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**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**GREAT FALLS DIVISION**

<p><b>UNITED STATES OF AMERICA,</b></p> <p><b>Plaintiff,</b></p> <p><b>vs.</b></p> <p><b>JESSE A. MARCEL, III, and</b> <b>NORTHWEST SENIOR CARE</b> <b>ASSOCIATION,</b></p> <p><b>Defendants.</b></p>	<p><b>CR 05-            -GF -</b></p> <p><b><u>INDICTMENT</u></b></p> <p><b>HEALTH CARE FRAUD (Count I)</b> Title 18 U.S.C. § 1347(1) (Penalty: Ten years imprisonment, \$250,000 fine, and three years supervised release)</p> <p><b>FALSE CLAIMS (Counts II-VII)</b> Title 18 U.S.C. § 287 (Penalty: Five years imprisonment, \$250,000 fine, and three years supervised release)</p> <p><b>WIRE FRAUD (Count VIII)</b> Title 18 U.S.C. § 1343 (Penalty: Five years imprisonment, \$250,000 fine, and three years supervised release)</p>
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THE GRAND JURY CHARGES:

## COUNT I

### A. INTRODUCTION

1. Northwest Senior Care Association (NSCA), a limited liability corporation, was formed under the laws of the State of Washington and Oregon in 1998. Principle owners of the company included JESSE A. MARCEL, III, Robert M. Lewis, and Edward W. Shinner, Jr.
2. At all relevant times to the Counts of this Indictment, JESSE A. MARCEL, III, served as the Chief Financial Officer of NWSCA.
3. Among its properties, NWSCA owned two nursing home facilities in Spokane, Washington, including Valley View Living Center, and Valley View Residential Care.
4. On or about November of 1998, NWSCA purchased Prairie Vista Manor from David Sande.
5. Beginning on or about December of 1998, NWSCA operated Prairie Vista Manor as a licensed and certified long-term care facility located at Highway 87 South, Big Sandy, Montana, that housed residents with special needs and disabilities who, on average, required greater care than other elderly nursing home residents.
6. On December 9, 1998, NWSCA entered a Provider Agreement with Montana Medicaid to receive a Medicaid provider number allowing it to directly bill Medicaid for services provided by Prairie Vista Manor to Medicaid beneficiaries. As part of the Provider Agreement, NWSCA agreed to comply with all applicable laws, rules and written policies pertaining to the Montana Medicaid Program

including portions of Title XIX of the Social Security Act, the Code of Federal Regulations, Montana laws, the Administrative Rules of Montana, and Department of Public Health and Human Services regulations.

6. Included among the provisions of federal law regulating nursing facilities like Prairie Vista Manor, the provider must “provide services and activities to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident in accordance with a written plan of care which–

- (A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met; . . .” 42 U.S.C.A.

- § 1396r(b)(2)(A).

7. Prairie Vista Manor, operating as a nursing facility, was required to fulfill the residents’ care plans by providing, or arranging for the provision of, nursing and related services and medically-related social services that attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, including pharmaceutical services and dietary services that meet the daily nutritional and special dietary needs of each resident. In addition, Prairie Vista Manor was required to provide its residents with a comfortable, safe, and clean environment and protect them from accident, injury, disease, and infection. 42 U.S.C.A. §1396r(4)(A)(i-iv).

8. In its Provider Agreement with Montana Medicaid, Prairie Vista Manor acknowledged that “PAYMENT OF CLAIMS WILL BE FROM FEDERAL AND STATE FUNDS AND THAT ANY FALSIFICATION OR CONCEALMENT OF A MATERIAL FACT MAY BE PROSECUTED UNDER FEDERAL AND STATE

LAW.”

9. In order to be reimbursed for the costs expended in the care of Montana Medicaid beneficiaries, a Medicaid provider must submit a list of Medicaid residents together with the applicable Medicaid rate, known as an MA-3 form. The submission of the MA-3 form results in a payment of Medicaid funds on a monthly basis.
10. At the end of each year, the Medicaid provider must submit a cost report listing all of the various costs necessary for the treatment of Medicaid beneficiaries. In this way, total Medicaid payments for the year are reconciled with Medicaid costs so that, if payments exceed costs, the provider is obligated to repay Medicaid, and vice-versa.
11. From December of 1998 until June of 2001, approximately 78% of Prairie Vista Manor’s revenue came from Montana Medicaid.
12. Between December of 1998 and June of 2001, Prairie Vista Manor had between 22 and 26 residents who were Medicaid beneficiaries and Montana Medicaid paid approximately \$1,512,436 in reimbursement to Prairie Vista Manor for the care and treatment of its resident Medicaid beneficiaries.

#### B. THE SCHEME

Beginning on or about December 12, 1998, and continuing until on or about June 10, 2001, in the State and District of Montana, at Big Sandy, and other places, the defendants, JESSE A. MARCEL, III and NORTHWEST SENIOR CARE ASSOCIATION, did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud Montana Medicaid, a health care benefit program, of its right to honest services

in connection with delivery of or payment for health care benefits, items, and services, in that the defendants, JESSE A. MARCEL, III and NORTHWEST SENIOR CARE ASSOCIATION, purchased, owned, and operated Prairie Vista Manor for the purpose of diverting Medicaid funds to JESSE A. MARCEL, III and NORTHWEST SENIOR CARE ASSOCIATION when, as the defendants then and there well knew, they were not providing sufficient funding or trained staffing to meet the essential needs of the patients, including Medicaid beneficiaries, residing at Prairie Vista Manor.

#### C. PURPOSE OF THE MEDICAID FRAUD SCHEME

From in or about December 1998, and continuing through June of 2001, JESSE A. MARCEL, III and NORTHWEST SENIOR CARE ASSOCIATION, as owners and operators of Prairie Vista Manor, participated in the Montana Medicaid program for the purpose of fraudulently receiving Medicaid funds with the knowledge that they would not fully fund the needs of patients at Prairie Vista Manor resulting in the physical and verbal abuse of patients, untended patient medical conditions, insufficient medical supplies, food shortages, grossly inadequate care, inattention to patient needs, and a general failure to protect the well-being of Prairie Vista Manor patients.

#### D. EXECUTION OF THE SCHEME

1. It was part of the scheme that JESSE A. MARCEL, III, on his own behalf and on behalf of NORTHWEST SENIOR CARE ASSOCIATION, would control the finances of Prairie Vista Manor and diverted its funds for personal uses and purposes other than the financial needs of Prairie Vista Manor.

2. It was further part of the scheme that JESSE A. MARCEL, III, would regularly direct the Administrator of Prairie Vista Manor, Charles Sipler, to wire significant

amounts of money from Prairie Vista Manor to NORTHWEST SENIOR CARE ASSOCIATION as they were received from Medicaid.

3. It was further part of the scheme that during the period of the Indictment, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION would receive and collect more than \$400,000 in Medicaid funds that were intended for Prairie Vista Manor's Medicaid beneficiaries.

4. It was further part of the scheme that some of the funds diverted by JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION would be used for the personal expenses of JESSE A. MARCEL, III, including BMW and Lexus car payments.

5. It was further part of the scheme that JESSE A. MARCEL, III, would direct Charles Sipler to refuse to make full payment to vendors of Prairie Vista Manor and instead, JESSE A. MARCEL, III, authorized only partial payments to lull vendors into continuing deliveries and when the lack of operating funds for Prairie Vista Manor periodically became critical, Charles Sipler, Administrator for Prairie Vista Manor would request funds from JESSE A. MARCEL, III, who would either refuse payment or provide insufficient amounts to pay Prairie Vista Manor's bills.

6. It was further part of the scheme, while skimming off substantial sums designed for the care of residents, to provide only the most rudimentary of provisions and services and leave Prairie Vista Manor without basic services and supplies, resulting in the provision of food by one nurse from her own home, depriving residents of clean bed linens because of broken and insufficient laundry equipment, and depriving residents of sufficient staff, medicine or care.

7. It was further part of the scheme that, after submitting a cost report for the six

month period ending in June of 1999, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION, would refuse or otherwise fail to file further cost reports with Montana Medicaid thereby concealing information critical to the proper administration of the program and the appropriateness of the facility for further operation or participation in the Medicaid system.

8. It was further part of the scheme that, throughout the period of the Indictment, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION ignored notification from Montana nursing home regulators of Prairie Vista Manor's failure to meet the daily needs of its patients, including Medicaid patients, and refused to cooperate with all governmental efforts to insure that the facility met minimum standards for the provision of care..

#### E. MATERIALITY OF THE SCHEME

The foregoing scheme had the natural tendency of influencing the decision-making of Montana Medicaid officials, in that it induced Medicaid officials to continue making payments of Medicaid funds to Prairie Vista Manor that were used for purposes other than the necessary care and maintenance of Medicaid beneficiaries, all in violation of 18 U.S.C. § 1347(1).

#### COUNT II

Beginning on or about October of 2000, and continuing until on or about June 10, 2001, in the State and District of Montana, at Big Sandy, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION, in a matter before Montana Medicaid, a federally-funded health care benefit program, knowingly and willfully made and presented, and caused to be made and presented, material false claims for the payment

of Medicaid benefits, in that JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION made and caused to be made false monthly claims for Medicaid benefits related to the care of T.B., a resident of Prairie Vista Manor, knowing that Prairie Vista Manor was not providing basic services and supplies to said patient as required by law resulting in the patient's physical and mental suffering and deterioration, a violation of 18 U.S.C. §§ 287 and 2(b).

#### COUNT III

Beginning on or about October of 2000, and continuing until on or about June 7, 2001, in the State and District of Montana, at Big Sandy, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION, in a matter before Montana Medicaid, a federally-funded health care benefit program, knowingly and willfully made and presented, and caused to be made and presented, material false claims for the payment of Medicaid benefits, in that JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION made and caused to be made false monthly claims for Medicaid benefits related to the care of E.B., a resident of Prairie Vista Manor, knowing that Prairie Vista Manor was not providing basic services and supplies to said patient as required by law resulting in the patient's physical and mental suffering and deterioration, a violation of 18 U.S.C. §§ 287 and 2(b).

#### COUNT IV

Beginning on or about October of 2000, and continuing until on or about June 10, 2001, in the State and District of Montana, at Big Sandy, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION, in a matter before Montana Medicaid, a federally-funded health care benefit program, knowingly and willfully made and



presented, and caused to be made and presented, material false claims for the payment of Medicaid benefits, in that JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION made and caused to be made false monthly claims for Medicaid benefits related to the care of D.C., a resident of Prairie Vista Manor, knowing that Prairie Vista Manor was not providing basic services and supplies to said patient as required by law resulting in the patient's physical and mental suffering and deterioration, a violation of 18 U.S.C. §§ 287 and 2(b).

#### COUNT V

Beginning on or about October of 2000, and continuing until on or about June 6, 2001, in the State and District of Montana, at Big Sandy, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION, in a matter before Montana Medicaid, a federally-funded health care benefit program, knowingly and willfully made and presented, and caused to be made and presented, material false claims for the payment of Medicaid benefits, in that JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION made and caused to be made false monthly claims for Medicaid benefits related to the care of T.L., a resident of Prairie Vista Manor, knowing that Prairie Vista Manor was not providing basic services and supplies to said patient as required by law resulting in the patient's physical and mental suffering and deterioration, a violation of 18 U.S.C. §§ 287 and 2(b).

#### COUNT VI

Beginning on or about October of 2000, and continuing until on or about June 7, 2001, in the State and District of Montana, at Big Sandy, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION, in a matter before Montana Medicaid, a

federally-funded health care benefit program, knowingly and willfully made and presented, and caused to be made and presented, material false claims for the payment of Medicaid benefits, in that JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION made and caused to be made false monthly claims for Medicaid benefits related to the care of S.S., a resident of Prairie Vista Manor, knowing that Prairie Vista Manor was not providing basic services and supplies to said patient as required by law resulting in the patient's physical and mental suffering and deterioration, a violation of 18 U.S.C. §§ 287 and 2(b).

#### COUNT VII

Beginning on or about October of 2000, and continuing until on or about June 12, 2001, in the State and District of Montana, at Big Sandy, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION, in a matter before Montana Medicaid, a federally-funded health care benefit program, knowingly and willfully made and presented, and caused to be made and presented, material false claims for the payment of Medicaid benefits, in that JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION made and caused to be made false monthly claims for Medicaid benefits related to the care of M.W., a resident of Prairie Vista Manor, knowing that Prairie Vista Manor was not providing basic services and supplies to said patient as required by law resulting in the patient's physical and mental suffering and deterioration, a violation of 18 U.S.C. §§ 287 and 2(b).

#### COUNT VIII

## A. INTRODUCTION

Beginning on or about March 31, 1999 and continuing until on or about June 10, 2001, in the State and District of Montana, at Big Sandy, the defendant, JESSE A. MARCEL, III, devised and intended to devise a scheme and artifice to defraud Robert and Gloria Lewis, and to obtain money and property by means of false and fraudulent pretense and representations, said scheme being more specifically described below, and thereafter, to execute the scheme and artifice so devised, transmitted or caused to be transmitted by wire communication in interstate commerce certain signals, writings or sounds.

## B. THE SCHEME

1. It was part of the scheme and artifice to defraud Robert and Gloria Lewis that the defendant, JESSE A. MARCEL, III, used the poor financial condition of Prairie Vista Manor and the deficiencies cited by nursing home regulators to induce his partner, Rob Lewis, and the parents of his partner, Gloria and Robert Lewis, to loan money to JESSE A. MARCEL, III, and NWSCA for the purpose of addressing the financial needs of Prairie Vista Manor, said scheme being more specifically described and specific events identified as follows:

- During the later part of May 2000, the defendant, JESSE A. MARCEL, III, advised Rob Lewis that Prairie Vista Manor was suffering severe financial difficulties.
- On June 26, 2000, Rob Lewis used a mortgage on his residence to secure a loan for \$90,000 that was to be used for addressing the financial needs of Prairie Vista Manor.

- During the later part of July 2000, the defendant, JESSE A. MARCEL, III, used his personal relationship with Rob Lewis and his position of trust as Chief Financial Officer of NWSCA to convince Robert and Gloria Lewis to loan more money to NWSCA to address the financial needs of Prairie Vista Manor.
- As reasons for requesting the loan, the defendant, JESSE A. MARCEL, III, cited shortages of funds to address state and federal taxes, bed taxes, workers' compensation, employee insurance, the mortgage, and the need for new equipment.
- On August 22, 2000, Robert and Gloria Lewis signed two promissory notes for the loan of a total of approximately \$285,688 for the financial needs of Prairie Vista Manor.
- Between March 31, 1999, and January 22, 2001, Gloria and Robert Lewis made approximately 10 separate payments to the defendant, JESSE A. MARCEL, III, and NORTHWEST SENIOR CARE ASSOCIATION totaling approximately \$228,497

2. It was further part of the scheme that JESSE A. MARCEL, III, knowing that he had borrowed money to address the financial needs of Prairie Vista Manor, failed to use nearly all of the money for those purposes.

3. It was further part of the scheme that JESSE A. MARCEL, III, would make only limited payments to Prairie Vista Manor to create the appearance that the loans were being used for their intended purposes.

### C. MATERIALITY OF THE SCHEME

The foregoing scheme had the natural tendency of influencing the decision-making of Robert and Gloria Lewis, in that it induced them to make loan payments to JESSE A. MARCEL, III, and NWSCA, under the false and fraudulent pretense that the money would be used solely for the financial needs of Prairie Vista Manor.

#### D. INTERSTATE WIRE COMMUNICATION

On or about December 22, 2000, in the State and District of Montana, at Big Sandy, the defendant, JESSE A. MARCEL, III, for the purpose of executing the scheme and artifice to defraud, described above, did cause to be transmitted in interstate commerce, by means of a wire communication certain sounds, signals or impulses from the State of Oregon to Big Sandy in the State and District of Montana, that is, the defendant, JESSE A. MARCEL, III, caused the transmission of a wire transfer of funds in the amount of approximately \$7,000 from the Rocking Chair Ranch account held by JESSE A. MARCEL, III, to the payroll account of Prairie Vista Manor, in violation of Title 18 U.S.C. §§ 1343 and 2.

A TRUE BILL.

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FOREPERSON

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WILLIAM W. MERCER  
United States Attorney

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CARL E. ROSTAD  
Criminal Chief Assistant U.S. Attorney