

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

June 7, 2023

Nathan Ochsner, Clerk of Court

UNITED STATES OF AMERICA

v.

RENE FERNANDEZ GAVIOLA,  
IFEANYI NDUBISI OZOH, and  
CHRISTIAN AGNO AQUINO,

Defendants.

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§Criminal No. **4:22-cr-402-S****SUPERSEDING INDICTMENT**

The Grand Jury charges:

**General Allegations**

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

**The Medicaid Program**

1. The Medicaid Program (“Medicaid”) was a state-administered health insurance program funded by the United States Government and by the State of Texas. Medicaid helped pay for reasonable and necessary medical procedures and services provided by qualified healthcare professionals to individuals who were deemed eligible under state low-income programs. Medicaid was implemented in 1967 under the provisions of Title 19 of the Social Security Act of 1965. Individuals receiving benefits under Medicaid were referred to as Medicaid “clients.” The Texas Health and Human Services Commission (“HHSC”) administered Medicaid in Texas.

2. Medicaid was a “health care benefit program” as defined by Title 18, United States Code, Section 24(b), and a “Federal health care program,” as defined by Title 42, United States Code, Section 1320a-7b(f).

3. The State of Texas contracted with Texas Medicaid and Healthcare Partnership

(“TMHP”) to administer Texas Medicaid on behalf of Texas HHSC.

4. Texas HHSC contracted with Managed Care Organizations (“MCOs”) to administer health insurance plans to Medicaid clients.

5. In order to receive reimbursement from Medicaid, a provider applied to TMHP to become an approved Medicaid provider. If the provider met certain minimum qualifications, TMHP approved the application, entered into a written contract with the provider, and issued the provider a unique identification number also known as a “provider number.” TMHP-enrolled providers could contract with MCOs to provide medical services to Medicaid clients. The provider was then allowed to submit bills for services, known as “claims,” to TMHP or MCOs for reimbursement for the cost of providing medically necessary services to Medicaid clients.

6. Medicaid covers comprehensive dental services for eligible Medicaid clients. Medicaid dental services are provided statewide through Medicaid managed care Dental Maintenance Organizations (“DMOs”). Each Medicaid managed care DMO contracts with general dentists, pediatric dentists, and dental specialists.

7. DentaQuest and Managed Care of North America Dental (“MCNA”) are DMOs in the State of Texas.

8. Upon assignment of a Medicaid provider number, a current Texas Medicaid Provider Procedures Manual was distributed to the provider. Updates to the procedures manual were included in Texas Medicaid Bulletins, which were distributed to the provider by TMHP and available online. The procedures manual, bulletins, and updates detailed the rules and regulations pertaining to services covered by Medicaid and how to appropriately bill for services provided to clients. DentaQuest and MCNA also provided reference manuals to the provider detailing the rules and regulations pertaining to services covered by Medicaid and how to appropriately bill for

services provided to clients.

9. The American Medical Association's Current Procedural Terminology ("CPT") codes were uniform, five-digit codes that were used to report medical procedures and services, including dental services, to health insurance entities, including Medicaid, MCOs, and DMOs. In the context of billing Medicaid, CPT codes described the kind of procedure(s) a client received from a provider.

10. A Medicaid claim was required to set forth, among other things, the client's name and Medicaid identification number, the services performed for the client, the date the services were provided, the cost of the services, and the name and identification number of the dentist, physician or other healthcare provider who rendered the services. Upon submitting a claim to Medicaid, a provider certified, among other things, that:

- a. The information submitted regarding claims or encounter data was true, accurate, and complete; and
- b. The claim or encounter data submitted was prepared in compliance with the laws and regulations governing Medicaid and the State of Texas.

11. Pursuant to Texas Occupations Code § 258.001, a dentist may not delegate certain dental acts to a person not licensed as a dentist or dental hygienist including:

- a. the removal of calculus, deposits, or accretions from the natural and restored surfaces of exposed human teeth and restorations in the human mouth;
- b. comprehensive examination or diagnosis and treatment planning; and
- c. a surgical or cutting procedure on hard or soft tissue.

12. Pursuant to Texas Occupations Code § 258.002(a)(2), a dentist could not delegate dental acts to a person who represented to the public that he or she was authorized to practice

dentistry.

13. Medicaid required the provider to maintain all necessary records that fully and accurately document the services provided to a Medicaid client, identify who rendered the services, support the medical necessity of those services, and determine whether payment for those items or services was due and was properly made.

**The Defendants, Entities, and Relevant Individuals**

14. Defendant **RENE FERNANDEZ GAVIOLA** (“**GAVIOLA**”), a resident of Houston, Texas, managed and controlled the operations of Leon Xavier Foreman Dental, PLLC DBA Floss Family Dental Care Center (“Floss”) located at 3300 S Gessner Rd, Suites 112, 125, 165, 165B, Houston, TX 77063 (“Gessner Location”), 6121 Hillcroft Ave., Suite W, Houston, TX 77081 (“Hillcroft Location”), and 6929 Jensen, Houston, TX 77093 (“Jensen Location”). Floss was enrolled with TMHP, DentaQuest, and MCNA.

15. Defendant **IFEANYI NDUBISI OZOH** (“**OZOH**”), a resident of Houston, Texas, was an employee and manager of Floss.

16. Defendant **CHRISTIAN AGNO AQUINO** (“**AQUINO**”), a resident of Humble, Texas, was an employee and manager of Floss.

17. Mia Diaz (“Diaz”) was an employee and manager of Floss.

18. Person 1, an employee of Floss, was not a licensed dentist in the State of Texas.

19. Anna Marks (“Marks”) was a marketer for Floss.

20. Caneisha Dallas (“Dallas”) was a marketer for Floss and the parent of Medicaid clients.

21. Shaniqua Cooper (“Cooper”) was a marketer for Floss and the parent of Medicaid clients.

22. Marketer 1 was a marketer for Floss.

23. Dentist 1 was the on-paper owner of Floss and a licensed dentist in the State of Texas.

### **The Fraudulent Scheme**

#### *Overview of the Scheme*

24. Defendants **GAVIOLA, OZOH, AQUINO** and their co-conspirators, including Diaz, engaged in a scheme and artifice to defraud Medicaid by submitting and causing to be submitted false and fraudulent claims for pediatric dental services that were not provided or were not provided by a licensed, qualified, and enrolled provider. The Defendants implemented this scheme by paying kickbacks to marketers, including Marks, Dallas, and Cooper, and caregivers of Medicaid clients for Medicaid client referrals. Additionally, **GAVIOLA** directed and ultimately had unlicensed and non-enrolled individuals, including Person 1, practice dentistry and render pediatric dental services to clients, and then billed Medicaid as though Dentist 1 had provided the services. Over the course of the scheme, which began in 2018, and continued through 2021, Medicaid, through DentaQuest and MCNA, was billed approximately \$6.9 million and paid approximately \$4.9 million for services purportedly provided by Dentist 1, many of which were not provided or were provided by unlicensed and non-enrolled individuals.

#### *Purpose of the Scheme*

25. It was a purpose of the scheme for defendants **GAVIOLA, OZOH, AQUINO** and their co-conspirators, including Diaz, Marks, Dallas, and Cooper, to unlawfully enrich themselves by, among other things: (1) submitting and causing to be submitted false and fraudulent claims to Medicaid for pediatric dental services that were not provided or were not provided by a licensed, qualified, and enrolled provider; (2) to unlawfully enrich themselves by paying and receiving

kickbacks and bribes, and also by causing the same, in exchange for the referral of Medicaid clients for whom Floss submitted claims to Medicaid; (3) diverting the proceeds of the fraud for their personal use and benefit, and the personal use and benefit of their co-conspirators, in the form of compensation, disbursements, and other remuneration.

*Manner and Means of the Scheme*

26. **GAVIOLA** maintained a Medicaid provider number for Floss which **GAVIOLA** submitted claims to Medicaid for dental services.

27. **GAVIOLA, OZOH, AQUINO, Diaz**, and other co-conspirators paid and caused the payment of kickbacks to Marks, Dallas, Cooper and other marketers in exchange for referring Medicaid clients to Floss for pediatric dental services.

28. At **GAVIOLA's** direction, Floss operated out of three locations: (1) Gessner Location; (2) Jensen Location; and (3) Hillcroft Location. Jensen Location and Hillcroft Location operated simultaneously in 2020.

29. **GAVIOLA** hired Person 1, who was not a licensed dentist, to pose as a licensed dentist at the Floss Hillcroft Location. At **GAVIOLA's** direction, Person 1 engaged in the practice of dentistry by examining and treating patients. **AQUINO** assisted Person 1 in this practice of dentistry and managed the Floss location that employed Person 1 as a dentist. On November 3, 2020, **GAVIOLA** and **AQUINO** attempted to obscure Person 1's unlicensed practice of dentistry and falsely told an investigator that only Dentist 1 worked as a dentist at the Hillcroft Location.

30. At **GAVIOLA's** direction and under the supervision of Diaz, Floss operated a dental clinic at the Jensen Location often when no dentist was present. Dentist 1 was occasionally present at the Jensen Location, but mostly provided dental exams.

31. **GAVIOLA** also hired other dentists to work at Floss when they were not enrolled

at Floss with TMHP, DentaQuest, or MCNA.

32. **GAVIOLA**, either himself or through his employees, submitted or caused the submission of fraudulent claims for pediatric dental services, including numerous composite resin cavity fillings, as if they were provided by Dentist 1 for patients seen at all Floss locations when they were never provided or not provided by Dentist 1.

33. **GAVIOLA**, either himself or through his employees, falsified and altered dental records that dental clinics were required to maintain, including diagnosis and treatment plans, to make it appear as though Medicaid clients received the pediatric dental services that were billed to Medicaid when they did not and that the pediatric dental services were provided by Dentist 1 when they were not.

34. **GAVIOLA** caused Medicaid, through DentaQuest and MCNA, to electronically transfer funds into the Floss BBVA business bank account ending in 6991 as payment on fraudulent claims **GAVIOLA** submitted or caused to be submitted to Medicaid, through DentaQuest and MCNA, for pediatric dental services, many of which were not provided or not provided as billed. After a deposit from DentaQuest and/or MCNA, **GAVIOLA** often transferred the funds to personal bank accounts in his name, including BBVA bank account ending 7065. **GAVIOLA** then transferred and disbursed millions of dollars for his own use and enjoyment and the use and enjoyment of others.

35. From in or around June 2019 to in or around January 2021, **GAVIOLA** and others, known and unknown to the Grand Jury, submitted or caused the submission of approximately \$6.9 million in claims to Medicaid and DMOs for pediatric dental services purportedly performed by Dentist 1, many of which were not provided or were provided by Person 1 and others. Medicaid and DMOs paid approximately \$4.9 million on those claims.

**COUNT ONE**  
**Conspiracy to Commit Healthcare Fraud**  
**(18 U.S.C. § 1349)**

36. The allegations in paragraphs 1 through 35 of this Superseding Indictment are realleged and incorporated by reference as though fully set forth herein.

37. Beginning in or around 2018, and continuing through in or around April 2021, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas and elsewhere, the defendants,

**RENE FERNANDEZ GAVIOLA, and**  
**CHRISTIAN AGNO AQUINO,**

did knowingly and willfully combine, conspire, confederate, and agree with Diaz, Marks, Dallas, and Cooper and others, known and unknown to the Grand Jury, to commit certain offenses against the United States, namely 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), including Medicaid, 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**

38. The object and purpose of the conspiracy are described in paragraph 25 of this Superseding Indictment and are realleged and incorporated by reference as though fully set forth herein.

**Manner and Means of the Conspiracy**

39. In furtherance of the conspiracy and to accomplish its object and purpose, the manners and means that were used are described in paragraphs 24 through 34 of this Superseding



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

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

**COUNTS TWO-SIX**  
**Health Care Fraud**  
**(18 U.S.C. §§ 1347 and 2)**

40. Paragraphs 1 through 35 of this Superseding Indictment are realleged and incorporated by reference as though set forth fully herein.

41. On or about the dates set forth below, in the Houston Division of the Southern District of Texas, the defendants set forth below, aiding and abetting and aided and abetted by each other and by others, known and unknown to the Grand Jury, in connection with the delivery of, and payment for, health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicaid, a health care benefit program as defined in Title 18, United States Code, Section 24(b), 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 Medicaid, by submitting or causing the submission of false and fraudulent claims to Medicaid, for services that were not provided or not provided as billed, in an attempt to execute, and in execution of the scheme described in paragraphs 22 through 35, with each execution set forth below forming a separate count:

Count	Defendant(s) Charged	Beneficiary	Claim Number	Claimed Date of Service	Approximate Amount Billed	Approximate Amount Paid
2	GAVIOLA	J. S. D.	202022702198400	08/14/2020	\$824.72	\$755.00
3	GAVIOLA	M. S. A.	202013602143700	05/13/2020	\$1878.33	\$1798.63
4	GAVIOLA	S. P.	202014302309700	05/21/2020	\$1774.35	\$1603.13
5	GAVIOLA; and AQUINO	K. G. N.	202028902660200	10/13/2020	\$2133.61	\$2034.35

6	<b>GAVIOLA; and AQUINO</b>	JAN. E.	202030902333000	11/03/2020	\$934.42	\$874.72
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All in violation of Title 18, United States Code, Sections 1347 and 2.

**COUNT SEVEN**  
**Conspiracy to Pay and Receive Health Care Kickbacks**  
**(Violation of 18 U.S.C. § 371)**

42. Paragraphs 1 through 35 of this Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

43. From in or around June 2019, and continuing through in or around February 2021, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas, and elsewhere, defendants

**RENE FERNANDEZ GAVIOLA,**  
**IFEANYI NDUBISI OZOH, and**  
**CHRISTIAN AGNO AQUINO**

did knowingly and willfully combine, conspire, confederate, and agree with Diaz, Marks, Dallas, Cooper, and others, known and unknown to the Grand Jury, 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 Medicaid, and to commit certain offenses against the United States, that is,

- a. to violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by Medicaid; and

- b. to violate Title 42, United States Code, Section 1320a-7b(b)(2), by knowingly and willfully offering and paying remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, to any person to induce such person to refer individuals to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by Medicaid.

#### **Purpose of the Conspiracy**

44. The object and purpose of the conspiracy are described in paragraph 25 of this Superseding Indictment and are realleged and incorporated by reference as though fully set forth herein.

#### **Manner and Means of the Conspiracy**

45. Paragraphs 22 to 35 of this Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

#### **Overt Acts**

46. In furtherance of the conspiracy, and to accomplish its object and purpose, **GAVIOLA, OZOH** and their co-conspirators, including Diaz, Marks, Dallas, and Cooper, committed and caused to be committed, in the Houston Division of the Southern District of Texas, the following overt acts:

- a. In 2020, **OZOH** and **GAVIOLA** communicated via text message about how many patients each marketer, including Marks, Dallas, and Cooper, referred to Floss and how much each marketer has been paid and/or is owed for these patient referrals.
- b. On or about February 20, 2020, **GAVIOLA** wrote a \$1,000 check to **OZOH**, drawn on BBVA 6991, with “Marketing Petty Cash” written on the memo line. On

February 21, 2020, **OZOH** texted **GAVIOLA** that “we are expecting 8 from [Marks]...Please let me know when I can go to the bank.”

- c. On or about June 27, 2019, **GAVIOLA** paid Dallas \$250 via the Cash App with the subject line “marketing 5” for referring patients to Floss for dental services.
- d. In 2020, there several checks from Floss or **GAVIOLA** addressed to **AQUINO** with “Marketing” in the memo line. On February 10, 2020, Floss paid **AQUINO** \$2,000 with the memo line “Marketing”.
- e. On or about August 26, 2020, **AQUINO** cashed a check for \$1,500 from Floss BBVA\*6991 with memo line, “Hillcroft.” On or about August 26, 2020, **AQUINO** sent **GAVIOLA** a photograph via text message documenting that **AQUINO** had cash in the amounts of \$448 and \$1,500 for a total amount of \$1,948. Of the \$1,948, **AQUINO** paid Marketer 1 \$630 for 8 patient referrals.

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

**COUNTS EIGHT TO TEN**  
**Payment of Health Care Kickbacks**  
**(42 U.S.C. § 1320a-7b(b)(2), 18 U.S.C. § 2)**

47. Paragraphs 1 through 35 of this Superseding Indictment are realleged and incorporated by reference as if fully set forth herein.

48. On or about the dates enumerated below, in the Houston Division of the Southern District of Texas, and elsewhere, the defendants set forth below, aiding and abetting and aided and abetted by each other and by others, known and unknown to the Grand Jury, did knowingly and willfully offer and pay remuneration, specifically kickbacks and bribes, directly and indirectly, overtly and covertly, to a person, as set forth below, to induce such person to refer individuals to a person for the furnishing and arranging for the furnishing of any item and service for which

payment may be made in whole or in part by Medicaid, a Federal healthcare program, in an attempt to execute, and in execution of the scheme described in paragraphs 22 through 35, with each execution set forth below forming a separate count:

<b>Count</b>	<b>Defendant(s) Charged</b>	<b>Approximate Date</b>	<b>Approximate Amount</b>	<b>Recipient</b>
<b>8</b>	<b>GAVIOLA; and OZOH</b>	April 27, 2020	\$520	Dallas
<b>9</b>	<b>GAVIOLA; and OZOH</b>	August 24, 2020	\$580	Marks
<b>10</b>	<b>GAVIOLA; and AQUINO</b>	August 26, 2020	\$630	Marketer 1

All in violation of Title 42, United States Code, Section 1320a-7b(b)(2) and Title 18, United States Code, Section 2.

**COUNTS ELEVEN TO SIXTEEN**  
**Money Laundering**  
**(18 U.S.C. §§ 1957 and 2)**

49. Paragraphs 1 through 35 of this Superseding Indictment are realleged and incorporated by reference as though set forth fully herein.

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

**RENE FERNANDEZ GAVIOLA**

aiding and abetting and aided and abetted by others known and unknown to the Grand Jury, did knowingly engage and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, that

is, Conspiracy to Commit Health Care Fraud, in violation of Title 18, United States Code, Section 1349, as follows:

Count	Payer Account	Transaction Date	Debit	Payee Account
11	Floss BBVA *6991	May 12, 2020	\$100,000.00	GAVIOLA BBVA *7065
12	Floss BBVA *6991	June 9, 2020	\$100,000.00	GAVIOLA BBVA *7065
13	Floss BBVA *6991	June 16, 2020	\$120,000.00	GAVIOLA BBVA *7065
14	Floss BBVA *6991	June 24, 2020	\$125,000.00	GAVIOLA BBVA *7065
15	Floss BBVA *6991	August 25, 2020	\$105,000.00	GAVIOLA BBVA *7065
16	Floss BBVA *6991	September 1, 2020	\$100,000.00	GAVIOLA BBVA *7065

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

**NOTICE OF CRIMINAL FORFEITURE**  
**(18 U.S.C. § 982(a)(7))**

51. Pursuant to Title 18, United States Code, Section 982(a)(7), the United States of America gives notice to the Defendant **RENE FERNANDEZ GAVIOLA**, that, upon conviction of Counts One through Seven, all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offenses is subject to forfeiture.

52. Pursuant to Title 18, United States Code, Section 982(a)(7), the United States of America gives notice to the Defendant **IFEANYI NDUBISI OZOH**, that, upon conviction of Count Seven all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offenses is subject to forfeiture.

53. Pursuant to Title 18, United States Code, Section 982(a)(7), the United States of America gives notice to the Defendant **CHRISTIAN AGNO AQUINO**, that, upon conviction of Counts One, Five, Six, and/or Seven all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offenses is subject to forfeiture.

**NOTICE OF CRIMINAL FORFEITURE**  
**(18 U.S.C. § 982(a)(1))**

54. Pursuant to Title 18, United States Code, Section 982(a)(1), the United States of America gives notice to Defendant **RENE FERNANDEZ GAVIOLA** that, upon conviction of Counts Eleven to Sixteen, all property, real or personal, involved in money laundering offenses or traceable to such property, is subject to forfeiture.

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**Money Judgment and Substitute Assets**

55. Defendants **RENEE FERNANDEZ GAVIOLA, IFEANYI NDUBISI OZOH,** and **CHRISTIAN AGNO AQUINO** are notified that upon conviction, a money judgment may be imposed against each defendant. In the event that one or more conditions listed in Title 21, United States Code, Section 853(p) exists, the United States will seek to forfeit any other property of each defendant up to the amount of the money judgment.

A TRUE BILL

**Original Signature on File**

FOREPERSON

ALAMDAR S. HAMDANI  
UNITED STATES ATTORNEY



KATHRYN OLSON  
SPECIAL ASSISTANT UNITED STATES ATTORNEY  
U.S. ATTORNEY'S OFFICE FOR  
THE SOUTHERN DISTRICT OF TEXAS