

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CR-COOKE

12-20678

Case No.

- 18 U.S.C. § 1349
- 18 U.S.C. § 1347
- 18 U.S.C. § 2
- 18 U.S.C. § 982

REGISTRAR JUDGE  
TURNORF  
FILED by: *TB* D.C.  
SEP 18 2012  
STEVEN M. LARIMORE  
CLERK U. S. DIST CT  
S. D. of FLA. - MIAMI

UNITED STATES OF AMERICA,

vs.

REMBERTO LAGO VALDES,

Defendant.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant 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).

3. Part B of the Medicare Program was a medical insurance program that covered, among other things, certain physician and outpatient services, and other health care benefits, items, and services, including durable medical equipment (“DME”), that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. DME is equipment that is designed for a specific medical purpose and for repeated use, such as wound care supplies, knee braces, prosthetic limbs, back braces, wrist braces, and wheelchairs.

4. For Florida Medicare beneficiaries, Cigna Government Services (“Cigna”) had a contract with HHS to receive, process and pay claims by Medicare beneficiaries for reimbursement for the cost of DME and related health care benefits, items, or services supplied or provided to such beneficiaries.

#### **Medicare Billing and Payment Procedures**

5. A DME company that sought to participate in Medicare Part B and bill Medicare for the cost of DME and related benefits, items, and services was required to apply for and receive a “supplier number.” The supplier number allowed a DME company to submit bills, known as “claims,” to Medicare to obtain reimbursement for the cost of DME and related health care benefits, items, and services that a DME company had supplied or provided to beneficiaries.

6. To receive payment from Medicare, a DME company, using its supplier number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted DME companies to submit a CMS-1500 electronically or by way of a paper claim form. Each claim form required certain important information, including: (a) the Medicare beneficiary’s name and identification number; (b) the identification number 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; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through Cigna, generally would pay a substantial portion of the cost of the DME or related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other qualified health care providers.

8. Payments under Medicare Part B were often made directly to the DME company rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the DME company or other health care providers. Once such an assignment took place, the DME company would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

9. Under Medicare rules and regulations, DME or other related health care benefits, items or other services, must be medically necessary and ordered by a licensed doctor or other licensed qualified health care provider in order to be reimbursed by Medicare.

**Venus Medical Supply, Inc.**

10. Venus Medical Supply, Inc. (hereinafter, "Venus Medical") was a Florida corporation, incorporated on or about October 26, 2007, that purportedly did business in Miami-Dade County providing DME to Medicare beneficiaries. Venus Medical's place of business was located at 385 E. 8<sup>th</sup> Street, Hialeah, Florida, 33010.

11. On or about March 6, 2008, Venus Medical applied for and subsequently obtained Medicare supplier number 6048630001, authorizing the company to submit reimbursement claims to Medicare for DME-related items, benefits, and services.

**The Defendant**

12. Defendant **REMBERTO LAGO VALDES**, along with Isaac Castro, controlled and operated Venus Medical beginning on or about November 4, 2008, and continuing through the dissolution of the corporation on or about September 25, 2009.

13. Rafael Rodriguez Gonzalez was the nominee owner of Venus Medical and was falsely listed in corporate and bank records as the owner of the company.

**COUNT 1**  
**Conspiracy to Commit Health Care Fraud**  
**(18 U.S.C. § 1349)**

1. Paragraphs 1 through 13 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From on or about November 4, 2008, and continuing through on or about September 25, 2009, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**REMBERTO LAGO VALDES,**

did knowingly and willfully combine, conspire, confederate, and agree with Isaac Castro, Jose Abel Rodriguez, and others known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1347, that is, to execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in 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 connection with the delivery of and payment for health care benefits, items, and services.

### Purpose of the Conspiracy

3. It was the purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting or causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of fraud proceeds; and (c) diverting fraud proceeds for the personal use and benefit of themselves and others.

### Manner and Means of the Conspiracy

The manner and means by which the defendant and his coconspirators sought to accomplish the object and purpose of the conspiracy included, among others, the following:

4. On or about November 4, 2008, **REMBERTO LAGO VALDES** directed Rafael Rodriguez Gonzalez to become the President, Secretary, Director, and Registered Agent of Venus Medical according to the laws of Florida.

5. On or about November 7, 2008, **REMBERTO LAGO VALDES** directed Rafael Rodriguez Gonzalez to open a corporate bank account for Venus Medical, dba Venus Supply's All Inc., at Bank Atlantic, bearing account number xxxxxx2087, and to obtain sole signatory authority over the account.

6. From on or about November 5, 2008, and continuing through on or about December 11, 2008, **REMBERTO LAGO VALDES**, Isaac Castro, Jose Abel Rodriguez, and others submitted, and caused the submission of, numerous false and fraudulent claims to Medicare on behalf of Venus Medical, in an approximate amount \$1,716,116, seeking reimbursement for the cost of DME items and services that were not prescribed by doctors or provided as claimed.

7. As a result of the submission of these claims, Medicare made payments to Venus Medical in the approximate amount of \$247,844. The payments were deposited into Venus Medical's corporate bank accounts at Bank Atlantic and Washington Mutual Bank.

8. On or about November 7, 2008, and continuing through in around March 2009, **REMBERTO LAGO VALDES**, Isaac Castro, Jose Abel Rodriguez, and others transferred and disbursed, and caused the transfer and disbursement of, monies from Venus Medical's corporate bank account to themselves and others.

All in violation of Title 18, United States Code, Section 1349.

**COUNTS 2-6**  
**Health Care Fraud**  
**(18 U.S.C. §§ 1347 and 2)**

1. Paragraphs 1 through 13 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From on or November 4, 2008, and continuing through on about September 25, 2009, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**REMBERTO LAGO VALDES,**

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 Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), 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, Medicare, that is, the defendant, through Venus Medical, submitted false and fraudulent claims to Medicare, seeking reimbursement for the cost of various DME items and services.

### Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendant and others to unlawfully enrich themselves by, among other things: (a) submitting or causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of fraud proceeds; and (c) diverting fraud proceeds for the personal use and benefit of himself and others.

### The Scheme and Artifice

4. The allegations in paragraphs 4 through 8 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the manner and means of the scheme and artifice.

### Acts in Execution or Attempted Execution of the Scheme and Artifice

5. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant, **REMBERTO LAGO VALDES**, 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 defraud a health care benefit program affecting commerce, 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 they submitted and caused the submission of false and fraudulent Medicare claims seeking the identified approximate dollar amounts, and represented that, on or about the identified dates of service, Venus Medical had provided the identified DME to the identified beneficiaries pursuant to physicians' orders or prescriptions:

Count	Beneficiary	Approximate Date of Claim	Medicare Claim Number	Item Claimed; Item Code; Approximate Amount Billed
2	E.S.	11/05/08	108310764142000	Hydrogel Dressing; A6242; \$702
3	R. V.	11/05/08	108310764163000	Extension Drainage Tubing; A4331; \$302
4	M.M.	11/07/08	108312806983000	Hydrogel Dressing; A6242; \$702
5	O.A.	11/21/08	108326775243000	Urinary Leg Bag; A5112; \$160
6	Y.M.	11/21/08	108326775870000	Extension Drainage Tubing; A4331; \$302

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

**FORFEITURE**  
**(18 U.S.C. § 982)**

1. The allegations contained in Counts 1 through 6 of this Indictment are realleged and incorporated by reference, as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant has an interest.

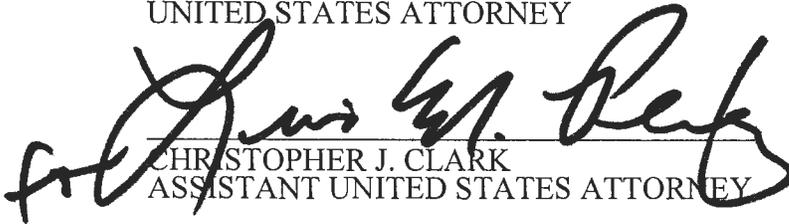
2. Upon conviction of any of the federal health care offenses charged in Counts 1 through 6 of this Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense, including gross proceeds in the amount of \$247,844.

All pursuant to Title 18, United States Code, Sections 982(a)(7) and the procedures of Title 21, United States Code, Section 853, made applicable through the provisions of 18, U.S.C., Section 982(b).

A TRUE BILL

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FOREPERSON

  
\_\_\_\_\_  
WIFREDO R. FERRER  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
CHRISTOPHER J. CLARK  
ASSISTANT UNITED STATES ATTORNEY