

CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF QUEENS

-----X  
THE PEOPLE OF THE STATE OF NEW YORK

-against-

JUAN POVEDA, *also known as*  
JUAN POVEDA EGAS,

JAVIER BURBANO, and

CSE DRUG CORP. d/b/a  
SANTIAGO PHARMACY,

Defendants.

FELONY COMPLAINT  
Docket No.

**CR-017094-23QN**



-----X  
State of New York     )  
County of Queens     ) ss.:

Detective Stanislav Tabakov, Shield Number 2356, of the Office of the New York Attorney General ("OAG"), Medicaid Fraud Control Unit ("MFCU"), 28 Liberty Street, New York, New York, being duly sworn, deposes and says the following:

That from on or about and between January 1, 2018, and July 31, 2022, at or near CSE Drug Corp., d/b/a Santiago Pharmacy, located at 40-43 Junction Boulevard, Queens, New York, 11368, and elsewhere in the State of New York, the defendants, acting in concert with, and aided and abetted by others known and unknown, committed the offenses of:

Count 1: Penal Law § 155.42	Grand Larceny in the First Degree (B Felony)
Count 2: Penal Law § 177.20	Health Care Fraud in the Second Degree (C Felony)
Count 3: Social Services Law § 366-d[2][b]	Medical Assistance Provider Prohibited Practices (kickbacks) (E Felony)
Count 4: Penal Law § 470.20(1) (b)(ii)(A) & (iii)	Money Laundering in the First Degree (B Felony)

**IN THAT DEFENDANTS, JUAN POVEDA aka JUAN POVEDA EGAS, JAVIER BURBANO, and CSE DRUG CORP. d/b/a SANTIAGO PHARMACY, acting in concert with each other, and with others known and unknown, (1) stole property in excess of one million dollars**

(\$1,000,000.00); (2) on one or more occasions, with intent to defraud a health plan, knowingly and willfully provided materially false information and omitted material information for the purpose of requesting payment from a health plan for a health care item and service and, as a result of such information or omission, they or another person received payment exceeding fifty thousand dollars (\$50,000.00) in the aggregate, from a single health plan, in a period of not more than one year, to which they or such other person was not entitled under the circumstances; (3) being a medical assistance provider, offered, agreed to give and gave payment and other consideration to another person to the extent such payment or other consideration was given for the referral of services for which payment was made under title eleven of article five of the Social Services Law and thereby obtained money and property having a value in excess of seven thousand five hundred dollars (\$7,500.00). Defendants **JUAN POVEDA** and **CSE DRUG CORP. d/b/a SANTIAGO PHARMACY**, acting in concert with each other, and with others known and unknown, also (4) knowing that property involved in one or more financial transactions represented the proceeds of a Class B or C felony, namely grand larceny in the first degree and healthcare fraud in the second degree, conducted one or more financial transactions which in fact involved those proceeds with the intent to conceal or disguise the nature, location, source, ownership or control of the proceeds, and the total value of the property involved in such financial transaction or transactions exceeded one million dollars.

These offenses were committed under the following circumstances:

Defendant Juan Poveda, aka Juan Poveda Egas ("Defendant Poveda"), was an owner and high managerial agent, and Javier Burbano ("Defendant Burbano") was an employee and high managerial agent, of CSE Drug Corp., d/b/a Santiago Pharmacy ("Defendant Santiago Pharmacy"), a retail pharmacy located at 40-43 Junction Boulevard, Queens, New York. Defendant Santiago Pharmacy was an enrolled provider in the New York State Medical Assistance Program ("Medicaid"), a health plan, and contracted with multiple Medicaid managed care organizations ("MCOs"), including Amida Care Inc. ("Amida Care") and VNS Choice, which allowed Defendant Santiago Pharmacy to submit claims for reimbursement to, and to be paid by MCOs with Medicaid funds. Defendant Poveda and Defendant Burbano each engaged in, authorized, solicited, requested, and commanded the conduct described herein within the scope of his employment and in behalf of the corporation Defendant Santiago Pharmacy.

#### **Payment of Unlawful Cash Kickbacks**

Defendants Poveda and Burbano, acting individually and in concert with each other and in behalf of Defendant Santiago Pharmacy, and with others known and unknown, paid and directed others to pay cash kickbacks to individuals insured directly by Medicaid or through Medicaid-funded MCO health plans, upon the agreement that the individuals receiving the cash kickbacks would obtain their prescription medications, including expensive anti-retroviral medications for the treatment of HIV, at Defendant Santiago Pharmacy. The defendants' payments to the prescription holders in each instance varied but ranged between \$100 and \$250 per month that prescriptions were filled at Defendant Santiago Pharmacy.

The payment of kickbacks to secure the patronage of patients insured by a government-funded healthcare program is prohibited by State and Federal law.



Defendants Poveda and Burbano submitted or caused Defendant Santiago Pharmacy to submit claims for reimbursement to Medicaid, directly and through MCOs, for those prescriptions, which were based on an unlawful kickback relationship and falsely represented full compliance with State and Federal law and Medicaid rules and regulations prohibiting the payment of kickbacks. Relying on the accuracy of those claims, Medicaid paid Defendant Santiago Pharmacy well in excess of seven thousand five hundred dollars (\$7,500.00).

#### **Healthcare Fraud – Medicaid Claims Predicated on Payment of Unlawful Kickbacks**

I have reviewed records documenting prescriptions for HIV medications which were delivered to Medicaid recipients enrolled with MCOs Amida Care and VNS Choice in calendar year 2022, and to whom Defendants Poveda and Burbano, acting in concert with each other and others known and unknown, and in behalf of Defendant Santiago Pharmacy, paid, or caused to be paid, or directed others to pay, kickback payments to the prescription holders with each delivery.

Defendants Poveda and Burbano submitted or caused Defendant Santiago Pharmacy to submit claims for reimbursement to Medicaid, through Amida Care and VNS Choice, for those prescriptions, which were based on an unlawful kickback relationship and falsely represented full compliance with State and Federal law and Medicaid rules and regulations prohibiting the payment of kickbacks. Relying on the accuracy of those claims, Medicaid, through Amida Care and VNS Choice, paid Defendant Santiago Pharmacy in excess of six hundred thousand dollars (\$600,00.00).

#### **Grand Larceny – Inventory Analysis Reveals that Defendants Stole Millions from Medicaid**

Defendants Poveda and Burbano engaged in a scheme constituting a systematic ongoing course of conduct with the intent to defraud Medicaid and Medicaid MCOs in that Defendants submitted or caused Defendant Santiago Pharmacy to submit false claims for reimbursement to Medicaid, directly and through Medicaid-funded MCOs, for prescription medication that Defendant Santiago Pharmacy either never dispensed or dispensed with medication that was “diverted,” *i.e.*, purchased from black market suppliers who were not licensed or registered to sell prescription medication in New York, placing those recipients who received that diverted medication at serious health risk. In addition to direct evidence, which is known to me, that the medication listed in Medicaid claims was purchased from unlawful sources, MFCU Auditor-Investigators conducted an “inventory” analysis of Defendant Santiago Pharmacy’s medication inventory that quantified the amount that Defendants stole from Medicaid, the results of which I reviewed.

The inventory analysis confirmed that Defendant Santiago Pharmacy, through Defendants Poveda and Burbano, did not buy enough prescription medication from lawful sources to support the claims for reimbursement that Defendant Santiago Pharmacy submitted to Medicaid and Medicaid MCOs. For example, between January 1, 2018, and July 31, 2022, Defendant Santiago Pharmacy purchased from licensed pharmaceutical wholesalers merely 1,920 pills of “Biktarvy,” an expensive HIV medication. However, during that same period, Defendants, acting in concert, submitted or caused to be submitted claims for payment to Amida Care that certified that Defendant Santiago Pharmacy dispensed 28,440 pills of Biktarvy to Medicaid recipients enrolled

in Amida Care, a difference of 26,520 pills. Those claims were false in that Defendant Santiago Pharmacy did not have the lawful supply to dispense 26,520 of those Biktarvy pills to Medicaid recipients. Yet, Defendant Santiago Pharmacy submitted those false claims and, relying on the accuracy of those claims, MCO Amida Care reimbursed Defendant Santiago Pharmacy two million nine hundred forty thousand nine hundred and fifty-one dollars (\$2,940,951) to which the defendants were not entitled.

The Biktarvy inventory analysis for MCO Amida Care is only one aspect of the complete inventory analysis, which revealed that Medicaid and Medicaid-funded MCOs paid Defendant Santiago Pharmacy over eight million dollars (\$8,000,000.00) based on reimbursement claims for which Defendant Santiago Pharmacy did not have lawfully purchased medications to dispense as it claimed. Going one step further, including claims submitted to the Aids Drug Assistance Program ("ADAP"), and the United States Medicare program, the complete inventory analysis revealed that government-funded healthcare programs collectively paid Defendant Santiago Pharmacy over 13 million dollars (\$13,000,000.00) based on reimbursement claims between January 2018 and July 2022 for which Defendant Santiago Pharmacy did not have lawfully purchased medications to dispense as it claimed.

### **Money Laundering**


Defendant Poveda orchestrated the grand larceny and healthcare fraud scheme, the proceeds of which flowed into Defendant Santiago Pharmacy's bank accounts, and, as the high managerial agent of Santiago Pharmacy, caused those proceeds of the criminal scheme to be transferred from Santiago Pharmacy bank accounts to bank accounts belonging to shell companies, including B&H Health Distributors, Inc., which is owned by Defendant Poveda, and Pobal Cargo, LLC, to disguise the nature, location, source, ownership and control of the funds, and which were in turn used to pay Defendant Poveda's personal and other expenses and to pay other Poveda family members and associates. The value of those transfers exceeded one million dollars.

The above allegations of fact are made by the deponent herein upon direct knowledge and upon information and belief, with the sources of deponent's information and the grounds for his belief being his review of the file on this matter maintained by MFCU, including records obtained by the New York State Department of Health, the New York State Department of State, the State Education Department, video recordings and upon conversations with other members of MFCU assigned to this matter and interviews of witnesses known to the deponent.

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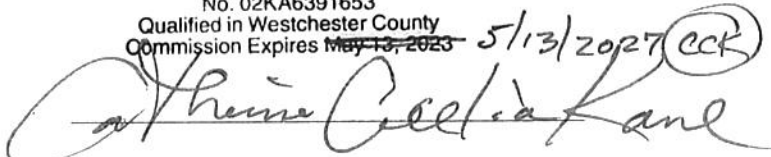
Dated: June 14, 2023  
New York, New York

  
Detective Stanislav Tabakov  
Shield Number 2356

Sworn to before me this

14 day of June, 2023

CATHERINE CECILIA KANE  
Notary Public, State of New York  
No. 02KA6391653  
Qualified in Westchester County  
Commission Expires ~~May 13, 2023~~

  
Notary Public

False Statements Made Herein Are Punishable As A Class A Misdemeanor  
Pursuant To Section 210.45 Of The Penal Law.