

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

GUSTAVO CASTILLO

Case No.

15-2782-TORRES

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 2012 - November 2013 in the county of Miami-Dade in the
Southern District of Florida, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 1956(h)	Conspiracy to commit money laundering
18 U.S.C. § 1956(a)(1)(B)(i)	Money laundering

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT.

☒ Continued on the attached sheet.

 Complainant's signature

Timothy Gorman, Special Agent, FBI
 Printed name and title

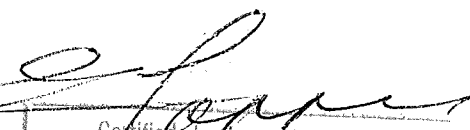

Sworn to before me and signed in my presence.

Date:

June 10, 2015

City and state:

Miami, Florida


 Certified to be true and
 correct copy of the document on file
 Steven M. Larimore, Clerk,
 U.S. Magistrate Judge
 Printed name and title
 By  Deputy Clerk
 Date 06-10-15

AFFIDAVIT

I, Timothy Gorman, Special Agent, Federal Bureau of Investigation, being first duly sworn, deposes and states the following:

I. INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have served in that capacity since 1991. I am currently assigned to the Tampa Field Office. I have received specialized training in criminal investigations—specifically, investigations into financial crimes such as healthcare fraud and money laundering. As a Special Agent with the FBI for the last twenty-four years, I have led, conducted, or participated in numerous criminal investigations involving healthcare fraud or money laundering. I am currently assigned to the Tampa Healthcare Fraud Strike Force.

2. The facts set forth in this affidavit are based on my personal knowledge, information, and documents provided to me in my official capacity, information obtained from other individuals, including agents from the United States Department of Health and Human Services ("HHS"), my review of documents and records related to this investigation, and information gained through my training and experience. The information contained in this affidavit is true and correct, to the best of my knowledge and belief.

3. Since in or around June 2013, I have been conducting a joint investigation with HHS into a nation-wide conspiracy to defraud Medicare. During the course of this investigation, information from law enforcement sources and financial institutions has been received indicating that GUSTAVO CASTILLO conspired with others known and unknown to launder the proceeds of a healthcare fraud, in violation of 18 U.S.C. § 1956(h), and that GUSTAVO CASTILLO has engaged in money laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i).

4. This affidavit does not set forth every fact resulting from the investigation; rather, it sets forth facts to establish probable cause to charge GUSTAVO CASTILLO with conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h) and money laundering, in violation of 18 U.S.C. § 1956(a)(1)(B)(i).

II. BACKGROUND

A. The Medicare Program

5. The Medicare Program ("Medicare") was a federal health care program providing benefits, items and services (collectively "services") to persons age 65 or older or with certain disabilities (hereinafter "beneficiaries"). Medicare was administered by HHS through its agency, the Centers for Medicare and Medicaid Services ("CMS").

6. Part B of the Medicare Program was a medical insurance program that covered, among other things, certain physician and outpatient services, and other health care benefits, items and services, including durable medical equipment ("DME"), that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. DME is equipment that is designed for repeated use and for a medical purpose, such as wound care supplies, prosthetic limbs, back braces, knee braces, wheelchairs, nebulizers and oxygen concentrators.

7. For Florida beneficiaries, Medicare Part B's insurance concerning DME and related health care benefits, items, and services was administered by CIGNA Government Services (hereinafter "CIGNA"), pursuant to a contract with HHS. Among CIGNA's responsibilities, it received, adjudicated, and paid the claims of authorized DME suppliers that were seeking reimbursement for the cost of DME and other health care benefits, items, or services supplied or provided to Medicare beneficiaries.

8. 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).

B. Medicare Billing Procedures

9. A DME company that sought to participate in Medicare Part B and bill Medicare for the cost of DME and related benefits, items, and services was required to apply for and receive a "supplier number." The supplier number allowed a DME company to submit bills, known as "claims," to Medicare to obtain reimbursement for the cost of DME and related health care benefits, items, and services that a DME company had supplied or provided to beneficiaries.

10. To receive payment from Medicare, a DME company, using its supplier number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted DME companies, or a designated third-party biller, to submit a CMS-1500 electronically or by way of a paper claim form. The CMS-1500 required DME companies to provide certain important information, including: (a) the Medicare beneficiary's name and identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

11. Medicare, through CIGNA, generally would pay a substantial portion of the cost of the DME or related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other licensed, qualified health care providers.

12. Payments under Medicare Part B were often made directly to the DME company rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the DME company or other health care provider. Once such an assignment took place, the DME company would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

13. If the DME company's Medicare claim was approved, a substantial portion of the total amount of the claim was paid either by check or by wire transfer to an account designated by the DME company.

14. Under Medicare rules and regulations, DME or other related health care benefits, items, or other services must be medically necessary and ordered by a licensed doctor or other licensed, qualified health care provider in order to be reimbursed by Medicare.

C. Entities and Individuals

Castillo Transportation Services, Inc.

15. Castillo Transportation Services, Inc. ("Castillo Transportation Services") was a company organized under the laws of the State of Florida on or around May 18, 2007. Castillo Transportation Services had a principal place of business at 6175 West 20 Avenue, 205, Hialeah, Florida.

16. GUSTAVO CASTILLO, a resident of Miami-Dade County, Florida, was the president, director and registered agent of Castillo Transportation Services.

17. GUSTAVO CASTILLO established and maintained signature authority on business accounts for Castillo Transportation Services with: (i) JPMorgan Chase, account ending 3900 ("Account 3900"); (ii) Wells Fargo Bank, account ending 8837 ("Account 8837"); and (iii)

Wells Fargo Bank, account ending 8907 ("Account 8907") (collectively the "CASTILLO Accounts" or the "Accounts").

III. PROBABLE CAUSE

A. The Healthcare Fraud

18. On September 30, 2014, an individual named Angel Mirabal ("Mirabal") was arrested for operating Quick Solutions Medical Supplies ("Quick Solutions"), a DME company organized under the laws of the State of Texas on or about October 17, 2007 and purportedly doing business at 2825 Wilcrest Drive, Suite 152, Houston, Texas. Between from approximately June 2011 through approximately February 2012, Quick Solutions submitted approximately \$5 million in claims for DME services that were not medically necessary and in many instances not provided. Medicare actually paid approximately \$587,900 for these fraudulent claims.

19. On February 23, 2015, Mirabal pled guilty to one count of conspiracy to commit wire and healthcare fraud for running Quick Solutions. He is scheduled to be sentenced on June 24, 2015. According to the agreed upon factual basis in his plea agreement, Mirabal and his co-conspirators agreed to and actually did operate Quick Solutions for the purpose of billing the Medicare Program for, among other things, DME services that were medically unnecessary and in many instances not provided.

20. As part of his plea, Mirabal also admitted that he and his co-conspirators created and controlled bank accounts into which Medicare would deposit reimbursements based on the false and fraudulent claims. Mirabal admitted that in order to conceal the submission of these fraudulent claims and to divert the proceeds of the fraud, he and his co-conspirators transferred the reimbursements received from Medicare to bank accounts that Mirabal and his co-conspirators established in the name of shell corporations he controlled, including:

a. J.M. General Distribution, Inc. ("J.M. General Distribution"), a corporation organized under the laws of the State of Texas on or about August 18, 2010, and which purportedly did business at 3262 Westheimer Road, Houston, Texas;

b. WRC Professional Services, Inc. ("WRC Professional"), a corporation organized under the laws of the State of Texas on or about August 18, 2010, and which purportedly did business at 448 West 19th Street, Houston, Texas; and

c. Dannen Corporation ("Dannen"), a corporation organized under the laws of the State of Texas on or about August 18, 2010, and which purportedly did business at 5535 Memorial Drive, Houston, Texas.

21. A review of bank records for accounts held in the name of Mirabal, Quick Solutions, J.M. General Distribution, WRC Professional and Dannen identified payments to and from (i) other DME companies, (ii) the owners of those DME companies and (iii) shell companies those individuals owned. The bank records identified at least nine individuals (including Mirabal) (the "Co-Conspirators") who operated at least eight DME companies (including Quick Solutions) (the "DME Companies"). The Co-Conspirators were part of a conspiracy to defraud Medicare through the submission of false claims for DME services that were medically unnecessary and in many instances not provided.

22. Indictments or criminal complaints have been filed against six of the Co-Conspirators (including Mirabal), three of which remain under seal. The other two Co-Conspirators are targets of ongoing investigations. Other than Mirabal, all of the Co-Conspirators are believed to be in Cuba.

23. In addition to Mirabal's admissions and the bank records, other evidence of the healthcare fraud and conspiracy to commit healthcare fraud consists of the following:

a. Numerous beneficiaries in whose names the DME Companies submitted claims to Medicare were interviewed. The beneficiaries denied ever needing or receiving the DME supplies.

b. Former employees of four of the DME Companies were interviewed. The employees stated that the DME Companies never purchased or shipped enough DME to justify the Medicare billing for that company.

c. Several doctors who allegedly prescribed the DME services were interviewed. The doctors denied having prescribed the DME services, and often denied having ever seen the beneficiary as a patient.

d. There was significant overlap in Medicare beneficiaries between the DME Companies. At least approximately 35% of each DME Company's claims (and often more) were for beneficiaries who were billed by one or more of the other eight DME Companies for similar products (primarily wound care supplies), even though the companies were located in different states. Similarly, large percentages of the claims were for beneficiaries who lived in Florida, but according to the claims submitted by the DME Companies, the physicians who allegedly prescribed the DME lived hundreds of miles away in other states. The information of approximately 484 Medicare beneficiaries was stolen and used to carry out the fraud.

B. The Money Laundering

24. Between in or around April 2010 and in or around July 2013, the Co-Conspirators caused the DME Companies to submit approximately \$24 million in false claims to Medicare for DME that was not needed, never prescribed and never delivered. Medicare paid approximately \$3.5 million of the claims. The Co-Conspirators transferred the proceeds of the fraud to

accounts held in their names or the names of shell companies (the "Shell Companies") that, according to bank records and state incorporation records, the Co-Conspirators controlled. Between in or around September 2012 through in or around November 2013, the Co-Conspirators then transferred approximately \$140,000 of the proceeds from their personal accounts or accounts in the names of Shell Companies to the Accounts. The approximately \$140,000 were proceeds of the false and fraudulent claims that the Co-Conspirators caused the DME Companies to submit to Medicare.

25. Based on my training and experience, the nature of the transactions in the Accounts establishes that GUSTAVO CASTILLO (i) knew that the \$140,000 were the proceeds of unlawful activity, and (ii) deposited and withdrew the money in an effort to conceal and disguise the nature, source, ownership and control of the money, including the following:

a. Title 31, United States Code, Sections 5324(a)(3) and 5313(a) require that a financial institution report to the government cash transactions exceeding a particular amount, set by regulation at \$10,000.00. *See* 31 C.F.R. § 1010.31. GUSTAVO CASTILLO structured the transactions in the Accounts to avoid these reporting requirements. Nothing about the business of Castillo Transportation Services required GUSTAVO CASTILLO to structure the transactions in amount less than \$10,000. Rather, based on my training and experience, the only reason for GUSTAVO CASTILLO to structure the transactions was that he wanted to avoid triggering a report to the government about the transactions because he knew the money involved was the proceeds of unlawful activity, and he wanted to conceal and disguise its nature, source, ownership and control. Evidence of the structuring includes the following:

i. Between in or around September 2012 through in or around

November 2013, GUSTAVO CASTILLO deposited approximately 33 checks from the Co-Conspirators or Shell Companies totaling approximately \$140,000, ranging in amounts from approximately \$2,500 to \$7,000. He made approximately 29 cash withdrawals, each more than \$1,000, totaling approximately \$131,000 in that period. None of the checks or withdrawals was for more than \$10,000. He deposited checks totaling more than \$10,000 in one day approximately three times, but he never made withdrawals above \$10,000 in one day.

ii. Similarly, GUSTAVO CASTILLO routinely made a series of small transactions under \$10,000 over a number of days rather than in a single transaction or several larger transactions. For example, GUSTAVO CASTILLO made the following withdrawals in the approximate amounts on or about the dates listed in the chart below:

Bank	Account	Approximate Date of Transaction	Approximate Amount
JPMorgan	Ending 3900	09/18/2012	\$7,657
JPMorgan	Ending 3900	09/19/2012	\$3,388
JPMorgan	Ending 3900	09/25/2012	\$6,890
JPMorgan	Ending 3900	09/27/2012	\$6,554
Wells Fargo	Ending 8837	06/21/2013	\$6,495
Wells Fargo	Ending 8837	06/25/2013	\$7,941

Wells Fargo	Ending 8837	07/10/2013	\$7,756
Wells Fargo	Ending 8837	07/12/2013	\$6,273
Wells Fargo	Ending 8837	07/16/2013	\$7,588
Wells Fargo	Ending 8837	07/19/2013	\$3,326

b. The checks from the Co-Conspirators and Shell Companies to Castillo Transportation Services were unusual because they were the only payments into the accounts; there were no other customers identified in the bank records. At the same time, Castillo Transportation Services did not provide services to the Co-Conspirators and Shell Companies, as evidenced by the following:

i. Many of the Co-Conspirators and Shell Companies were located in cities outside of the Miami area, including many located outside the state of Florida. However, nothing in the bank records indicates that Castillo Transportation Services provided any transportation services to any customers at all, much less services outside the Miami area or outside the State of Florida. Rather, Castillo Transportation Services' expenditures show almost all of the money in the accounts being withdrawn in cash, with the remainder used for purchases at places like McDonald's, a tattoo parlor and Walmart.

ii. The bank records for the Shell Companies revealed no business expenditures consistent with legitimate businesses. In other words, the Shell Companies conducted no business and did not need transportation services, yet then paid Castillo Transportation Services tens of thousands of dollars in checks, which GUSTAVO CASTILLO deposited despite never providing any services.

c. In particular, GUSTAVO CASTILLO deposited into the Accounts checks

from Mirabal and two Shell Companies he controlled, WRC Professional and Dannen. For example,

i. On or about September 14, 2012, GUSTAVO CASTILLO deposited into Account 3900 a check drawn from WRC Professional Services' account with Bank of Texas ending in 9245, in the approximate amount of \$4,981.

ii. On or about September 25, 2012, GUSTAVO CASTILLO deposited into Account 3900 a check drawn from Dannen's account with Amegy Bank ending in 3708, in the approximate amount of \$6,834.

iii. On or about June 20, 2013, GUSTAVO CASTILLO deposited into Account 8837 a check drawn from Mirabal's personal account with TD Bank ending in 6350, in the approximate amount of \$2,902.

iv. On or about July 6, 2013, GUSTAVO CASTILLO deposited into Account 8837 a check drawn from Mirabal's personal account at TD Bank ending in 6350, in the approximate amount of \$3,018.

d. In reality, Castillo Transportation Services never provided services to Mirabal, WRC Professional or Dannen that warranted payment of any money, much less thousands of dollars. As noted previously, WRC Professional and Dannen were located in Houston, Texas. However, according to bank records for the Accounts, Castillo Transportation Services did not conduct business in Texas. In addition, according to Mirabal, WRC Professional and Dannen conducted no legitimate business and had no need for transportation services. Rather, Mirabal stated that they were shell companies located at post office-boxes at Western Union stores in Texas. Documents obtained from Western Union confirm that WRC Professional and Dannen were, in fact, located at post-

office boxes in Houston, Texas. In addition, the bank records for accounts in the names of WRC Professional and Dannen revealed no business expenditures consistent with legitimate businesses.

e. Mirabal also stated that he never met GUSTAVO CASTILLO, and never wrote GUSTAVO CASTILLO checks from his personal accounts. Rather, Mirabal opened the account in his name at TD Bank, signed a stack of blank checks, and then handed the checks to a third person from whom he received instructions. That third person, or yet another individual, then filled in the payor and dollar amount information on the checks and subsequently gave them to GUSTAVO CASTILLO. Stated differently, GUSTAVO CASTILLO cashed checks drawn from the personal bank account of an individual he did not know and had never met, and to whom Castillo Transportation Services had never provided any services.


CONCLUSION

26. WHEREFORE, based upon the above information, I believe probable cause exists that GUSTAVO CASTILLO did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, and agree with others, known and unknown, to violate Title 18, United States Code, Section 1956, that is, to knowingly conduct a financial transaction affecting interstate commerce, which financial transaction involved the proceeds of specified unlawful activity, that is, conspiracy to commit health care 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, knowing that the property involved in such financial transaction represented the proceeds of



some form of unlawful activity, and knowing that the transaction was designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

27. WHEREFORE, based upon the above information, I believe probable cause also exists that GUSTAVO CASTILLO did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, which financial transaction involved the proceeds of specified unlawful activity, that is, conspiracy to commit health care 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, 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 and in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of specified unlawful activity.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


Timothy Gorman, Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me this 10 day of June, 2015


United States Magistrate Judge
Steven M. Larimore, Clerk,
U.S. District Court
Southern District of Florida
By  Deputy Clerk
Date 06-10-15