

Jun 14, 2016

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMIUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
16-20451-CR-DIMITROULEAS/SNOW
Case No. _____

18 U.S.C. § 371

18 U.S.C. § 982(a)(7)

UNITED STATES OF AMERICA

vs.

PABLO PANEQUE FUNDORA,

Defendant.
_____ /**INFORMATION**

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times material to this Information:

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 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. Medicare programs covering different types of benefits were separated into different program “parts.” “Part A” of the Medicare program covered certain eligible home health care costs for medical services provided by a home health agency (“HHA”), also referred to as a “provider,” to persons who already qualified for Medicare and who additionally required home health services because of an illness or disability that caused them to be homebound. Payments for home health care medical services were typically made directly to a Medicare-certified HHA or provider based on claims submitted to the Medicare program for qualifying services that had been provided to eligible beneficiaries.

4. CMS did not directly pay Medicare Part A claims submitted by Medicare-certified HHAs. CMS contracted with different private companies to administer the Medicare Part A program throughout different parts of the United States. In the State of Florida, CMS contracted with Palmetto Government Benefits Administrators (“Palmetto”). As administrator, Palmetto was to receive, adjudicate and pay claims submitted by HHA providers under the Part A program for home health claims. Additionally, CMS separately contracted with companies in order to review HHA providers’ claims data. CMS first contracted with TriCenturion, a Program Safeguard Contractor. Subsequently, on December 15, 2008, CMS contracted with SafeGuard Services, a Zone Program Integrity Contractor. Both TriCenturion and SafeGuard Services safeguarded the Medicare Trust Fund by reviewing HHA providers’ claims for potential fraud, waste, and/or abuse.

5. Home health care agencies, pharmacies, physicians, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a Medicare Identification Number or “provider number.” In the application, the provider acknowledged that to be able to participate in the Medicare program, the provider must comply with all Medicare related laws and regulations. A provider who was issued a Medicare Identification Number was

able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. The Medicare Identification Number uniquely identified the provider on billing forms submitted to Medicare.

Part A Coverage and Regulations
Reimbursements

6. The Medicare Part A program reimbursed 100% of the allowable charges for participating HHAs providing home health care services only if the patient qualified for home health benefits. A patient qualified for home health benefits only if the patient:

- (a) was confined to the home, also referred to as homebound;
- (b) was under the care of a physician who specifically determined there was a need for home health care and established the Plan of Care ("P.O.C."); and
- (c) the determining physician signed a certification statement specifying that the beneficiary needed intermittent skilled nursing, physical therapy, speech therapy, or a continued need for occupational therapy; the beneficiary was confined to the home; that a POC for furnishing services was established and periodically reviewed; and that the services were furnished while the beneficiary was under the care of the physician who established the P.O.C.

The Defendant and a Related Company

7. Logistics Home Services, Inc. ("Logistics") was incorporated on or about March 24, 2008, and did business in Miami-Dade County, purportedly providing skilled nursing services and home health aide services to Medicare beneficiaries that required home health services. Logistics applied for and received Medicare Identification Number 1275706079.

8. Defendant **PABLO PANEQUE FUNDORA** was the registered agent for Logistics.

**CONSPIRACY TO PAY HEALTH CARE KICKBACKS
(18 U.S.C. § 371)**

Beginning on or about June 1, 2012, and continuing through on or about December 1, 2015, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

PABLO PANEQUE FUNDORA,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree with persons known and unknown to the United States Attorney, to commit an offense against the United States, that is, to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to a person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of an item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

9. It was the purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by: (a) paying kickbacks and bribes to ensure that Medicare beneficiaries would serve as patients at Logistics, and (b) submitting claims to Medicare for home health services that Logistics purportedly provided to those beneficiaries.

Manner and Means of the Conspiracy

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

10. **PABLO PANEQUE FUNDORA** offered and paid kickbacks and bribes to patient recruiters in return for referring Medicare beneficiaries to serve as patients at Logistics.

11. **PABLO PANEQUE FUNDORA** caused Logistics to submit claims to Medicare for home health services purportedly rendered to Medicare beneficiaries.

12. **PABLO PANEQUE FUNDORA** caused Medicare to pay Logistics based upon home health services purportedly rendered to Medicare beneficiaries.

Overt Acts

In furtherance of the conspiracy, and to accomplish its object and purpose, at least one of the co-conspirators committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

1. On or about June 10, 2015, **PABLO PANEQUE FUNDORA** withdrew approximately \$10,000 in United States currency from a bank account to be used to pay kickbacks to patient recruiters.

2. On or about July 30, 2015, **PABLO PANEQUE FUNDORA** withdrew approximately \$13,000 in United States currency from a bank account to be used to pay kickbacks to patient recruiters.

3. On or about September 11, 2015, **PABLO PANEQUE FUNDORA** withdrew approximately \$10,000 in United States currency from a bank account to be used to pay kickbacks to patient recruiters.

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

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

1. The allegations contained in this Information 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 defendant, **PABLO PANEQUE FUNDORA**, has an interest.

2. Upon the conviction of a violation of Title 18, United States Code, Section 371, of this Information, the defendant, **PABLO PANEQUE FUNDORA**, shall 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 the offense, pursuant to Title 18, United States Code, Section 982(a)(7).

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

(a) The entry of a money judgment which sum represents the value of any property involved in the offenses.

4. If the property described above as being subject to forfeiture, as a result of any act or omission of **PABLO PANEQUE FUNDORA**,

(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;

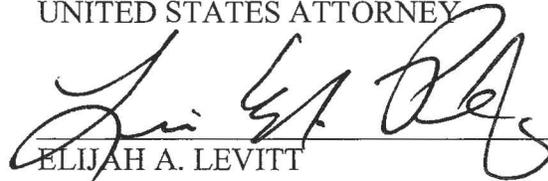
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as made applicable through Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of **PABLO PANEQUE FUNDORA**, up to the value of the above forfeitable

property.

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



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