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F.#2012R01458

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

- against -

COMPLAINT AND AFFIDAVIT IN  
SUPPORT OF APPLICATION FOR  
AN ARREST WARRANT

RAFIK GAVRIELOV,

Defendant.

(T. 18, U.S.C., § 371)

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EASTERN DISTRICT OF NEW YORK, ss:

RICHARD PRINCE being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

In or about and between December 2009 and August 2011, within the Eastern District of New York and elsewhere, the defendant RAFIK GAVRIELOV, together with others, did knowingly and willfully conspire to offer and pay cash kickbacks, directly and indirectly, overtly and covertly, in order to induce the referral of Medicare and Medicaid beneficiaries to physicians at two medical practices located in Queens, New York, for the furnishing, and arranging for the furnishing, of items and services for which payment may be made in whole and in part under Medicare and Medicaid, and to induce Medicare and Medicaid beneficiaries to purchase, lease, order, and arrange for and

recommend purchasing, leasing and ordering of any good, service and item for which payment may be made in whole and in part under Medicare and Medicaid, contrary to Title 42, United States Code, Section 1320a-7b(b)(1) and (2).

(Title 18, United States Code, Section 371).

The source of your deponent's information and the grounds for his belief are as follows:<sup>1</sup>

1. I have been an FBI Special Agent for approximately 9 years. During my tenure with the FBI, I have participated in a variety of criminal health care fraud investigations, during the course of which I have interviewed witnesses, conducted physical surveillances, executed search warrants, and reviewed health care claims data, bank records, phone records, medical records, invoices, and other business records. I am familiar with the records and documents maintained by health care providers and the laws and regulations related to the administration of the Medicare program and other health care benefit programs. I currently am assigned to investigate health care fraud violations, including schemes to defraud the Medicare program. I am now participating in an investigation that relates to allegations of violations, and attempted violations of, and

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<sup>1</sup> Because this affidavit is submitted for the limited purpose of establishing probable cause for an arrest warrant, I have not set forth each and every fact learned during the course of the investigation.

conspiracies to violate, among other things, Title 42, United States Code, Section 1320a-7b(b) (Kickbacks), and Title 18, United States Code, Section 1347 (Health Care Fraud) (collectively the "Specified Federal Offenses"), by the defendant RAFIK GAVRIELOV and others.

2. I have personally participated in the investigation of the offenses discussed below. I am familiar with the facts and circumstances of this investigation from: (a) my personal participation in this investigation, (b) reports made to me by other law enforcement authorities, and (c) information obtained from confidential sources of information.

3. Except as explicitly set forth below, I have not distinguished in this affidavit between facts of which I have personal knowledge and facts of which I have hearsay knowledge.

At all times relevant to this Complaint, unless otherwise indicated:

I. BACKGROUND REGARDING HEALTH CARE BENEFIT PROGRAMS

4. The Medicare program ("Medicare") was a federal health care program providing benefits to persons who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services. Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

5. The New York State Medicaid program ("Medicaid") was a federal and state health care program providing benefits to individuals and families who met specified financial and other eligibility requirements, and certain other individuals who lacked adequate resources to pay for medical care. CMS was responsible for overseeing the Medicaid program in participating states, including New York. Individuals who received benefits under Medicaid were similarly referred to as "beneficiaries."

6. Medicare and Medicaid were each a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

7. Medicare was subdivided into multiple Parts. Medicare Part B covered the costs of physicians' services and outpatient care, such as physical therapy, occupational therapy, and diagnostic tests. Generally, Medicare Part B covered these costs if, among other requirements, they were medically necessary and ordered by a physician.

8. Medicaid covered the costs of medical services and products ranging from routine preventive medical care for children to institutional care for the elderly and disabled. Among the specific medical services and products provided by Medicaid were physical therapy, occupational therapy, and diagnostic tests. Generally, Medicaid covered these costs if,

among other requirements, they were medically necessary and ordered by a physician.

9. A physician or medical clinic that sought to participate in Medicare Part B and Medicaid and to bill Medicare and/or Medicaid for the cost of their treatment of Medicare and Medicaid beneficiaries and related benefits, items, and services was required to apply for and receive a provider identification number ("PIN"). The PIN allowed a physician or medical clinic to submit bills, known as "claims," to Medicare and Medicaid to obtain reimbursement for the cost of treatment and related health care benefits, items, and services that they had supplied or provided to beneficiaries.

10. Medical providers were authorized to submit claims to Medicare and Medicaid only for services they actually rendered and were required to maintain patient records verifying the provision of services.

11. To receive reimbursement from Medicare for a covered service, a medical provider was required to submit a claim, either electronically or in writing, through Form CMS-1500 or UB-92. To receive reimbursement from Medicaid for a covered service, a medical provider was required to submit a claim, either electronically or in writing, through New York State eMedNY-150003 claim form. Both claim forms required certain important information, including: (a) the beneficiary's name and

identification number; (b) the PIN 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; (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (f) whether or not the beneficiary was also a Medicaid or Medicare recipient. By submitting the claim, the provider was certifying, among other things, that the services that were rendered to the patient were medically necessary.

## II. FACTS SUPPORTING PROBABLE CAUSE

12. RAFIK GAVRIELOV was the owner and operator of Mega-Line Ambulette, Inc., a New York corporation whose office was located at 61-29 Woodhaven Boulevard, Queens, New York ("Megaline").

13. Megaline was an ambulette service that transported Medicare and Medicaid beneficiaries to and from their residences for medical appointments. The investigation has revealed that Megaline transported Medicare/Medicaid beneficiaries from their residences to the medical practice ("MP") identified below.

14. The MP was a New York State corporation doing business in Queens, New York, and was certified to participate in Medicare and Medicaid under its own PIN. The MP allegedly

provided, among other things, physical therapy and diagnostic tests to Medicare and Medicaid beneficiaries and submitted claims to Medicare and Medicaid for such services.

15. The MP used at least two different ambulette services for its Medicare/Medicaid patient beneficiaries as a necessary service. An ambulette service transported Medicare and Medicaid beneficiaries to and from their residences for medical appointments. Such services could only be provided and reimbursed for under Medicaid if a physician determined that they are necessary. Co-conspirator #1 ("CC-1"), an individual whose identity is known to your affiant, was the office manager of the MP.

Co-conspirator #2

16. Co-conspirator #2 ("CC-2"), an individual whose identity is known to your affiant, was the owner and operator of one ambulette company (the "CC-2 Company"), which he sold in December 2010, and later became an employee of Megaline, the ambulette company owned by the defendant RAFIK GAVRIELOV. Ambulette companies such as the CC-2 Company and Megaline bill Medicaid directly for their services and receive approximately \$60 for each beneficiary they take to and return from a medical facility.

17. CC-2 pleaded guilty to an Information charging a conspiracy to furnish healthcare kickbacks to beneficiaries using

the ambulance service of the CC-2 Company and Megaline in violation of Title 18, United States Code, Section 371, and agreed to provide information and assist law enforcement agents in this investigation. As set forth below, CC-1, CC-2 and the defendant RAFIK GAVRIELOV engaged in a scheme to pay kickback payments to Medicare/Medicaid beneficiaries when those beneficiaries used the CC-2 Company and/or Megaline to travel to and from the MP for medical services. The reimbursement payments made by Medicare for those medical services rendered to the beneficiaries to whom kickbacks were paid were in the amount of approximately \$3 million.

18. CC-2 informed your affiant that, starting in 2009, CC-2 paid and handed money to Medicare/Medicaid beneficiaries who used the CC-2 Company to bring them to the MP for medical treatment. CC-2 stated that he continued paying kickback funds to Medicare/Medicaid beneficiaries while working at Megaline at the direction of GAVRIELOV.

19. CC-2 informed your affiant that CC-2 and CC-1 discussed the amount of the kickbacks. In early 2009, CC-2 met with CC-1, and they discussed paying \$50 to each beneficiary who used the CC-2 Company to go to the MP. They agreed that CC-2 would pay \$15 and that CC-1 would pay the other \$35 to those beneficiaries.

20. CC-2 informed your affiant that CC-2 regularly met

CC-1 at the MP where CC-1 paid his portion of the kickback funds and handed the money to CC-2 for distribution to the beneficiaries.

21. In or about March 2011, CC-2 started working for Megaline and was instructed by defendant RAFIK GAVRIELOV on a number of occasions to distribute kickback funds to beneficiaries transported by Megaline to the MP, which CC-2 did.

22. During the course of the investigation, your affiant obtained the list of 35 beneficiaries who received kickback payments from CC-2 for transportation to the MP. A review of that Medicaid data shows that 16 of those beneficiaries were initially transported to the MP by Megaline and then switched to the CC-2 Company in 2009. The Medicaid data further reveals that those same 16 beneficiaries switched back to Megaline by the time CC-2 started working at Megaline in 2011.

Co-conspirator #3

23. Co-conspirator #3 ("CC-3"), an individual whose identity is known to your affiant, was an employee of Megaline during 2007 to 2009. CC-3 agreed to provide information pertaining to this investigation.

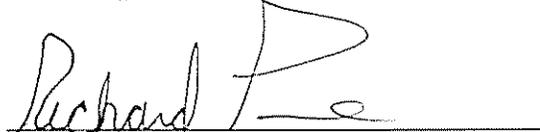
24. CC-3 informed me that during 2009, CC-3 received sealed envelopes from the defendant RAFIK GAVRIELOV approximately once per week with instructions to deliver them to the Medicare/Medicaid beneficiaries who were transported by Megaline

to and from the MP. CC-3 distributed those envelopes for about two to three months in 2009.

25. CC-3 informed me that the defendant RAFIK GAVRIELOV told CC-3 that he provided the envelopes to the beneficiaries transported to the MP to keep them from using any other ambulette services. CC-3 further informed me that he believed that there was cash inside of the envelopes on some occasions. CC-3 further informed me that there came a time that he asked GAVRIELOV what was inside the envelopes and GAVRIELOV responded in sum and substance that there were merchandise gift cards in the envelopes.

WHEREFORE, your affiant respectfully requests that an arrest warrant be issued for RAFIK GAVRIELOV so that he may be dealt with according to law.

Furthermore, your affiant respectfully requests that this affidavit and arrest warrant be filed under seal so as to protect the integrity of the investigation.



RICHARD PRINCE  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
3 day of October, 2012



THE HONORABLE RAMON E. REYES, JR.  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK