

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Criminal No. 19-
	:	
MYRTHA NICOLAS	:	18 U.S.C. §§ 981(a)(1)(C)
	:	and 1951(a);
	:	28 U.S.C. § 2461

INFORMATION

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

(Attempted Extortion Under Color of Official Right Affecting Interstate Commerce)

Defendant, Confidential Witness and Entities

1. At times relevant to this Information:
 - a. Defendant MYRTHA NICOLAS (“NICOLAS”) was a Referral Coordinator at the Hudson County Office on Aging, located in Jersey City, New Jersey. In her capacity as the Referral Coordinator, among other duties, NICOLAS exercised control over the coordination and assignment of patients with disabilities in need of home health care services to home health care companies which provided such services through home health care aides. Medicaid reimbursed the home health care company that provided the home health care aide to the patient.
 - b. The Hudson County Office on Aging was an agency of the New Jersey Division of Disability Services (“DDS”), which, in turn, was a division of the State of New Jersey’s Department of Human Services. The DDS worked to streamline access to services and information that promoted and enhanced independent living for individuals with all types of disabilities by facilitating coordination and cooperation among local, county and state government agencies. Included among these services coordinated by DDS were Managed Long Term Services and Supports (“MLTSS”) which provided comprehensive service and supports, whether at home, in an assisted living facility or in a nursing home.

- c. There was a cooperating witness (“CW”) who was self-employed as an executive of a home health care company which provided various services, including the training, hiring and assignment of home health care aides to patients with disabilities. In so doing, the CW and the business for which the CW worked purchased goods and services in interstate commerce. In June 2014, the CW pled guilty to fraud charges in the State of New Jersey.

The Corrupt Activity

2. From in or about August 2016 to in or about October 2017, in Hudson County, in the District of New Jersey, and elsewhere, defendant

MYRTHA NICOLAS

did knowingly and willfully attempt to obstruct, delay and affect interstate commerce by extortion under color of official right – that is, accepting and agreeing to accept from the CW, with the CW’s consent, corrupt cash payments in exchange for NICOLAS agreeing to exercise official action and influence and to violate her official duties pertaining to patient referrals as specific opportunities arose.

3. It was part of the corrupt activity that:

- a. On or about June 3, 2016, NICOLAS was informed by the CW that the CW’s health care business had locations in Hudson and Ocean Counties and that the CW hoped that NICOLAS would refer patients to the CW’s business. NICOLAS indicated that she might be able to talk to various agencies and use her influence to persuade these agencies to refer patients to the CW’s business.

- b. On or about August 4, 2016, NICOLAS met the CW outside of NICOLAS’ office building in Jersey City in the CW’s car. At the outset of this meeting, NICOLAS accepted a cash payment of \$600 from the CW, and was informed by the CW that “I want to be the top . . . I wanna be your number one guy,” a request to be given priority in receiving patient

referrals. The CW subsequently requested that NICOLAS forward to the CW's business the "easy patients," explaining that the patient NICOLAS had referred to the CW and for which the CW had just provided NICOLAS with the \$600 corrupt payment was "crazy." NICOLAS explained that she had personally referred this patient to the CW's business, telling the patient "here's an agency . . . call that one," a reference to the CW's business. NICOLAS also assured the CW that in the future, the CW should not "worry – you will get the easy [patients]."

c. On or about January 23, 2017, NICOLAS met with the CW in the CW's car outside of NICOLAS' office in Jersey City. During the meeting, NICOLAS accepted an envelope from the CW containing \$600 in cash in exchange for her assistance in referring a patient to the CW's business. After NICOLAS was informed that the patient had moved to Ocean County, NICOLAS explained that she had confirmed that the CW's company had an office in Ocean County and would therefore be able to accept the patient as a client prior to referring the patient to the CW's business. NICOLAS also confirmed that the prior corrupt payments she had accepted from the CW years earlier had been in the form of gift cards but replied that "[i]t doesn't matter" when asked if she would prefer future payments in the form of gift cards or cash.

d. On or about October 17, 2017, NICOLAS met with the CW in the CW's car outside of NICOLAS' office building in Jersey City. After the CW complained that "[y]ou stopped giving us intakes in June," a reference to patient referrals to the CW's business, NICOLAS replied that "I didn't stop," and assured the CW that "whatever I have, you'll have." NICOLAS then accepted a \$1,000 corrupt cash payment from the CW in exchange for future patient referrals.

In violation of Title 18, United States Code, Section 1951(a).

FORFEITURE ALLEGATION

1. As a result of committing the aforementioned offense in violation of Title 18, United States Code, Section 1951(a) charged in this Information, defendant MYRTHA NICOLAS shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, any and all property, real and personal that constituted and was derived from proceeds that NICOLAS obtained that were traceable to the commission of the above offense, including, but not limited to, a money judgment in the amount of \$2,200 in United States currency, in that such sum constituted and was derived from proceeds traceable to the commission of the above offense.

2. If any of the above-described forfeitable property, as a result of any act or omission of NICOLAS:

- (1) cannot be located upon exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of NICOLAS up to the value of the above forfeitable property.

Pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461.

Craig Carpenito

CRAIG CARPENITO
United States Attorney
District of New Jersey

CASE NUMBER: _____

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UNITED STATES OF AMERICA

v.

MYRTHA NICOLAS

INFORMATION FOR

Title 18, United States Code, Sections 981(a)(1)(C)
and 1951(a); 28 United States Code, Section 2461

CRAIG CARPENITO

UNITED STATES ATTORNEY, NEWARK, NEW JERSEY

MARK J. MCCARREN

ASSISTANT U.S. ATTORNEY

NEWARK, NEW JERSEY

(973) 645-2700
