UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

13-20333-CR-MOORE/TORRES

Case No. _____

18 U.S.C. § 371
18 U.S.C. § 2

UNITED STATES OF AMERICA

vs.

ARTURO Y. CHAVECO and
DELIA Y. CHAVECO,

Defendants.

_____/

INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant 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).

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.

Part A Coverage and Regulations

Reimbursements

5. 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 (POC); 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 POC.

Record Keeping Requirements

6. Medicare Part A regulations required HHAs providing services to Medicare patients to maintain complete and accurate medical records reflecting the medical assessment and diagnoses of their patients, as well as records documenting the actual treatment of the patients to whom services were provided and for whom claims for reimbursement were submitted by the HHA. These medical records were required to be sufficiently complete to permit Medicare, through Palmetto and other contractors, to review the appropriateness of Medicare payments made to the HHA under the Part A program.

7. Among the written records required to document the appropriateness of home health care claims submitted under Part A of Medicare was a (i) POC that included the physician order, diagnoses, types of services/frequency of visits, prognosis/rehab potential, functional limitations/activities permitted, medications/treatments/nutritional requirements, safety

measures/discharge plans, goals, and the physician's signature; and (ii) a signed certification statement by an attending physician certifying that the patient was confined to his or her home and was in need of the planned home health services.

8. Additionally, Medicare Part A regulations required HHAs to maintain medical records of every visit made by a nurse, therapist, or home health aide to a patient. The record of a nurse's visit was required to describe, among other things, any significant observed signs or symptoms, any treatment and drugs administered, any reactions by the patient, any teaching and the understanding of the patient, and any changes in the patient's physical or emotional condition. The home health aide was required to document the hands-on personal care provided to the beneficiary as the services were deemed necessary to maintain the beneficiary's health or to facilitate treatment of the beneficiary's primary illness or injury. These written medical records were generally created and maintained in the form of "skilled nursing progress notes" and "home health aide notes/observations."

9. Medicare regulations allowed Medicare certified HHAs to subcontract home health care services to nursing companies, registries, or groups (nursing groups), which would bill the certified HHA. The Medicare certified HHA would, in turn, bill Medicare for all services rendered to the patient. The HHA's professional supervision over subcontracted-for services required the same quality controls and supervision as of its own salaried employees.

10. Medicare paid for insulin injections by an HHA when a beneficiary was determined to be unable to inject his/her own insulin and the beneficiary had no available caregiver able or willing to inject the beneficiary. The basic requirement that the beneficiary be confined to the home

or be homebound was a continuing requirement for a Medicare beneficiary to receive home health benefits.

The Defendants and Related Companies

11. Ideal Home Health, Inc. (hereinafter "Ideal") was incorporated on or about April 7, 2005, 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. In or around August of 2006, Ideal began providing services to Medicare beneficiaries. In or around November of 2006, Ideal became a Medicare-certified HHA and submitted claims directly to Medicare under Medicare provider number 108338.

12. Prime Rate Consulting, Corporation (hereinafter "PRC"), was a corporation organized under the laws of the State of Florida which purportedly did business at 8181 N.W. 36th Street, Suite 17B, Miami, Florida 33166.

13. Defendant **ARTURO Y. CHAVECO** was the president of PRC from on or about August 29, 2008, through on or about September 25, 2009.

14. Defendant **DELIA Y. CHAEVECO** was the vice-president of PRC from on or about August 29, 2008, through on or about September 25, 2009.

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

From in or around January 11, 2008, and continuing through in or around April 20, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

ARTURO Y. CHAVECO and
DELIA Y. CHAVECO,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine,

conspire, confederate and agree with Elizabeth Sanz and others known and unknown to the U.S. Attorney to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program; and to commit certain offenses against the United States, that is: to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including any kickback and bribe, directly and indirectly, overtly and covertly, in cash and in kind, including by check, in return for referring 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 under a Federal health care program, that is, Medicare.

PURPOSE OF THE CONSPIRACY

15. It was the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by: (1) paying and accepting kickbacks and bribes for referring Medicare beneficiaries to Ideal so that their Medicare beneficiary numbers would serve as the bases of claims filed for home health care; and (2) submitting and causing the submission of claims to Medicare for home health services that the co-conspirators purported to provide to those beneficiaries.

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:

16. **ARTURO Y. CHAVECO** and **DELIA Y. CHAVECO** accepted kickbacks from Ideal and other Miami-Dade County based home health agencies in exchange for recruiting Medicare

beneficiaries, while knowing that Ideal and other Miami-Dade County based home health agencies would in turn bill Medicare for home health services purportedly rendered for the recruited Medicare beneficiaries.

17. **ARTURO Y. CHAVECO** and **DELIA Y. CHAVECO** caused Ideal and other Miami-Dade County based home health agencies to submit claims to Medicare for home health services purportedly rendered to the recruited Medicare beneficiaries.

18. **ARTURO Y. CHAVECO** and **DELIA Y. CHAVECO** caused Medicare to pay Ideal and other Miami-Dade County based home health agencies, based upon home health services alleged to have been rendered to the recruited Medicare beneficiaries.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one co-conspirator 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 September 9, 2008, **ARTURO Y. CHAVECO** deposited and caused to be deposited Ideal check number 3449 in the amount of $2,600 into PRC's corporate bank account at Bank of America.

2. On or about November 5, 2008, **DELIA Y. CHAVECO** deposited and caused to be deposited Ideal check number 3807 in the amount of $1,050 into PRC's corporate bank account at Bank of America.

3. On or about November 5, 2008, **DELIA Y. CHAVECO** deposited and caused to be deposited Ideal check number 3804 in the amount of $4,800 into PRC's corporate bank account at Bank of America.

4. On or about November 5, 2008, **ARTURO Y. CHAVECO** deposited and caused to be deposited Ideal check number 3803 in the amount of $3,890 into PRC's corporate bank account at Bank of America.

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

WIFREDO FERRER
UNITED STATES ATTORNEY

KEVIN J. LARSEN
ASSISTANT U.S. ATTORNEY