR IMMEDIATE RELEASE

Thursday, April 21, 2016

**Kilgore Sentenced to 60 Months in Prison after Pleading Guilty to
Three Counts of Conspiracy to Commit Health Care Fraud**
***Two of Three Company Sales Representatives Sentenced to Prison Today for
Their Roles in Fraud Scheme***

SALT LAKE CITY – Jacob J. Kilgore, a former owner of a Salt Lake City durable medical equipment company, will serve 60 months in federal prison after pleading guilty to three counts of conspiracy to commit health care fraud as a part of Medicare fraud scheme involving power wheelchairs. Three company sales representatives were sentenced Thursday, two receiving prison terms, for their role in the fraud scheme.

Kilgore, 36, of Fruit Heights, was the co-owner of and employed as the vice president, and later, president of Orbit Medical, a Utah- and Indiana-based national supplier of durable medical equipment that specialized in power wheelchairs. Orbit maintained three Utah offices in the Salt Lake City area. Kilgore acted as sales manager for Orbit's western region sales territory which included offices in Utah, Arizona, Nevada, Idaho, Washington, and Oregon. The case was investigated by the agents of the FBI, the Defense Criminal Investigative Service, and Health and Human Services Office of Inspector General.

U.S. District Judge David Nuffer imposed the 60-month sentence for Kilgore last week. Kilgore will be on supervised release for 36 months following the completion of his federal prison sentence. As a part of the resolution of the case, Kilgore has agreed to pay \$4 million in restitution in the case over the next eight months. The first installment of \$1 million was paid at his sentencing. A second \$1 million payment is due by June 1, 2016, with a final payment of \$2 million due by Dec. 31, 2016 on the date of his sentence Kilgore also must forfeit \$776,001, the amount of his personal gain from the criminal conduct.

In a sentencing memorandum submitted to the court as a part of the sentencing hearing, federal prosecutors told the court the fraud scheme was driven by money and drove the imposition of a monthly quota demanding each sales representative sell 10 power wheelchairs per month. "While the genesis of the quota remains unclear, Jake Kilgore enforced it relentlessly throughout Orbit Medical's western regional offices, at times threatening sales reps with probation and, if low sales persisted, termination," federal prosecutors wrote in the sentencing memorandum. Prosecutors said that pressure to perform and to reach unrealistic sales heights caused sales reps to alter physician charts to meet Medicare's stringent medical necessity requirements.

"This was a serious offense. It was not a crime of opportunity. It involved significant planning and an undaunted, selfish desire by a durable medical equipment company executive to maximize his company's bottom line at the expense of compromising the values and morals of scores of Orbit sales reps," prosecutors wrote in their sentencing memorandum. To his credit, prosecutors wrote, "Jake Kilgore takes full responsibility for his actions."

Federal prosecutors told the court that the sales reps were not innocent victims. "Many were young, inexperienced, hungry for success, and as is common in the sales industry, driven and competitive. Jake Kilgore knew

that. He used commissions to entice sales reps, to encourage them, and, sadly, to corrupt them," they wrote in a sentencing memorandum filed with the court.

"Kilgore's pressure to perform and close power wheelchair sales never let up, and over time, caused sales reps to pursue more shortcuts, essentially ramping up the fraud and deception. Rather than facilitating mobility evaluations and obtaining proper chart notes, sales reps instead requested a signed prescription and any recent chart notes. With genuine physician chart notes in hand, sales reps chiseled away (electronically or via cut-and-paste), creating mobility evaluations that never occurred, concocting medical findings never made, and adding a physician signature never signed," federal prosecutors said.

While noting that Hartman, Evans, and Workman have taken responsibility for their misdeeds and sought to make amends, "falsifying physician chart notes cannot be defended, sugar-coated, or swept under the rug," federal prosecutors said.

Three sales representatives of the company, Hunter Hartman, age 31, of Ladera Ranch, Calif., David Evans, age 38, of South Jordan, and Morgan Scott Workman, age 37, of Farmington, each pleaded guilty to one count of conspiracy to commit health care fraud. Judge Nuffer imposed sentences on the three sales representatives Thursday morning. Hartman was sentenced to 4 months in prison and 36 months of supervised release. He must pay \$585,786.62 in restitution in the case, an obligation he shares with Kilgore. Evans received a 6-month sentence and will be on supervised release for 36-months following his release from prison. He was ordered to pay \$957,055.77 in restitution, a responsibility he shares with Kilgore. Workman was sentenced to 36 months of probation. He shares an obligation with Kilgore to pay \$230,910.80 in restitution.

According to documents filed in court, throughout his employment at Orbit, Evans altered and concocted medical records resulting in approximately \$957,055.77 in total reimbursements from the Medicare Trust Fund, paid under false and fraudulent pretenses. Hartman altered and concocted medical records resulting in approximately \$585,768.62 in total reimbursements from the Medicare Trust Fund. Workman's conduct resulted in about \$230,910.80 in total reimbursements.

"The resolution of these four cases should discourage those in the health care industry tempted to cut corners and circumvent rules to maximize reimbursement from a health care benefit program for personal or business gain. Durable medical equipment executives or sales reps currently engaged in or contemplating fraud against these programs would do well to reconsider their conduct," U.S. Attorney John W. Huber said today.

"The Salt Lake City FBI recognizes the significant collaborative effort among our federal partners in bringing this lengthy and complex health care fraud investigation to a suitable resolution. We underscore the importance of protecting the Medicare trust fund as well as other government and private insurance programs for legitimate medical needs. We encourage our Utah citizens to bring to our attention any activity within the health care arena that appears to be illegal or suspicious," FBI Special Agent in Charge Eric Barnhart said today.

"Jacob Kilgore and Orbit Medical, Inc., overbilled federal health care programs, including the TRICARE program, which provides health care for our military warfighters, their families, and military retirees," said Janice M. Flores, Special Agent in Charge of the Defense Criminal Investigative Service (DCIS) Southwest Field Office. "These sentences demonstrate that DCIS and its law enforcement partners will continue to aggressively investigate health care fraud and hold individuals or companies accountable for their actions."

"These sentences are the result of the diligent work of several agencies. Our office will continue to work with our law enforcement partners to pursue and bring to justice those individuals who attempt to cheat the federal health care programs," said Steven D. Hanson, Special Agent in Charge of Health and Human Services Office of Inspector General.