

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
08-20634 CR-JORDAN

Case No.

7 McALILEY

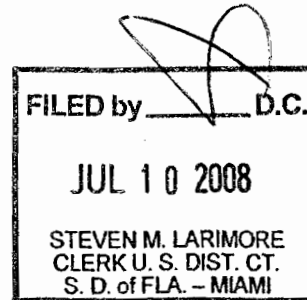
18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 1956(h)
18 U.S.C. § 1956(a)(1)(B)(i)
18 U.S.C. § 982
18 U.S.C. § 2

UNITED STATES OF AMERICA

vs.

DAVID HERNANDEZ,
LAURA HERNANDEZ, and
JOSE MIGUEL HERNANDEZ,

Defendants.



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 federal program that provided free or below-cost health care benefits 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 ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"). 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 repeated use and for a medical purpose, such as prosthetic limbs, back braces, knee braces, and wheelchairs.

4. For Florida beneficiaries, Medicare Part B’s insurance concerning DME and related health care benefits, items, and services was administered by Palmetto Government Benefits Administrators (“Palmetto GBA”) until June 1, 2007, and by Cigna Government Services (“Cigna”) thereafter, pursuant to contracts with HHS. Palmetto GBA and Cigna were responsible for, among other things, receiving, adjudicating, and paying the claims of authorized DME suppliers that were seeking reimbursement for the cost of DME and other health care benefits, items, or services supplied or provided to Medicare beneficiaries.

Medicare Billing 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” by filing a Medicare Federal Health Care Provider / Supplier Enrollment Application (“Medicare Provider Application”). 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 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. The CMS-1500 required DME companies to provide certain important information, including: (a) the Medicare beneficiary's name and identification number; (b) the identification number of the physician 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 Palmetto GBA or 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 licensed, 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 provider. 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.

The Defendant

10. Defendant **DAVID HERNANDEZ**, a resident of Broward County, operated and controlled On-Time Medical Equipment Rentals, Inc. ("On-Time Medical"); Florida DME, Inc.

("Florida DME"); E.K.J. Enterprises, Inc. ("EKJ Enterprises"); S.O.S. DME, Inc. ("SOS DME"); YYS Medical Supply, Inc. ("YYS Medical"); All County Medical Equipment, Inc. ("All County Medical"); and Tri-County Medical Supplies, Inc. ("Tri County Medical").

11. Defendant **LAURA HERNANDEZ**, a resident of Broward County, and the wife of **DAVID HERNANDEZ**, operated and controlled Triple AAA Billing, Inc. ("Triple AAA Billing"), and assisted her husband in the operation and control of Florida DME, Inc. ("Florida DME"). **LAURA HERNANDEZ**, through Triple AAA Billing, also performed billing services for various DME suppliers including SOS DME, YYS Medical, All County Medical, and Tri-County Medical.

12. Defendant **JOSE MIGUEL HERNANDEZ**, a resident of Miami-Dade County, and the brother of **DAVID HERNANDEZ**, operated and controlled A.S.A.P. Medical Supply, Inc. ("ASAP Medical") and S&H Medical Supply, Inc. ("S&H Medical"). **JOSE MIGUEL HERNANDEZ** also assisted **DAVID HERNANDEZ** in the operation of SOS DME, YYS Medical, All County Medical, and Tri-County Medical.

The Corporations

13. On-Time Medical was a corporation purporting to do business in Broward County, Florida. **DAVID HERNANDEZ** operated and controlled On-Time Medical, and was registered as the company's sole officer and director in documents filed with the Florida Department of State.

14. Florida DME, Inc. ("Florida DME") was purportedly engaged in business to provide durable medical equipment to Medicare beneficiaries, and maintained its principal place of business in Broward County, Florida. Florida DME had a Medicare provider number, and was eligible to receive reimbursement from Medicare for durable medical equipment. **LAURA**

HERNANDEZ operated and controlled Florida DME with **DAVID HERNANDEZ**, and was registered as the company's sole officer and director in documents filed with the Florida Department of State.

15. Triple AAA Billing operated in Miami-Dade and Broward Counties and was in the business of, among other things, preparing Medicare Provider Applications for DME suppliers, and submitting claims to Medicare on behalf of DME suppliers. **LAURA HERNANDEZ** operated and controlled Triple AAA Billing, and was registered as the company's sole officer and director in documents filed with the Florida Department of State.

16. ASAP Medical was purportedly engaged in business to provide durable medical equipment to Medicare beneficiaries, and maintained a principal place of business in Miami-Dade County, Florida. **JOSE MIGUEL HERNANDEZ** operated and controlled ASAP Medical, and was registered as the company's sole officer and director in documents filed with the Florida Department of State.

17. SOS DME was purportedly engaged in business to provide durable medical equipment to Medicare beneficiaries, and maintained a principal place of business in Miami-Dade County, Florida. SOS DME had a Medicare provider number, and was eligible to receive reimbursement from Medicare for durable medical equipment. **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ** operated and controlled SOS DME together with Magaly Martinez. Magaly Martinez was registered as the company's sole officer and director in documents filed with the Florida Department of State.

18. YYS Medical was purportedly engaged in business to provide durable medical equipment to Medicare beneficiaries, and maintained a principal place of business in Miami-Dade County, Florida. YYS Medical had a Medicare provider number, and was eligible to receive

reimbursement from Medicare for durable medical equipment. **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ** operated and controlled YYS Medical together with Yuniel Echevarria. Yuniel Echevarria was registered as the company's sole officer and director in documents filed with the Florida Department of State.

19. All County Medical was purportedly engaged in business to provide durable medical equipment to Medicare beneficiaries, and maintained a principal place of business in Miami-Dade County, Florida. All County Medical had a Medicare provider number, and was eligible to receive reimbursement from Medicare for durable medical equipment. **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ** operated and controlled All County Medical together with Jose Echevarria. Jose Echevarria was registered as the company's sole officer and director in documents filed with the Florida Department of State.

20. Tri-County Medical was purportedly engaged in business to provide durable medical equipment to Medicare beneficiaries, and maintained a principal place of business in Miami-Dade County, Florida. Tri-County Medical had a Medicare provider number, and was eligible to receive reimbursement from Medicare for durable medical equipment. **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ** operated and controlled Tri-County Medical together with Suyima Torres. Suyima Torres was registered as the company's sole officer and director in documents filed with the Florida Department of State.

21. E.K.J. Enterprises was a shell corporation purporting to do business in Broward County, Florida. **DAVID HERNANDEZ** operated and controlled EKJ Enterprises, and was registered as the company's sole officer and director in documents filed with the Florida Department of State.

22. S&H Medical was a corporation purporting to do business in Broward County,

Florida. **JOSE MIGUEL HERNANDEZ** operated and controlled S&H Medical through a nominee owner he recruited and installed.

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

1. Paragraphs 1 through 22 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From in or around March 2003, and continuing through in or around February 2008, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

DAVID HERNANDEZ,
LAURA HERNANDEZ, and
JOSE MIGUEL HERNANDEZ,

did knowingly and willfully combine, conspire, confederate and agree with Magaly Martinez, Yuniel Echevarria, Jose Echevarria, Suyima Torres, 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 defendants and their coconspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare; (c) concealing the receipt of the fraud proceeds; and (d) diverting the fraud

proceeds for the personal use and benefit of the themselves, their coconspirators, and others.

MANNER AND MEANS OF THE CONSPIRACY

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

SOS DME

4. **DAVID HERNANDEZ** recruited Magaly Martinez to be the nominal owner of SOS DME, and manage the company's bank accounts.

5. **DAVID HERNANDEZ** and Magaly Martinez caused Articles of Incorporation to be filed on behalf of SOS DME which concealed the involvement of **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ**.

6. **DAVID HERNANDEZ** directed Magaly Martinez to meet with **LAURA HERNANDEZ** to execute a Medicare Provider Application on behalf of SOS DME.

7. **DAVID HERNANDEZ** directed Magaly Martinez to obtain and maintain control of a corporate bank account for SOS DME at Bank of America, account xxxx xxxx 2368.

8. **DAVID HERNANDEZ, JOSE MIGUEL HERNANDEZ,** and Magaly Martinez delivered periodic cash kickback payments to Medicare beneficiaries which caused the Medicare beneficiaries to sign delivery receipts for medical equipment and supplies that were never actually delivered.

9. **DAVID HERNANDEZ, LAURA HERNANDEZ, JOSE MIGUEL HERNANDEZ,** and Magaly Martinez submitted and caused the submission of \$2,803,772 of false Medicare claims for SOS DME through Triple AAA Billing, and obtained \$585,525 of reimbursement from Medicare for DME which was neither ordered by a physician nor provided to the beneficiary as claimed.

10. **DAVID HERNANDEZ, LAURA HERNANDEZ, JOSE MIGUEL HERNANDEZ,** and Magaly Martinez caused SOS DME to issue corporate checks made payable to themselves, to family members, or to corporations they owned and controlled.

YYS MEDICAL

11. **DAVID HERNANDEZ** recruited Yuniel Echevarria, Magaly Martinez's son, to serve as the nominal owner of YYS Medical, and manage the company's bank accounts.

12. **DAVID HERNANDEZ** and Yuniel Echevarria caused Articles of Incorporation to be filed on behalf of YYS Medical which concealed the involvement of **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ**.

13. **DAVID HERNANDEZ** directed Yuniel Echevarria to meet with **LAURA HERNANDEZ** to execute a Medicare Provider Application on behalf of YYS Medical.

14. **DAVID HERNANDEZ** directed Yuniel Echevarria to obtain and maintain control of a corporate bank account for YYS Medical at SunTrust Bank, account xxxxxxxxx3089.

15. **DAVID HERNANDEZ, JOSE MIGUEL HERNANDEZ,** and Yuniel Echevarria delivered periodic cash kickback payments to Medicare beneficiaries which caused the Medicare beneficiaries to sign delivery receipts for medical equipment and supplies that were never actually delivered.

16. **DAVID HERNANDEZ, LAURA HERNANDEZ, JOSE MIGUEL HERNANDEZ,** and Yuniel Echevarria submitted and caused the submission of \$3,686,765 of false Medicare claims for YYS Medical through Triple AAA Billing, and obtained \$973,676 of reimbursement from Medicare for DME which was neither ordered by a physician nor provided to the beneficiary as claimed.

17. **DAVID HERNANDEZ, LAURA HERNANDEZ, JOSE MIGUEL**

HERNANDEZ, and Yuniel Echevarria caused YYS Medical to issue corporate checks made payable to themselves, to family members, or to corporations they owned and controlled.

ALL COUNTY MEDICAL

18. **DAVID HERNANDEZ** recruited Jose Echevarria, Magaly Martinez's husband, to serve as the nominal owner of All County Medical, and manage the company's bank accounts.

19. **DAVID HERNANDEZ** and Jose Echevarria caused Articles of Incorporation to be filed on behalf of All County Medical with the Florida Department of State which concealed the involvement of **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ**.

20. **DAVID HERNANDEZ** directed Jose Echevarria to meet with **LAURA HERNANDEZ** to execute a Medicare Provider Application on behalf of All County Medical.

21. **DAVID HERNANDEZ** directed Jose Echevarria to obtain and maintain control of corporate bank accounts for All County Medical at SunTrust Bank, account xxxxxxxxxxx788; at Washington Mutual Bank, account number xxxx-xxxxxxx402-3; and at Tropical Financial Credit Union, account number xxxxxx610.

22. **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ** delivered periodic cash kickback payments to Medicare beneficiaries which caused the Medicare beneficiaries to sign delivery receipts for medical equipment and supplies that were never actually delivered.

23. **DAVID HERNANDEZ, LAURA HERNANDEZ, JOSE MIGUEL HERNANDEZ**, and Jose Echevarria submitted and caused the submission of \$4,414,626 of false Medicare claims for All County Medical through Triple AAA Billing, and obtained \$1,403,241 of reimbursement from Medicare for DME which was neither ordered by a physician nor provided to the beneficiary as claimed.

24. **DAVID HERNANDEZ** instructed Jose Echevarria to sign backdated agreements

for All County Medical, thereby creating the appearance that All County Medical was conducting legitimate business with a wholesale medical supplier, when in fact it was not.

25. **DAVID HERNANDEZ** and Jose Echevarria purchased phony invoices to create the appearance that All County Medical was purchasing DME from a wholesale medical supplier, when in fact it was not.

26. **DAVID HERNANDEZ, LAURA HERNANDEZ, JOSE MIGUEL HERNANDEZ**, and Jose Echevarria caused All County Medical to issue corporate checks made payable to themselves, to family members, or to corporations they owned and controlled.

TRI-COUNTY MEDICAL

27. **DAVID HERNANDEZ** recruited Suyima Torres, Magaly Martinez's daughter-in-law, to be the nominal owner of Tri-County Medical, and manage the company's bank accounts.

28. **DAVID HERNANDEZ** and Suyima Torres caused Articles of Incorporation to be filed on behalf Tri-County Medical which concealed the involvement of **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ**.

29. **DAVID HERNANDEZ** instructed Suyima Torres to meet with **LAURA HERNANDEZ** to execute a Medicare Provider Application on behalf of Tri-County Medical.

30. **DAVID HERNANDEZ** instructed Suyima Torres to obtain and maintain control of corporate bank accounts for Tri-County Medical at Tropical Financial Credit Union, account numbers xxxxxx2-00 and xxxxxx2-11.

31. **DAVID HERNANDEZ** and **JOSE MIGUEL HERNANDEZ** delivered periodic cash kickback payments to Medicare beneficiaries which caused the Medicare beneficiaries to sign delivery receipts for medical equipment and supplies that were never actually delivered

32. **DAVID HERNANDEZ, LAURA HERNANDEZ, JOSE MIGUEL**

HERNANDEZ, and Suyima Torres submitted and caused the submission of \$551,343 of false Medicare claims for Tri-County Medical through Triple AAA Billing, and obtained \$140,102 of reimbursement from Medicare for DME which was neither ordered by a physician nor provided to the beneficiary as claimed.

33. **DAVID HERNANDEZ** instructed Suyima Torres to sign backdated agreements on behalf of Tri-County Medical, thereby creating the appearance that Tri-County Medical was conducting legitimate business with a wholesale medical supplier, when in fact it was not.

34. **DAVID HERNANDEZ** and Suyima Torres purchased phony invoices to create the appearance that Tri-County Medical was purchasing DME from a wholesale medical supplier, when in fact it was not.

35. **DAVID HERNANDEZ, LAURA HERNANDEZ,** and Suyima Torres caused Tri-County Medical to issue corporate checks made payable to themselves, to family members, and to corporations they owned and controlled.

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

COUNTS 2-9
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 22 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From in or about March 2003, and continuing through in or about February 2008, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

DAVID HERNANDEZ,
LAURA HERNANDEZ, and
JOSE MIGUEL HERNANDEZ

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 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, Medicare, that is, the defendants submitted and caused the submission of false and fraudulent claims to Medicare for the cost of various items of DME related to health care benefits, items, and services.

Purpose of the Scheme and Artifice

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

The Scheme and Artifice

4. The allegations in Paragraphs 4 through 35 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated as though fully set forth herein.

Acts in Execution and Attempted Execution of the Scheme and Artifice

5. On or about the dates specified as to each count below, in Miami Dade County, in the Southern District of Florida, and elsewhere, the defendants, 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:

Count	Approximate Date of Claim	DME Supplier	Beneficiary	Medicare Claim Number	Item Claimed; Approximate Amount Billed
2	07/14/2005	SOS DME	R.A.	105195783867000	Hydrogel dsq>16 <=48 sq in; \$675
3	08/01/2005	SOS DME	W.S.	105213755609000	Vol control vent noninv int; \$1,100
4	02/10/2006	YYS Medical	B.Q.	106041731011001	Powered air flotation bed; \$900
5	05/23/2006	YYS Medical	E.W.	106143737294000	Neg press wound therapy pump; \$1,850
6	05/08/2007	All County Medical	C.G.	107128708357000	Incontinence treatment system; \$600
7	07/04/2006	All County Medical	J.P.	106185902660000	Neg press wound therapy pump; \$1,850
8	10/05/2007	Tri-County Medical	M.L.	107278705365000	Hosp bed semi-electr w/o mat; \$150
9	01/09/2008	Tri-County Medical	C.L.	108009801272000	Male external catheter; \$420

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

Count 10
Money Laundering Conspiracy
(18 U.S.C. § 1956(h))

Beginning in or about April 2005, and continuing through in or about March 2008, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

DAVID HERNANDEZ,

did knowingly combine, conspire, confederate, and agree with Magaly Martinez, Yuniel Echevarria, Jose Echevarria, Suyima Torres, and with persons known and unknown to the Grand Jury, to commit an offense against the United States in violation of Title 18, United States Code, Section 1956, that is, to conduct and attempt to conduct a financial transaction involving the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the financial transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i);

It is further alleged that the specified unlawful activity is health care fraud, in violation of Title 18, United States Code, Section 1347.

All in violation of Title 18, United States Code, Section 1956(h).

COUNTS 11-18
Money Laundering
(18 U.S.C. §§ 1956(a)(1)(B)(i) and 2)

On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

DAVID HERNANDEZ,

did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce which involved the proceeds of a specified unlawful activity, knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of said specified unlawful activity and that while conducting and attempting to conduct such financial transaction knew that the property involved

in the financial transaction represented the proceeds of some form of unlawful activity:

Count	Approximate Date of Financial Transaction	Description of Financial Transaction
11	04/13/2005	The withdrawal of funds from SOS DME's corporate bank account, Bank of America account number xxxx xxxx 2368, using check number 1453, made payable to On-Time Medical, in the approximate amount of \$2,090.
12	05/20/2005	The withdrawal of funds from SOS DME's corporate bank account, Bank of America account number xxxx xxxx 2368, using check number 1496, made payable to On-Time Medical, in the approximate amount of \$6,780.
13	05/31/2006	The withdrawal of funds from YYS Medical's corporate bank account, SunTrust Bank account number xxxxxxxxx3089, using check number 1520, made payable to EKJ Enterprises, in the approximate amount of \$9,263.
14	08/23/2006	The withdrawal of funds from YYS Medical's corporate bank account, SunTrust Bank account number xxxxxxxxx3089, using check number 1652, made payable to EKJ Enterprises, in the approximate amount of \$9,651.
15	09/25/2006	The withdrawal of funds from All County Medical's corporate bank account, SunTrust Bank account number xxxxxxxxx788, using check number 1160, made payable to EKJ Enterprises, in the approximate amount of \$9,461.
16	10/05/2006	The withdrawal of funds from All County Medical's corporate bank account, SunTrust Bank account number xxxxxxxxx788, using check number 1156, made payable to EKJ Enterprises, in the approximate amount of \$9,600.

Count	Approximate Date of Financial Transaction	Description of Financial Transaction
17	10/31/2007	The withdrawal of funds from Tri- County Medical's corporate bank account, Tropical Financial Credit Union account number xxxxxx2-11, using check number 235, made payable to EKJ Enterprises, in the approximate amount of \$4,316.
18	11/13/2007	The withdrawal of funds from Tri- County Medical's corporate bank account, Tropical Financial Credit Union account number xxxxxx2-11, using check number 243, made payable to EKJ Enterprises, in the approximate amount of \$5,139.

It is further alleged that the specified unlawful activity is health care fraud, in violation of Title 18, United States Code, Section 1347.

In violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in 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 defendants, **DAVID HERNANDEZ, LAURA HERNANDEZ, and JOSE MIGUEL HERNANDEZ** have an interest pursuant to the provisions of Title 18, United States Code, Section 982(a)(7) and Section 982(a)(1).

2. Pursuant to Title 18, United States Code, Section 982(a)(7), upon conviction of **DAVID HERNANDEZ, LAURA HERNANDEZ, or JOSE MIGUEL HERNANDEZ** for the offenses charged in Counts 1 through 9 of this Indictment, the defendants shall forfeit to the United States any property, real or personal.

3. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of **DAVID HERNANDEZ** for the offenses charged in Counts 10 through 18 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 the offense(s).

4. The property subject to forfeiture includes but is not limited to:

- (a) Gross proceeds of the fraud in the amount of \$3,102,544;
- (b) The real property and appurtenances located at 16593 NW 15th Street, Pembroke Pines, Florida 33028;
- (c) Power 1 Credit Union Account number 95181301 controlled by or on behalf of E.K.J. Enterprises, Inc. by defendant, **DAVID HERNANDEZ**;
- (d) First Union / Wachovia Bank Account number 2090001770376 controlled by or on behalf of Florida DME, Inc. by defendant, **LAURA HERNANDEZ**;
- (e) Colonial Bank Account number 063113222 controlled by or on behalf of Triple AAA Billing, Inc. by the defendant, **LAURA HERNANDEZ**;
- (f) Power 1 Credit Union Account number 91987 with defendants, **DAVID HERNANDEZ** and **LAURA HERNANDEZ**, as co-signors on said account; and
- (g) The Franklin Funds or Franklin Templeton IRA owned or controlled, in whole or in part, by defendant, **DAVID HERNANDEZ**.

5. If the property described above as being subject to forfeiture, as a result of any act or omission of **DAVID HERNANDEZ**, **LAURA HERNANDEZ**, or **JOSE MIGUEL HERNANDEZ**

- (a) cannot be located upon the 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; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as made applicable through Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of **DAVID HERNANDEZ, LAURA HERNANDEZ, or JOSE MIGUEL HERNANDEZ**, up to the value of the above forfeitable property.

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).

A TRUE BILL

FOREPERSON _____



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



RYAN K. STUMPHAUZER
ASSISTANT UNITED STATES ATTORNEY