

IN THE DISTRICT COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 TONG SUN CUNNING, )  
 DOB: 3/15/1960 )  
 APSIN ID: 7009568 )  
 DMV NO. 6985174 AK )  
 ATN: 114-356-412 ) Case No. 3AN-13- CR.  
 )  
 JOSHUA CHOE, )  
 DOB: 10/24/1949 )  
 APSIN ID: 7009565 )  
 DMV NO. 6985171 AK )  
 ATN: 114-356-403 ) Case No. 3AN-13- CR.  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )  
 3AN-13-459 SW )

INFORMATION

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

The following counts charge a crime involving DOMESTIC VIOLENCE as defined in AS 18.66.990:

Count I - AS 47.05.210(a)(1) Fel B  
Medical Assistance Fraud  
Tong Sun Cunning - 001

Count II - AS 47.05.210(a)(1) Fel C  
Medical Assistance Fraud  
Joshua Choe - 001

Count III - AS 47.05.210(a)(2) Fel C  
Medical Assistance Fraud  
Joshua Choe - 002

Count IV - AS 47.05.210(a)(5) Misd A  
Medical Assistance Fraud  
Tong Sun Cunning - 002

Count V - AS 47.05.210(a)(5) Misd A  
Medical Assistance Fraud  
Joshua Choe - 003

THE OFFICE OF SPECIAL PROSECUTIONS AND APPEALS CHARGES:

**Count I**

That on or about December 28, 2008 through September 1, 2012, at or near Anchorage in the Third Judicial District, State of Alaska, TONG SUN CUNNING, knowingly submitted or authorized the submission of a claim to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit.

All of which is a class B felony offense being contrary to and in violation of AS 47.05.210(a)(1) and against the peace and dignity of the State of Alaska.

**Count II**

That on or about May 4, 2009 through March 19, 2011, at or near Anchorage in the Third Judicial District, State of Alaska, JOSHUA CHOE, knowingly submitted or authorized the submission of a claim to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit.

All of which is a class C felony offense being contrary to and in violation of AS 47.05.210(a)(1) and against the peace and dignity of the State of Alaska.

**Count III**

That on or about May 11, 2009 through September 30, 2011, at or near Anchorage in the Third Judicial District, State of Alaska, JOSHUA CHOE, knowingly prepared or assisted another person to prepare a claim for submission to a medical

assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services or benefit.

All of which is a class C felony offense being contrary to and in violation of AS 47.05.210(a)(2) and against the peace and dignity of the State of Alaska.

#### **Count IV**

That on or about December 28, 2008 through September 1, 2012, at or near Anchorage in the Third Judicial District, State of Alaska, TONG SUN CUNNING, knowingly made a false entry or falsely altered a medical assistance record.

All of which is a class A misdemeanor offense being contrary to and in violation of AS 47.05.210(a)(5) and against the peace and dignity of the State of Alaska.

#### **Count V**

That on or about May 4, 2009 through March 19, 2011, at or near Anchorage in the Third Judicial District, State of Alaska, JOSHUA CHOE, knowingly made a false entry or falsely altered a medical assistance record.

All of which is a class A misdemeanor offense being contrary to and in violation of AS 47.05.210(a)(5) and against the peace and dignity of the State of Alaska.

#### **Probable Cause Statement:**

The undersigned swears under oath this Information is based upon a review of the Medicaid Fraud Control Unit (MFCU) investigative report submitted to date.

The Program Integrity (PI) Unit of the Department of Health and Social Services (DHSS) referred an investigation to the Medicaid Fraud Control Unit (MFCU) following a mortality review on Susan Choe, a Medicaid recipient who passed away on January 8, 2013. The review discovered that Susan Choe was found alone in her house with baby gates set up to barricade her inside the residence. Adult Protective Services workers observed unused medications indicating that she may not have been receiving the medications prescribed or the personal care assistance authorized. PI referred the case to MFCU for investigation. A review of Susan Choe's Medicaid file revealed that Tong Cunning billed Medicaid for personal care assistant (PCA) services while she

traveled out of the country, for overlapping times and for hours in excess of 24 hours per day. In total, Cunning billed Medicaid \$86,802.20 for PCA services that she did not provide. The investigation of Tong Cunning revealed that PCA Joshua Choe committed fraud by signing Cunning's timesheets attesting that she provided PCA services when in fact she was traveling. Additionally, Choe committed an additional \$14,217.33 in fraud by billing Medicaid for services that he did not provide.

PCAs are licensed and registered health care providers that the Alaska Medicaid Program pays to provide home based healthcare services which will allow Medicaid recipients to stay in their home rather than be placed in a nursing home type setting. Medicaid recipients are evaluated by HSS for their individual healthcare needs and a PCA is then hired by the recipient to provide the identified services to the recipient in the recipient's home. The PCA fills out a timesheet for the work done and submits it to a PCA agency that in turn bills Medicaid. Medicaid pays approximately \$24 an hour to the agency and the agency must pay the PCA at least half of that amount.

Medicaid documents for Susan Choe revealed that Tong Cunning and Joshua Choe was associated with 12 different Medicaid recipients. Immigration and Customs Enforcement, Homeland Security Investigations (HSI) Agent Stefanie Vetter provided MFCU investigators with detailed border crossing information for Tong Cunning. HSI records indicate that Tong Cunning was out of the country on four different occasions from April 11, 2009 through September 30, 2011. Cunning billed Medicaid a total of \$19,912.45 for PCA services she alleged to be providing while she was actually out of the country. This included times for Susan Choe in which Cunning states on the timesheets that Susan Choe's "condition is not good." Several of the timesheets were submitted to the various PCA agencies while Cunning was still out of the country.

Cunning was interviewed on February 20, 2013 regarding her billing for PCA services. Cunning was shown timesheets between the period April 11, 2009 and May 3, 2009, which was the first time period that she was out of the country. Cunning told Investigator Paakki that the checkmarks on the timesheets were there to identify the

tasks she completed for the Medicaid recipient. Cunning confirmed that the signatures on the timesheets were hers and that Joshua Choe signed the timesheet as the consumer's personal representative or power of attorney.

Cunning was shown timesheets from December 4, 2009 through December 10, 2009, which was the second period of time she traveled, and Cunning admitted that the signatures on the timesheets belonged to her and that she was paid for doing the PCA work. When confronted with the fact that she was in Korea at that time, she claimed that Joshua Choe did the work as the "backup" PCA and that she paid Joshua. Investigator Paakki asked how someone could provide 103 hours per week of PCA services for her clients and another 40-60 hours a week for his own clients. At this point, Cunning admitted that she filled out the timesheets in advance and that they were faxed in while she was gone.

Investigator Paakki showed Cunning all the timesheets submitted while she was gone from October 4, 2010 through October 31, 2010, which was the third period of time she traveled. Cunning admitted that it was her signature on the timesheets and that Joshua Choe signed the timesheets as the power of attorney. Cunning thought that either Joshua or Hyang was working at that time to care for her clients. Cunning again admitted that the timesheets were filled out in advance and faxed into the company while she was gone.

Investigator Paakki asked Cunning to look at the timesheets for the period September 2, 2011 through September 30, 2011, which was the fourth time Cunning traveled. Cunning admitted that the timesheets were again filled out in advance and faxed in by Joshua Choe. Cunning also admitted that Joshua Choe was the power of attorney.

Investigator Paakki then showed Cunning timesheets that had her working 26 hours per day. Cunning said that some of the hours were probably done by Hyang. Cunning was not able to explain why the timesheets would not be submitted under Hyang's name if she was providing the work. Cunning admitted to billing Medicaid for

services she did not work, but attempted to justify her action by claiming to give a lot of money to her church. Cunning admitted to knowing what she was doing was wrong.

Investigator Paakki reviewed all of Cunning's overlapping timesheets and identified a total of \$66,889.75 in Medicaid bills for PCA services by Cunning that overlapped with other time Cunning was billing Medicaid from December 28, 2008 through September 1, 2012.

ICE records for Joshua Choe indicate that he traveled internationally three times between May 31, 2009 and November 23, 2010. Choe billed Medicaid a total of \$6,798.36 for providing PCA services during this the time he was traveling internationally. A review of Choe's timesheets submitted for providing PCA services from May 4, 2009 through March 19, 2011 reveals that Choe had overlapping time resulting in Medicaid paying \$7,428.97 for PCA services that were not provided. In total, Medicaid was billed a total of \$14,217.33 by Choe for PCA services that were not provided in addition to his signing of timesheets as the power of attorney for timesheets submitted by Cunning.

Joshua Choe was also interviewed on February 20, 2013. Choe verified his signature on numerous documents during the relevant time period some of which he signed as the PCA and others which he signed as the power of attorney. Choe also admitted that he was providing service for multiple individuals including his mother (Susan Choe), aunt (Helen Pak), cousin (Susan Lim) and numerous other recipients.

Choe was confronted with the timesheets that he submitted indicating that he was providing PCA services while he was traveling outside of the country. Choe claimed that his current wife, who is not a licensed PCA, would perform the services in his absence. Choe claimed that he filled out the timesheets upon his return, but could not explain how it was that the timesheets were signed and dated prior to his return. When pressed on this issue, he refused to respond.

Choe was shown timesheets for Cunning's clients that he signed as the power of attorney attesting that Cunning had provided the services. Choe claimed that he provided the services in Cunning's absence. Choe was unable to explain how he

could provide services for so many clients at the same time other than to say that the recipients mostly lived in the same building. Choe finally admitted that Cunning would pre-sign her timesheets before she left the country and that he filled them out and sent them in. Choe was still unable to explain how he could provide multiple tasks for different recipients simultaneously other than to say they lived in the same building.

Dated at Anchorage, Alaska, this \_\_\_\_ day of July, 2013.

MICHAEL C. GERAGHTY  
ATTORNEY GENERAL

By: \_\_\_\_\_  
A. Andrew Peterson  
Assistant Attorney General  
Alaska Bar No. 0601002

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of  
July 2013, at Anchorage, Alaska.

Notary Public in and for Alaska  
My Commission Expires: End of Hire