

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

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CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FL
JACKSONVILLE FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 3:22-cr-83-TJC-JBT
18 U.S.C. § 1349

LUIS LACERDA

INFORMATION

The United States Attorney charges:

COUNT ONE
(Conspiracy to Commit Health Care Fraud)

A. Introduction

At times material to this Information:

1. LUIS LACERDA, covertly and overtly, controlled, owned, held financial interests in, and/or managed multiple pharmacies in the Middle District of Florida and elsewhere. These pharmacies included the following entities: (1) Cure Pharmacy, located in Jacksonville, Florida, in the Middle District of Florida; (2) BOH Pharmacy Group; (3) Discover Pharmacy; (4) East Side Chemists; (5) First Choice Rx; (6) Forest Hills Chemists; (7) Fresh Pond Rx; (8) Georgetown Rx; (9) South Bend Specialty Pharmacy; (10) Venus Pharmacy; (11) Wellness Rx Pharmacy; and (12) White River Pharmacy.

Collectively, these pharmacies are hereinafter referred to as the “PHARMACIES.”

2. The Medicare Program (“Medicare”) was a federally funded health insurance program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare was a “health care benefit program” as defined by 18 U.S.C. § 24(b), and as that term is used in 18 U.S.C. § 1347. Medicare was a “Federal health care benefit program” as defined by 42 U.S.C. § 1320a-7b(f), and as that term is used in 42 U.S.C. § 1320a-7b(b). Individuals who received Medicare benefits were called “beneficiaries.”

3. Medicare programs covering different types of benefits were separated into different program “parts.” Medicare Part D provided prescription drug benefits and helped Medicare beneficiaries pay for prescription drugs.

4. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare Part D plans were offered through private insurance companies, or “sponsors,” that were approved by Medicare. A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

5. A pharmacy could participate in Medicare Part D and receive reimbursements for prescription medications provided to Medicare beneficiaries by entering into a retail network agreement directly with a Part D plan, or through one or more Pharmacy Benefit Managers (“PBMs”). PBMs acted on behalf of one or more Medicare Part D plans. Through a plan’s PBM, a pharmacy could join the plan’s network. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim either directly to the plan or to a PBM that represented the beneficiary’s Medicare drug plan. The plan or PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The drug plan’s sponsor reimbursed the PBM for its payments to the pharmacy. Medicare, through the Centers for Medicare and Medicaid Services, compensated the Medicare drug plan sponsors.

B. The Conspiracy

6. Beginning on an unknown date, but not later than on or about April 1, 2017, and continuing through on or about March 30, 2021, in the Middle District of Florida and elsewhere, the defendant,

LUIS LACERDA,

did knowingly and willfully combine, conspire, confederate, and agree with others known and unknown, to commit health care fraud, in violation of 18 U.S.C. § 1347.

C. Manner and Means

7. The manner and means by which the defendant and his co-conspirators sought to accomplish the object of the conspiracy included, among others, the following:

a. It was part of the conspiracy that LACERDA and others would and did purchase and operate the PHARMACIES in the Middle District of Florida and elsewhere. All of the PHARMACIES were Medicare Part D providers prior to being acquired by LACERDA and others.

b. It was further part of the conspiracy that LACERDA would and did place nominal ownership of most of the PHARMACIES in others' names, despite controlling their operations and profits, in order to conceal his involvement.

c. It was further part of the conspiracy that LACERDA and others would and did obtain access to personal identifiable information ("PII") and purported personal health information of Medicare beneficiaries.

d. It was further part of the conspiracy that LACERDA and others would and did operate a call center to contact Medicare beneficiaries in

order to offer them prescription medicines at no cost, without regard to any actual medical necessity for those prescription medicines.

e. It was further part of the conspiracy that LACERDA and others would and did pay illegal kickbacks and bribes to telemarketing companies in exchange for recruiting Medicare beneficiaries to accept prescription medications that the PHARMACIES could dispense and bill to Medicare, through Part D plans and PBMs, without regard to medical necessity.

f. It was further part of the conspiracy that LACERDA and others would and did pay illegal kickbacks and bribes to telemedicine companies, in exchange for medical professionals working for the companies providing signed prescriptions for the Medicare beneficiaries recruited by the telemarketing companies and whose PII the conspirators, including LACERDA, had obtained. The prescriptions were primarily for topical creams, including antipsoriatic medications, antifungal drugs, and pain medicines, which had a relatively high rate of reimbursement from Medicare.

g. It was further part of the conspiracy that LACERDA and others would and did conceal and disguise the scheme by generating sham contracts and agreements, including false contracts to disguise the illegal

kickbacks and bribes that the PHARMACIES paid to the telemarketing and telemedicine companies.

h. It was further part of the conspiracy that co-conspirators at the telemedicine companies would and did write prescriptions for these aforementioned medications without having any patient-prescriber relationship with the Medicare beneficiaries and without regard to medical necessity.

i. It was further part of the conspiracy that LACERDA and others would and did bill Medicare and cause Medicare to be billed, through the Part D plans and PBMs, for medically unnecessary prescription medications procured through the payment of illegal kickbacks and bribes to telemarketing and telemedicine companies, and direct that the Medicare payments be sent to bank accounts under his or his co-conspirators' control.

j. It was further part of the conspiracy that LACERDA and others routinely would not and did not attempt to collect pharmacy copayments for the false and fraudulent prescriptions the conspirators generated for the Medicare beneficiaries, in order to induce Medicare beneficiaries to receive and not return these unnecessary medications.

k. It was further part of the conspiracy that LACERDA would and did pay illegal kickbacks and bribes to the telemarketing and

telemedicine companies with which the PHARMACIES did business, in the form of a portion of the profits the PHARMACIES received from submitting the false and fraudulent claims to Medicare.

1. It was further part of the conspiracy that LACERDA and others would and did submit and cause the submission of false and fraudulent claims to Medicare, through the Part D plans and PBMs, that were procured by the payment of illegal kickbacks and bribes, medically unnecessary, and ineligible for reimbursement. Medicare paid the PHARMACIES \$54,303,526 as a result of these claims.

m. It was further part of the conspiracy that the conspirators would and did perform acts and make statements to hide and conceal, and cause to be hidden and concealed, the purpose of the conspiracy and the acts committed in furtherance thereof.

All in violation of 18 U.S.C. § 1349.

FORFEITURE

1. The allegations contained in Count One of this Information are realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to the provisions of 18 U.S.C. § 982(a)(7).

2. Upon conviction for the violation alleged in Count One, the defendant shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7),

any and all property, real or personal, that constitutes or is derived, directly or indirectly, from the gross proceeds traceable to the commission of the offenses.

3. The property to be forfeited includes, but is not limited to, a preliminary order of forfeiture for proceeds in the amount of \$15,600,333.30 which represents the proceeds the defendant obtained as a result of the commission of the offense.

4. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise 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 divided without difficulty,

the United States shall be entitled to forfeiture of substitute property under the provisions of 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1).

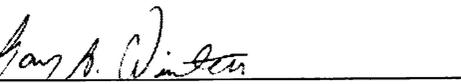
ROGER B. HANDBERG
United States Attorney

By: 
David B. Mesrobian
Assistant United States Attorney

By: 
Kelly S. Kafase
Assistant United States Attorney
Deputy Chief, Jacksonville Division

JOSEPH S. BEEMSTERBOER
Acting Chief
Criminal Division, Fraud Section

DUSTIN DAVIS
Acting Deputy Chief, Health Care
Fraud Unit
Criminal Division, Fraud Section

By: 
Gary A. Winters
Trial Attorney