

UNITED STATES DISTRICT COURT)
) ss
NORTHERN DISTRICT OF ILLINOIS)

AFFIDAVIT

I, EDWARD LEITELT, being duly sworn, state as follows:

1. I am a Special Agent with the United States Department of Health and Human Services, Office of Inspector General (“HHS-OIG”) and have been so employed for approximately five years. My responsibilities as an HHS-OIG Special Agent include the investigation of health care fraud and related white collar crimes concerning certain federally funded programs, including Medicare and Medicaid.

2. I have received specialized training in conducting health care and related fraud investigations. I am familiar with and have participated in many of the standard methods of criminal investigations, including but not limited to conducting visual and audio surveillance and taping; reviewing documents and electronic evidence including health care program claims data; questioning witnesses; obtaining and executing search warrants; working with informants, cooperating witnesses, and undercover agents; and conducting covert investigations. I have been personally involved in health care fraud investigations concerning unlawful patient brokering, sharing and recycling, fraudulent billing practices (*e.g.*, billing for unnecessary services and/or services not rendered), as well as payment of kickbacks or other inducements to steer federal health care insurance beneficiaries to medical service providers.

3. This affidavit is submitted in support of a criminal complaint against ALONA DIZON BUGAYONG (“BUGAYONG”) and HAN WOO (“WOO”) for conspiring to commit violations of Title 42, United States Code, Section 1320a-7b (the Anti-Kickback Statute, described

in more detail in paragraph 6, below), all in violation of Title 18, United States Code, Section 371. Because this affidavit is being submitted for the limited purpose of establishing probable cause to support the charges described herein, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offense alleged in the complaint.

4. The information contained in this affidavit is based upon my personal training and experience, participation in this investigation, information that I have obtained from other federal law enforcement agents, and information derived from other sources that I believe to be reliable, including but not limited to: witness interviews, consensual and covertly recorded conversations of a cooperating source,¹ and public record databases. Through these sources of information, I am personally familiar with the information provided herein.

STATUTORY BACKGROUND

5. From my training and experience as an agent working on health care fraud investigations, I am familiar with the following relevant statutory provisions:

6. Title 42, United States Code, Section 1320a-7b prohibits health care providers, including home health care (“HHC”) agencies, from offering or paying kickbacks in exchange for the referral of Medicare and Medicaid patients or other federally insured beneficiaries to other health care providers, including providers of magnetic resonance imaging (“MRI”). Specifically, that

¹ This affidavit includes summary descriptions of a number of consensually recorded conversations. Those summaries are based on my review of the recordings, draft transcripts, interviews with the cooperating source, my experience as a law enforcement officer and the experience of other law enforcement officers in this investigation, as well as the investigation to date. Quotations from recorded conversations included herein come from draft, not final, transcripts of those conversations, and voice identification as well as content are subject to verification and revision.

statute provides in pertinent part:

whoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind –

....

to refer an individual to a person for the furnishing or the arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care benefit program . . . shall be guilty of a felony . . .

42 U.S.C. § 1320a-7b(b)(2)(A).

7. Medicare is a program administered by the United States Department of Health and Human Services that provides health insurance for, among others, persons aged 65 and older, certain younger people with disabilities, and people with end-stage renal disease. The Medicare program was established by Congress in 1965 when it enacted Title XVIII of the Social Security Act. The Medicare program qualifies as a Federal Health Care Program for purposes of 42 U.S.C. § 1320a-7b(b)(2). *See* 42 U.S.C. § 1320b-7b(f).

8. Medicare has several components including Part A (Hospital Insurance) and Part B (Supplemental Medical Insurance). Medicare Part A covers expenses of health care services furnished in an institutional setting, such as a hospital or skilled nursing facility, or provided by an HHC agency or hospice. Medicare Part B covers physician services, certain other medical equipment and services, and other outpatient services, including the diagnostic testing and massage therapy described herein. Medicare will only reimburse claims for services that are reasonable, medically necessary, and actually rendered.

9. The Center for Medicare and Medicaid Services (“CMS”) administers Medicare and Medicaid programs on the federal level. Among other things, Medicare will, under appropriate circumstances and in accordance with specified rules and regulations, reimburse home health care

providers enrolled in their programs for providing home health care services to covered beneficiaries. Stated broadly, the home health care services must be medically necessary and ordered by a medical doctor to qualify for reimbursement under the Medicare program.

**EVIDENCE OF UNLAWFUL SOLICITATION
AND RECEIPT OF KICKBACKS**

10. On or about November 11, 2009, a cooperating source (“CS”), who is the owner of a pharmacy and manager of a medical clinic located in Chicago, Illinois,² reported to HHS-OIG agents that he was meeting with BUGAYONG, a marketer for several Chicago area HHC agencies. According to the CS, several acquaintances of the CS have participated in kickback relationships with either the CS or other medical providers. According to the CS, BUGAYONG was a marketer with whom the CS was familiar because she had established relationships with several physicians with whom the CS either worked or whom the CS employed. According to the CS, BUGAYONG establishes relationships with physicians and medical facilities for the purpose of soliciting referrals to the home health agencies that she represents. Also according to the CS, BUGAYONG pays kickbacks to the medical providers with whom she establishes the referral relationships. The kickbacks are often in the form of cash payments. At law enforcement’s request, the CS agreed to record subsequent meetings with BUGAYONG.

11. Beginning in or about November 2009, and continuing to in or about January 2010, at the direction of law enforcement agents, the CS recorded meetings with BUGAYONG, who

² At the time of the events detailed in this Complaint Affidavit, the CS was under indictment in this district for paying a third party for the referral of federally insured Medicaid patients (*i.e.* paying kickbacks), and was cooperating with law enforcement. Since then, the CS and the government have signed an agreement to defer prosecution in that matter. Additionally, the CS’s Office Manager is cooperating with the government in this investigation, and thus is not a co-conspirator in the conspiracy alleged in this complaint.

according to the CS sought a relationship with the CS based upon the CS's ownership/management interest in the pharmacy and medical clinic. According to the CS, BUGAYONG and the owners of the HHC agencies she represents pay medical providers when those providers refer patients to their HHC agencies. CS employed and/or partnered with two Chicago area physicians who worked with BUGAYONG in the past. According to the CS, at least one of those physicians had referred patients to BUGAYONG.

November 19, 2009 meeting

12. On or about November 19, 2009, the CS was also equipped with audio and video recording devices by law enforcement. Once equipped with the recording devices, CS made video and audio recordings of the CS's meeting with BUGAYONG at the CS's private office. My review of those recordings indicates that BUGAYONG and the CS discussed BUGAYONG paying the CS for referring patients to the home health care agency that BUGAYONG represents.

13. Specifically, BUGAYONG discussed her employment with a new HHC agency owned by WOO. BUGAYONG explained that she is a salaried employee, but that WOO pays her an additional \$500 cash per patient she brings to his company for the provision of HHC services. BUGAYONG also explains that she pays the \$500 cash to the referring entity.

14. During the meeting, there is the following exchange, in which BUGAYONG states that she has begun working for WOO at Healthquest Homecare LLC.

CS:	So you left Evangel...you went to work, company, with the Chinese guy? What's his name?
BUGAYONG:	I went...and Han...
CS:	Quest?...Health Care?
BUGAYONG:	...yeah, Health Quest.
CS:	Health Quest.
BUGAYONG:	Yeah, and then so I um...
CS:	What, uh, so you joined him?

BUGAYONG: Yeah, I joined him. You know I'm, I'm, I'm...
 CS: How long ago?
 BUGAYONG: ...I'm salaried, I'm uh...
 CS: Alright.
 BUGAYONG: ...you know, I'm...an employee.
 CS: Mm-hmm.
 BUGAYONG: You know, at least for now...
 CS: Mm-hmm.
 BUGAYONG: ...you know. We, we tried to make some deals but, I want don't put high-hopes in, 'cuz I don't wanna be disappointed again. This...
 CS: Yeah.
 BUGAYONG: ...I'm satisfied with...
 CS: Yeah.
 BUGAYONG: ...my salary. Uh, I worked, I started working with him April...
 CS: Mm-hmm.
 BUGAYONG: ...yeah.
 CS: April of this year?
 BUGAYONG: Yeah...and he, he paid me for a month of March but (chuckling/UI)³ but..

15. During the same conversation, there was the following exchange, in which BUGAYONG and the CS discussed the kickback payments BUGAYONG was making to Physician A:

CS: And uh, how much he gets for patients? (slight pause) I have a reason why I'm asking that...
 BUGAYONG: (chuckling)
 CS: ...because uh...
 BUGAYONG: Between you and me, OK, 'cuz I, it's very confidential for me, [CS], I don't (UI) tell...
 CS: Yeah but...you trust me, you know...
 BUGAYONG: Yeah but, you know, since, you know, you know...
 CS: Yeah.
 BUGAYONG: ...you know I'm, and I'm dealing it, dealing with the home health business with you before...
 CS: Yeah.
 BUGAYONG: ...personally, so you know the deal with me. Um...five

³ The notation "UI" means that a portion of the recording is unintelligible at that point.

hundred.
CS: He gets how much?
BUGAYONG: Five hundred...cash...one-time fee.
CS: OK.
BUGAYONG: Yeah, but of course I wanted to get your, your business back for home health, since I'm in the home health business...
CS: Yeah.
BUGAYONG: ...um...
CS: I mean, is he happy with five hundred dollar?...(Physician A)
BUGAYONG: Yeah.

16. During the same conversation, there is the following exchange, in which the CS and BUGAYONG discuss how WOO makes kickback payments to the people making HHC referrals.

CS: Does he pay directly or through you?
BUGAYONG: He give, I'm in his payroll.
CS: Mm-hmm. No, no, my question is, for patients...
BUGAYONG: Oh, through me.
CS: ...you know, he pays you?
BUGAYONG: Because he...yeah, he gives me (UI)...
CS: Five hundred?
BUGAYONG: Yeah.
CS: Uh, and he pays, you know...
BUGAYONG: Yeah.
CS: ...and you pay the doc, whatever.
BUGAYONG: Right, right.

17. Based on my training and experience, as well as my review of records obtained from the Illinois Secretary of State, I believe that in the foregoing conversation, the CS and BUGAYONG discuss BUGAYONG's employment as a marketer for Healthquest Homecare LLC home health agency. Specifically, I believe that the owner of Healthquest Homecare LLC is WOO, based on the foregoing conversation, business cards supplied by BUGAYONG during the above-described meeting, and a search of public databases. Additionally, the investigation has revealed that WOO

is also the owner and registered agent of New Covenant Home Health Agency LLC, another HHC agency that is referenced below in the conversation described in paragraph 19. Additionally, based on the foregoing conversation, I believe that BUGAYONG pays \$500 per patient referred through her to WOO's HHC agencies, and BUGAYONG receives from WOO the money that she pays to her referral sources.

December 7, 2009 meeting

18. On or about December 7, 2009, the CS told law enforcement agents that the CS had recently contacted BUGAYONG and requested to meet WOO. The discussions between BUGAYONG and the CS regarding a potential meeting were not recorded. On or about December 7, 2009, the CS was equipped with audio and video recording devices by law enforcement, and law enforcement officers searched the CS for contraband, with negative results. After being searched and equipped with the recording devices, the CS attended the meeting coordinated by the CS and BUGAYONG over the course of the unrecorded conversations. Present at the meeting were the CS, the CS's Office Manager ("OM"), WOO, and BUGAYONG.

19. My review of the audio and video recording of the December 7 meeting and discussion with the CS showed that WOO and BUGAYONG made a \$500 payment to the CS for the referral of an initial patient ("Patient A") by the CS to BUGAYONG and WOO. Specifically, during this meeting, there was the following exchange:

CS:	Let's talk about money, you know, uh, what's, what's the deal (UI)?
WOO:	Like any, you know a, um, Alona mentioned it to me, uh...for me, for me it is uh, it is fine. Um, we just need to come to a consensus of what, what we can do. Um, you know...everybody knows, I mean, we have the margin, I mean...
CS:	Yeah.

...
 CS: So give me a number.
 WOO: (UI), you tell me what you...
 CS: You're the man.
 BUGAYONG: (chuckling)
 WOO: ...you tell me what you guys are used to and we'll, we'll try to do our best...
 BUGAYONG: (inaudible)
 WOO: ...we will try to do our best, doctor.
 OM: Well throw a number to me, now that you know. (chuckles)
 WOO: The, the most that we...
 CS: (interrupts) Let's look at bigger picture...
 WOO: Yes.
 CS: ...let's look at the big picture.
 WOO: Yeah, big picture.
 CS: (UI), a year, two years down the road, not just...
 WOO: And, exactly, I think um, what we're used to or consent to
 is that um, you know, people come into this with the figure of
 five hundred.
 (slight pause)
 CS: Per...per patient.
 OM: ...patient.
 WOO: Yes.
 CS: OK...
 WOO: And then um, what we do is that uh, then, we don't do
 anything for, for recerts, but then again we don't keep the
 patients forever, obviously not. So then when we do
 re-admissions, I guess, then we do...four to five hundred.
 CS: Yeah.
 BUGAYONG: So they're...
 CS: How, how often...I mean...
 WOO: How frequently?
 CS: ...she has problems getting and receiving money after...
 WOO: OK. Well...
 CS: ...can we do it...
 WOO: Um...here, here's what we...
 (talking at the same time)
 CS: ...(inaudible)
 WOO: ...here's what we're gonna do, here's what we can do
 though, I mean if we come to um, you know, a, a consensus
 on this is that...I don't, you know, like a, a week, let's say
 one week after, after when there's actually one that
 admitted it, we can do that. But then again, if the patient does not
 um, finish, he have, does not have at least a minimum of

five visits, then we'll just have to replace that. You know what I mean? So you'll...

OM: Yes.

WOO: ...so you get, you get it up front first, and then if you don't, then we'll just, you just, the future patients will just cover for the, for the old ones. Um, because we, we don't get paid un-, unless they're patients, you know, stay at least for five visits. Um...

...

CS: Do you have patients?

OM: I have one.

CS: Can you give it to her, or not?

BUGAYONG: (chuckling)

WOO: [OM] likes me, [OM] is trying to size, to see if [OM] likes me enough.

CS: (laughs)

WOO: (chuckling) [OM]'s smiling...

CS: Yeah...(chuckling)

WOO: ...that's a good thing.
(slight pause)

CS: Thanks [OM].

OM: Mm-hmm.

CS: I mean uh, we'll start with something...

WOO: Yes.

CS: ...and...and, as she said, the doctor doesn't...really tell them what, where the patient go, he rely on [OM]...[OM], she can't send, and, and he doesn't even know what company they were. As far as the patient comes back and say doctor, thank you for referring me to...uh, Health Quest. They were nice, they spoke Spanish, they took care of us, that's what he cares about.

...

WOO: So what, what we're gonna do is um, uh, all new patients that are from here, we will be admitting it under New Covenant Home Health...

CS: Mm-hmm.

WOO: ...um, uh, New Covenant have uh, full-time nurses, uh, actually a few of 'em they just...

CS: Mm-hmm.

WOO: ...they can quickly admit these patients.

20. According to the CS, the OM provided a copy of Patient A's Medicare card, home health prescription, and the referral form to WOO and BUGAYONG. My review of the video

recording of the meeting shows that at this point, BUGAYONG slid a white envelope to WOO, who stated, "She came prepared," and then passed the envelope to the CS and OM. My review of the video recording also shows the OM withdrawing money from the envelope and creating \$100 piles of the money, counting up to \$500. WOO and BUGAYONG were also present as the money was counted. As BUGAYONG gave the package to WOO, there was the following exchange.

WOO: That's good, she, she came prepared, I wasn't even sure.
BUGAYONG: (chuckling)
OM: Oh, well you're, you're prepared, huh?
BUGAYONG: (chuckling) He wanted to be, so...
OM: You know me, I like to count. (chuckles)
CS: Uh-huh.
BUGAYONG: (chuckles)
CS: [OM] does not trust anyone. (laughing) That's the key,
that's the problem.
BUGAYONG: Well you have the...
OM: You know what? I'm gonna be honest, you can't...
BUGAYONG: ...you have the perfect manager.
OM: ...you can't trust nobody. (laughs)
WOO: You will trust us.
OM: (chuckles)
(money counting audible)
BUGAYONG: So um, [CS], you're gonna see [a doctor the CS and
BUGAYONG know] tomorrow? I'll just him that you'll
be...
CS: Yes...
BUGAYONG: ...stopping by tomorrow.
CS: ...I'll stop by around noon, maybe one o'clock.
BUGAYONG: OK.
CS: I know he leaves early.
OM: (inaudible) one, two, three, four, five. Nice doing business
with you guys.
CS: Really nice.
BUGAYONG: (laughs)
CS: And uh, thank you for talking to him. I appreciate it.
BUGAYONG: You're welcome...yeah.
CS: You have a good lady here...it helps.
WOO: You got a good, you have, uh, I heard from Alona. You
have MRI, MRI (inaudible/UI)...

(talking at the same time)
BUGAYONG: (UI) you got, you got the best manager. (chuckles)

21. Once the CS and the OM arrived at a pre-arranged location to meet with law enforcement, the CS and the OM tendered to law enforcement the package provided to the CS by BUGAYONG. The CS and the OM were searched for additional money and contraband, with negative results. The contents of the package provided to the CS by BUGAYONG was \$500 in cash. Based on my training and experience, I believe that in the foregoing conversation involved the payment of \$500 cash to the CS and the OM in exchange for the referral of a patient to BUGAYONG and WOO.

January 11, 2010 meeting

22. On or about January 11, 2010, BUGAYONG again met with the CS and the OM at the CS's office. Prior to the meeting, law enforcement equipped the CS with audio and video recording devices. During the meeting, which was audio and video recorded, BUGAYONG discussed continuing her relationship with the CS. My review of the recording indicates that BUGAYONG also detailed how and when cash payment will be made to the OM and/or the CS for patients.

23. Specifically, BUGAYONG explained that Medicare pays HHC agencies for an initial sixty day cycle, and that for each new patient referred to WOO's HHC agency, BUGAYONG would make a \$500 payment to the CS and/or the OM. Each additional approved cycle of home health care constitutes a re-certification, which must be approved by a referring physician. For each re-certification of a referred patient, BUGAYONG agreed to pay the CS and/or the OM \$300. BUGAYONG explained to the OM that the OM stands to potentially make over \$2,000 per patient referral from the OM's relationship with WOO and BUGAYONG. BUGAYONG again detailed that

the OM will receive \$500 for the initial sixty day cycle. For the HHC agency to continue to bill Medicare, the patient must be re-certified for additional cycles of care. BUGAYONG explained that the HHC agency can bill two additional cycles to Medicare and will pay \$300 to the OM per additional cycle for a total of \$1,100 dollars for the patient's three cycles of care. BUGAYONG also explained that the HHC agency does not like to re-certify for a fourth cycle of care.⁴ BUGAYONG explained that instead of re-certifying for a fourth cycle, the HHC agency will opt to not re-certify the patient, allow a couple of weeks to pass and then begin another "initial" cycle of care, followed by two more re-certifications. The new "initial" cycle will result in another \$500 payment to the OM and the CS and each re-certification will result in another \$300 payment, for a total of another \$1,100 in payments to the OM and the CS.

24. During this meeting, there was the following exchange:

BUGAYONG:	But, [CS], whatever I told you...
CS:	Mm-hmm.
BUGAYONG:	...the, the deal that we have...
CS:	Yeah.
BUGAYONG:	...you know, it's just for us...
CS:	No, no, no, no...
BUGAYONG:	...well I'm not giving it to anyone else, because I told Han the volume that you can give...
CS:	Uh-huh.
BUGAYONG:	...and he said, he says the volume, that's fine. But he never gave it to anybody.
CS:	OK. No then, definitely uh...
OM:	Yeah, he was telling me about that.
CS:	...by the way, since you're gonna be dealing with [OM] and, and [OM]'s the one who's gonna, [OM] already have another patients for you.

⁴Based on my training and experience, I know that Medicare scrutinizes continuing HHC cycles, and that the home health patient must show improvement in the condition or a change in diagnosis to justify continued payment by Medicare to the HHC agencies for continuing cycles of care.

BUGAYONG: OK...thank you.

...

BUGAYONG: So I told [CS] why don't we just, you know, have our effort together in building up the home health and make as much money as we can now, that we still can...

CS: Mm-hmm.

OM: Yeah.

BUGAYONG: ...and so I negotiated with Han. Actually...

CS: Mm-hmm.

BUGAYONG: ...'cuz I was thinking, as an owner and, but since we don't have really nothing, you know, we don't have it in writing...

CS: Yeah.

BUGAYONG: ...it's gonna be just uh...

CS: Mm-hmm...

BUGAYONG: ...a cash basis...

CS: ...yes.

BUGAYONG: ...that we're gonna do. Of course, it's a matter of trust. And I, you know, if... I...if so happened he's not trustworthy or I'm not...

CS: Mm-hmm.

BUGAYONG: ...then you know, I have...

CS: Sure.

BUGAYONG: ...it, it's just right for you to cut me off. But I'm not gonna go in that direction, you know, I wanna have a long-term business with you...

CS: Sure.

BUGAYONG: ...by yourself. Um, I told Han that, you know, [CS] has this desire to become an owner of home health...why don't we just give him a big portion of the share, just like an owner...

CS: Mm-hmm.

BUGAYONG: ...but, actually it's (UI), but...as I told you, five hundred, three hundred, it's five hundred for every admission. If the...

CS: OK, (UI)...

BUGAYONG: ...if the patient has to be readmitted, that's another five hundred, but the, the...the recert...

CS: Re-certification.

BUGAYONG: ...re-certification is three hundred. So that's five three.

CS: OK, excuse me...the first one, five hundred off the bat, when they're, when you receive the patients.

BUGAYONG: Yeah...it's right here. This is...

CS: OK, this is what they were trying to...

BUGAYONG: Yeah.

OM: Oh, OK, and those...

BUGAYONG: This is like the whole, you know, program for the whole year...

OM: OK.

BUGAYONG: ...uh, the, the start of care is the beginning of admission, that's two months, and after that we have a re-certification of another two months, and another re-certification of a, another two months. Medicare usually would want, wanna see an improvement, the, you know, about this time, and therefore, we have to discharge the patient, so sometimes...

CS: Discharge.

BUGAYONG: ...we have to wait two weeks, three weeks...if you can...

OM: Two weeks and...

BUGAYONG: ...yeah. And then, after the discharge, there will be a readmission. And readmission is, is, could be diff-, uh, could be same as the admission...

CS: Mm-hmm.

BUGAYONG: ...but, there could be some changes of diagnosis in here or medication that they consider it a, an admission because we have discharged the patient already. And this poi-, at this point, we can have the five hundred again...

CS: Mm-hmm.

BUGAYONG: ...because Medicare gives more money on admissions...

CS: I see.

BUGAYONG: ...and then they cut down on readmissions.

CS: Mm-hmm.

OM: OK, so...now when we readmit, this is gonna be...how much will be here?

BUGAYONG: Five hundred, two hundred, two hundred...

OM: Two hundred did you say?

BUGAYONG: ...I meant three hundred...

CS: Three hundred.

OM: OK.

BUGAYONG: ...three hundred...five hundred (UI) (laughs)

OM: OK...yeah, I was like wait a minute...

CS: So...five...

BUGAYONG: (laughing) Five hundred, three hundred, three hundred, five hundred, three hundred...

OM: Three hundred, three hundred.

BUGAYONG: ...three hundred.

OM: OK.

CS: So total, how much will total be?

BUGAYONG: That will be a total...about...

OM: A...

BUGAYONG: ...twenty-two hundred...twenty-seven?

OM: ...well, if it's...total with everything?
 CS: Hold on...
 BUGAYONG: Mm-hmm.
 CS: ...five hundred, then three hundred...
 BUGAYONG: That's eighty...
 OM: Just eight...
 CS: ...OK, then...
 BUGAYONG: ...mm-hmm.
 CS: ...then...
 OM: ...three...
 CS: ...then three hundred...
 OM: Uh-huh.
 CS: ...then five hundred...
 BUGAYONG: Mm-hmm.
 OM: Then five hundred, then three hundred...
 BUGAYONG: Mm-hmm.
 OM: ...and then another what?
 CS: So we have...
 BUGAYONG: Another three hundred.
 OM: Another three hundred.
 BUGAYONG: Yeah. Oh no, it's five three three, five three three.
 OM: Yeah.
 CS: So twenty-one hundred per...
 BUGAYONG: Yeah, per year...per patient. And that's very good. And you're getting it in cash, which is...
 CS: Per year per patient.
 BUGAYONG: Yeah. Which is uh, returned from...
 CS: All cash, you know...
 BUGAYONG: Mm-hmm.
 OM: Absolutely.
 BUGAYONG: [CS], this is...
 CS: ...you know we can't, we can't deal with checks, you know...
 BUGAYONG: No, no.
 CS: ...you know why.
 BUGAYONG: Yes, yes, because...
 CS: Why, what's the reason?
 BUGAYONG: Well...you, you know a lot of reasons was when it comes to, you know...
 CS: I know it. I want her to, to know, so she, you know...
 BUGAYONG: See, the thing, [OM], is like since we're gonna be getting a volume from you... and there will, you know, if there's a trace of payments, then, you know, just in case...
 CS: Mm-hmm.

BUGAYONG: ...let's say we get, you know, audited by the FBI...
CS: Oh, by the government...yeah.
BUGAYONG: ...with government...we don't want them to say hey, you know...there's the proof why you're getting this much volume from this patient.
CS: And they call it like kickback, right?
BUGAYONG: Yeah...they, they call it (UI)...
(talking at the same time)
CS: But that's illeg-...
OM: Oh, kickbacking...
CS: ...and that's illegal...you know.
BUGAYONG: Yeah...
OM: Yeah, kickbacking is...
CS: so that's why cash is...
BUGAYONG: Mm-hmm.
CS: ...(UI)
OM: Oh, so we're gonna (UI)
BUGAYONG: So, uh, cash is the only way. In cash, you say I don't know what she's talking about, I don't know what she's...(laughing)
OM: Right, and they...
BUGAYONG: ...talking about.
OM: ...they have no proof of...
BUGAYONG: Yeah, and they have no proof, we just wanna do business with them because hey, they're one of the top five hundred in patient care in Illinois...
CS: Right.
BUGAYONG: ...they're top five hundred in the nation. And we really have good nurses because...
CS: Of course.
...
CS: But as we agreed the first every patient, we agreed, you know, the first five hundred...for referral.
BUGAYONG: That's why I'm saying, that if you, we could...
OM (inaudible)
BUGAYONG: ...yeah, we could first do...
CS (interrupts/UI) admission, (UI)...OK.
BUGAYONG: Because we, we get about...see, the, the re-, the reimbursement for the, after the admission, we get sixty percent, and that's the money that we can share with you.
CS Mm-hmm.
BUGAYONG: At this point, Han doesn't have the profit yet. He will...
CS Mmm.

BUGAYONG ...has to wait two more months from the admission. Then Medicare re-, would reimburse. But for you, you'll get yours in two weeks...because that would be about the time we get the sixty percent...

CS Mm-hmm.

BUGAYONG ...money for that patient, from the patient. So what Han is saying is, just to have a little cooperation with you to give us a time to bill, and we'll give you the...

CS Mm-hmm.

BUGAYONG ...your profit already. His, he has to still wait for two months and I thought, I think [CS] (UI/chuckling)...

CS Mm-hmm.

BUGAYONG ...this is fair...

CS Mm-hmm.

BUGAYONG ...because, especially if it's a um, a volume...

CS Mm-hmm.

BUGAYONG ...then the poor guy, you know, he still have to pay the nurses every two weeks.

...

BUGAYONG ...I was an owner of the home health, part-owner of it, so I can, you know... but right now I'm an employee and I'm just happy being an employee and only doing home health because I'm getting burnt out. And...yeah, and I don't wanna look too bad with Han because we never had, the five-three, he's never given to anybody but because I told him that you guys have the volume, that's what he's counting.

CS OK.

OM OK...

BUGAYONG Yeah, so...

OM ...OK.

CS No problem, Alona. You know, (UI)...

BUGAYONG I promise you, after, right after the admission, counting within that day, you'll see me within two weeks, and I'll...

CS That's it.

BUGAYONG ...with the cash.

25. Based on my training and experience, I believe that in the foregoing conversation BUGAYONG describes to the OM and CS how they will receive payment for patient referrals to her. Specifically, for every patient Office Manager and CS refer to BUGAYONG that is approved

by Medicare to receive home health care, BUGAYONG will pay \$500 for the initial 60 day cycle of home health care and \$300 for each additional re-certification for additional 60 day cycles of home health care. BUGAYONG also discussed concealing the payments by making them in cash. BUGAYONG explained that paying money in exchange for patient referrals is illegal and mentioned that making payments in cash hides the payment from investigating government agencies.

CONCLUSION

26. Based on the foregoing, I submit there is probable cause to believe that ALONA DIZON BUGAYONG and HAN WOO violated Title 18, United States Code, Section 371, in that BUGAYONG and WOO did knowingly conspire with each other and others to knowingly and willfully offer and pay remuneration, directly and indirectly, overtly and covertly, in return for the referral of individuals to a person for the furnishing or arranging of the furnishing of services for which payment may be made in whole and in part under Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), and in furtherance of and to effect the objects of the conspiracy, on December 7, 2009, defendants met with a representative of a medical clinic and paid the representative \$500 for the referral of a Medicare patient to a home health agency for the provision of home health care services. In addition, on January 11, 2010, BUGAYONG met with representatives of a medical clinic and agreed to pay the representatives for the referral of patients to home health care agencies that defendant represented in the amount of \$500 for the initiation of care and \$300 for re-certification for further episodes of care.

FURTHER AFFIANT SAYETH NOT.

EDWARD F. LEITELT
Special Agent

Department of Health and Human Services

SUBSCRIBED AND SWORN to before me on February 16, 2011

JEFFREY COLE
United States Magistrate Judge