

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____
18 U.S.C. § 1349
18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

ORESTES ALVAREZ-JACINTO,

Defendant.

INFORMATION

The United States Attorney and the United States Department of Justice, Criminal Division, Fraud Section, charge that at all times material to this Information:

INTRODUCTION

1. **ORESTES ALVAREZ-JACINTO** was a medical doctor who specialized in obstetrics and gynecology and was employed as medical director at Saint Jude Rehab Center, Inc. ("Saint Jude"), a medical clinic that specialized in treating patients with Human Immunodeficiency Virus ("HIV"). **ALVAREZ-JACINTO** had no prior experience with HIV patients. From June 2003 through November 2003, **ALVAREZ-JACINTO** caused to be submitted to the Medicare Program ("Medicare") over \$7 million worth of fraudulent claims, signed documents containing false information about treatments provided to HIV patients, and approved medically unnecessary treatments. As a result of **ALVAREZ-JACINTO's** conduct, Medicare paid to **ALVAREZ-JACINTO** and Saint Jude approximately \$5 million in fraudulent claims.

2. Medicare was a public plan that provided free or below-cost medical benefits, items, and services to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare are prescribed by statute and by federal regulations under the auspices of the United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services (“CMS”). Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

3. Medicare was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

4. Medicare Part B paid for a portion of the cost of certain necessary medical services and medications that were provided and ordered by physicians, clinics, and other qualified health care providers. Medicare Part B was administered in Florida by First Coast Service Options, a company that contracted with CMS to receive, adjudicate, process, and pay certain Part B claims.

5. Physicians, clinics, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a “provider number.” A health care provider who had been issued a provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary’s name and Medicare identification number, the services that had been performed for the beneficiary, the date the services were provided, the cost of the services, and the name and identification number of the physician or other health care provider who had ordered the services.

6. Saint Jude was located at 330 S.W. 27th Avenue, Suite 402, Miami, Florida, within the Southern District of Florida. It was incorporated in or about April 2003.

7. Saint Jude specialized in the treatment of patients diagnosed with HIV, which is a viral infection that attacks a patient's immune system. Saint Jude purported to provide intravenous infusion treatments, which involves the insertion of a needle into a patient's vein in order to administer certain specialized medications. Saint Jude also purported to provide injections, which involves the insertion of a syringe into the patient's arm, in order to administer specialized medications.

8. From on or about June 30, 2003, until November 14, 2003, Saint Jude submitted claims under Medicare provider number 50598, the number issued to **ORESTES ALVAREZ-JACINTO**.

COUNT I

(Conspiracy to Commit Health Care Fraud: 18 U.S.C. § 1349)

1. Paragraphs 1 through 8 are realleged and incorporated by reference as though fully set forth herein.

2. From on or about June 30, 2003, until on or about November 14, 2003, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ORESTES ALVAREZ-JACINTO,

knowingly and willfully conspired with others to execute a scheme and artifice to defraud and to obtain by means of materially false and fraudulent pretenses, representations, and promises, money owned by and under the custody and control of Medicare, a health care benefits program, as defined in Title 18, United States Code, Section 24(b).

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for **ORESTES ALVAREZ-JACINTO** and his coconspirators to unlawfully enrich themselves by obtaining reimbursement from Medicare for medical treatments that were not actually provided and for treatments that were medically unnecessary.

MANNER AND MEANS

The manner and means by which **ORESTES ALVAREZ-JACINTO** and his coconspirators, known and unknown, sought to accomplish the object and purpose of the conspiracy included, among other things:

4. Co-conspirators 1 and 2 ("CC-1" and "CC-2") would recruit **ORESTES ALVAREZ-JACINTO** as a medical director at Saint Jude for the purpose of authorizing and approving false and fraudulent medical claims, which would be submitted to Medicare.

5. Co-conspirator 3 ("CC-3") would instruct **ORESTES ALVAREZ-JACINTO** to make medical records appear to be legitimate and how all HIV patients should be treated when they arrive at Saint Jude, without regard to medical necessity or the particular patient's ailments.

6. **ORESTES ALVAREZ-JACINTO** would meet with HIV patients, order tests, sign medical analysis and diagnosis forms, and authorize the treatments as instructed by CC-3, without regard to medical necessity or the particular patient's ailments.

7. **ORESTES ALVAREZ-JACINTO** would cause the submission of false and fraudulent claims to Medicare, seeking reimbursement for the costs of infusions,

injections, and other treatments that were not actually provided and infusions, injections, and other treatments that were not medically necessary or appropriate.

8. **ORESTES ALVAREZ-JACINTO** would cause Medicare to pay all claims submitted under his Medicare provider number directly into a bank account maintained by Saint Jude, then receive portions of those funds from Saint Jude for his own personal benefit and use.

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

CRIMINAL FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in Count 1 of this Information 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 violation of Title 18, United States Code, Section 1349, the defendant shall forfeit to the United States all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense of conviction, pursuant to Title 18, United States Code, Section 982.

3. The property which is subject to forfeiture includes the following:

- (A) a money judgment in the amount of \$90,000, which represents defendant's proceeds from the fraud.

4. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by reference by Title 18, United States Code, Section 982(b), if any of the forfeitable property, or any portion thereof, as a result of any act or omission of the defendant:

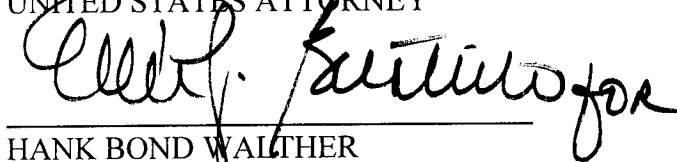
- (A) cannot be located upon the existence of due diligence;
- (B) has been transferred, or sold to, or deposited with a third party;
- (C) has been placed beyond the jurisdiction of the Court;
- (D) has been substantially diminished in value; or
- (E) has been commingled with other property which cannot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

it is the intent of the United States to seek the forfeiture of other property of the defendant up to the value of the above-described forfeitable properties, including, but not limited to, any identifiable property in the name of **ORESTES ALVAREZ-JACINTO**.

All pursuant to Title 18, United States Code, Section 982, and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



HANK BOND WALTHER
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL DIVISION, FRAUD SECTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

ORESTES ALVAREZ-JACINTO,

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami ___ Key West
___ FTL ___ WPB ___ FTP

New Defendant(s) Yes ___ No ___
Number of New Defendants ___
Total number of counts ___

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) Yes
List language and/or dialect Spanish

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	<u>X</u>	Petty	___
II	6 to 10 days	___	Minor	___
III	11 to 20 days	___	Misdem.	___
IV	21 to 60 days	___	Felony	<u>X</u>
V	61 days and over	___		

6. Has this case been previously filed in this District Court? (Yes or No) No


If yes:
Judge: _____ Case No. _____
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? ___ Yes X No
- Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? ___ Yes X No
If yes, was it pending in the Central Region? ___ Yes ___ No
- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? ___ Yes X No
- Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? ___ Yes X No



Hank Bond Walther
DOJ Trial Attorney
Court I.D. No.: A5501101

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Orestes Alvarez-Jacinto Case No: _____

Count #: 1 - 18 U.S.C. § 1349

Conspiracy to Commit Health Care Fraud

***Max Penalty:** 10 years' imprisonment

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

Count #:

***Max Penalty:** _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

United States District Court

SOUTHERN DISTRICT OF FLORIDA

WAIVER OF INDICTMENT

UNITED STATES OF AMERICA

v.

ORESTES ALVAREZ-JACINTO,

Defendant.

_____ /

CASE NUMBER:

I, Orestes Alvarez-Jacinto, the above named defendant, who is accused of

conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349,

being advised of the nature of the charge(s), the proposed information, and of my rights, hereby waive in open court on

_____ prosecution by indictment and consent that the proceeding may be by information rather than by indictment.

Date

Orestes Alvarez-Jacinto

Defendant

Counsel for Defendant

Before _____

Judicial Officer