

CITY COURT: CITY OF ALBANY
STATE OF NEW YORK: COUNTY OF ALBANY

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THE PEOPLE OF THE STATE OF NEW YORK

- against -

FELONY COMPLAINT

GEORGE M. DUNKEL (DOB: 09/28/1968),

Defendant.

Darren T. Miller
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Public Integrity Bureau
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Investigator Dennis Churns, a police officer with the New York State Office of the Attorney General (“OAG”), and the complainant, accuses George M. Dunkel, the defendant, with having committed Grand Larceny in the Second Degree and Offering a False Instrument for Filing in the First Degree in violation of the New York State Penal Law.

COUNT ONE

The defendant committed Grand Larceny in the Second Degree, in violation of Penal Law § 155.40(1), a class C felony, through a continuing course of conduct from approximately February 3, 2006 through August 13, 2013, in the City of Albany, County of Albany, and State of New York, when he stole property with a value that exceeded \$50,000, specifically: the defendant stole property from New York State by filing vouchers or claims for payment, as well as supporting documentation, to the New York State Department of Health, falsely alleging expenses due and paid when those expenses were not incurred, in order for the defendant, or a third person, to wrongfully obtain over \$50,000 from New York State.

COUNT TWO

The defendant committed Offering a False Instrument for Filing in the First Degree, in violation of Penal Law § 175.35, a class E felony, on or about June 4, 2009, in the City of Albany, County of Albany, and State of New York, when, knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or political subdivision thereof, he offered and presented it to a public office or public servant, with the knowledge and belief that it would be filed with, registered or recorded in or otherwise become part of the records of such public office or public servant, specifically: the defendant filed with New York State Department of Health a New York State Standard Voucher, which included falsified invoice and inflated expenses for rooms and food, inflated fringe benefits, falsified charges for accreditation of a training course, and false charges for a webmaster’s services.

COUNT THREE

The defendant committed Offering a False Instrument for Filing in the First Degree, in violation of Penal Law § 175.35, a class E felony, on or about July 22, 2009, in the City of Albany, County of Albany, and State of New York, when, knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or political subdivision thereof, he offered and presented it to a public office or public servant, with the knowledge and belief that it would be filed with, registered or recorded in or otherwise become part of the records of such public office or public servant, specifically: the defendant filed with New York State Department of Health a New York State Standard Voucher which included a falsified invoice and inflated expenses for printing services and program materials, as well as inflated fringe benefits.

COUNT FOUR

The defendant committed Offering a False Instrument for Filing in the First Degree, in violation of Penal Law § 175.35, a class E felony, on or about July 16, 2012, in the City of Albany, County of Albany, and State of New York, when, knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or political subdivision thereof, he offered and presented it to a public office or public servant, with the knowledge and belief that it would be filed with, registered or recorded in or otherwise become part of the records of such public office or public servant, specifically: the defendant filed with New York State Department of Health a New York State Standard Voucher which included a falsified invoice and inflated expenses for printing services and program materials, falsified charges for accreditation of a training course, and inflated fringe benefits.

COUNT FIVE

The defendant committed Offering a False Instrument for Filing in the First Degree, in violation of Penal Law § 175.35, a class E felony, on or about July 17, 2013, in the City of Albany, County of Albany, and State of New York, when, knowing that a written instrument contained a false statement or false information, and with the intent to defraud the state or political subdivision thereof, he offered and presented it to a public office or public servant, with the knowledge and belief that it would be filed with, registered or recorded in or otherwise become part of the records of such public office or public servant, specifically: the defendant filed with New York State Department of Health a New York State Claim for Payment, which included a falsified invoice and inflated expenses for printing services and program materials, falsified charges for accreditation of training courses, and inflated fringe benefits.

These charges are supported by facts developed during the course of an investigation I have conducted, along with members of the Office of the State Comptroller and other members of the OAG. The sources of information are my review of relevant documents, such as certified copies of the subject checks; financial records of the American Academy of Pediatrics District II, records of the New York State Department of Health, records of Accuprint, records of Westchester Academy of Medicine, records of Dutchess County Medical Society, records of Lane Press, records of The Inn on the Lake, and records from Paychex. Additionally, the facts are further based upon interviews of witnesses. These offenses were committed by the defendant under the following circumstances:

1. The defendant, George M. Dunkel, has been the Executive Director of American Academy of Pediatrics District II (“AAP-District II”) since at least 2006 through 2013, according to records filed with the New York State. AAP-District II maintains an office at 408 Kenwood Avenue, 2nd Floor, in the Town of Delmar, Albany County, New York, from which the defendant performs his duties for AAP-District II.

2. The American Academy of Pediatrics, according to its website, is an organization of “60,000 pediatricians committed to the optimal physical, mental, and social health and well-being of all infants, children, adolescents, and young adults.” The American Academy of Pediatrics consists of 59 Chapters in the United States and 7 Chapters in Canada. The American Academy of Pediatrics is divided into 10 Districts. AAP-District II consists of New York State.

3. The New York State Department of Health (“DOH”) is a state government agency with its principal office in the Corning Tower, on the Empire State Plaza, in the City of Albany, Albany County, New York. DOH regulates hospitals, nursing homes, and other health care facilities across the state, among numerous other responsibilities. According to DOH’s website, DOH’s Bureau of Immunization, which is also based in the Corning Tower, helps reduce the likelihood of vaccine-preventable diseases by making sure children, seniors and others receive the vaccines they need. The Bureau of Immunization’s mission is to assure that children have access to vaccines, health care providers are aware of immunization standards of practice, the latest recommendations on new vaccines are available to health care providers, and health care providers and the public have access to current information regarding vaccines. In order to fulfill these goals, DOH’s Bureau of Immunization oversees the state’s Immunization Program and provides government funds through Immunization Grants to vendors like AAP-District II.

4. Since at least 2002, AAP-District II has participated in the Immunization Program. DOH has awarded three Immunization Grants to AAP-District II. In his capacity as Executive Director, the defendant is responsible for the administration of the Immunization Program and the Immunization Grants awarded to AAP-District II by DOH under New York State contracts numbered C018189, C022937 and C028275 (all three are referenced as “contracts”). The contracts are for AAP-District II to develop and provide professional training and education initiatives regarding childhood immunization issues. The defendant submitted and signed the contracts for approval and renewal to DOH.

5. All three contracts required the approval of the Office of the State Comptroller (“OSC”). Payments by DOH to AAP-District II pursuant to the contracts are audited by OSC. The actual payment of state funds are remitted to the AAP-District II by OSC and the New York State Treasury from state offices located at 110 State Street, in the City of Albany, Albany County, New York. In November 2013, OSC commenced an audit of the payments received by AAP-District II from New York State pursuant to the contracts.

6. According to information from OSC, from February 16, 2006 to August 13, 2013, AAP-District II received over \$1.5 million in New York State monies as part of the Immunization Grant contracts. These contracts were derived from a federal block grant governed by federal law and regulations. Under applicable federal regulations, which were incorporated into the contracts, only costs incurred and actually paid should be submitted to DOH for payment by New York State.

GRAND LARCENY

7. The defendant certified and submitted to DOH 16 New York State Standard Vouchers and one New York State Claim for Payment¹ (together referenced as “vouchers”) between February 3, 2006 and July 17, 2013, for expenses allegedly incurred by AAP-District II. I have reviewed all 17 of these vouchers, along with the supporting documents (invoices or receipts). The supporting documentation either accompanied the voucher or was later submitted by the defendant to DOH in an attempt to substantiate the expenses in the voucher. Each voucher contained a “Payee Certification” or “Vendor Certification” in which the payee certifies that the “bill is just, true and correct; that no part thereof has been paid except as stated and that the balance is actually due and owing” Under this certification on these vouchers was a date and what appears to be the signature of the defendant, who was identified on the voucher as the “Executive Director” of the American Academy of Pediatrics District II.

8. The vouchers listed expenses reportedly for third-parties’ goods or services, and were accompanied by invoices, receipts or other documentation of price from third-parties for ostensible expenses. The vouchers also included purported wages and fringe benefits. In the course of its audit, OSC conducted an analysis of AAP-District II’s bank records and vendor records, in comparison with the vouchers and supporting documentation filed with DOH by the defendant. It was discovered that at least 17 vouchers and much of the supporting documentation submitted by the defendant to DOH contained materially false information. The defendant sought from DOH payment for falsely inflated cost for:

- (i) services provided by various third-parties for hotel stays, program materials, and Continuing Medical Education (“CME”) credits;
- (ii) the defendant’s alleged fringe benefits;

¹ New York State recently changed the title of the request for payment form from Standard Voucher to Claim for Payment.

(iii) wages reportedly paid to Dr. Anthony Batista for handling AAP-District II website; and

(iv) the purported fringe benefits for an Administrative Assistant, Jessica Schmidt (a/k/a Jessica Geslani).

As a result of the 17 vouchers containing false information filed by the defendant with DOH, the defendant, or AAP-District II, wrongfully obtained over \$50,000 in state funds.

9. Of the 17 falsified vouchers, the defendant submitted 15 falsified vouchers to DOH for reimbursement for expenses purportedly paid to AAP-District II's various vendors. Records were obtained by OSC from vendors, including Accuprint, Westchester Academy of Medicine, Inn on the Lake, Lane Press, and Dutchess County Medical Society. Analysis of these vendors' records by OSC auditors and investigators revealed the vouchers and supporting invoices submitted to DOH by the defendant contained false and inflated dollar amounts for the services and goods rendered by these vendors. The vendors' records indicated that the amount due and paid by AAP-District II to the vendors was actually less than the amount billed to the state in the vouchers and supporting documentation submitted by the defendant to DOH. These records established that New York State was overbilled by the defendant and defrauded into paying the defendant or AAP-District II as follows:

- \$22,950 for CME accreditation from the Westchester Academy of Medicine or the Dutchess County Medical Society,
- \$5,360.62 for hotel expenses from the Inn on the Lake, and
- \$10,359.48 in program material expenses from Lane Press or Accuprint.

10. The defendant submitted 17 falsified vouchers for reimbursement to New York State for a total of \$36,947.50 in fringe benefits purportedly paid to himself. Based upon a review of AAP-District II records, PayChex records, IRS Form 1099s, and interviews with associates of AAP-District II who have knowledge of its finances, the defendant was paid as a consultant, not an employee. Therefore, the defendant was not entitled to and never received fringe benefits. Under the contracts DOH was billed by the defendant, and New York State paid for \$36,947.50 in fringe benefits for the defendant. This caused New York State to pay \$36,947.50 for fringe benefits for the defendant that was never incurred or paid out and, therefore, was not due to the defendant or AAP-District II.

11. The defendant submitted six falsified vouchers for reimbursement to New York State for wages purportedly paid to Dr. Anthony Batista for webmaster services. Interviews with Dr. Anthony Batista, Paychex records, and AAP-District II's bank records establish that Dr. Anthony Batista received no money from AAP-District II for webmaster services for the period of January 1, 2006 through August 13, 2013. Dr. Batista only received reimbursement for travel and other expense he incurred. Dr. Anthony Batista volunteered his services to AAP, free of charge. This caused New York State to pay the defendant or AAP-District II a total of \$7,400

for wages for Dr. Batista that were never paid or incurred under the contracts and thus were not owed to AAP-District II.

12. The defendant submitted 14 falsified vouchers for reimbursement to the state for fringe benefits purportedly paid to Jessica Schmidt, who performed various professional and administrative services for AAP-District II. The 14 vouchers charged New York State and the state paid a total of \$13,725 for Jessica Schmidt's fringe benefits. Paychex records showed that the Jessica Schmidt's fringe benefits incurred by AAP-District II and charged under the contracts between January 4, 2007 and August 8, 2013 was less than the amount charged by the defendant on vouchers submitted and billed to DOH. This caused New York State to pay in excess of \$4,052.80 for fringe benefits for Jessica Schmidt which were never paid or incurred under the contracts and, therefore, were not owed to AAP-District II.

13. In total, from approximately February 3, 2006 through August 13, 2013, the defendant, through a continuous course of filing false vouchers with DOH, wrongfully obtained from New York State approximately \$87,070.40 for himself or AAP-District II.

OFFERING FALSE INSTRUMENTS FOR FILING

14. In addition to the above, examples of the defendant offering false instruments for filing with DOH in Albany include the four vouchers filed on or about June 4, 2009; July 22, 2009; July 16, 2012; and July 17, 2013.

15. On about or about June 4, 2009, the defendant filed with DOH a voucher, dated June 3, 2009, and stamped "received" by the Immunization Program on June 4, 2009. The total amount billed by the defendant to DOH was \$79,783.45. The defendant's signature appears on the voucher next to the title Executive Director. Accompanying the voucher is what is purported to be an invoice for the Inn on the Lake charging AAP-District II a total of \$31,200 for rooms and food for a training conference on May 28 and May 29, 2009. An executive with the Inn on the Lake reported to OSC that the invoice submitted to DOH was not an invoice that Inn on the Lake was paid for or had created. A representative of the Inn on the Lake further advised OSC that the actual expense was \$25,839.38. Therefore, the defendant filed a false voucher and accompanying invoice in order to wrongfully obtain approximately \$5,360.62 from the state for rooms and food. As discussed above, the defendant in this voucher also falsely charged the state for his fringe benefits (\$2,840) and the fringe benefits for the Administrative Assistant (\$374.40). These two overcharges for fringe benefits totaled \$3,214.40. Additionally, the defendant falsely added fictitious expense of \$2,000 for CME credits provided by the Westchester Academy of Medicine and a fabricated expense of \$1,200 for Dr. Batista's webmaster services. In sum, around June 4, 2009, the defendant filed a false voucher with DOH containing a total of \$11,775.02 in false expenses billed to the state. The voucher is attached and identified as **EXHIBIT 1**.

16. On or about July 22, 2009, the defendant filed with DOH a voucher, dated and stamped "received" on July 22, 2009, billing a total of \$21,520. Again, the defendant's signature appears on the voucher next to the title Executive Director. Included was a Lane Press estimate, which was submitted by the defendant as an invoice, containing an inflated charge of \$6,420 for

printing services and program materials. According to an executive with Lane Press, as well as documents provided to OSC by Lane Press, the actual expense was \$5,427.35. Therefore, the defendant filed a false voucher and accompanying invoice in order to wrongfully obtain \$992.65 from the state for printing. As in the previous example, the defendant in this voucher also wrongfully charged the state for his fringe benefits of \$200. In sum, around July 22, 2009, the defendant filed a false voucher with DOH containing a total of \$1,192.65 in false expenses billed to the state. The voucher is attached and identified as **EXHIBIT 2**.

17. On or about July 16, 2012, the defendant filed with DOH a voucher, dated July 5, 2012, and stamped “received” on July 16, 2012, billing a total of \$66,652.40. The voucher included an invoice from Accuprint that listed an expense of \$7,500, allegedly for printing services and program materials. According to Accuprint executives this \$7,500 expense was never incurred by, bill to, or paid by AAP-District II. Simply put, there was no \$7,500 expense for printing services and program materials from Accuprint. The defendant also wrongfully charged the state \$2,400 for fringes benefits for himself and \$288 in fringe benefits for the Administrative Assistant. The defendant further billed the state an extra \$800 for CME credits provided by Westchester Academy of Medicine when, in fact, according to a Westchester Academy of Medicine executive officer, only \$1,200 was charged, not the \$2,000 falsely billed by the defendant. In sum, the defendant filed with DOH on or about July 16, 2012, a false voucher containing approximately \$10,988 in wrongful overcharges. The voucher is attached and identified as **EXHIBIT 3**.

18. On or about July 17, 2013, the defendant filed with DOH a voucher, dated July 16, 2013, and stamped “received” on July 17, 2013, billing a total of \$113,915. Included with the voucher was an invoice from Accuprint for printing services and program materials that listed a total expense of \$5,284.69. However, according to Accuprint executives, this was an inflated expense. The defendant added fictitious costs to their actual bill, resulting in the state overpaying the defendant or AAP-District II approximately \$1,866.83 for fabricated expenses allegedly incurred by AAP-District II. Additionally, the defendant wrongfully charged the state \$4,800 for his fringes benefits and another \$687.50 in fringe benefits for the Administrative Assistant. The defendant charged the state a total of \$4,000 for CME credits provided by Westchester Academy of Medicine for two trainings when the appropriate expense was \$2,400. Consequently, the defendant overcharged the state \$1,600 for CME accreditation. In sum, the defendant filed with DOH around July 17, 2013, a false voucher containing approximately \$8,954.33 in wrongful overcharges. The voucher is attached and identified as **EXHIBIT 4**.

Notice: *False statements made herein are punishable as a class A misdemeanor pursuant to Penal Law § 210.45.*

Dated: February ____, 2014

Inv. Dennis Churns
New York State Attorney General’s Office
Investigations Bureau