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United States District Court
Southern District of Texas
FILED

JAN 15 2014

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,

v.

STELLA MADUKA and
FELIX MADUKA,

Defendants.

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Criminal No.

14 CR 024

UNDER SEAL

**UNSEALED
PER ARREST**

INDICTMENT

The Grand Jury charges:

General Allegations

At all times material to this Indictment, unless otherwise specified:

1. The Medicare Program (“Medicare”) was a federal healthcare program providing benefits to individuals who were over the age of 65 or disabled. Medicare was administered by the United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services (“CMS”). Individuals receiving benefits under Medicare were referred to as Medicare “beneficiaries.”

2. Medicare was a “health care benefit program” as defined by Title 18, United States Code, Section 24(b).

3. “Part A” of the Medicare program covered certain eligible home healthcare costs for medical services provided by a home healthcare agency (“HHA”) to beneficiaries requiring home health services because of an illness or disability causing them to be homebound. Payments for home healthcare medical services under Medicare

Part A were typically made directly to a HHA or a provider based on claims submitted to the Medicare program for qualifying services that had been provided to eligible beneficiaries, rather than to the beneficiaries.

4. Physicians, clinics, and other healthcare providers, including HHAs that provided services to Medicare beneficiaries, were able to apply for and obtain a Medicare “provider number.” A healthcare provider that was issued a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary’s name and Medicare identification number, the services that were performed for the beneficiary, the date the services were provided, the cost of the services, and the name and identification number of the physician or other healthcare provider that ordered the services.

5. CMS did not directly pay Medicare Part A claims submitted by Medicare certified HHAs. CMS contracted with different companies to administer the Medicare Part A program throughout different parts of the United States. In the State of Texas, CMS contracted with Medicare Administrative Contractors (“MACs”), including Trailblazer Health Enterprises (“Trailblazer”) and Novitas Solutions (“Novitas”), to administer Part A HHA claims. As administrator, MACs received, adjudicated, and paid claims submitted by HHA providers under the Part A program for home healthcare services.

6. The Medicare program paid for home health services only if the patient qualified for home healthcare benefits. A patient qualified for home healthcare benefits only if:

- a. the patient was confined to the home, also referred to as homebound;
- b. the patient was under the care of a physician who specifically determined there was a need for home healthcare and established the Plan of Care (or “POC”, described in Paragraph 9, below); and
- c. the determining physician signed a certification statement specifying that:
 - i. the beneficiary needed intermittent skilled nursing services, physical therapy, or speech therapy;
 - ii. the beneficiary was confined to the home;
 - iii. a POC for furnishing services was established and periodically reviewed; and
 - iv. the services were furnished while the beneficiary was under the care of the physician who established the POC.

7. Medicare Part A regulations required HHAs providing services to Medicare patients to maintain complete and accurate medical records reflecting the medical assessment and diagnoses of their patients, as well as records documenting actual treatment of the patients to whom services were provided and for whom claims for payment were submitted by the HHA.

8. These medical records were required to be sufficient to permit Medicare, through its contractors, to review the appropriateness of Medicare payments made to the HHA under the Part A program.

9. Among the written records required to document the appropriateness of home healthcare claims submitted under Part A of Medicare was a POC, which included the physician order for home healthcare, diagnoses, types of services, frequency of visits, prognosis, rehabilitation potential, functional limitations, activities permitted, medications, treatments, nutritional requirements, safety measures, discharge plans, goals, and physician signature. A POC signed and dated by the physician, or a signed and dated written prescription, or a verbal order recorded in the POC were required in advance of rendering services. Also required was a signed certification statement by an attending physician certifying that the patient was confined to his or her home and was in need of the planned home health services, and an assessment of the beneficiary's condition and eligibility for home health services, called an Outcome and Assessment Information Set ("OASIS").

10. Medicare Part A regulations required provider HHAs to maintain medical records of each visit made by a nurse, therapist, or home healthcare aide to a beneficiary. The record of a nurse's visit was required to describe, among other things, any significant observed signs or symptoms, any treatment and drugs administered, any reactions by the patient, any teaching and the understanding of the patient, and any changes in the patient's physical or emotional condition. The home healthcare nurse, therapist, or aide was required to document the hands-on personal care provided to the beneficiary if the

services were deemed necessary to maintain the beneficiary's health or to facilitate treatment of the beneficiary's primary illness or injury. These written medical records were generally created and maintained in the form of "visit notes" and "home health aide notes/observations."

JOYSTAR HOME HEALTH SERVICES, LLC

11. Joystar Home Health Services, LLC ("Joystar") was a Texas corporation doing business at 1601 Main Street, Suite 504, Richmond, Texas 77469. Joystar submitted claims to Medicare for home health services.

12. From in or about July 2009 to in or about February 2013, Joystar received payments from Medicare for claims Joystar submitted to Medicare into a Chase bank account, ending in 6497 ("Chase Account"). Defendants **STELLA MADUKA** and **FELIX MADUKA** were the only two individuals authorized to transact business on that bank account.

13. From in or about February 2013 to the present, Joystar received payments from Medicare for claims Joystar submitted to Medicare into a Bank of America account, ending in 1574 ("Bank of America Account"). Defendants **STELLA MADUKA** and **FELIX MADUKA** were the only two individuals authorized to transact business on that bank account.

14. From in or about July 2009 to the present, Joystar billed Medicare for home health services that were either not provided and/or not medically necessary. Defendant **STELLA MADUKA** was responsible for causing Medicare to be billed.

DEFENDANTS

15. Defendant **STELLA MADUKA**, a resident of Fort Bend County, Texas, was an Officer, the Director of Nursing, and an Authorized Official of Joystar. **STELLA MADUKA** was a registered nurse.

16. Defendant **FELIX MADUKA**, a resident of Fort Bend County, Texas, was an Administrator, Authorized Official, Director, and Owner of Joystar.

COUNT 1
Healthcare Fraud
(Violation of 18 U.S.C. §§ 1347 and 2)

17. Paragraphs 1 through 16 are realleged and incorporated by reference as if fully set forth herein.

18. On or about the dates specified below, in the Houston Division of the Southern District of Texas, and elsewhere, Defendant,

STELLA MADUKA

aiding and abetting others known and unknown to the Grand Jury, in connection with the delivery of and payment for healthcare benefits, items and services, did knowingly and willfully execute and attempt to execute, a scheme and artifice to defraud a healthcare benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain by means of materially false and fraudulent pretenses, representations and promises, money and property owned by and under the custody and control of Medicare.

| Count | Medicare Beneficiary | Approximate Start of Care Date | Approximate Payment Date | Approximate Medicare Payment |
|--------------|-----------------------------|---------------------------------------|---------------------------------|-------------------------------------|
| 1 | M.E | November 3, 2010 | February 25, 2011 | \$1,972.83 |

In violation of Title 18, United States Code, Sections 1347 and 2.

COUNT 2

**False Statements Relating to Healthcare Matters
(Violation of 18 U.S.C. §§ 1035 and 2)**

19. Paragraphs 1 through 16 are realleged and incorporated by reference as if fully set forth herein.

20. On or about the dates set forth below, in Harris County, in the Southern District of Texas, and elsewhere, Defendant

STELLA MADUKA

aiding and abetting others, did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, and make and use materially false writings and documents, as set forth below, knowing the same to contain materially false, fictitious, and fraudulent statements and entries, in connection with the delivery of and payment for healthcare benefits, items, and services, and in a matter involving a healthcare benefit program, specifically Medicare:

| Count | Medicare Beneficiary | Approximate Start of Care Date | Description | Approximate Medicare Payment |
|--------------|-----------------------------|---------------------------------------|--------------------------------|-------------------------------------|
| 2 | M.E. | November 3, 2010 | OASIS Start of Care Assessment | \$1,972.83 |

In violation of Title 18, United States Code, Sections 1035 and 2.

COUNT 3

**Conspiracy to Structure Bank Withdrawals to Avoid Reporting Requirements
(Violation of 18 U.S.C. § 371)**

21. Paragraphs 1 through 16 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

22. From in or about August 2012 through in or about November 2013, in the Houston Division of the Southern District of Texas, and elsewhere, Defendants

**STELLA MADUKA
and
FELIX MADUKA**

did knowingly and willfully combine, conspire, confederate and agree with each other and with others known and unknown to the grand jury, to commit certain offenses against the United States—that is, to knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5324(a) and the regulations prescribed thereunder, structure, cause to be structured, and assist in structuring, while violating another law of the United States, specifically, healthcare fraud and false statements relating to healthcare matters, and in a pattern of transactions involving more than \$100,000 in United States currency within a 12-month period, did with domestic

financial institutions, namely, Chase and Bank of America, withdraw from said institutions amounts of less than \$10,000.

Object of The Conspiracy

23. It was the purpose of the conspiracy for Defendants to unlawfully evade the reporting requirements of Title 31, United States Code, Section 5324(a) and the regulations prescribed thereunder.

Manner and Means of The Conspiracy

The manner and means by which Defendants sought to accomplish the object and purpose of the conspiracy included, among others, the following:

24. Defendants **STELLA MADUKA** and **FELIX MADUKA** would open the Chase Account.

25. From in or about July 2009 to in or about February 2013, **STELLA MADUKA** and **FELIX MADUKA** would cause payments from Medicare to be deposited into the Chase Account.

26. Defendants **STELLA MADUKA** and **FELIX MADUKA** would open the Bank of America Account.

27. From in or about February 2013 to the present, **STELLA MADUKA** and **FELIX MADUKA** would cause payments from Medicare to be deposited into the Bank of America Account.

28. Defendants **STELLA MADUKA** and **FELIX MADUKA** would withdraw and cause to be withdrawn cash from the Chase Account and from the Bank of America Account in amounts less than \$10,000 to avoid each bank's obligation to report to the

federal government any transactions greater than \$10,000 or any single-day transactions that aggregate more than \$10,000.

Overt Acts

29. In furtherance of the conspiracy, and to accomplish its object and purpose, the conspirators committed and caused to be committed, in the Houston Division of the Southern District of Texas, the following overt acts:

a. From the Chase Account:

- i. On or about September 12, 2012, **FELIX MADUKA** withdrew approximately \$5,000.
- ii. On or about September 12, 2012, **STELLA MADUKA** withdrew approximately \$3,500.
- iii. On or about September 13, 2012, **FELIX MADUKA** withdrew approximately \$6,000.
- iv. On or about September 13, 2012, **STELLA MADUKA** withdrew approximately \$2,000.

b. From the Chase Account:

- i. On or about October 10, 2012, **FELIX MADUKA** withdrew approximately \$5,200.
- ii. On or about October 11, 2012, **FELIX MADUKA** withdrew approximately \$7,000.
- iii. On or about October 12, 2012, **STELLA MADUKA** withdrew approximately \$3,000.

c. From the Chase Account:

- i. On or about November 1, 2012, **FELIX MADUKA** withdrew approximately \$8,000.
- ii. On or about November 2, 2012, **STELLA MADUKA** withdrew approximately \$3,500.
- iii. On or about November 2, 2012, **FELIX MADUKA** withdrew approximately \$5,000.

d. From the Chase Account:

- i. On or about November 19, 2012, **STELLA MADUKA** withdrew approximately \$3,500.
- ii. On or about November 19, 2012, **FELIX MADUKA** withdrew approximately \$5,000.
- iii. On or about November 20, 2012, **STELLA MADUKA** withdrew approximately \$2,500.

e. From the Chase Account:

- i. On or about November 29, 2012, **STELLA MADUKA** withdrew approximately \$4,000.
- ii. On or about November 29, 2012, **FELIX MADUKA** withdrew approximately \$5,000.
- iii. On or about November 30, 2012, **STELLA MADUKA** withdrew approximately \$6,500.

f. From the Bank of America Account:

- i. On or about February 25, 2013, there was a teller cash withdrawal of approximately \$4,000.
 - ii. On or about February 26, 2013, **FELIX MADUKA** withdrew approximately \$4,000.
 - iii. On or about February 27, 2013, **STELLA MADUKA** withdrew approximately \$4,000.
- g. From the Bank of America Account:
 - i. On or about July 15, 2013, **STELLA MADUKA** withdrew approximately \$8,500.
 - ii. On or about July 16, 2013, there was a teller cash withdrawal of approximately \$7,000.
 - iii. On or about July 17, 2013, **FELIX MADUKA** withdrew approximately \$8,000.
- h. From the Bank of America Account:
 - i. On or about August 13, 2013, **STELLA MADUKA** withdrew approximately \$6,500.
 - ii. On or about August 14, 2013, **FELIX MADUKA** withdrew approximately \$8,000.
 - iii. On or about August 15, 2013, there was a teller cash withdrawal of approximately \$8,500.

All in violation of Title 18, United States Code, 371.

COUNTS 4-11

**Structuring Bank Withdrawals to Avoid Reporting Requirements
(Violation of 31 U.S.C. §§ 5324(a)(3) & (d)(2) and 2)**

30. Paragraphs 1 through 16 and 21 through 29 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

31. From July 2009 to the present, in the Houston Division of the Southern District of Texas, Defendants

**STELLA MADUKA
and
FELIX MADUKA**

did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5324(a) and the regulations prescribed thereunder, structure, cause to be structured, and assist in structuring, while violating another law of the United States—that is, healthcare fraud and false statements relating to healthcare matters—and in a pattern of transactions involving more than \$100,000 in United States currency within a 12-month period, did with domestic financial institutions—namely, Chase and Bank of America—withdraw from said institutions amounts of less than \$10,000, including the following withdrawals on the dates and in the amounts below:

| Count | Bank | Approximate Date of Withdrawal | Withdrawn by | Approximate Amount |
|-------|-----------------|--------------------------------|------------------------|--------------------|
| 4 | Chase | September 12, 2012 | STELLA MADUKA | \$3,500 |
| | | September 12, 2012 | FELIX MADUKA | \$5,000 |
| | | September 13, 2012 | STELLA MADUKA | \$2,000 |
| | | September 13, 2012 | FELIX MADUKA | \$6,000 |
| 5 | Chase | October 10, 2012 | FELIX MADUKA | \$5,200 |
| | | October 11, 2012 | FELIX MADUKA | \$7,000 |
| | | October 12, 2012 | STELLA MADUKA | \$3,000 |
| 6 | Chase | November 1, 2012 | FELIX MADUKA | \$8,000 |
| | | November 2, 2012 | STELLA MADUKA | \$3,500 |
| | | November 2, 2012 | FELIX MADUKA | \$5,000 |
| 7 | Chase | November 19, 2012 | STELLA MADUKA | \$3,500 |
| | | November 19, 2012 | FELIX MADUKA | \$5,000 |
| | | November 20, 2013 | STELLA MADUKA | \$2,500 |
| 8 | Chase | November 29, 2012 | STELLA MADUKA | \$4,000 |
| | | November 29, 2012 | FELIX MADUKA | \$5,000 |
| | | November 30, 2012 | STELLA MADUKA | \$6,500 |
| 9 | Bank of America | February 25, 2013 | TELLER CASH WITHDRAWAL | \$4,000 |
| | | February 26, 2013 | FELIX MADUKA | \$4,000 |
| | | February 27, 2013 | STELLA MADUKA | \$4,000 |
| 10 | Bank of America | July 15, 2013 | STELLA MADUKA | \$8,500 |
| | | July 16, 2013 | TELLER CASH WITHDRAWAL | \$7,000 |
| | | July 17, 2013 | FELIX MADUKA | \$8,000 |
| 11 | Bank of America | August 13, 2013 | STELLA MADUKA | \$6,500 |
| | | August 14, 2013 | FELIX MADUKA | \$8,000 |
| | | August 15, 2013 | TELLER CASH WITHDRAWAL | \$8,500 |

All in violation of Title 18, United States Code, Sections 5324(a) and 5324(d)(2).

NOTICE OF CRIMINAL FORFEITURE
(18 U.S.C. §§ 982(a)(7), 981(a)(1)(C), and 28 U.S.C. § 2461)

32. Pursuant to Title 18, United States Code, Section 982(a)(7), the United States of America gives notice to Defendants **STELLA MADUKA** and **FELIX**

MADUKA, that, in the event of conviction for any of the violations charged in Counts One through Seven of the Indictment, the United States intends to forfeit all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of any such offense for which Defendants may be jointly and severally liable.

33. The property subject to forfeiture includes, but is not limited to, all the funds on deposit in the Bank of America Account ending in 1574 and held in the name of Joystar.

34. In the event that the property subject to forfeiture as a result of any act or omission of a Defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

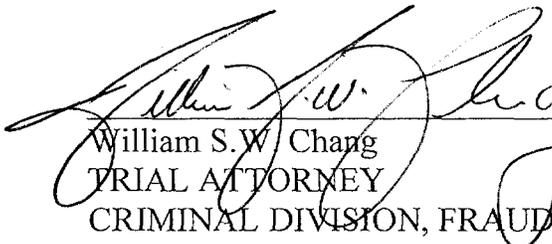
it is the intent of the United States to seek forfeiture of any other property of Defendants up to the total value of the property subject to forfeiture, pursuant to Title 21, United States Code, Section 853(p), incorporated by reference in Title 18, United States Code, Section 982(b)(1), and Title 28, United States Code, Section 2461.

A TRUE BILL.

Original Signature on File

FOREPERSON

KENNETH MAGIDSON
UNITED STATES ATTORNEY


William S.W. Chang
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE