

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

United States of America
v.
Luisa Isabel Vega

Case No. 14-2530-Simonton

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 2011-November 2013 in the county of Miami-Dade in the Southern District of Florida, the defendant(s) violated:

Code Section

Title 18, U.S.C., Section 1347

Offense Description

Health Care Fraud

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
MAY 13 2014
ST. C. 14-2530

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

Complainant's signature

Daniel Crespi, Special Agent, HHS-OIG
Printed name and title

Sworn to before me and signed in my presence.

Date: 05/01/2014

Judge's signature

City and state: Miami, Florida

Andrea M. Simonton, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT

Your affiant, Daniel Crespi, being duly sworn, deposes and states:

Affiant's Background

1. I am a Special Agent with the Office of Inspector General (OIG), United States Department of Health and Human Services (HHS), and am currently assigned to the Miami Regional Office. I have been employed in this capacity for approximately three years. Prior to becoming a Special Agent, I was a United States Federal Air Marshal for nine years and a United States Border Patrol Agent for two years. I am presently assigned to investigate a wide-variety of health care fraud matters, including schemes to defraud the Medicare and Medicaid Program.

2. This affidavit is submitted in support of a criminal complaint charging LUISA ISABEL VEGA with health care fraud, in violation of Title 18, United States Code, Section 1347. Based on the information contained in this affidavit, I respectfully submit that beginning at least in or around April of 2011 and continuing through in or around November of 2013, VEGA 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), 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 programs, in connection with the delivery of and payment for health care benefits, items, and services.

3. The information contained in this affidavit is based in part on information developed by myself and other Special Agents of the HHS-OIG, as well as agents of the Food and Drug Administration, Office of Criminal Investigations. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not contain all of the information known to me and/or other law enforcement officers involved in this investigation.

The Medicare Part D Program

4. The Medicare Program (Medicare) is a federally-funded program that provides free and below-cost health care benefits to people age 65 years or older, the blind, and the disabled. The Centers for Medicare & Medicaid Services (CMS) is responsible for the administration of the Medicare Program. Individuals who receive benefits under Medicare are referred to as Medicare "beneficiaries."

5. Medicare programs covering different types of benefits are separated into different program "parts." Part D of the Medicare program subsidizes the costs of prescription drugs for Medicare beneficiaries in the United States. It was enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and went into effect on January 1, 2006. Part D benefits are administered by private insurance plans that are funded by Medicare through CMS.

6. Beneficiaries obtain Part D benefits by joining a prescription drug plan operated by private insurance companies (typically called drug plan sponsors) approved by Medicare to administer Part D benefits; or they can join a Medicare Advantage plan that covers both prescription drugs and medical services. Medicare compensates the drug plan sponsors for providing the prescription drug benefit to the beneficiary. Medicare, through CMS, compensates the Medicare drug plan sponsors. Medicare pays the sponsors a monthly fee for each Medicare beneficiary of the sponsors' plans. Such payments are called capitation fees. The capitation fee is 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 exceeds that beneficiary's capitation fee, Medicare reimburses the sponsor for a portion of those additional expenses.

7. A pharmacy can participate in the Part D program by contracting with the plan sponsors, or their Pharmacy Benefit Managers (PBM), which provide Medicare Part D coverage.

8. Typically, a Medicare beneficiary enrolled in a Medicare Part D plan fills their prescription at a pharmacy utilizing their Medicare Part D plan coverage to pay for the prescription. The pharmacy then submits the prescription claim for reimbursement to the Medicare Part D beneficiary's plan sponsor or PBM for payment under the beneficiary's Health Insurance Claim Number and/or Medicare Plan identification number.

9. Usually, a pharmacy submits a number of electronic claims at a time to a Part D plan for payment. Then, the Part D plan sends a reimbursement check to the pharmacy or initiates an electronic transfer of funds to the pharmacy's bank.

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

Evidence of Fraud

11. AB Pharmacy Corporation was located at 1956 West Flagler St., Miami, Florida. At all times material to this Complaint, VEGA was the owner of record, president and/or registered agent of AB Pharmacy. VEGA was the sole signatory on the AB Pharmacy bank accounts.

12. During VEGA's ownership and control of AB Pharmacy, Medicare Part D plans paid AB Pharmacy approximately \$8.4 million for covered prescription drugs. All of the money was deposited into the bank accounts for AB Pharmacy.

*for the time frame of
April 2011 to November 2013*

13. Government agents conducted an invoice reconciliation on AB Pharmacy. The invoice reconciliation compared AB Pharmacy's inventory for specific drugs with the paid claims for those same drugs. The results showed that AB Pharmacy did not buy enough of the specific drugs from wholesalers to support the amount the pharmacy was paid for dispensing these drugs. The total dollar amount of overpayments to AB Pharmacy based on the inventory

reconciliation was approximately \$4.2 million.⁹ This is the amount that AB Pharmacy was paid that exceeded the quantity of the specific drugs available in AB Pharmacy's inventory.

for the time same of
Apr. 2011 - Nov 2013
ber

14. Your affiant interviewed several Medicare beneficiaries that AB Pharmacy used to bill the Medicare Part D Program during VEGA's ownership. The beneficiaries denied receiving most, if not all, of the prescription medications that AB Pharmacy billed to Medicare Part D. The beneficiaries further admitted that they had been paid kickbacks by patient recruiters for allowing AB Pharmacy to submit fraudulent claims to Medicare utilizing their personal information.


15. Your affiant interviewed a physician who, according to AB Pharmacy's Medicare billing records, purported to refer over \$5 million in prescriptions to AB Pharmacy. The physician and agents reviewed the physician's patient files and computer records, and copies of the prescriptions used by AB Pharmacy. Based on this review, the physician concluded that only about 17 of the 181 beneficiaries in question were actually patients that he/she has ever seen or treated. The physician concluded that his/her signature on the prescriptions were being forged and fraudulently utilized at AB Pharmacy.

16. Agents interviewed two cooperating witnesses. The witnesses both admitted to generating fraudulent prescriptions from the physician's office referenced in paragraph 15 above. One of the witnesses admitted that the witness delivered fraudulent prescriptions to AB Pharmacy for use in billing the Medicare Part D Program for prescription drugs that AB Pharmacy never dispensed to the beneficiaries. The witness identified VEGA's boyfriend as a patient recruiter at AB Pharmacy. The other cooperating witness admitted that the witness provided fraudulent prescriptions to patient recruiters, who in turn used the prescriptions to defraud Medicare. The witness recalled that the clinic referenced in paragraph 15 received Medicare insurance inquiries in reference to AB Pharmacy that were linked to the fraudulent prescriptions that the witness was creating and selling.

17. Your affiant interviewed an employee at AB Pharmacy who stated that VEGA was the owner of AB Pharmacy. The employee saw VEGA and other individuals shredding documents at AB just prior to the pharmacy being sold in November of 2013. After the sale of AB Pharmacy, VEGA left the country and is believed to be in Cuba.

18. I submit that this affidavit sets forth sufficient facts to establish probable cause to believe that from at least in or around April of 2011 and continuing through in or around November of 2013, in Miami-Dade County, in the Southern District of Florida, LUISA VEGA did knowingly and willfully execute, or attempt to execute, a scheme or artifice to defraud a health care benefit program, and to obtain, by means of false or fraudulent pretenses, representations or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, in violation of Title 18, United States Code, Section 1347.

FURTHER YOUR AFFIANT SAYETH NAUGHT.



Daniel Crespi, Special Agent
U.S. Department of Health and Human Services
Office of Inspector General
Office of Investigations

Sworn to and subscribed
before me this 1st day of May, 2014.



ANDREA M. SIMONTON
UNITED STATES MAGISTRATE JUDGE