

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **10-20225** CR-JORDAN

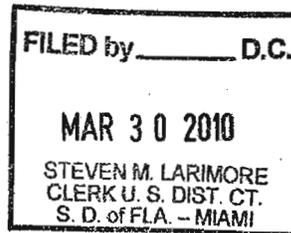
18 U.S.C. § 371
18 U.S.C. § 1349
18 U.S.C. § 287
18 U.S.C. § 1956(h)
18 U.S.C. § 1957
18 U.S.C. § 2
18 U.S.C. § 982

/ McALILEY

UNITED STATES OF AMERICA

vs.

MODESTO DE LA VEGA,
ROLANDO NOGUEIRA,
JOAQUIN VEGA,
GLADIS BADIA,
JOSE NOGUEIRA
a/k/a "Tony Nogueira," and
VICTORIA DE LA VEGA,



Defendants.

INDICTMENT

The Grand Jury charges that:

General Allegations

At all times relevant to this Indictment,

1. The Medicare Program ("Medicare") was a federal health care program providing benefits to persons who were over the age of sixty-five or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services. Individuals who received 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 B of the Medicare program covered a limited set of medications, including medications that were administered via injection or infusion and that were furnished as part of a physician service. Injection treatments involve the administration of medication by inserting a syringe directly into a vein, muscle or the fatty tissue beneath the skin. Infusion treatments involve the administration of medication through a catheter into the bloodstream. Medical clinics that met certain criteria could obtain Medicare provider numbers, which allowed them to submit claims directly to Medicare seeking reimbursement for the cost of injection and infusion treatments provided to eligible Medicare beneficiaries.

4. In order to receive payment from Medicare, medical clinics and physicians were required to submit a health insurance claim form to Medicare. The claims could be submitted in hard copy or electronically. A medical clinic and physician could contract with a billing company to transmit claims to Medicare on their behalf.

5. Medicare Part B was administered in Florida by First Coast Service Options (“FCSO”), which, pursuant to contract with the United States Department of Health of Human Services, served as a contracted carrier to receive, adjudicate and pay Medicare Part B claims submitted to it by Medicare beneficiaries, physicians, or medical clinics administering injection and infusion treatments. Medicare Part B reimbursed medical clinics and physicians directly for the cost of injection and infusion treatments furnished to eligible Medicare beneficiaries provided that those treatments were ordered by a licensed physician who certified that the treatments were medically necessary for the beneficiary.

6. T & R Rehabilitation Prof. Corp. ("T & R") was a Florida corporation doing business at 4894 NW 7th Street Miami, Florida. T & R was a medical clinic that purportedly provided injection and infusion treatments to patients with human immunodeficiency virus (HIV). T & R was a Medicare provider and submitted claims to the Medicare program.

7. St. Louis Medical Services, Inc. ("St. Louis") was a shell corporation used to launder fraudulent health care proceeds. De La Vega Investments Corp. ("De La Vega Investments") was a shell corporation used to launder fraudulent health care proceeds.

8. **MODESTO DE LA VEGA**, a resident of Miami-Dade County, Florida, was the operator of T & R's HIV infusion practice. **MODESTO DE LA VEGA**, was the owner of St. Louis Medical Services and was listed in the official corporate records as President. **MODESTO DE LA VEGA** was also the President of De La Vega Investments.

9. **ROLANDO NOGUEIRA**, a resident of Miami-Dade County, Florida, was the owner and operator of T & R and was listed in the official corporate records of T & R as President.

10. **JOAQUIN VEGA**, a resident of Miami-Dade County, Florida, was a physician and the medical director of T&R and listed in the official corporate records of T & R as Director.

11. **GLADIS BADIA**, a resident of Miami-Dade County, Florida, was a medical assistant at T & R.

12. **JOSE NOGUEIRA a/k/a "Tony Nogueira,"** a resident of Miami-Dade County, Florida, was the brother of **ROLANDO NOGUEIRA** and assisted in the operation of T & R as the manager.

13. **VICTORIA DE LA VEGA**, a resident of Miami-Dade County, Florida, was the office manager of T & R.

14. Delia Diaz was an infusionist at T & R and assisted in administering unnecessary HIV infusion therapy services.

15. Alexis Dagnesses was employed at T & R and manipulated patients' blood to give the false appearance that they had low platelet counts.

COUNT 1

**Conspiracy to Defraud the United States, to Cause the
Submission of False Claims, and to Pay Health Care Kickbacks
(18 U.S.C. § 371)**

1. Paragraphs 1 through 15 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From in or around January 2003, through in or around July 2005, the exact dates being unknown to the Grand Jury, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**MODESTO DE LA VEGA,
ROLANDO NOGUEIRA,
JOAQUIN VEGA
GLADIS BADIA,
JOSE NOGUEIRA
a/k/a "Tony Nogueira," and
VICTORIA DE LA VEGA,**

and others known and unknown to the Grand Jury did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree to commit certain offenses against the United States, that is,

- a. to defraud the United States by impairing, impeding, obstructing, and defeating, through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program;

- b. to make and present claims upon and against the United States Department of Health and Human Services, a department and agency of the United States, for purportedly medically necessary HIV infusion therapy medications, knowing such claims to be false, fictitious, and fraudulent, in violation of Title 18, United State Code, Section 287;
- c. to knowingly and willfully offer and pay any remuneration, including cash kickbacks and bribes, directly and indirectly, overtly and covertly, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by Medicare, and to induce such person to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering any good, service, and item for which payment may be made in whole and in part by Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2).

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for **MODESTO DE LA VEGA, ROLANDO NOGUEIRA, JOAQUIN VEGA, GLADIS BADIA, JOSE NOGUEIRA a/k/a “Tony Nogueira,” and VICTORIA DE LA VEGA** and their conspirators to unlawfully enrich themselves by, among other things: (a) submitting false and fraudulent claims to Medicare; (b) offering and paying kickbacks and bribes to Medicare beneficiaries for the purpose of such beneficiaries arranging for the use of their Medicare beneficiary numbers by the conspirators as the bases of claims filed for injection and infusion treatments; (c) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the

payment of kickbacks; and (d) diverting proceeds of the fraud for the personal use and benefit of the defendants and their conspirators.

MANNER AND MEANS

The manner and means by which the defendants and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among others, the following:

4. **JOAQUIN VEGA** would maintain a valid Medicare provider number for T & R in order to submit Medicare claims for the cost of injection and infusion treatments that were medically unnecessary and were not provided.

5. **JOAQUIN VEGA, GLADIS BADIA,** and Delia Diaz would conduct cursory examinations of the Medicare beneficiaries and would complete the required documentation, including medical and billing records, to make it appear that the injection and infusion treatments billed by T & R were medically necessary and provided, when, in fact, they were not.

6. **JOAQUIN VEGA** would sign therapy sheets authorizing HIV infusion therapy that was not medically necessary.

7. Delia Diaz would provide injection and infusion treatments to T & R patients that were medically unnecessary.

8. Delia Diaz would sign medical records that falsely reported that injection and infusion treatments were provided to T & R patients.

9. **VICTORIA DE LA VEGA, GLADIS BADIA** and others would prepare medical records falsely reporting that T & R patients had received specific dosages of medications by injection or infusion, when, in fact, the patients had not received the treatments or medications reflected in those documents.

10. Alexis Dagnesses would alter the blood samples of T & R patients to make the patients' lab results appear to support the need for injection and infusion services T & R purported to provide.

11. **MODESTO DE LA VEGA, VICTORIA DE LA VEGA,** and Delia Diaz would pay HIV patients who were Medicare beneficiaries cash kickbacks of approximately \$200-\$300 per week, in return for the patients signing logs at T & R stating that they had received the treatments that were billed to Medicare.

12. **MODESTO DE LA VEGA, ROLANDO NOGUEIRA, JOAQUIN VEGA, GLADIS BADIA, JOSE NOGUEIRA a/k/a "Tony Nogueira," VICTORIA DE LA VEGA,** and others would cause T & R to submit approximately \$13.6 million in fraudulent claims to Medicare for the cost of injection and infusion treatments that were not provided and were not medically necessary.

13. **MODESTO DE LA VEGA** and **ROLANDO NOGUEIRA** would transfer and disburse, and cause the transfer and disbursement, of monies out of T & R's various corporate bank accounts to themselves through St. Louis and other companies.

14. **MODESTO DE LA VEGA** would write checks from the T & R checking account made payable to Alfredo Tapanes, for the purpose of laundering the proceeds of the fraud.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the conspirators committed and caused to be committed, in Miami-Dade County, in the Southern District of Florida and elsewhere, the following overt acts, among others:

1. On or about March 31, 2005, **ROLANDO NOGUEIRA** and **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1787 in the approximate amount of \$22,500 drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.

2. On or about March 31, 2005, **ROLANDO NOGUEIRA** and **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1790 in the approximate amount of \$27,109 drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.

3. On or about April 1, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 4823 in the approximate amount of \$300,000 drawn on St. Louis' First Bank of Miami account xxxxxx1401 made payable to De La Vega Investments.

4. On or about April 25, 2005, **MODESTO DE LA VEGA, ROLANDO NOGUEIRA, JOAQUIN VEGA, GLADIS BADIA, JOSE NOGUEIRA a/k/a "Tony Nogueira,"** and **VICTORIA DE LA VEGA** caused the submission of a claim to the Medicare program for Rituxan injections allegedly provided to Medicare beneficiary A.V.

5. On or about April 25, 2005, **MODESTO DE LA VEGA, ROLANDO NOGUEIRA, JOAQUIN VEGA, GLADIS BADIA, JOSE NOGUEIRA a/k/a "Tony Nogueira,"** and **VICTORIA DE LA VEGA** caused the submission of a claim to the Medicare program for Rituxan injections allegedly provided to Medicare beneficiary B.R.

6. On or about May 5, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1850 in the approximate amount of \$50,000 drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.

7. On or about May 16, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1865 in the approximate amount of \$27,500 drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.

8. On or about May 23, 2005, **MODESTO DE LA VEGA, ROLANDO NOGUEIRA, JOAQUIN VEGA, GLADIS BADIA, JOSE NOGUEIRA a/k/a “Tony Nogueira,”** and **VICTORIA DE LA VEGA** caused the submission of a claim to the Medicare program for Rituxan injections allegedly provided to Medicare beneficiary R.C.

9. On or about June 2, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1887 in the approximate amount of \$24,812 drawn on T & R’s First Bank of Miami account xxxxxx3099 made payable to St. Louis.

10. On or about June 2, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1893 in the approximate amount of \$30,000 drawn on T & R’s First Bank of Miami account xxxxxx3099 made payable to St. Louis.

11. On or about June 15, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1921 in the approximate amount of \$30,000 drawn on T & R’s First Bank of Miami account xxxxxx3099 made payable to St. Louis.

12. On or about August 4, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 1967 in the approximate amount of \$63,406 drawn on T & R’s First Bank of Miami account xxxxxx3099 made payable to St. Louis.

13. On or about September 1, 2005, **MODESTO DE LA VEGA** caused the withdrawal of funds using check number 4965 in the approximate amount of \$150,000 drawn on St. Louis’ Bank of Miami account xxxxxx1401 made payable to De La Vega Investments.

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

COUNT 2
Conspiracy to Commit Health Care Fraud
(18 U.S.C. § 1349)

1. Paragraphs 1 through 15 of the General Allegations section of this Indictment are

realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2003, and continuing through in or around July 2005, the exact dates being unknown to the Grand Jury, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**MODESTO DE LA VEGA,
ROLANDO NOGUEIRA,
JOAQUIN VEGA
GLADIS BADIA,
JOSE NOGUEIRA
a/k/a "Tony Nogueira," and
VICTORIA DE LA VEGA,**

did knowingly and willfully combine, conspire, confederate and agree with each other and others known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1347, that is, to execute a scheme and artifice to defraud a health care 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, said health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for **MODESTO DE LA VEGA, ROLANDO NOGUEIRA, JOAQUIN VEGA, GLADIS BADIA, JOSE NOGUEIRA a/k/a "Tony Nogueira," VICTORIA DE LA VEGA,** and their conspirators to unlawfully enrich themselves by, among other things: (a) submitting false and fraudulent claims to Medicare; (b) offering and paying kickbacks and bribes to Medicare beneficiaries for the purpose of such beneficiaries arranging for the use of their Medicare beneficiary numbers by the conspirators as the bases of claims filed for

injection and infusion treatments; (c) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks; and (d) diverting proceeds of the fraud for the personal use and benefit of the defendants and their conspirators.

MANNER AND MEANS

4. The allegations in paragraphs 4 through 14 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated as though fully set forth herein as a description of the Manner and Means of this conspiracy.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 3-5
Submission of False Claims
(18 U.S.C. §§ 287 and 2)

1. Paragraphs 1 through 15 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

MODESTO DE LA VEGA,
ROLANDO NOGUEIRA,
JOAQUIN VEGA,
GLADIS BADIA,
JOSE NOGUEIRA
a/k/a "Tony Nogueira,"
VICTORIA DE LA VEGA,

and others known and unknown to the Grand Jury did make and present to a person or officer in the civil, military, and naval service of the United States, and to a department and agency thereof, the following claims upon and against the United States Department of Health and Human Services, a

department and agency of the United States, knowing such claims to be false, fictitious, and fraudulent:

Count	Medicare Beneficiary	Medicare Claim Number	Approximate Date of Claim Submission	Purported Services; Approx. Amount Billed
3	B.R.	9705115139210	04/25/05	Rituxan injection; \$17,550
4	R.C	9705143185040	05/23/05	Rituxan injection; \$15,210
5	A.V.	9705115900776	04/25/05	Rituxan injection; \$15,210

In violation of Title 18, United States Code, Sections 287 and 2.

COUNT 6
Money Laundering Conspiracy
(18 U.S.C. § 1956(h))

1. From in or around January 2003, and continuing through in or around September 2005, at Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

MODESTO DE LA VEGA and
ROLANDO NOGUEIRA,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate, and agree with each other and with others known and unknown to the Grand Jury, to knowingly engage in a monetary transaction by, through, and to financial institutions affecting interstate commerce, such transactions involving criminally derived property of a value greater than \$10,000, and such property having been derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

2. It is further alleged that the specified unlawful activity is health care fraud in violation of Title 18, United States Code, Section 1347.

All in violation of Title 18, United States Code, Section 1956(h).

COUNTS 7-16
Money Laundering
(18 U.S.C. §§ 1957 and 2)

1. On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the below-named defendants knowingly engaged and attempted to engage in the monetary transaction described below, by, through, and to a financial institution affecting interstate commerce, such transaction involving criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity.

2. It is further alleged that the specified unlawful activity is health care fraud, in violation of Title 18, United States Code, Section 1347.

Count	Defendant(s)	Approximate Date of Transaction	Monetary Transaction
7	ROLANDO NOGUEIRA and MODESTO DE LA VEGA	3/31/2005	Withdrawal of funds using check number 1787 in the approximate amount of \$22,500, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.
8	ROLANDO NOGUEIRA and MODESTO DE LA VEGA	3/31/2005	Withdrawal of funds using check number 1790 in the approximate amount of \$27,109, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.
9	MODESTO DE LA VEGA	4/01/2005	Withdrawal of funds using check number 4823 in the approximate amount of \$300,000, drawn on St. Louis' First Bank of Miami account xxxxxx1401 made payable to De La Vega Investments.
10	MODESTO DE LA VEGA	5/05/2005	Withdrawal of funds using check number 1850 in the approximate amount of \$50,000, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.
11	MODESTO DE LA VEGA	5/16/2005	Withdrawal of funds using check number 1865 in the approximate amount of \$27,500, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.
12	MODESTO DE LA VEGA	6/02/2005	Withdrawal of funds using check number 1887 in the amount of \$24,812, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.

13	MODESTO DE LA VEGA	6/02/2005	Withdrawal of funds using check number 1893 in the approximate amount of \$30,000, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.
14	MODESTO DE LA VEGA	6/15/2005	Withdrawal of funds using check number 1921 in the approximate amount of \$30,000, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.
15	MODESTO DE LA VEGA	8/04/2005	Withdrawal of funds using check number 1967 in the approximate amount of \$63,406, drawn on T & R's First Bank of Miami account xxxxxx3099 made payable to St. Louis.
16	MODESTO DE LA VEGA	9/01/2005	Withdrawal of funds using check number 4965 in the approximate amount of \$150,000, drawn on St. Louis' First Bank of Miami account xxxxxx1401 made payable to De La Vega Investments.

In violation of Title 18, United States Code, Sections 1957 and 2.

CRIMINAL FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in Counts 1 through 16 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of certain property in which the defendants have an interest.

2. Upon conviction of Title 18, United States Code, Sections 1349 and/or 287, as alleged in Counts 2 through 5 of this Indictment, defendants, **MODESTO DE LA VEGA, ROLANDO NOGUEIRA, JOAQUIN VEGA, GLADIS BADIA, JOSE NOGUEIRA a/k/a "Tony Nogueira,"** and **VICTORIA DE LA VEGA**, shall forfeit all of their respective right, title and interest to the United States in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, pursuant to Title 18, United States Code, Section 982(a)(7).

3. Upon conviction of a violation of Title 18, United States Code, Sections 1956 and/or 1957, as alleged in Counts 6 through 16 of this Indictment, **MODESTO DE LA VEGA** and **ROLANDO NOGUEIRA** shall forfeit all of their respective right, title and interest to the United

States in any property, real or personal, involved in such offense, or any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. The property which is subject to forfeiture, includes but is not limited to, the following: the sum of \$4,050,000 U.S.D., which sum represents the gross proceeds traceable to the commission of the fraud alleged in this Indictment.

All pursuant to Title 18, United States Code, Section 982(a)(1) and (a)(7) and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

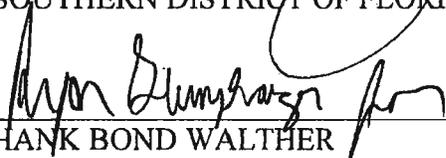
A TRUE BILL



FOREPERSON



JEFFREY H. SLOMAN
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA



HANK BOND WALTHER
ACTING DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE



MICHAEL DOMENIC PADULA
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE