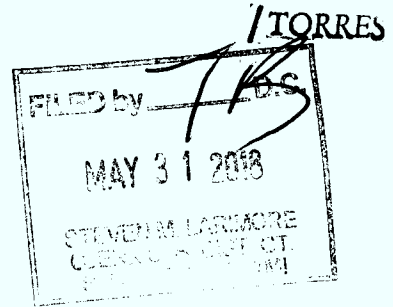


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **18-20451** **OR-SCOLA**
18 U.S.C. § 371
18 U.S.C. § 982(a)(7) /TORRES



UNITED STATES OF AMERICA

vs.

YORDANKA PEDROSO,

Defendant.

_____ /

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

2. Medicare programs covering different types of benefits were separated into different program “parts.” Part D of Medicare (the “Medicare Part D Program”) subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. The Medicare Part D Program

was enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and went into effect on January 1, 2006.

3. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan “sponsors.” 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.

4. A pharmacy could participate in Part D by entering a retail network agreement directly with a plan or with one or more Pharmacy Benefit Managers (“PBMs”). A PBM acted on behalf of one or more Medicare drug 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.

5. A pharmacy could also submit claims to a Medicare drug plan to whose network the pharmacy did not belong. Submission of such out-of-network claims was not common and often resulted in smaller payments to the pharmacy by the drug plan sponsor.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors’ plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary’s medical conditions. In addition, in some cases where

a sponsor's expenses for a beneficiary's prescription drugs exceeded that beneficiary's capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

7. Medicare and Medicare drugs plan sponsors are "health care benefit programs," as defined by Title 18, United States Code, Section 24(b).

The Defendants, Related Entities, and Individuals

8. New Pharmacy Discount Corp. ("NPD") was a Florida corporation, located at 10061 SW 72 Street, Miami, Florida. NPD purported to provide prescription drugs to Medicare beneficiaries.

9. Calan Pharmacy & Discount Service, LLC ("Calan Pharmacy") was a Florida corporation, located at 1879 W. Flagler Street, Miami, Florida. Calan Pharmacy purported to provide prescription drugs to Medicare beneficiaries.

10. Defendant **YORDANKA PEDROSO** was a resident of Miami-Dade County.

11. Nereida Montejo was a resident of Miami-Dade County, and the owner and operator of NDP.

12. Niurka Fernandez was a resident of Miami-Dade County, and was an owner of Calan Pharmacy.

13. Co-Conspirator A was a resident of Miami-Dade County.

**CONSPIRACY TO DEFRAUD THE UNITED STATES AND PAY AND RECEIVE
HEALTHCARE KICKBACKS
(18 U.S.C. § 371)**

From in or around January of 2011, through in or around March of 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

YORDANKA PEDROSO,

did knowingly, that is, with the intent to further the objects of the conspiracy, and willfully combine, conspire, confederate, and agree with Nereida Montejo, Niurka Fernandez, Co-Conspirator A, and others, known and unknown to the Grand Jury:

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program, in violation of Title 18, United States Code, Section 371; and to commit offenses against the United States, that is,

b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of items and services for which payment may be made in whole and in part by a federal health care program, that is, Medicare and Medicare Drug Plan Sponsors; and

c. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare and Medicare Drug Plan Sponsors.

Purpose of the Conspiracy

14. It was a purpose of the conspiracy for **YORDANKA PEDROSO** and her co-conspirators to unlawfully enrich themselves by, among other things: (1) offering, paying,

soliciting, and receiving remuneration, including kickbacks and bribes, in return for referring Medicare beneficiaries to NPD and Calan Pharmacy to serve as patients; and (2) submitting and causing the submission of claims to Medicare and Medicare Drug Plan Sponsors for medical items and services, primarily prescription drugs, that NPD and Calan Pharmacy purportedly provided to those recruited beneficiaries.

Manner and Means of the Conspiracy

The manner and means by which the defendant and her co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

15. **YORDANKA PEDROSO** solicited and received kickbacks and bribes in the form of cash in return for information that NPD and Calan Pharmacy could use to submit claims to Medicare.

16. **YORDANKA PEDROSO** solicited and received kickbacks and bribes in the form of cash in return for Co-Conspirator A's information that Calan Pharmacy could use to submit claims to Medicare and Medicare Drug Plan Sponsors.

17. **YORDANKA PEDROSO**, Nereida Montejo, Niurka Fernandez, and others paid and caused the payment of kickbacks and bribes to Co-Conspirator A and other co-conspirator Medicare beneficiaries in return for information that NPD and Calan Pharmacy could use to submit claims to Medicare and Medicare Drug Plan Sponsors.

18. **YORDANKA PEDROSO**, Nereida Montejo, Niurka Fernandez, and others submitted and caused NPD and Calan Pharmacy to submit claims to Medicare and Medicare Drug Plan Sponsors for medical items and services purportedly provided to the recruited Medicare beneficiaries.

19. Medicare and Medicare Drug Plan Sponsors paid NPD and Calan Pharmacy based upon claims for medical items and services purportedly provided to the recruited Medicare beneficiaries by NPD and Calan Pharmacy.

Overt Acts

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the conspirators committed and caused to be committed, in the Southern District of Florida, and elsewhere, at least one of the following overt acts, among others:

20. On or about June 2015, **YORDANKA PEDROSO** accepted approximately \$215 as a cash kickback payment.

21. On or about August 2015, **YORDANKA PEDROSO** accepted approximately \$355 as a cash kickback payment.

22. On or about September 2015, **YORDANKA PEDROSO** accepted approximately \$640 as a cash kickback payment.

23. On or about January 2016, **YORDANKA PEDROSO** accepted approximately \$460 as a cash kickback payment.

All in violation of Title 18, United States Code, Section 371.

FORFEITURE
(18 U.S.C. § 982(a)(7))

1. The allegations in this Indictment are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **YORDANKA PEDROSO**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 371, as alleged in this Indictment, the defendant, **YORDANKA PEDROSO**, 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, pursuant to Title 18, United States Code, Section 982(a)(7).

4. The property subject to forfeiture includes, but is not limited to, a money judgment in the amount of \$134,799 in U.S. currency, which sum represents the value of the proceeds traceable to the commission of the offense alleged in this Indictment.

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

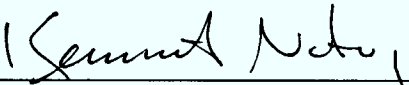
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures set forth in Title 21, United States Code, Section 853, made applicable by Title 18, United States Code Section 982(b)(1).

A TRUE BILL

F



BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

JOSEPH BEEMSTERBOER
DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
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YISEL VALDES
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