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CENTRAL DIST. OF CALIF.
LOS ANGELES

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
February 2013 Grand Jury

UNITED STATES OF AMERICA,
Plaintiff,
v.
QUEEN ANIEZE-SMITH and
ABDUL KING GARBA,
Defendants.

CR No. **CR13-0220**
I N D I C T M E N T
[18 U.S.C. § 1347: Health Care
Fraud; 18 U.S.C. § 2(b):
Causing an Act to be Done]

The Grand Jury charges:

COUNTS ONE THROUGH SEVEN

[18 U.S.C. §§ 1347 and 2(b)]

A. INTRODUCTORY ALLEGATIONS

1. Between in or about March 2004 and in or about November 2009, defendant QUEEN ANIEZE-SMITH ("ANIEZE-SMITH") and defendant ABDUL KING GARBA ("GARBA") were the owners and operators of ITC Medical Supply, also known as "International Trade and Consulting, LLC" ("ITC"), a supplier of durable medical equipment ("DME"), primarily power wheelchairs ("PWCs"), located in Van

1 Nuys, California, within the Central District of California.

2 2. On or about March 1, 2004, defendant ANIEZE-SMITH
3 executed and submitted an application to Medicare to obtain a
4 Medicare provider number for ITC. In the application, defendant
5 ANIEZE-SMITH and defendant GARBA were both listed as owners of
6 ITC.

7 3. On or about March 1, 2004, defendant ANIEZE-SMITH and
8 defendant GARBA opened a corporate bank account for ITC at Wells
9 Fargo Bank, account number xxxxxx0164 (the "ITC Bank Account").
10 Defendant ANIEZE-SMITH and defendant GARBA were signatories on
11 this account.

12 4. On or about August 15, 2006, August 21, 2007, and April
13 4, 2008, defendant ANIEZE-SMITH executed and submitted electronic
14 funds transfer agreements ("EFTs") to Medicare, requesting that
15 all reimbursements from Medicare be directly deposited into the
16 ITC Bank Account.

17 5. Between on or about January 10, 2006, and on or about
18 September 15, 2009, ITC submitted to Medicare claims totaling
19 approximately \$1,890,433, primarily for PWCs and accessories, and
20 Medicare paid ITC approximately \$897,726 on those claims.

21 The Medicare Program

22 At all times relevant to this Indictment:

23 6. Medicare was a federal health care benefit program,
24 affecting commerce, that provided benefits to individuals who
25 were over the age of 65 or disabled. Medicare was administered
26 by the Centers for Medicare and Medicaid Services ("CMS"), a
27 federal agency under the United States Department of Health and
28 Human Services ("HHS").

1 13. To bill Medicare for DME it provided to a beneficiary,
2 a DME provider was required to submit a claim (Form 1500).
3 Medicare required claims to be truthful, complete, and not
4 misleading. In addition, when a claim was submitted, the
5 provider was required to certify that the services or supplies
6 covered by the claim were medically necessary.

7 14. Most DME providers, including ITC, submitted their
8 claims electronically pursuant to an agreement with Medicare that
9 they would submit claims that were accurate, complete, and
10 truthful. Under these agreements, DME providers were required to
11 retain all original source documentation supporting the claims
12 for six years and three months after the claim was paid.

13 15. Medicare required a claim for payment to set forth,
14 among other things, the beneficiary's name and HICN, the type of
15 DME provided to the beneficiary, the date the DME was provided,
16 and the name and unique physician identification number ("UPIN")
17 or national provider identifier ("NPI") of the physician who
18 prescribed or ordered the DME.

19 16. Medicare paid DME providers only for DME that was
20 medically necessary to the treatment of a beneficiary's illness
21 or injury, was prescribed by a beneficiary's physician, and was
22 provided in accordance with Medicare regulations and guidelines
23 that governed whether a particular item or service would be paid
24 by Medicare.

25 17. Medicare required DME providers to have a prescription
26 for DME prior to delivering it, and to deliver the DME prior to
27 billing Medicare for the delivery.

1 18. With respect to PWC delivery, Medicare required DME
2 providers to complete an on-site evaluation, or home assessment,
3 to verify that the patient could adequately maneuver the PWC
4 inside the home.

5 B. THE SCHEME TO DEFRAUD

6 19. Beginning in or about January 2006, and continuing
7 through in or about November 2009, in Los Angeles County, within
8 the Central District of California, and elsewhere, defendant
9 ANIEZE-SMITH and defendant GARBA, together with others known and
10 unknown to the Grand Jury, knowingly, willfully, and with intent
11 to defraud, executed, and attempted to execute, a scheme and
12 artifice: (a) to defraud a health care benefit program, namely
13 Medicare, as to material matters in connection with the delivery
14 of and payment for health care benefits, items, and services; and
15 (b) to obtain money from Medicare by means of materially false
16 and fraudulent pretenses and representations and the concealment
17 of material facts in connection with the delivery of and payment
18 for health care benefits, items, and services.

19 C. MEANS TO ACCOMPLISH THE SCHEME TO DEFRAUD

20 20. The fraudulent scheme operated, in substance, as
21 follows:

22 a. Defendant ANIEZE-SMITH and defendant GARBA
23 obtained Medicare beneficiary information for the purpose of
24 using that information to submit, and cause the submission of,
25 false and fraudulent claims to Medicare on behalf of ITC. Many
26 of these beneficiaries lived more than 50 miles from ITC and
27 never visited ITC.

1 b. Defendant ANIEZE-SMITH and defendant GARBA
2 obtained prescriptions for DME, primarily PWCs, purportedly
3 ordered by physicians who were not the primary care physicians
4 for the beneficiaries. Defendant ANIEZE-SMITH and defendant
5 GARBA often obtained these prescriptions directly from the
6 clinics, rather than from the beneficiaries.

7 c. Defendant ANIEZE-SMITH and defendant GARBA
8 delivered, or caused to be delivered, PWCs, to some of the
9 Medicare beneficiaries, knowing that those beneficiaries could
10 walk, and so did not medically need a PWC.

11 d. Defendant ANIEZE-SMITH and defendant GARBA
12 delivered, or caused to be delivered, PWCs, without conducting
13 the required home assessments to assess whether the
14 beneficiaries' homes would accommodate PWCs.

15 e. For some beneficiaries, defendant ANIEZE-SMITH and
16 defendant GARBA failed to deliver any DME.

17 f. Defendant ANIEZE-SMITH and defendant GARBA created
18 false and fraudulent documentation to support ITC's purported
19 delivery of PWCs to beneficiaries, even though, as defendant
20 ANIEZE-SMITH and defendant GARBA well knew, the beneficiaries did
21 not medically need the DME and some of them did not receive it.
22 This fraudulent documentation included home assessment forms that
23 purported to show that the beneficiaries' homes were assessed for
24 PWC accessibility, when, in fact, no home assessment was
25 performed.

26 g. Defendant ANIEZE-SMITH and defendant GARBA
27 submitted, and caused the submission of, false and fraudulent
28 claims to Medicare for DME, including PWCs and related

1 accessories, that were purportedly provided by ITC to Medicare
2 beneficiaries, knowing that the beneficiaries did not have a
3 medical need for the PWCs and that some beneficiaries did not
4 receive the DME for which ITC billed Medicare. Some of these
5 claims were submitted prior to the corresponding prescription
6 dates, while others were billed prior to the corresponding
7 delivery dates.

8 h. ITC also submitted claims with the NPIs of
9 physicians who did not prescribe the DME and who were different
10 from the physicians listed on the prescriptions in the patient
11 files.

12 i. As a result of the submission of false and
13 fraudulent claims, Medicare made payments to the ITC Bank
14 Account, which defendant ANIEZE-SMITH and defendant GARBA
15 controlled.

16 j. Defendant ANIEZE-SMITH and defendant GARBA then
17 transferred and disbursed monies from the ITC Bank Account to
18 themselves and withdrew large amounts of money in cash.

19 D. EXECUTIONS OF THE FRAUDULENT SCHEME

20 21. On or about the dates set forth below, within the
21 Central District of California and elsewhere, defendant ANIEZE-
22 SMITH and defendant GARBA, together with others known and unknown
23 to the Grand Jury, for the purpose of executing and attempting to
24 execute the fraudulent scheme described above, knowingly and
25 willfully caused to be submitted to Medicare for payment the
26 following false and fraudulent claims:

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<u>COUNT</u>	<u>BENEFICIARY</u>	<u>CLAIM NUMBER</u>	<u>DATED CLAIM SUBMITTED</u>	<u>AMOUNT CLAIMED</u>
ONE	A.A.	8100817706000	4/9/2008	\$6,540.00
TWO	J.R.	8100817709000	4/9/2008	\$6,540.00
THREE	M.S.	8100817710000	4/9/2008	\$6,540.00
FOUR	C.G.	8155822587000	6/3/2008	\$6,540.00
FIVE	H.G.	8165849136000	6/13/2008	\$6,540.00
SIX	E.M.	9034808837000	2/3/2009	\$6,540.00

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<u>COUNT</u>	<u>BENEFICIARY</u>	<u>CLAIM NUMBER</u>	<u>DATED CLAIM SUBMITTED</u>	<u>AMOUNT CLAIMED</u>
SEVEN	R.B.	9231849074000	8/19/2009	\$1,378.03

A TRUE BILL

/S/

 Foreperson

ANDRÉ BIROTTE JR.
 United States Attorney

DKM
 Dorothy C. Kim
 Dep. Chief, Crim. Div. FOR:

ROBERT E. DUGDALE
 Assistant United States Attorney
 Chief, Criminal Division

RICHARD E. ROBINSON
 Assistant United States Attorney
 Chief, Major Frauds Section

CONSUELO WOODHEAD
 Assistant United States Attorney
 Deputy Chief, Major Frauds Section

KRISTEN A. WILLIAMS
 Assistant United States Attorney
 Major Frauds Section