

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. **18-20527**

CR- Moore

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

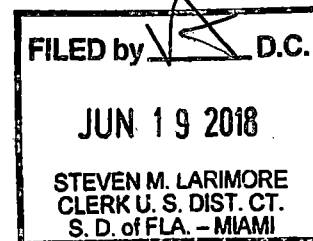
MAGISTRATE JUDGE  
SIMONTON

UNITED STATES OF AMERICA

vs.

AUGUSTINE ORANUSI and  
DAYLET MARTINEZ,

Defendants.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and 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 Centers 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 programs covering different types of benefits were separated into different program “parts.” Part D of Medicare subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. The Medicare Part D Program 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 enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan “sponsors.” A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

4. A pharmacy could participate in Part D by entering a retail network agreement with one or more Pharmacy Benefit Managers (“PBMs”). A PBM acted on behalf of one or more Medicare drug plans. Through a plan’s PBM, a pharmacy could join the plan’s network. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim either directly to the plan or to a PBM that represented the beneficiary’s Medicare drug plan. The plan or PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The drug plan’s sponsor reimbursed the PBM for its payments to the pharmacy.

5. A pharmacy could also submit claims to a Medicare drug plan to whose network the pharmacy did not belong. Submission of such out-of-network claims was not common and often resulted in smaller payments to the pharmacy by the drug plan sponsor.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors' plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary's medical conditions. In addition, in some cases where a sponsor's expenses for a beneficiary's prescription drugs exceeded that beneficiary's capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

7. Medicare and Medicare drug plan sponsors were "health care benefit program[s]," as defined by Title 18, United States Code, Section 24(b).

#### **Medicare Drug Plan Sponsor**

8. Wellcare Health Plans, Inc. ("Wellcare") was, among others, a Medicare drug plan sponsor.

#### **The Defendants and Related Entities**

9. Evergreen Pharmacy Inc. ("Evergreen Pharmacy") was a Florida corporation, incorporated on or about February 24, 2012, with its principal place of business at 875 East 10th Avenue, Hialeah, Florida, purportedly providing prescription drugs to Medicare beneficiaries.

10. Betta Medics, Inc. ("Betta Medics") was a Florida corporation, incorporated on or about February 4, 2013, with its principal place of business at 16261 SW 18th Street, Miramar, Florida.

11. Dayca Transport Services, Inc. ("Dayca Transport") was a Florida corporation, incorporated on or around October 24, 2006, with its principal place of business at 10530 NW 35th Place, Miami, Florida.

12. **AUGUSTINE ORANUSI** was a resident of Miami-Dade County, a licensed pharmacist, and an owner of Evergreen Pharmacy. He was also the officer and owner of Betta Medics.

13. **DAYLET MARTINEZ** was a resident of Miami-Dade County, a licensed pharmacy technician, and an owner of Evergreen Pharmacy. She was also a signatory on Dayca Transport's corporate bank account at Bank of America ending in 2993.

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

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

2. From in or around March 2013, through in or around October 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**AUGUSTINE ORANUSI**  
**and**  
**DAYLET MARTINEZ,**

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

a. 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 Medicare drug plan sponsors, 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 to obtain 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 defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare and Medicare drug plan sponsors through Evergreen Pharmacy for prescription medications that were not medically necessary, not eligible for reimbursement and not provided; (b) concealing and causing the concealing of false and fraudulent claims to Medicare and Medicare drug plan sponsors; and (c) 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 the defendants and their co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. **AUGUSTINE ORANUSI, DAYLET MARTINEZ**, and other co-conspirators signed retail network agreements with various Medicare drug plan sponsors on behalf of Evergreen

Pharmacy. By entering into these agreements, **AUGUSTINE ORANUSI, DAYLET MARTINEZ**, and other co-conspirators promised that Evergreen Pharmacy would, among other things, comply with federal laws regarding the dispensing of prescription drugs.

5. **AUGUSTINE ORANUSI, DAYLET MARTINEZ**, and other co-conspirators submitted and caused to be submitted false and fraudulent claims, via interstate wire transmissions, to Medicare and Medicare drug plan sponsors through Evergreen Pharmacy for prescription medications that were not medically necessary, not eligible for reimbursement, and not provided, including by submitting claims for reimbursement for prescription medications that Evergreen Pharmacy never purchased and never dispensed.

6. As a result of such false and fraudulent claims, Medicare prescription drug plan sponsors, through their PBMs, made approximately \$1.6 million in overpayments funded by the Medicare Part D Program to Evergreen Pharmacy.

7. **AUGUSTINE ORANUSI, DAYLET MARTINEZ**, and other co-conspirators used the proceeds from the false and fraudulent Medicare Part D claims for their own use, the use of others, and to further the fraud.

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

**COUNTS 2-4**  
**Health Care Fraud**  
**(18 U.S.C. § 1347)**

1. The General Allegations section of this Indictment is realleged and incorporated by reference as though fully set forth herein.

2. From in or around March 2013, through in or around October 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**AUGUSTINE ORANUSI  
and  
DAYLET MARTINEZ,**

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 by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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.

**Purpose of the Scheme and Artifice**

3. It was a purpose of the scheme and artifice for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare and Medicare drug plan sponsors through Evergreen Pharmacy for prescription medications that were not medically necessary, not eligible for reimbursement and not provided; (b) concealing and causing the concealing of false and fraudulent claims to Medicare and Medicare drug plan sponsors; and (c) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

**The Scheme and Artifice**

4. The allegations contained in the Manner and Means of the Conspiracy section of Count 1 of the Indictment are 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, **AUGUSTINE ORANUSI** and **DAYLET MARTINEZ**, 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, as defined by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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 that the defendants submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Evergreen Pharmacy provided pharmaceutical items and services to Medicare beneficiaries pursuant to physicians' valid orders and prescriptions:

<b>Count</b>	<b>Medicare Beneficiary</b>	<b>Approx. Date of Service</b>	<b>Medicare Claim Number</b>	<b>Item Claimed; Approx. Amount Claimed</b>	<b>Medicare Drug Plan Sponsor</b>
<b>2</b>	Individual A	6/2/2014	14153329393 0001998	Exelon; \$375	Wellcare
<b>3</b>	Individual A	7/1/2014	14195350809 6017999	Exelon; \$356	Wellcare
<b>4</b>	Individual A	8/1/2014	14218435575 3014999	Exelon; \$356	Wellcare

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

**COUNT 5**  
**Conspiracy to Commit Money Laundering**  
**(18 U.S.C. § 1956(h))**

From in or around March 2013, through in or around October 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,



**AUGUSTINE ORANUSI  
and  
DAYLET MARTINEZ,**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, and agree with each other and with others, known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1956, that is,

a. to knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, which financial transaction involved the proceeds of specified unlawful activity, and knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and

b. to knowingly engage and attempt to engage, in monetary transactions by, through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from a specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

It is further alleged that the specified unlawful activities are conspiracy to commit health care fraud and wire fraud, in violation of Title 18, United States Code, Section 1349; health care fraud, in violation of Title 18, United States Code, Section 1347; and wire fraud, in violation of Title 18, United States Code, Section 1343.

All in violation of Title 18, United States Code, Sections 1956(h) and 2.

**FORFEITURE**  
**(18 U.S.C. § 982)**

1. The allegations contained in this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendants, **AUGUSTINE ORANUSI** and **DAYLET MARTINEZ**, have an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1347 or 1349, as alleged in Counts 1 through 4 of the Indictment, the defendants shall each forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense, pursuant to Title 18, United States Code, Section 982(a)(7).

3. Upon conviction of a violation of Title 18, United States Code, Section 1956, as alleged in Count 5 of the Indictment, the defendants shall each forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. The property subject to forfeiture includes, but is not limited to, the following:

a. A forfeiture money judgment of at least \$1,680,564 in U.S. currency;

b. All funds on deposit in account number 229035733932 at Bank of America held in the name of Evergreen Pharmacy;

c. All funds on deposit in account number 229004062993 at Bank of America held in the name of Dayca Transport; and

d. All funds on deposit in account number 898057884724 at Bank of America held in the name of Betta Medics.

5. If any of the property described above, 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 divided without difficulty;

it is the intent of the United States to seek forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

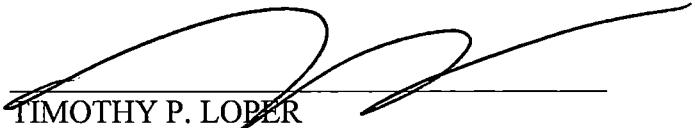
All pursuant to Title 18, United States Code, Sections 982(a)(7) and 981(a)(1)(C), as incorporated by Title 28, United States Code, Section 2461(c), and the procedures set forth in Title 21, United States Code, Section 853.

TRUE BILL

~~FOREPERSON~~

  
for BENJAMIN G. GREENBERG  
UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF FLORIDA

JOSEPH BEEMSTERBOER  
DEPUTY CHIEF  
CRIMINAL DIVISION, FRAUD SECTION  
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