

FILED BY **JA** D.C.
Sep 29, 2020
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
20-60105-CR-BLOOM/VALLE
Case No. _____

18 U.S.C. § 1349

18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

EMMANUEL SILVA,

Defendant.

_____ /

INFORMATION

The United States Attorney charges:

GENERAL ALLEGATIONS

At all times material to this Information:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federal health care program that provided free or below-cost health care benefits to individuals who were sixty-five years of age or older or disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services (“HHS”), through its agency the Center for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly 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. Medicare was subdivided into multiple program “parts.” Medicare Part A covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. Medicare Part B covered physician services and outpatient care, including an individual’s access to durable medical equipment (“DME”), such as orthotic devices and wheelchairs.

Durable Medical Equipment

4. Orthotic devices were a type of DME that included rigid and semi-rigid devices, such as knee braces, back braces, shoulder braces, and wrist braces (collectively, “braces”).

5. DME companies, physicians, and other health care providers that provided services to Medicare beneficiaries were referred to as Medicare “providers.” To participate in Medicare, providers were required to submit an application in which the providers agreed to comply with all Medicare-related laws and regulations. If Medicare approved a provider’s application, Medicare assigned the provider a Medicare “provider number.” A health care provider with a Medicare provider number could file claims with Medicare to obtain reimbursement for services rendered to beneficiaries.

6. Enrolled Medicare providers agreed to abide by the policies, procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers were required to abide by the Anti-Kickback Statute and other laws and regulations. Providers were given access to Medicare manuals and services bulletins describing billing procedures, rules, and regulations.

7. Medicare reimbursed DME companies and other health care providers for services and items rendered to beneficiaries. To receive payment from Medicare, providers submitted or

caused the submission of claims to Medicare, either directly or through a billing company.

8. A Medicare claim for DME reimbursement was required to set forth, among other things, the beneficiary's name and unique Medicare identification number, the equipment provided to the beneficiary, the date the equipment was provided, the cost of the equipment, and the name and unique physician identification number of the physician who prescribed or ordered the equipment.

9. A claim for DME submitted to Medicare qualified for reimbursement only if it was medically necessary for the treatment of the beneficiary's illness or injury and prescribed by a licensed physician.

The Defendant, Related Entities and Individuals

10. U.S. Care Associates, LLC ("U.S. Care Associates") was a Florida corporation and purported marketing company with its principal place of business in Broward County, in the Southern District of Florida.

11. Dial4MD, Inc. ("Dial4MD") was a Florida corporation and purported telemedicine company with its principal place of business in Broward County, in the Southern District of Florida.

12. Phoenix Health Solutions LLC ("Phoenix Health") was a Florida corporation and DME company with its principal place of business in Palm Beach County, in the Southern District of Florida.

13. Sunshine Bracing Solutions, Inc. ("Sunshine Bracing") was a Florida corporation and DME company with its principal place of business in Broward County, in the Southern District of Florida.

14. Co-Conspirator 1, a resident of Broward County, was a co-owner of U.S. Care Associates, Dial4MD, and Phoenix Health.

15. Co-Conspirator 2, a resident of San Diego County, California, was a client of U.S. Care Associates and the owner of DME Company 1 and DME Company 2.

16. Sean Aaronson was the office manager of U.S. Care Associates.

17. Defendant **EMMANUEL SILVA**, a resident of Palm Beach County, was a co-owner of U.S. Care Associates, Dial4MD, and Phoenix Health, and the owner of Sunshine Bracing.

**CONSPIRACY TO COMMIT HEALTH CARE FRAUD
(18 U.S.C. § 1349)**

From in or around March 2015, and continuing through in or around April 2019, in Broward County, in the Southern District of Florida, and elsewhere, the defendant,

EMMANUEL SILVA,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate, and agree with Co-Conspirator 1, Co-Conspirator 2, Sean Aaronson, and others known and unknown to the United States Attorney to knowingly and willfully 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 programs, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

Purpose of the Conspiracy

18. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) soliciting and receiving kickbacks and bribes in return for signed doctors' orders for DME prescribed to Medicare beneficiaries that were medically unnecessary, not eligible for Medicare reimbursement, and not provided as represented; (b) submitting and causing the submission of false and fraudulent claims to Medicare; (c) concealing and causing the concealment of false and fraudulent claims to Medicare; and (d) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which defendant **EMMANUEL SILVA** and his co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

19. **EMMANUEL SILVA** and Co-Conspirator 1 created U.S. Care Associates as a purported marketing company that would provide marketing services to DME companies, and Dial4MD as a telemedicine company that would purportedly provide telemedicine services to Medicare patients. In reality, U.S. Care Associates sold medically unnecessary doctors' orders generated by Dial4MD to DME companies, including DME Company 1 and DME Company 2, in exchange for kickbacks.

20. **EMMANUEL SILVA** and Co-Conspirator 1 hired Sean Aaronson as the office manager of U.S. Care Associates.

21. **EMMANUEL SILVA**, Sean Aaronson, and Co-Conspirator 1 solicited kickbacks

from DME companies in exchange for signed doctors' orders for DME prescribed to Medicare beneficiaries.

22. **EMMANUEL SILVA**, Sean Aaronson, and Co-Conspirator 1 disguised the nature of these kickbacks by executing sham contracts that falsely stated that U.S. Care Associates provided business process outsourcing and administrative and marketing services.

23. **EMMANUEL SILVA**, Sean Aaronson, and Co-Conspirator 1 provided clients with sham invoices for business process outsourcing and administrative marketing services, but separately generated an invoice review that tracked the number and type of doctors' orders that were transmitted to U.S. Care Associates' DME company clients in exchange for kickbacks.

24. **EMMANUEL SILVA** and his co-conspirators falsely certified to Medicare that they, as well as Phoenix Health, Sunshine Bracing, DME Company 1, and DME Company 2 would comply with all federal laws and regulations, including that they would not knowingly present and cause to be presented a false and fraudulent claim for payment by a federal health care program and that they would comply with the federal Anti-Kickback Statute.

25. **EMMANUEL SILVA**, Co-Conspirator 1, Co-Conspirator 2, and their co-conspirators through Phoenix Health, Sunshine Bracing, DME Company 1, and DME Company 2 submitted and caused the submission of false and fraudulent claims to Medicare in the approximate amount of \$7,692,623 for braces that were: (a) procured through the payment of kickbacks and bribes; (b) medically unnecessary and ineligible for Medicare reimbursement; and (c) not provided as represented.

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

v.

CERTIFICATE OF TRIAL ATTORNEY*

EMMANUEL SILVA,

Superseding Case Information:

_____ Defendant. /

Court Division: (Select One)

Miami Key West
 FTL WPB FTP

New defendant(s) Yes No
Number of new defendants _____
Total number of counts _____

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) No
List language and/or dialect _____
- This case will take 0 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

- I 0 to 5 days
- II 6 to 10 days
- III 11 to 20 days
- IV 21 to 60 days
- V 61 days and over

- Petty
- Minor
- Misdem.
- Felony

6. Has this case previously been filed in this District Court? (Yes or No) No

If yes: Judge Case No. _____

(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No

If yes: Magistrate Case No. _____

Related miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia O. Valle)? Yes No

8. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? Yes No

9. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss)? Yes No

Judy Fox
DOJ TRIAL ATTORNEY
COURT ID NO. A5502508

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: EMMANUEL SILVA

Case No: _____

Count #: 1

Title 18, United States Code, Section 1349

Conspiracy to Commit Health Care Fraud

*Max Penalty: Ten (10) years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

AO 455 (Rev. 01/09) Waiver of an Indictment

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

United States of America

v.

Emmanuel Silva,

Defendant

)
)
)
)
)

Case No.

WAIVER OF AN INDICTMENT

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: _____

Defendant's signature

Signature of defendant's attorney

Printed name of defendant's attorney

Judge's signature

Judge's printed name and title