

U.S. DISTRICT COURT
DISTRICT OF MAINE
PORTLAND
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**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

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UNITED STATES OF AMERICA

v.

FAYSAL KALAYAF MANAHE,
YASER AALI,
AMMAR ALKINANI, AND
QUASIM SAESAH

Defendants.

Criminal No. 22-cr-13-JAW

Violation: 15 U.S.C. § 1
Conspiracy in Restraint of Trade

INDICTMENT

The Grand Jury charges that at all times relevant to this indictment:

COUNT ONE

Conspiracy in Restraint of Trade
(15 U.S.C. § 1)

BACKGROUND

1. Personal Support Specialist (PSS) workers are essential workers who provide personal care services to ill, injured, mentally or physically disabled, elderly or otherwise fragile individuals, known in the industry as clients. PSS services facilitate a wide range of daily living activities such as bathing, dressing, light housework, money management, meal preparation, and transportation that support clients remaining in their homes and communities.

2. Home health care agencies employ PSS workers to care for clients in their homes. Each PSS worker typically receives a set hourly rate, and is often paid on a bi-weekly basis. On behalf of eligible clients, home health care agencies claim reimbursement for PSS services from the Office of MaineCare Services (MaineCare), within the Maine Department of Health and Human Services (DHHS). MaineCare is a jointly funded federal and state Medicaid program that provides free or low-cost health insurance to Mainers who meet certain requirements, based on

household composition and income, including some low-income people, pregnant women, the elderly, and people with disabilities. Typically, the difference between the hourly rates that a home health care agency pays to PSS workers and the reimbursement rates it receives from MaineCare constitutes the company's margin.

3. On March 30, 2020, Maine DHHS announced actions in response to the 2019 novel coronavirus (COVID-19) pandemic to “support personal care workers, [and] Maine seniors” and “to accelerate benefits for personal care workers and residents who are home-bound.” Specifically, effective April 1, 2020, Maine DHHS increased the reimbursement rate paid to home health care agencies from \$20.52 per hour to \$26.20 per hour to “allow them to fund pay raises for approximately 20,000 personal care workers.”

4. In addition to Maine DHHS's reimbursement rate increase, home health care agencies were eligible to apply for and receive loans from participating lenders under the Small Business Administration's Paycheck Protection Program (PPP), which was established by the Coronavirus Aid, Relief, and Economic Security (CARES) Act in response to the COVID-19 pandemic. PPP loans were required to be used to pay for certain expenses—including payroll costs, rent, and utilities—and were forgivable if used for those expenses within a designated period and if a certain portion of the proceeds were applied toward payroll.

DEFENDANTS AND CO-CONSPIRATORS

5. Defendant Faysal Kalayaf Manahe (“KALAYAF”) was a resident of Portland, Maine. Defendant KALAYAF was employed by COMPANY A, a home health care agency providing a range of PSS services in or around Portland, Maine. COMPANY A is owned by INDIVIDUAL 1. Defendant KALAYAF shared managerial responsibilities with INDIVIDUAL 1, including hiring, training, and supervision of PSS workers on COMPANY A's payroll. On or about May 1, 2020, COMPANY A received a PPP loan for approximately \$430,000.

6. Defendant Yaser Aali (“AALI”) was a resident of Portland, Maine. Defendant AALI was the CEO of COMPANY B, a home health care agency providing a range of PSS services in or around Portland, Maine. Defendant AALI co-owned COMPANY B with his business partner, INDIVIDUAL 2. Defendant AALI was responsible for the hiring, training, and supervision of PSS workers on COMPANY B’s payroll. On or about May 7, 2020, COMPANY B received a PPP loan for approximately \$600,000.

7. Defendant Ammar Alkinani (“ALKINANI”) was a resident of Portland, Maine. Defendant ALKINANI was the owner of COMPANY C, a home health care agency providing a range of PSS services in or around Portland, Maine. Defendant ALKINANI was responsible for the hiring, training, and supervision of PSS workers on COMPANY C’s payroll. On or about April 29, 2020, COMPANY C received a PPP loan for approximately \$94,000.

8. Defendant Quasim Saesah (“SAESAH”) was a resident of Portland, Maine. Defendant SAESAH was the owner of COMPANY D, a home health care agency providing a range of PSS services in or around Augusta, Maine. Defendant SAESAH was responsible for the hiring, training, and supervision of PSS workers on COMPANY D’s payroll.

9. INDIVIDUAL 3 was a resident of Portland, Maine. INDIVIDUAL 3 was an owner of COMPANY E, a home health care agency providing a range of PSS services in or around Portland, Maine.

10. INDIVIDUAL 4 was a resident of Portland, Maine. INDIVIDUAL 4 co-owned COMPANY E with his business partner, INDIVIDUAL 3. INDIVIDUALS 3 and 4 were jointly responsible for the hiring, training, and supervision of PSS workers on COMPANY E’s payroll.

11. INDIVIDUAL 5 was a resident of Portland, Maine. INDIVIDUAL 5 was the founder of COMPANY F, an organization providing a range of services including PSS services in or around Portland, Maine.

12. Defendants KALAYAF, AALI, ALKINANI, and SAESAH, and their respective home health care agencies, COMPANY A, COMPANY B, COMPANY C, and COMPANY D, competed in the Portland, Maine area to attract, hire, and retain home health care personnel, including PSS workers.

13. Various commercial entities and individuals, not made defendants in this Count, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

14. Whenever in this Indictment reference is made to any act, deed or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

DESCRIPTION OF THE OFFENSE

15. Beginning at least as early as April 2020 and continuing until as late as May 2020, the exact dates being unknown to the Grand Jury, in the District of Maine and elsewhere, the Defendants

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and their co-conspirators, and others known and unknown to the Grand Jury, entered into and engaged in a combination and conspiracy to suppress and eliminate competition for the services of PSS workers by agreeing to fix the rates paid to PSS workers and by agreeing not to hire each

other's PSS workers. The combination and conspiracy engaged in by the Defendants and their co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

16. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the Defendants and their co-conspirators, the substantial terms of which were that they would refrain from raising the hourly rates of PSS workers employed by their respective home health care agencies, and that they would allocate PSS workers by not hiring each other's PSS workers.

MEANS AND METHODS OF THE CONSPIRACY

17. For the purpose of forming and carrying out the charged combination and conspiracy, the Defendants and their co-conspirators did those things that they combined and conspired to do, including, among other things:

(a) participated in conversations and communications regarding MaineCare's rate increases. For example, on or about April 5, 2020, using an encrypted messaging app, Defendant ALKINANI invited Defendants KALAYAF, AALI, SAESAH and others to join a group entitled "*Home care*." The Defendants also attended virtual meetings on or about April 5, 2020 to discuss rate increases for PSS workers;

(b) attended virtual meetings and engaged in discussions regarding collectively fixing the hourly rates for PSS workers and refraining from hiring each other's PSS workers. For example, on or about April 25, 2020, Defendants KALAYAF, AALI, ALKINANI, SAESAH and others met virtually as a group. The virtual meeting was reserved for "*Topic: Healthcare Agencies meeting*";

(c) attended in-person meetings and engaged in discussions regarding collectively fixing the hourly rates for PSS workers and refraining from hiring each other's

PSS workers. For example, on or about April 26, 2020, Defendants KALAYAF, AALI, ALKINANI, SAESAH, INDIVIDUALS 2, 3 and 4, and others, met in-person at COMPANY F's offices, located in Portland, Maine. INDIVIDUAL 5, at the request of Defendant KALAYAF, facilitated the meeting. In a group message sent by Defendant KALAYAF on April 26, 2020, to Defendants AALI, ALKINANI, SAESAH, and others, Defendant KALAYAF described "*attendance as mandatory*" and urged his co-conspirators to "*be punctual*" to this meeting;

(d) agreed to fix the hourly rates for PSS workers. For example, on or about April 7 and April 9, 2020, the Defendants and their co-conspirators exchanged a series of group messages agreeing to fix rates at \$15 per hour for PSS workers without a certification from the State of Maine and \$16 per hour for PSS workers with a certification from the State of Maine:

Defendant SAESAH:	<i>"Brothers, everyone has agreed that the rate is from 15-16"</i>
Defendant AALI:	<i>"[W]e have agreed on 15 and 16 and I started announcing it"</i>
Defendant ALKINANI:	<i>"I am committed and told the employees 15-16"</i>
Defendant KALAYAF:	<i>"Yes, this is the agreement [. . .] I am still going with 15 and 16."</i>

(e) agreed to pressure other home health care agencies to refrain from competing for PSS workers. For example, on or about April 6, 2020, Defendant AALI contacted INDIVIDUAL 3, asked him to retract a rate increase for his PSS workers, and threatened to submit complaints to MaineCare about his home health care agency, COMPANY E. On or about April 7, 2020, Defendant ALKINANI contacted MaineCare regarding poaching of PSS workers; on or about April 9, 2020, Defendant SAESAH confirmed in a group message that he too would file a complaint about COMPANY E; and on or about April 8, 2020 and April 13, 2020, INDIVIDUAL 1, on behalf of Defendant

KALAYAF's home health care agency, COMPANY A, also contacted MaineCare to urge an investigation of COMPANY E;

(f) discussed recruiting other home health care agencies to join the agreement. For example, on or about April 26, 2020, the Defendants and their co-conspirators met in-person with INDIVIDUAL 3 and INDIVIDUAL 4 (co-owners of COMPANY E) to persuade them to join the agreement. At the time, COMPANY E had announced rate increases and was offering PSS workers between \$17 and \$18.50 per hour;

(g) agreed not to compete for one another's PSS workers by offering higher hourly rates. For example, on or about the April 26, 2020, the Defendants and their co-conspirators invited COMPANY E to join the conspiracy and proposed several terms including:

[...] "(d) All parties understand and agree not to solicit clients or employees from other businesses, including those parties to this agreement, in return for higher pay rate to Personal Support Specialists (PSSs)"

[...] "(g) All parties agree to maintain a maximum PSS rate of \$16/hour for those with no PSS certification and a maximum PSS rate of \$17/hour for those with PSS certification, effective 06/01/2020"

- (h) discussed pretextual reasons to justify the fixed hourly rates to PSS workers;
- (i) discussed a process for monitoring adherence to this agreement; and
- (j) refrained from hiring each other's PSS workers.

TRADE AND COMMERCE

18. The business activities of Defendants and their co-conspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce. For example:

(a) Federal funds, including PPP loan funds and Medicaid funds traveled from locations outside of Maine to the Defendants and PSS workers in Maine to cover payroll for providing care to clients;

(b) To provide care to clients in their homes, PSS workers used equipment and vehicles purchased in interstate commerce; and

(c) The conspiracy was intended to limit increases in rates paid to PSS workers, which would limit their purchases in interstate trade and commerce.

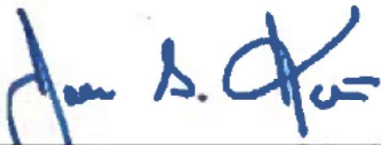
ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated: 01-27-2022

A TRUE BILL

Signature Redacted – Original on file
with the Clerk's Office

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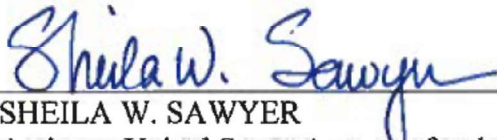
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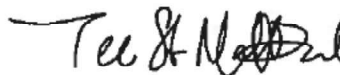
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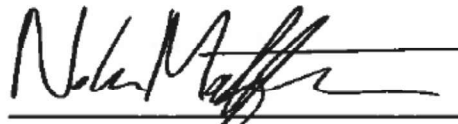


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January 27, 2022



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