

NEWS RELEASE



**OFFICE OF THE UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF CALIFORNIA**
San Diego, California

**United States Attorney
Laura E. Duffy**

For Further Information, Contact: Assistant U.S. Attorney Shireen M. Becker (619) 546-6693

For Immediate Release

DOCTOR AND OWNER OF MEDICAL SUPPLY COMPANY PLEAD GUILTY IN MILLION-DOLLAR POWER WHEELCHAIR SCAM

NEWS RELEASE SUMMARY - January 31, 2013

United States Attorney Laura E. Duffy announced that a California medical doctor and the owner of the Oceanside Medical Supply in Long Beach, CA have both pled guilty to participating in a conspiracy to defraud the Medicare trust fund by submitting more than \$1 million in fraudulent power wheelchair claims. Dr. Irving Schwartz and Jose Melendez entered their guilty pleas before Magistrate Judge Nita L. Stormes in federal court in San Diego, and pursuant to their plea agreements, the defendants are obligated to pay restitution to the Medicare trust fund for the losses caused by their scheme.

According to court papers and admissions by the defendants, the fraudulent conspiracy focused on the sale of bogus prescriptions, with the ultimate goal being to obtain reimbursements from Medicare for expensive power wheelchairs that patients did not need and, in some cases,

did not want. Dr. Irving Schwartz admitted today during his guilty plea that in 2007-2008, he would travel to El Centro, California, in search of elderly Medicare patients. Dr. Schwartz would write prescriptions for power wheelchairs, even though the patients did not need the equipment and could walk without assistance. In exchange, Schwartz collected a \$300 cash kickback for each fraudulent power wheelchair prescription. One of Schwartz's co-conspirators would then sell the power wheelchair prescriptions to Melendez, a medical supply company owner, charging him \$1,000 per fraudulent prescription.

According to court papers and admissions at today's hearing, Melendez sold some of the power wheelchair prescriptions to other co-conspirators, charging them an additional mark-up on each fraudulent prescription. As the last step in the scheme, Melendez and other co-conspirators would submit the fraudulent prescriptions to Medicare for reimbursement, billing the government thousands more per wheelchair than it had cost them to purchase and deliver the equipment. Often the unneeded equipment would sit unused in patients' homes for years.

Dr. Schwartz admitted today in open court that he wrote at least 186 fraudulent power wheelchair prescriptions for Medicare beneficiaries in exchange for more than \$55,000 in bribes and kickbacks. Melendez, the owner and operator of Oceanside Medical Services, admitted that he purchased these 186 fraudulent prescriptions and used them to submit over \$830,000 in false claims to Medicare.

In a related case, co-conspirators Aristeo and Laura Tavares have pled guilty and admitted to submitting more than \$250,000 in false claims based on Dr. Schwartz's fraudulent prescriptions. In total, the scheme resulted in more than \$1 million in false claims to the Medicare trust fund.

United States Attorney Duffy said, "Combating health care fraud is a top priority of the Department of Justice. When Medicare dollars are wasted on expensive and unnecessary equipment, senior citizens run the risk of not being able to obtain the legitimate medical treatment they need. In this time of fiscal austerity, we must aggressively prosecute those who pilfer Medicare dollars to line their own pockets."

"Health care fraud schemes involving false claims of durable medical equipment, cost U.S. taxpayers billions of dollars each year," said Daphne Hearn, Special Agent in Charge of the San Diego FBI Office. "This prosecution should serve notice, that the FBI will aggressively pursue those individuals and criminal enterprises who would line their own pockets at the expense of U.S. taxpayers."

"There can be no doubt that the federal government will crack down on physicians and other individuals defrauding the Medicare program," said Glenn R. Ferry, Special Agent in Charge of the U.S. Department of Health and Human Services, Office of Inspector General's Los Angeles region. "When business owners conspire with doctors to pay kickbacks and write phony prescriptions, they both should expect to be brought to justice."

The pleas are subject to final acceptance by United States District Judge Marilyn L. Huff. The defendants are scheduled to be sentenced by Judge Huff on May 6, 2013 at 9:00 a.m.

DEFENDANTS

Irving J. Schwartz
Jose Melendez

CRIMINAL CASE NO. 12cr2599-H

SUMMARY OF CHARGES

Count 1: Conspiracy to Pay and Receive Health Care Kickbacks and Defraud -Title 18, United States Code, Section 371; Maximum Penalties: Five years in custody; \$250,000 fine; 3 year of supervised release; and mandatory restitution

INVESTIGATING AGENCIES

Federal Bureau of Investigation
Department of Health and Human Services, Office of Inspector General