

FILED  
At Albuquerque NM

JUN 15 2016

MATTHEW J. DYKMAN  
CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**CORY WERITO** and  
**ROSITA TOLEDO,**

Defendants.

CRIMINAL NO. 16-2723MCA

Counts 1–9: 18 U.S.C. § 1347: Health  
Care Fraud; 18 U.S.C. § 2: Aiding and  
Abetting;

Count 10: 31 U.S.C. § 5324(a)(3):  
Aggravated Structuring Transactions To  
Evade Reporting Requirements.

INDICTMENT

The Grand Jury charges:

Introduction

1. From on or about July 30, 2011, and continuing to on or about July 23, 2013, both dates being inclusive, in San Juan County, in the District of New Mexico, and elsewhere, the defendants, **CORY WERITO** and **ROSITA TOLEDO**, individually and doing business as CW Transport, knowingly and willfully executed and attempted to execute a scheme and artifice to defraud the Arizona Health Care Cost Containment System (“AHCCCS”), a health care benefit program under 18 U.S.C. § 24(b), and to obtain money by means of false and fraudulent pretenses and representations from AHCCCS, by submitting false and fraudulent claims to AHCCCS for non-emergency medical transport that never actually occurred.

Background

2. Medicaid is a program that provides health care services for persons with low income and limited resources. Medicaid is jointly funded by the states and the federal government, and is administered by the states.

3. The Arizona Health Care Cost Containment System (“AHCCCS”) is an Arizona state Medicaid agency that provides health care programs to indigent Arizona residents.

4. AHCCCS paid for non-emergency medical transportation services for indigent residents for scheduled medical and dental appointments. For each transport, a provider was paid a fixed base fee plus an amount computed for miles driven per passenger. Prior authorization from AHCCCS was required for transports that exceeded 100 miles. Providers were required to keep detailed records supporting any transports they billed to AHCCCS.

5. The defendant, **CORY WERITO**, is a resident of San Juan County, New Mexico. At all times relevant to this indictment, **WERITO** was the sole owner of CW Transport, LLC, a New Mexico corporation with its primary place of business in Farmington, New Mexico. CW Transport’s sole business was to provide non-emergency medical transport to Arizona Medicaid recipients, funded by reimbursement payments from AHCCCS.

6. The defendant, **ROSITA TOLEDO**, is a resident of San Juan County, New Mexico. **TOLEDO** was and is **WERITO**’s aunt. At all times relevant to this indictment, **TOLEDO** worked for **WERITO** and CW Transport and had primary responsibility for billing AHCCCS by submitting CW Transport’s requests for reimbursement.

7. On or about June 2011, the defendant, **CORY WERITO**, founded CW Transport and registered CW Transport with AHCCCS as a non-emergency medical transportation provider. Around July 2011, CW Transport began billing AHCCCS for non-emergency transportation of AHCCCS members. Around August 2011, the defendant, **CORY WERITO**, began receiving wire transfer payments from AHCCCS into his personal bank account at Citizens Bank, located in Farmington, New Mexico.

8. From approximately July 2011 through July 2013, the defendants, **CORY WERITO** and **ROSITA TOLEDO**, fraudulently billed AHCCCS for thousands of false claims for medical transports that never occurred. They submitted approximately 18,765 claims for reimbursement, grouped in approximately 140 invoices, and thereby received approximately 140 payments from AHCCCS, totaling approximately \$1,959,405.

The Scheme and Artifice

9. The defendants' scheme and artifice consisted of fraudulently submitting invoices to AHCCCS for payments for transport services that CW Transport never provided, or provided in a substantially different manner than they claimed.

10. An audit of a random sample of CW Transport's claims for reimbursement determined that over 90% of the claims were defective for one or more of the following reasons.

11. In the majority of its claims, CW Transport claimed to have provided medical transport for Medicaid patients who received no other Medicaid-eligible services on that day. Many claims asserted transport on weekends or holidays when the medical facility in question was closed. Patients actually received medical services at CW Transport's declared medical facility on the day of transport in fewer than 10% of audited claims.

12. In almost every instance, CW Transport billed AHCCCS for 99 miles of transport regardless of the actual distance. Each of those claims either inflated the mileage traveled or circumvented AHCCCS's pre-authorization requirement for transport of 100 miles or more, or was entirely fraudulent because the transport did not occur at all.

13. In many instances, CW Transport claimed to have provided transport for a patient on a day on which other non-emergency transport companies operated by **WERITO** and **TOLEDO's** relatives also claimed to have transported the same patient.

14. CW Transport advertised a free meal for patients receiving transport, in violation of AHCCCS's policy prohibiting kickbacks, bribes or other remunerations.

15. The backup documentation supporting CW Transport's purported transport services contained falsified mileage readings and signatures.

Executions of the Scheme: Counts 1-9

16. Paragraphs 1 through 15 are incorporated as part of these Counts as if fully re-alleged herein.

17. On or about the dates listed below, within the District of New Mexico and elsewhere, the defendants, **CORY WERITO** and **ROSITA TOLEDO**, individually and doing business as CW Transport, knowingly and willfully and for the purpose of executing and in order the effect the scheme and artifice to defraud AHCCCS, a health care benefit program, and to obtain money by means of false and fraudulent pretenses and representations from AHCCCS, submitted the invoices identified below and received corresponding payments as identified below.

<u>Count</u>	<u>Invoice #</u>	<u>Invoice Date</u>	<u>Payment #</u>	<u>Payment Date</u>	<u>Approximate Amount</u>
1	A12210	7/28/12	165926	7/31/12	\$33,956
2	A12217	8/4/12	166599	8/7/12	\$30,358
3	A12231	8/18/12	168249	8/21/12	\$21,208
4	A12245	9/1/12	169934	9/5/12	\$34,414
5	A12273	9/29/12	173218	10/2/12	\$34,527
6	A12287	10/13/12	174962	10/16/12	\$29,587
7	A12344	12/8/12	180576	12/11/12	\$24,788
8	A12357	12/22/12	182272	12/26/12	\$33,170
9	A12364	12/29/12	183085	1/2/13	\$18,859

In violation of 18 U.S.C. § 1347, and 18 U.S.C. § 2.

Count 10

1. The factual allegations set forth in paragraphs 1–17 of Counts 1–9 are incorporated as part of this Count as if fully re-alleged herein.

2. Title 31 U.S.C. § 5313 and the regulations promulgated thereunder require any financial institution that engages in a currency transaction (e.g., a deposit or withdrawal) in excess of \$10,000 with a customer to report the transaction to the Department of the Treasury by filing a Currency Transaction Report (“CTR”). These regulations also require that multiple transactions be treated as a single transaction if the financial institution has knowledge that they are by, or on behalf of, the same person, and they result in either currency received or disbursed by the financial institution totaling more than \$10,000 during any one business day.

3. CTRs are often used by law enforcement to uncover a wide variety of illegal activities such as money laundering. Many individuals engaged in such illegal activities are aware of such reporting requirements and take active steps to cause financial institutions to fail to file CTRs, such as, for example, making multiple cash deposits or withdrawals in amounts less than \$10,000 on the same day or on consecutive days. These active steps are often referred to as “structuring.” Structuring cash withdrawals to avoid triggering the filing of a CTR by a financial institution is prohibited by 31 U.S.C. § 5324(a).

4. From August 2011 through July 2013, the defendant, **CORY WERITO**, received approximately \$1,959,405 from AHCCCS into his bank account at Citizens Bank, a financial institution, while conducting the health care fraud activity described in Counts 1–9.

5. During that period, **WERITO** conducted a series of at least 200 cash withdrawals, each for several thousand dollars but less than \$10,000, for a total of at least \$800,000 in cash. When he made the withdrawals **WERITO** knew of the reporting requirement for cash

transactions in excess of \$10,000. To avoid having a CTR filed, **WERITO** structured the withdrawals in amounts less than \$10,000.

6. From on or about July 30, 2011, and continuing to on or about July 23, 2013, both dates being inclusive, in San Juan County, in the District of New Mexico, and elsewhere, the defendant, **CORY WERITO**, as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period, and while violating another law of the United States, did knowingly and for the purpose of evading the reporting requirements of 31 U.S.C. § 5313(a) and the regulations promulgated thereunder, structure and attempt to structure transactions with a domestic financial institution, and cause and attempt to cause such institution to fail to file Currency Transaction Reports required by § 5313 for currency transactions in excess of \$10,000.

In violation of 31 U.S.C. §§ 5324(a)(3) and 5324(d)(2) and 31 C.F.R. §§ 1010.100(t), 1010.311, and 1010.313.

Forfeiture Allegation 1

Counts 1–9 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture to the United States pursuant to 18 U.S.C. § 982(a)(7).

Upon conviction of any offense in violation of 18 U.S.C. § 1347, the defendants, **CORY WERITO** and **ROSITA TOLEDO**, shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(7) all property constituting or derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

The property to be forfeited to the United States includes but is not limited to the following:

MONEY JUDGMENT:

A sum of money, representing all property constituting or derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, for which the defendants are jointly and severally liable.

SUBSTITUTE ASSETS:

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

- A. Cannot be located upon exercise of due diligence;
- B. Has been transferred or sold to, or deposited with, a third person;
- C. Has been placed beyond the jurisdiction of the Court;
- D. Has been substantially diminished in value;
- E. Has been commingled with other property which cannot be subdivided without difficulty;

It is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

Forfeiture Allegation 2

Paragraphs 1 through 6 of Count 10 of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture to the United States pursuant to 31 U.S.C. § 5317.

Upon conviction of any offense in violation of 31 U.S.C. § 5324, the defendant, **CORY WERITO**, shall forfeit to the United States pursuant to 31 U.S.C. § 5317(c)(1) all property, real or personal, involved in the offense and any property traceable thereto.

The property to be forfeited to the United States includes but is not limited to the following:

MONEY JUDGMENT:

A sum of money, representing all property, real or personal, involved in the offense and any property traceable thereto.

SUBSTITUTE ASSETS:

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

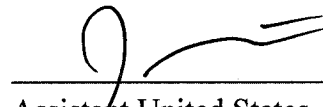
- F. Cannot be located upon exercise of due diligence;
- G. Has been transferred or sold to, or deposited with, a third person;
- H. Has been placed beyond the jurisdiction of the Court;
- I. Has been substantially diminished in value;
- J. Has been commingled with other property which cannot be subdivided without difficulty;


It is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 31 U.S.C. § 5317(c)(1), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

A TRUE BILL:

\_\_\_\_\_  
/s/

FOREPERSON OF THE GRAND JURY

  
\_\_\_\_\_  
Assistant United States Attorney

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