

Medical Technology Company President Convicted for Participation in \$77 Million COVID-19 and Allergy Testing Scheme

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On September 1, 2022, the president of Arrayit Corporation, a medical technology company in Silicon Valley, was convicted by a federal jury for his participation in a scheme involving the submission of over \$77 million in false claims for COVID-19 and allergy testing.

According to court documents and trial evidence, the defendant engaged in a scheme to defraud the company's investors by alleging that he had invented new technology that would be able to use only a few drops of blood to test for any disease. Trial evidence showed that the defendant misrepresented the company valuation to investors, claiming that the company could be valued at \$4.5 billion based on supposed revenues of \$80 million per year.

Trial evidence also showed that the defendant failed to release financial disclosures required by the SEC, and also hid from investors that Arrayit was near bankruptcy. The evidence further showed that the defendant induced investors by holding private meetings, and issuing press releases and tweets which falsely stated that the company had partnered with certain companies, public institutions, or government agencies, and fraudulently claimed that such entities had agreed to use the company technology.

The defendant also allegedly participated in a health care fraud scheme by paying kickbacks to marketers for patient blood specimens and then submitting fraudulent claims to Medicare and private insurance companies for unnecessary allergy testing. Arrayit allegedly ran allergy screening tests on every patient for 120 different allergens, regardless of medical necessity, and then the defendant

falsely claimed that the company allergy testing kit was highly accurate in diagnosing allergies when it was not actually a diagnostic test. The evidence at trial showed that the company billed more per patient to Medicare for blood-based allergy testing than any other laboratory in the United States, and billed some commercial insurers over \$10,000 per test.

Early in the COVID-19 pandemic, when there was a reduced demand for Arrayit's allergy testing business, the defendant announced that the company "had a test for COVID-19" based on the company's blood testing technology despite that the company had not yet developed such a test. The defendant then falsely advertised that Dr. Anthony Fauci and other government officials had mandated testing for COVID-19 and allergies simultaneously and required that patients receiving the company's COVID-19 test also test for allergies. The defendant also falsely claimed that the company's COVID-19 test was more accurate than a PCR test, when the Food and Drug Administration had notified him that the company's test was not sufficiently accurate to receive an Emergency Use Authorization for use in the United States.

The defendant was convicted of one count of conspiracy to commit health care fraud and conspiracy to commit wire fraud, two counts of health care fraud, one count of conspiracy to pay kickbacks, two counts of payment of kickbacks, and three counts of securities fraud. He is scheduled to be sentenced in January 2023 and could face a penalty of up to 20 years in prison for the conspiracy to commit health care fraud and conspiracy to commit wire fraud charges; 10 years in prison for each count of health care fraud; five years in prison for conspiracy to pay kickbacks; 10 years in prison for each count of payment of kickbacks; and 20 years in prison for each count of securities fraud.

The DOJ press release can be found [here](#).

Former Puerto Rico Legislator Sentenced to 57 Months in Prison for Bribery and Kickback Scheme

On September 7, 2022, a former legislator in Puerto Rico was sentenced to 57 months in prison and was ordered to pay \$190,000 in restitution for engaging in a bribery and kickback scheme. In March, the legislator pleaded guilty to federal program bribery in the District of Puerto Rico.

The legislator was elected to the Puerto Rico House of Representatives in 2016. He hired two individuals to work in his legislative office, and, according to court documents, each of the individuals paid biweekly kickbacks to the legislator ranging from \$500 to \$1,300 from 2017 to 2020 in exchange for their employment and salaries.

In the statements made with their pleas, the legislator and his employees admitted that the kickbacks were generally paid in cash in envelopes that the individuals provided to the legislator in the Capital building in Old San Juan. One of the individuals admitted that kickbacks were occasionally paid via a mobile phone cash transfer application.

The individuals that worked in the legislators' office are scheduled to be sentenced later this month.

The DOJ press release can be found [here](#).

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