

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

THE PEOPLE OF THE STATE OF NEW YORK

-against-

GLENN SCHABEL,

Defendant.

PLEA AGREEMENT & ALLOCATION

STATE OF NEW YORK    )  
                                  ) ss.:  
COUNTY OF SUFFOLK    )

1. I, GLENN SCHABEL, the undersigned defendant, have been charged in County Court, Suffolk County, New York, by Indictment number 897-H-12 with the crimes of Grand Larceny in the First Degree (PL § 155.42), a class B felony (two counts), Criminal Diversion of Prescription Medications and Prescriptions in the First Degree (PL § 178.25) a class C felony, Conspiracy in the Fourth Degree (PL § 105.10(1)), a class E felony, Attempted Grand Larceny in the First Degree (PL § 110/155.42), a class C felony, Attempted Criminal Diversion of Prescription Medications and Prescriptions in the First Degree (PL § 110/178.25), a class D felony, Money Laundering in the First Degree (PL § 470.20(1)(b)(ii)(A)(iii)), a class B felony, Money Laundering in the Second Degree (PL § 470.15(1)(b)(i)(A)(iii)), a class C felony, Commercial Bribe Receiving in the First Degree (PL § 180.08), a class E felony, and Offering a False Instrument for Filing in the First Degree (PL § 175.35), a class E felony (seven counts).

2. I am represented by Stephen Scaring and I am satisfied with the representation provided to me by my attorney. I understand that I have a right to have an attorney throughout the prosecution and trial of these charges, and if I cannot afford an attorney, one would be appointed for me.

PLAINTIFFS TRIAL  
EXHIBIT  
**P-04445\_00001**

3. I have been advised of, and understand, the nature of the charges against me, the elements of the offenses with which we are charged, and the range of permissible sentences.

4. By pleading guilty I am giving up the following rights, which I have discussed with my attorney:

- a. I understand that by pleading guilty I am giving up my right to a trial by a 12-person jury drawn from a broad cross-section of the community.
- b. I understand that by pleading guilty I am giving up my right to have the People produce witnesses to testify against me.
- c. I understand that by pleading guilty I am giving up my right to have my attorney cross-examine any witnesses who may testify against me.
- d. I understand that by pleading guilty I am giving up my right to have my attorney produce witnesses to testify for me.
- e. I understand that by pleading guilty I am giving up my right to remain silent and our right to either testify or not testify at trial.
- f. I understand that by pleading guilty I am giving up my right to have the People prove my guilt beyond a reasonable doubt by a unanimous verdict of 12 jurors at trial.
- g. I understand that by pleading guilty my plea will operate the same as a conviction of guilty after a jury trial.
- h. I understand that by pleading guilty, if I have a defense to these charges, I am giving up my right to present that defense at trial.
- i. I understand that by pleading guilty I am giving up my right to claim that the police did anything illegal in regard to these charges, and my right to a hearing to determine if that police conduct was, in fact, illegal.

j. I have been advised of and understand that I am pleading guilty to a felony, and if I am found guilty of a second felony within ten years, I will be sentenced to a State Correctional Facility as a Second Felony Offender for a maximum and minimum period of time.

5. I acknowledge that I have consulted with my attorney about the immigration consequences of my guilty plea, and I have been advised that if I am not a United States citizen, my guilty plea may subject me to immigration proceedings and removal or deportation from the United States. I understand that the immigration consequences of my plea will be imposed in a separate proceeding before the immigration authorities. I wish to plead guilty to the charged offense(s) regardless of any immigration consequences of my guilty plea, even if my guilty plea will cause my removal from the United States. I understand that I am bound by my guilty plea regardless of any immigration consequences of the plea. Accordingly, I waive any and all challenges to my guilty plea and sentence based on any immigration consequences, and agree not to seek to withdraw my guilty plea, or to file a direct appeal or any kind of collateral attack challenging my guilty plea, conviction, or sentence, based on any immigration consequences of the my guilty plea.

6. The prosecuting agency, the Office of the New York State Attorney General, Medicaid Fraud Control Unit (hereinafter "MFCU"), has offered me the opportunity, and I have agreed, to plead guilty to Criminal Diversion of Prescription Medications and Prescriptions in the First Degree (PL § 178.25), a class C felony, and Commercial Bribe Receiving in the First Degree (PL § 180.08), a class E felony, in full satisfaction of that indictment and to resolve any potential criminal charges MFCU could bring stemming from my conduct as outlined in paragraphs 16 and 17. I understand that as part of my plea of guilty, the Court will sentence me to no less than a term of imprisonment of one to three years incarceration and no more than a term of imprisonment of two and one third to seven years incarceration. The ultimate sentencing determination of imprisonment duration within that range will be made by the Court.

7. I waive my right to a restitution hearing and acknowledge that I received \$5,456,276.62 to which I was not entitled. As part of my sentence, I will consent to the Court issuing a restitution order, which will direct me to pay criminal restitution to New York State in the amount of \$5,456,276.62. I will make full restitution prior to sentencing in this matter. In order to do so, I will execute any documentation necessary to effectuate the release of funds currently restrained as per Court order. I understand that the Court may impose a sentence alternative should I not pay the above restitution in accordance with the Court's order. I understand further that this Agreement in no way releases me from any civil liability that I may have.

8. I acknowledge that I will enter into a separate civil agreement and settlement with the MFCU Civil Enforcement Division and that any monies secured pursuant to those agreements will be credited to and deemed in satisfaction of the criminal restitution obligation under this Agreement.

9. I understand, and have discussed with my attorney, that this matter will be referred to the New York State Department of Health and the United States Department of Health and Human Services for my possible exclusion as a provider from all government-funded health care programs, including the Medicaid and Medicare programs. I understand that exclusion from such programs will result in a bar from employment in any entity that accept funds from any federally funded health care program – including pharmacies.

10. I agree to surrender my New York State license to practice pharmacy and any other licenses I hold to practice pharmacy in any other state at the time this plea is executed. I also understand that I may be subject to further disciplinary action by the New York State Education Department and the New York State Board of Pharmacy, which could affect my license to practice pharmacy. Such action could also result in the imposition of professional discipline proceedings in any state and may result in loss of licensure in any jurisdiction in which I hold a professional license. I understand that any action made by any federal or state agency regarding my ability to practice as a pharmacist or to work in the pharmaceutical and health care industries will not be grounds for my withdrawal of my plea of guilty.

11. Further, in consideration for and as part of the plea agreement in this matter, I hereby waive and relinquish my right to appeal from any judgment of conviction, and from any proceedings herein that may result from this prosecution. I have been advised of my right to appeal, my right to be represented by an attorney on appeal, and my individual right to have an attorney assigned for us on appeal if I cannot afford one. It is my understanding and intention that the plea agreement in this matter will be a complete and final disposition of the matter. I make this waiver knowingly and voluntarily after having been fully advised of my rights by the Court and having had a full and fair opportunity to discuss these matters with my attorney.

12. I understand these rights, and the terms and conditions of this plea agreement, which I have read completely. My plea of guilty is given freely, voluntarily, knowingly, and without coercion of any kind. No threats or promises have been made to me to induce me to plead guilty.

13. I am not under the influence of alcohol, drugs, or medication, nor is there any other mental or physical impairment, which prevents me from understanding these proceedings here or from entering this plea knowingly, intelligently and voluntarily. My mind is clear and my judgment is sound.

14. This agreement is limited to the Office of the New York State Attorney General and cannot bind other government agencies.


15. At the time of my guilty plea, under oath, I will admit to, and acknowledge the truthfulness of the following:


16. The defendant, GLENN SCHABEL, from on or about August 28, 2008, to on or about January 20, 2012, in the County of Suffolk and elsewhere, did commit a criminal diversion act, in that the defendant knowingly received, in exchange for anything of pecuniary value, prescription medications and devices with knowledge and reasonable grounds to know that the seller and transferor was not authorized by law to sell and transfer such prescription medications and devices, and the value of the benefit exchanged was in excess of fifty thousand dollars.

17. The defendant, GLENN SCHABEL, from on or about September 3, 2008, to on or about January 3, 2012, in the County of Suffolk and elsewhere, as an employee, agent and fiduciary of Allion Healthcare Inc., when without consent of his employer and principal, he

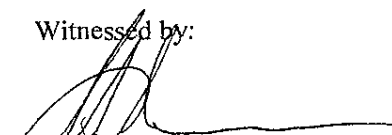
solicited, accepted, and agreed to accept a benefit from another person upon an agreement and understanding that such benefit would influence his conduct in relation to his employer's affairs, and the value of the benefit solicited, accepted and agreed to be accepted was \$5,456,267.62 and caused economic harm to the employer in an amount exceeding two hundred fifty dollars.

Dated: Riverhead, New York  
March, 29 2016


  
\_\_\_\_\_  
GLENN SCHABEL  
Defendant

Agreed by:   
\_\_\_\_\_  
Adam Shlahet  
Special Assistant Attorney General  
Medicaid Fraud Control Unit

Witnessed by:

  
\_\_\_\_\_  
Stephen Scaring  
Attorney for Defendant

The above is hereby approved by:

  
\_\_\_\_\_  
Hon. Richard Ambro  
Acting Justice, Supreme Court of the State of New York