

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **18-20477 CR-GAYLES**

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 1956(h)
18 U.S.C. § 1956(a)(1)(B)(i)
18 U.S.C. § 2
18 U.S.C. § 982(a)(1), (a)(7)

ROTAZO-REYES

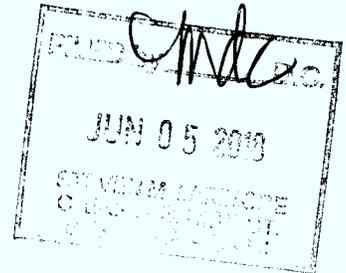
UNITED STATES OF AMERICA

vs.

ORELBIS GONZALEZ,

Defendant.

_____ /



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and 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 ("HHS"). Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. The Medicare program was divided into different "parts." Part D of Medicare subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. It was

enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and went into effect on January 1, 2006.

3. In order to receive Part D benefits, a beneficiary had to be enrolled in a Medicare prescription drug plan. However, the Limited Income Newly Eligible Transition (“LINET”) program provided temporary coverage to certain low-income individuals who were newly eligible for Medicare Part D benefits. The LINET program provided Medicare Part D coverage until LINET enrolled beneficiaries selected or were assigned a Medicare Part D prescription drug plan. A beneficiary enrolled in Medicare’s LINET program could fill a prescription at a pharmacy and use the LINET program to pay for some or all of the costs of the prescription.

4. The LINET program was operated by Humana on behalf of CMS. All LINET claims submitted were processed by Humana. A pharmacy did not have to have a contract with Humana in order to submit LINET claims and receive reimbursement from the LINET program. When a beneficiary who was eligible for participation or enrolled in the LINET program presented a prescription to a pharmacy, the pharmacy submitted the LINET claim to Humana on behalf of the beneficiary. If Humana then determined that the pharmacy was entitled to payment based upon the claim, LINET made payments through its pharmacy benefit manager (“PBM”), Argus, directly to the pharmacy.

5. To obtain payment from the LINET program, pharmacies typically submitted LINET claims electronically via the internet. The claim required certain important information, including: (a) the beneficiary’s name and HICN or other identification number; (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician

or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number (“UPIN”) or National Provider Identifier (“NPI”).

6. When a pharmacy submitted an LINET claim to Humana, the pharmacy certified that the contents of the LINET claim were true, correct, complete, and that the LINET claim was prepared in compliance with the laws and regulations governing the Medicare program. The submitting pharmacy also certified that the prescription drugs being billed were prescribed and were in fact provided as billed.

7. Medicare and the LINET program were health care benefit programs, as defined by Title 18, United States Code, Section 24(b).

Medicare Drug Plan Sponsors

8. Humana Insurance Company (“Humana”), the LINET program, and Argus were, among others, Medicare drug plan sponsors.

The Defendant and Related Entity

9. Universal Pharmacy Group Inc. (“Universal”) was a Florida corporation, located at 3526 W Flagler Street, Miami, Florida 33135, incorporated on or about December 20, 2013, that did business in Miami-Dade County and purportedly provided prescription drugs to Medicare beneficiaries.

10. **ORELBIS GONZALEZ** was a resident of Miami-Dade County, and the President and Registered Agent of Universal from in or around June 22, 2015, to in or around December 8, 2015.

COUNT 1
Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)

1. The General Allegations section of this Indictment is re-alleged and incorporated

by reference as if fully set forth herein.

2. From in or around June 2015, through in or around September 2015, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ORELBIS GONZALEZ,

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

a. to knowingly and willfully execute and attempt 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, Humana, the LINET program, and Argus, 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; and

b. to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to

unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to health care benefit programs; (b) concealing the submission of false and fraudulent claims to health care benefit programs; (c) concealing the receipt of the fraud proceeds; and (d) diverting the 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 the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among others, the following:

4. **ORELBIS GONZALEZ** submitted and caused the submission of claims, via interstate wires, totaling approximately \$411,760, which falsely and fraudulently represented that various health care benefits, primarily prescription drugs, were medically necessary, prescribed by a doctor, and had been provided by Universal to Medicare beneficiaries.

5. As a result of such false and fraudulent claims, the LINET program, through Humana and Argus, made payments funded by the Medicare Part D Program to Universal in the approximate amount of \$354,979.

6. **ORELBIS GONZALEZ**, and others used the proceeds of the health care fraud for their personal use and benefit, and to further the fraud.

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

COUNTS 2-5
Health Care Fraud
(18 U.S.C. § 1347)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as if fully set forth herein.

2. From in or around June 2015, through in or around September 2015, in Miami-

Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ORELBIS GONZALEZ,

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 a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, the LINET program, Humana, and Argus, 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.

Purpose of the Scheme and Artifice

3. It was a purpose of the scheme and artifice for the defendant and his accomplices to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to health care benefit programs; (b) concealing the submission of false and fraudulent claims to health care benefit programs; (c) concealing the receipt of the fraud proceeds; and (d) diverting the fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

The Manner and Means of the Scheme and Artifice

4. The Manner and Means of the Conspiracy section of Count 1 of this Indictment is re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution or Attempted Execution of the Scheme and Artifice

5. On or about the dates set forth below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to

execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is, Medicare, Humana, the LINET program, and Argus, 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 that the defendant submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that the pharmacies provided pharmaceutical items and services to Medicare beneficiaries pursuant to a physician’s valid orders and prescriptions:

Count	Medicare Beneficiary	Approximate Date of Claim	Claim Number	Item Claimed; Approx. Amount Claimed
2	L.H.	06/21/2015	47785616596	Isentress; \$1288
3	M.B.	06/21/2015	47785616695	Reyataz; \$1306
4	W.W.	06/21/2015	47785616787	Fuzeon; \$2500
5	E.A.	09/16/2015	49357698624	Gilenya; \$2000

In violation of Title 18, United States Code, Sections 1347 and 2.

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

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as if fully set forth herein.

2. From in or around June 2015, through in or around September 2015, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ORELBIS GONZALEZ

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate, and agree with others, known and unknown to the Grand Jury, to commit

certain offenses against the United States, that is, to knowingly conduct a financial transaction affecting interstate and foreign commerce, which involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed, in whole or in part, to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

3. It is further alleged that the specified unlawful activity is health care fraud and conspiracy to commit health care fraud, in violation of Title 18, United States Code, Sections 1347 and 1349.

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

COUNTS 7-10
Money Laundering
(18 U.S.C. § 1956(a)(1)(B)(i))

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as through fully set forth herein.

2. On or about the dates set forth below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant, **ORELBIS GONZALEZ**, did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, which financial transaction involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that such transaction was designed, in whole or in part, to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, as set forth below:

Count	Approximate Date of Transaction	Description of Financial Transaction
7	7/13/2015	The cashing of Universal Pharmacy check No. 1194, from Chase Bank account ending 0392, in the approximate amount of \$7,500
8	7/21/2015	The cashing of Universal Pharmacy check No. 3224, from Chase Bank account ending 0392, in the approximate amount of \$5,400
9	7/23/2015	The cashing of Universal Pharmacy check No. 3224, from Chase Bank account ending 0392, in the approximate amount of \$5,600
10	8/3/2015	The deposit of Universal Pharmacy cashier's check No. 9551205704, from Universal Chase Bank account ending 4131, in the approximate amount of \$116,923, to Universal Pharmacy, Suntrust account ending 3152

3. It is further alleged that the specified unlawful activity is health care fraud and conspiracy to commit health care fraud, in violation of Title 18, United States Code, Sections 1347 and 1349.

In violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

FORFEITURE
(18 U.S.C. § 982 (a)(1), (a)(7))

1. The allegations of this Indictment are re-alleged 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 defendant, **ORELBIS GONZALEZ**, has an interest.

2. Upon conviction of any of the violations of Title 18, United States Code, Section 1349, and Title 18, United States Code, Section 1347, as alleged in Counts 1 through 5 of this Indictment, the defendant shall forfeit to the United States all of his respective rights, titles, and interests in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation, pursuant to Title 18, United States Code, Section 982(a)(7).

3. Upon conviction of any of the violations of Title 18, United States Code, Section 1956, alleged in this Indictment, the defendant shall forfeit to the United States all of his respective rights, titles, and interests in any property, real or personal, involved in such offense or any property traceable to such property.

4. The property subject to forfeiture includes, but is not limited to, the sum of \$354,979.44 in United States currency, which amount is equal to the gross proceeds traceable to the commission of the violations alleged in this Indictment, which the United States will seek as a forfeiture money judgment as part of the defendant's sentence.

5. If the property described above as being subject to forfeiture, as a result of any act or omission of a defendant,

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided

without difficulty;

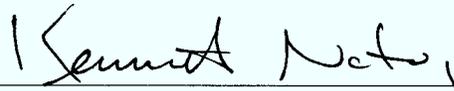
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property and, in addition, to seek a court order requiring the defendant to return any such property to the jurisdiction of the court for seizure and forfeiture.

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

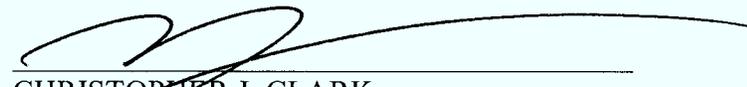
A TRUE BILL



FOREPERSON



BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY



CHRISTOPHER J. CLARK
ASSISTANT UNITED STATES ATTORNEY