UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORID

Case No. 17-20451

18 U.S.C. § 1347
18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(2)(A)
18 U.S.C. § 2
18 U.S.C. § 982(a)(7)

UNITED STATES OF AMERICA

vs.

SULEY CAO,

Defendant.
_____/

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 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 1320-7b(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.

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 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 were: (i) a 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, therapy staffing services agencies, registries, or groups (nursing groups), which would bill the certified home health agency. 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.

The Defendant, A Related Entity, and Relevant Individuals

10. Good Friends Services, Inc. ("Good Friends"), located at 9500 NW 77 Avenue, Suite 28, Hialeah Gardens, Florida, was a Florida corporation that purported to do business in Miami-Dade County, in the Southern District of Florida, as a home health agency.

11. Defendant **SULEY CAO**, a resident of Broward County, was the co-owner and president of Good Friends.

12. Individual A, a resident of Collier County, was an owner and operator of three staffing companies located in the State of Florida.

13. Individual B, a resident of Collier County, was an employee of Good Friends.

14. Individual C, a resident of Miami-Dade County, was the owner of three assisted living facilities located in the state of Florida.

15. Individual D, a resident of Miami-Dade County, was a patient recruiter for various home health agencies located in the state of Florida.

COUNTS 1 - 5
Health Care Fraud
(18 U.S.C. § 1347)

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

2. From in or around December of 2009, through in or around September 2013, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

SULEY CAO,

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 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 defendant and her accomplices to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare; (c) concealing the receipt and transfer of fraud proceeds; and (d) 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. Beginning in or around December 2009, through in or around February 2012, **SULEY CAO** paid kickbacks to patient recruiters in exchange for the referral of Medicare beneficiaries to be placed at Good Friends.

5. On or about February 15, 2012, **SULEY CAO** certified to Medicare that Good Friends would comply with all Medicare rules and regulations, including that Good Friends would refrain from violating the federal Anti-Kickback statute.

6. However, thereafter **SULEY CAO** paid kickbacks to patient recruiters in exchange for the referral of Medicare beneficiaries to be placed at Good Friends, contrary to her February 15, 2012 certification.

7. **SULEY CAO** caused Good Friends to file false and fraudulent claims to Medicare for home health services that were the result of the payment of kickbacks to patient recruiters and that were not medically necessary.

8. As a result of these false and fraudulent claims, Medicare made payments to Good Friends in excess of $3 million.

Acts in Execution or Attempted Execution of the Scheme and Artifice

9. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **SULEY CAO**, 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 a defraud health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, 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 program, in that the defendant submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Good Friends provided home health services to Medicare beneficiaries pursuant to physicians' orders and prescriptions:

Count	Beneficiary	Approx. Claim Paid Date	Claim Number	Approximate Amount Paid
1	R.C.M.	May 7, 2013	21311300960104FLR	$5,036
2	A.H.	May 15, 2013	21312101197804FLR	$4,546
3	C.H.	May 20, 2013	21312601339304FLR	$4,568
4	P.P.	June 4, 2013	21314101517104FLR	$4,540
5	A.M.	July 22, 2013	21317700805504FLR	$5,080

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

COUNT 6
Conspiracy to Defraud the United States and Pay Health Care Kickbacks (18 U.S.C. § 371)

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 December of 2009, through in or around September of 2013, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

SULEY CAO,

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

a. 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, in violation of Title 18, United States Code, Section 371; and to commit certain offenses against the United States, that is;

b. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying remuneration, including, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in order to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any 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

3. It was the purpose of the conspiracy for the defendant and her co-conspirators to unlawfully enrich themselves by, among other things: (a) paying kickbacks and bribes for referring Medicare beneficiaries to Good Friends to serve as patients; and (b) submitting and causing the submission of claims resulting from those Medicare beneficiaries to Medicare for home health services that Good Friends purportedly provided to those Medicare beneficiaries.

Manner and Means of the Conspiracy

The manner and means by which the defendant and her co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. **SULEY CAO** paid kickbacks to other co-conspirators, including Individual A, Individual C, and Individual D, in return for referring Medicare beneficiaries to Good Friends for home health services.

5. **SULEY CAO** and her co-conspirators caused Good Friends to submit claims to Medicare for home health services purportedly provided to the recruited Medicare beneficiaries.

6. **SULEY CAO** and her co-conspirators caused Medicare to make payments to Good Friends based upon the claims for home health services submitted on behalf of the recruited Medicare beneficiaries.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the 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 April 28, 2011, **SULEY CAO** paid Individual A a kickback in the approximate amount of $4,500 via a check written from Good Friends' corporate bank account, numbered 3438.

2. On or about February 15, 2012, **SULEY CAO**, filed a Medicare revalidation on behalf of Good Friends.

3. On or about January 17, 2013, **SULEY CAO** paid Individual D a kickback in the approximate amount of $3,600 via a check written from Good Friends' corporate bank account, numbered 3438.

4. On or about April 23, 2013, **SULEY CAO** caused Good Friends to bill Medicare for home health services purportedly provided by Good Friends to patient R.C.M.

5. On or about May 1, 2013, **SULEY CAO** caused Good Friends to bill Medicare for home health services purportedly provided by Good Friends to patient A.H.

6. On or about May 6, 2013, **SULEY CAO** caused Good Friends to bill Medicare for home health services purportedly provided by Good Friends to patient C.H.

7. On or about May 22, 2013, **SULEY CAO** paid Individual D a kickback in the approximate amount of $4,400 via a check written from Good Friends' corporate bank account, numbered 3438.

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

COUNTS 7 - 8
Payment of Kickbacks in Connection with a Federal Health Care Benefit Program
(42 U.S.C. § 1320a-7b(b)(2)(A))

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

2. On or about the dates set forth below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

SULEY CAO,

did knowingly and willfully offer and pay remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, as set forth below, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare, as set forth below:

Count	Approximate Date of Kickback	Approximate Amount
7	January 17, 2013	$3,600
8	February 8, 2013	$3,300

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), and Title 18, United States Code, Section 2.

FORFEITURE
(18 U.S.C. § 982(a)(7))

1. The allegations of this Indictment are re-alleged and incorporated by reference as though fully set forth herein for purposes of alleging forfeiture to the United States of certain property in which the defendant has an interest.

2. Upon conviction of a Federal health care offense, or a conspiracy to commit such an offense, in violation of Title 18, United States Code, Sections 371 and 1347, and Title 42, United States Code, Section 1320a-7b(b)(2)(A), as alleged in this Indictment, the defendant 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 subject to forfeiture includes a sum of money of approximately $3,017,276.89 in United States currency, which sum represents the value of the gross proceeds traceable to the commission of the violations alleged in this Indictment.

4. If any of the property described above, as a result of any act or omission of the 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,

the United States shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

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

A TRUE BILL,

FOREPERSON

BENJAMIN G. GREENBERG
ACTING UNITED STATES ATTORNEY

JOSEPH BEEMSTERBOER, DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

ALEXANDER J. KRAMER.TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

v.

SULY CAO,

Defendant.
_____ /

CASE NO. _____

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

Court Division: (Select One)

__X__ Miami _____ Key West
____ FTL _____ WPB ____FTP

New Defendant(s) Yes ____ No ____
Number of New Defendants _____
Total number of counts _____

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 3-5 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

	(Check only one)		(Check only one)	
I	0 to 5 days	X	Petty	
II	6 to 10 days		Minor	
III	11 to 20 days		Misdem.	
IV	21 to 60 days		Felony	X
V	61 days and over			

6. Has this case been previously filed in this District Court? (Yes or No) No
If yes:
Judge: _____ Case No. _____
(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No
If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the District of _____
Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes ____ No X

8. Does this case originate from a matter pending in the Central Region of the U. S. Attorney's Office prior to September 1, 2007? Yes ___ No X

_____
ALEXANDER KRAMER
DOJ TRIAL ATTORNEY
Court ID No. A5502240

*Penalty Sheet(s) attached

REV 5/3/17

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: **SULEY CAO**

Case No:

Counts #: 1 – 5

Health Care Fraud

Title 18, United States Code, Section 1347

***Max Penalty**: Ten (10) years' imprisonment as to each count

Count #: 6

Conspiracy to Defraud the United States and Pay Health Care Kickbacks

Title 18, United States Code, Section 371

***Max Penalty**: Five (5) years' imprisonment

Counts #: 7 – 8

Payment of Kickbacks in Connection with a Federal Health Care Benefit Program

Title 42, United States Code, Section 1320a-7b(b)(2)(A)

*Max Penalty: Five (5) years' imprisonment as to each count

Count #:

*Max Penalty:

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**