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CENTRAL DISTRICT COURT
LOS ANGELES

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8 UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA
10 June 2012 Grand Jury
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12 UNITED STATES OF AMERICA,) CR No. 11-134(A) -GW
13 Plaintiff,) F I R S T
14 v.) S U P E R S E D I N G
15 CHARLES ACHIKE AGBU,) I N D I C T M E N T
16 aka "Charles A. Agbu,") [18 U.S.C. § 1349: Conspiracy
17 OBIAGELI BROOKE AGBU,) to Commit Health Care Fraud;
18 aka "Obiageli Brook Agbu,") 18 U.S.C. § 1347: Health Care
19 aka "Obiageli B. Agbu,") Fraud; 18 U.S.C. § 2(b):
20 aka "Obiagele B. Agbu,") Causing an Act to be Done; 18
21 aka "Obiagele,") U.S.C. § 1957: Unlawful
22 aka "Brooke,") Monetary Transactions; 18
23 aka "Ivon,") U.S.C. § 982: Criminal
24 DR. EMMANUEL ADEBAYO AYODELE,) Forfeiture]
25 DR. JUAN TOMAS VAN PUTTEN,)
26 ALEJANDRO MACIEL,)
27 aka "Enrique Maciel)
28 aka "Alex,")
29 aka "Carlos," and)
30 CANDALARIA CORRAL ESTRADA,)
31 aka "Candi,")
32 aka "Candy,")
33 Defendants.)

34 The Grand Jury charges:

1 California, within the Central District of California. Like
2 defendant DR. JUAN TOMAS VAN PUTTEN ("VAN PUTTEN"), defendant
3 AYODELE wrote fraudulent prescriptions for DME and other items
4 and services which he, defendant C. AGBU, defendant O. AGBU, and
5 other DME supply companies used as a basis to bill Medicare.

6 6. Defendant VAN PUTTEN operated Greater South Bay Medical
7 Group ("Greater South Bay"), a medical clinic located at 930 East
8 Dominguez Street, Suite C, Carson, California, within the Central
9 District of California. Defendant VAN PUTTEN wrote fraudulent
10 prescriptions for DME and other items and services which he,
11 defendant C. AGBU, defendant O. AGBU, and other DME supply
12 companies used as a basis to bill Medicare.

13 7. Defendant ALEJANDRO MACIEL ("MACIEL"), aka "Alex," aka
14 "Carlos," aka "Enrique Maciel Gonzales," worked for Bonfee and
15 Ibon as, among other things, a "marketer" or "capper," illegally
16 soliciting Medicare beneficiaries for DME and other items and
17 services which the beneficiaries did not want or need. Defendant
18 MACIEL also worked for Bonfee and Ibon as a delivery driver, and
19 he delivered power wheelchairs and other DME to beneficiaries who
20 were ambulatory and had no legitimate need for the power
21 wheelchairs and DME.

22 8. Defendant CANDALARIA CORRAL ESTRADA ("ESTRADA"), aka
23 "Candy," aka "Candi," was married to defendant MACIEL. Defendant
24 ESTRADA also worked for Bonfee and Ibon as, among other things, a
25 marketer, illegally soliciting Medicare beneficiaries for DME and
26 other items and services which the beneficiaries did not want or
27 need. Like defendant MACIEL, defendant ESTRADA also worked for
28 Bonfee and Ibon as a delivery driver, and she delivered power

1 wheelchairs and other DME to beneficiaries who were ambulatory
2 and had no legitimate need for the power wheelchairs and DME.

3 9. A co-conspirator known to the Grand Jury ("CC1") was
4 associated with individuals who owned and operated fraudulent
5 medical clinics that generated false and fraudulent prescriptions
6 and other documents for power wheelchairs and other DME. CC1 and
7 others provided and sold the false and fraudulent prescriptions
8 and documents to the owners and operators of DME supply
9 companies, including Bonfee.

10 10. Between in or about July 2005 and in or about February
11 2011, Bonfee and Ibon collectively submitted to Medicare claims
12 totaling approximately \$11,094,918.59, and received approximately
13 \$5,788,725.40 in reimbursement payments from Medicare to which
14 they were not entitled.

15 The Medicare Program

16 11. Medicare was a federal health care benefit program,
17 affecting commerce, that provided benefits to individuals who
18 were over the age of 65 or disabled. Medicare was administered
19 by the Centers for Medicare and Medicaid Services ("CMS"), a
20 federal agency under the United States Department of Health and
21 Human Services ("HHS").

22 12. CMS contracted with private insurance companies to (a)
23 certify DME providers for participation in the Medicare program
24 and monitor their compliance with Medicare standards; (b) process
25 and pay claims; and (c) perform program safeguard functions, such
26 as identifying and reviewing suspect claims.

27 13. Individuals who qualified for Medicare benefits were
28 referred to as Medicare beneficiaries. Each Medicare beneficiary

1 was given a Health Identification Card containing a unique
2 identification number ("HICN").

3 14. DME companies, physicians, and other health care
4 providers which provided medical services that were reimbursed by
5 Medicare were referred to as Medicare "providers."

6 15. To obtain payment from Medicare, a DME company first
7 had to apply for and obtain a provider number. By signing the
8 provider application, the DME company agreed to abide by Medicare
9 rules and regulations, including the Anti-Kickback Statute (42
10 U.S.C. § 1320a-7b(b)), which, among other things, prohibits the
11 payment of kickbacks or bribes for the referral of Medicare
12 beneficiaries for any item or service for which payment may be
13 made by the Medicare program.

14 16. If Medicare approved a provider's application, Medicare
15 assigned the provider a Medicare provider number, enabling the
16 provider (such as a DME company or physician) to submit claims to
17 Medicare for services and supplies provided to Medicare
18 beneficiaries.

19 17. To obtain and maintain their Medicare provider number
20 billing privileges, DME suppliers and physicians had to meet
21 Medicare standards for participation. The Medicare contractor
22 responsible for evaluating and certifying DME and physician
23 providers' compliance with these standards was Palmetto GBA
24 ("Palmetto").

25 18. From in or about January 2003 through in or about
26 September 2006, CIGNA processed and paid Medicare claims in
27 Southern California. From in or about October 2006 onward,
28

1 Noridian Administrative Services ("Noridian") performed this
2 function.

3 19. Most Medicare providers, including Bonfee and Ibon,
4 submitted their claims electronically pursuant to an agreement
5 with Medicare that they would submit claims that were accurate,
6 complete, and truthful.

7 20. Medicare paid DME providers and physicians only for DME
8 and services that were medically necessary to the treatment of a
9 beneficiary's illness or injury, were prescribed by a
10 beneficiary's physician, and were provided in accordance with
11 Medicare regulations and guidelines that governed whether a
12 particular item or service would be paid by Medicare.

13 21. To bill Medicare for DME or a service that they
14 provided to a beneficiary, a DME provider or physician was
15 required to submit a claim (Form 1500) to Noridian or CIGNA.
16 Medicare required claims to be truthful, complete, and not
17 misleading. In addition, when a claim was submitted, the DME
18 provider or physician was required to certify that the DME or
19 services covered by the claim were medically necessary.

20 22. Medicare required a claim for payment to set forth,
21 among other things, the beneficiary's name and HICN, the type of
22 DME provided to the beneficiary, the date the DME was provided,
23 and the name and unique physician identification number ("UPIN")
24 of the physician who prescribed or ordered the DME.

25 23. Medicare had a co-payment requirement for DME.
26 Medicare reimbursed providers 80% of the allowed amount of a DME
27 claim and the beneficiary was ordinarily obligated to pay the
28 remaining 20%.

1 B. THE OBJECT OF THE CONSPIRACY

2 24. Beginning in or about July 2005, and continuing through
3 on or about February 17, 2011, in Los Angeles County, within the
4 Central District of California, and elsewhere, defendants C.
5 AGBU, O. AGBU, VAN PUTTEN, AYODELE, MACIEL, and ESTRADA, together
6 with CCI and others known and unknown to the Grand Jury,
7 knowingly combined, conspired, and agreed to commit health care
8 fraud, in violation of Title 18, United States Code, Section
9 1347.

10 C. THE MANNER AND MEANS OF THE CONSPIRACY

11 25. The object of the conspiracy was carried out, and to be
12 carried out, in substance, as follows:

13 a. Defendants MACIEL and ESTRADA obtained and
14 assisted fraudulent medical clinics, doctor's offices, and other
15 locations in obtaining the personal and Medicare information of
16 Medicare beneficiaries by offering them medically-unnecessary
17 power wheelchairs, hospital beds, orthotics, and other DME. To
18 convince the beneficiaries to part with their information,
19 defendants MACIEL and ESTRADA lied to some beneficiaries about
20 the legitimacy of obtaining power wheelchairs, DME, and other
21 services through them.

22 b. Defendants MACIEL and ESTRADA solicited Medicare
23 beneficiaries for medically-unnecessary power wheelchairs and
24 other DME in person and by telephone. Two of the telephone
25 numbers which defendants MACIEL and ESTRADA used to solicit the
26 beneficiaries were listed on a business card for defendants
27 MACIEL and ESTRADA that they handed to the beneficiaries. A
28 third telephone number that defendants MACIEL and ESTRADA used to

1 solicit beneficiaries was in a document maintained on Bonfee's
2 computer that contained a list of names and telephone numbers
3 under the heading "MARKETERS," with the name "Candy" on this list
4 next to this third telephone number.

5 c. Defendants C. AGBU, O. AGBU, VAN PUTTEN, and
6 AYODELE used the personal and Medicare information of the
7 beneficiaries solicited by defendants MACIEL and ESTRADA, and
8 other co-conspirators known and unknown to the Grand Jury, to
9 defraud Medicare.

10 d. In some cases, defendants MACIEL and ESTRADA, and
11 other co-conspirators known and unknown to the Grand Jury, took
12 or referred the beneficiaries to fraudulent medical clinics,
13 doctors' offices, and other locations where fraudulent
14 prescriptions and medical documents were generated using the
15 beneficiaries' personal information and HICNs. Two of the
16 locations where defendants MACIEL and ESTRADA, and other co-
17 conspirators known and unknown to the Grand Jury, took or
18 referred the beneficiaries were Greater South Bay, which
19 defendant VAN PUTTEN operated, and Beth Medical, which defendant
20 AYODELE operated.

21 e. Defendants MACIEL and ESTRADA, and other co-
22 conspirators known and unknown to the Grand Jury, took or
23 referred the beneficiaries to defendants VAN PUTTEN and AYODELE,
24 rather than to the beneficiaries' regular primary care
25 physicians, in order for defendants VAN PUTTEN and AYODELE to
26 prescribe medically-unnecessary power wheelchairs, DME, and other
27 services for the beneficiaries.

1 f. Defendants C. AGBU, O. AGBU, MACIEL, ESTRADA, and
2 other co-conspirators known and unknown to the Grand Jury
3 acquired false and fraudulent prescriptions and medical documents
4 not only from defendants VAN PUTTEN and AYODELE, but from other
5 fraudulent medical clinics, doctors' offices, and other sources
6 for the purpose of using the prescriptions and documents to
7 submit and cause the submission of false and fraudulent claims to
8 Medicare on behalf of Bonfee and Ibon.

9 g. Defendant C. AGBU and other co-conspirators known
10 and unknown to the Grand Jury also bought false and fraudulent
11 prescriptions and other documents for power wheelchairs and other
12 DME from CCl and others for the purpose of using the false and
13 fraudulent documents to submit and cause the submission of false
14 and fraudulent claims to Medicare on behalf of Bonfee.

15 h. After acquiring the false and fraudulent documents
16 from CCl and other sources, defendants C. AGBU and O. AGBU
17 submitted and caused the submission of false and fraudulent
18 claims to Medicare for power wheelchairs, power wheelchair
19 accessories, orthotics, hospital beds, and other DME purportedly
20 provided by Bonfee and Ibon to Medicare beneficiaries.

21 i. Defendants C. AGBU and O. AGBU submitted and
22 caused the submission of claims to Medicare for power
23 wheelchairs, orthotics, hospital beds, and other DME that were
24 not provided to the beneficiaries or that the beneficiaries did
25 not want or medically need. In some cases, defendants C. AGBU
26 and O. AGBU claimed to Medicare that Bonfee and Ibon had provided
27 the beneficiaries with expensive power wheelchairs, orthotics, or
28 other DME when, in fact, as defendants C. AGBU and O. AGBU well

1 knew, Bonfee and Ibon had provided the beneficiaries with less
2 expensive DME.

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1 D. THE EXECUTION OF THE FRAUDULENT SCHEME

2 29. On or about the dates set forth below, within the
 3 Central District of California and elsewhere, the defendants
 4 identified below, together with others known and unknown to the
 5 Grand Jury, for the purpose of executing and attempting to
 6 execute the fraudulent scheme described above, knowingly and
 7 willfully caused to be submitted to Medicare the following false
 8 and fraudulent claims for payment:

<u>COUNT</u>	<u>DEFENDANTS</u>	<u>CLAIM NUMBER</u>	<u>APPROX DATE (BY DME)</u>	<u>APPROX AMOUNT</u>	<u>NATURE OF CLAIM</u>
TWO	C. AGBU	106356842806000	12/22/06 (Bonfee)	\$6,722	Power wheelchair and accessories for Lin C.
THREE	C. AGBU	107226847325000	8/14/07 (Bonfee)	\$5,910	Power wheelchair and accessories for Nghia N.
FOUR	C. AGBU	107226847328000	8/14/07 (Bonfee)	\$5,910	Power wheelchair and accessories for Sang D.
FIVE	C. AGBU	108354831047000	12/19/08 (Bonfee)	\$6,500	Power wheelchair and accessories for Carmen M.
SIX	C. AGBU	109093837855000	4/03/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Pedro A.
SEVEN	O. AGBU	109254844880000	9/11/09 (Ibon)	\$218	Hospital bed for Francisco J.

<u>COUNT</u>	<u>DEFENDANTS</u>	<u>CLAIM NUMBER</u>	<u>APPROX DATE (BY DME)</u>	<u>APPROX AMOUNT</u>	<u>NATURE OF CLAIM</u>
EIGHT	O. AGBU	109254844882000	9/11/09 (Ibon)	\$1,264	Orthotic equipment for Francisco J.
NINE	O. AGBU	110029800852000	1/29/10 (Ibon)	\$915	Orthotic equipment for Arnulfo H.
TEN	O. AGBU	110103805092000	4/13/10 (Ibon)	\$1,214	Orthotic equipment for Celia G.
ELEVEN	C. AGBU AYODELE MACIEL	108051845496000	2/20/08 (Bonfee)	\$6,720	Power wheelchair and accessories for Jesus R.
TWELVE	C. AGBU AYODELE MACIEL	108053847872000	2/22/08 (Bonfee)	\$6,720	Power wheelchair and accessories for Esperanza R.
THIRTEEN	O. AGBU AYODELE MACIEL ESTRADA	108255819538000	9/11/08 (Ibon)	\$7,304	Power wheelchair and accessories for Edelmira R.
FOURTEEN	C. AGBU AYODELE MACIEL ESTRADA	108319845097000	11/14/08 (Bonfee)	\$6,180	Power wheelchair and accessories for Miguel M.
FIFTEEN	O. AGBU AYODELE MACIEL ESTRADA	109008828340000	1/08/09 (Ibon)	\$7,229	Power wheelchair and accessories for Eva D.

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<u>COUNT</u>	<u>DEFENDANTS</u>	<u>CLAIM NUMBER</u>	<u>APPROX DATE (BY DME)</u>	<u>APPROX AMOUNT</u>	<u>NATURE OF CLAIM</u>
SIXTEEN	O. AGBU AYODELE MACIEL ESTRADA	109051839188000	2/20/09 (Ibon)	\$7,229	Power wheelchair and accessories for Anastacio M.
SEVENTEEN	C. AGBU AYODELE	109127800080000	5/07/09 (Bonfee)	\$6,393	Power wheelchair for Margarita Z.
EIGHTEEN	C. AGBU VAN PUTTEN MACIEL ESTRADA	109168810424000	6/17/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Joaquin B.
NINETEEN	C. AGBU VAN PUTTEN MACIEL	109195805536000	7/14/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Juana M.
TWENTY	C. AGBU VAN PUTTEN MACIEL	109217810068000	8/05/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Irene S.
TWENTY-ONE	O. AGBU VAN PUTTEN	109254844884000	9/11/09 (Ibon)	\$6,714	Power wheelchair and accessories for Francisco J.

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COUNTS TWENTY-TWO THROUGH TWENTY-FIVE

[18 U.S.C. §§ 1957, 2]

30. The Grand Jury incorporates by reference and re-alleges paragraphs 1 through 23 and 25 of this First Superseding Indictment as though set forth in their entirety herein.

31. On or about the dates set fourth below, within the Central District of California and elsewhere, defendant C. AGBU, knowing that the funds involved represented the proceeds of some form of unlawful activity, conducted and attempted to conduct, and willfully caused others to conduct and attempt to conduct, the following monetary transactions in criminally derived property of a value greater than \$10,000, which property, in fact, was derived from specified unlawful activity, namely conspiracy to commit health care fraud and health care fraud, in violation of 18 U.S.C. §§ 1347 and 1349:

COUNT	DATE POSTED	MONETARY TRANSACTION
TWENTY-TWO	7/29/09	Transfer of \$17,593 from Bonfee's Wells Fargo Bank Account #XXXXXX8271 to defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448
TWENTY-THREE	8/5/09	Transfer of \$12,000 from Bonfee's Wells Fargo Bank Account #XXXXXX8271 to defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448
TWENTY-FOUR	8/7/09	Transfer of \$14,000 from defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448 to Bonfee's Wells Fargo Bank Account #XXXXXX8271
TWENTY-FIVE	8/17/09	Transfer of \$15,000 from Bonfee's Wells Fargo Bank Account #XXXXXX8271 to defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448

1 FORFEITURE ALLEGATION ONE

2 [18 U.S.C. § 982(a)(7)]

3 32. The Grand Jury hereby realleges and incorporates by
4 reference counts one through twenty-one of this First Superseding
5 Indictment as though fully set forth herein, for the purpose of
6 alleging forfeiture, pursuant to the provisions of Title 18,
7 United States Code, Section 982(a)(7).

8 33. Counts one through twenty-one of this First Superseding
9 Indictment allege acts or activities constituting federal health
10 care fraud offenses pursuant to Title 18, United States Code,
11 Sections 1347 and 1349. Pursuant to Title 18, United States Code,
12 Section 982(a)(7), upon conviction of a federal health care fraud
13 offense, defendants C. AGBU, O. AGBU, VAN PUTTEN, AYODELE, MACIEL,
14 and ESTRADA shall forfeit to the United States of America:

15 a. All right, title, and interest in any property,
16 real or personal, that constitutes or is derived, directly or
17 indirectly, from gross proceeds traceable to the commission of
18 such offense; and

19 b. A sum of money equal to the total amount of gross
20 proceeds derived from such offense.

21 34. Pursuant to Title 21, United States Code, Section
22 853(p), as incorporated by Title 18, United States Code, Section
23 982(b)(1), and Title 28, United States Code, Section 2461(c), a
24 defendant so convicted shall forfeit substitute property, up to
25 the value of the amount described in paragraph 33, if, by any act
26 or omission of said defendant, the property described in paragraph
27 33, or any portion thereof, cannot be located upon the exercise of
28 due diligence; has been transferred, sold to, or deposited with a

1 third party; has been placed beyond the jurisdiction of this
2 court; has been substantially diminished in value; or has been
3 commingled with other property that cannot be divided without
4 difficulty.

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1 FORFEITURE ALLEGATION TWO

2 [18 U.S.C. § 982(a)(1)]

3 35. The Grand Jury hereby realleges and incorporates by
4 reference counts twenty-two through twenty-five of this First
5 Superseding Indictment as though fully set forth herein, for the
6 purpose of alleging forfeiture, pursuant to the provisions of
7 Title 18, United States Code, Section 982(a)(1).

8 36. Counts twenty-two through twenty-five of this First
9 Superseding Indictment allege acts or activities constituting
10 offenses involving Transactional Money Laundering pursuant to
11 Title 18, United States Code, Section 1957(a). Pursuant to Title
12 18, United States Code, Section 982(a)(1), each defendant who is
13 convicted of such an offense shall forfeit to the United States
14 any right, title, and interest in any property, real or personal,
15 involved in such offense, or any property traceable to such
16 property, including, but not limited to \$59,593.00.

17 37. Pursuant to Title 21, United States Code, Section
18 853(p), as incorporated by Title 28, United States Code, Section
19 2461(c), each defendant so convicted shall forfeit substitute
20 property, up to the value of the amount described in paragraph 36,
21 if, by any act or omission of said defendant, the property
22 described in paragraph 36, or any portion thereof, cannot be
23 located upon the exercise of due diligence; has been transferred,
24 sold to, or deposited with a third party; has been placed beyond
25 the jurisdiction of this court; has been substantially diminished

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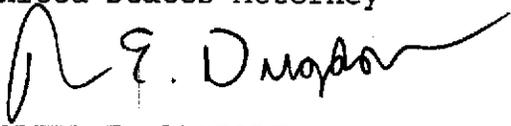
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1 in value; or has been commingled with other property that cannot
2 be divided without difficulty.

3 A TRUE BILL
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8 ANDRÉ BIROTTE JR.
9 United States Attorney

10 
11 ROBERT E. DUGDALE
12 Assistant United States Attorney
13 Chief, Criminal Division

14 RICHARD ROBINSON
15 Assistant United States Attorney
16 Chief, Major Frauds Section

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19 Deputy Chief, Major Frauds Section

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21 Deputy Chief, Fraud Section
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26 JONATHAN T. BAUM
27 Trial Attorney, Fraud Section
28 United States Department of Justice