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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *JA* DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

June 2017 Grand Jury

**18 CR 3058 BAS**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 JOSERODEL ZAVALA CANDELARIO (1),  
15 JAMES WARD, JR. (2),  
16 ROBERT COHEN (3),  
17 ANTONY Y. LIM (4),

18 Defendants.

Case No. \_\_\_\_\_

I N D I C T M E N T

Title 18, U.S.C., Sec. 371 -  
Conspiracy; Title 18, U.S.C.,  
Sec. 1347 - Health Care Fraud;  
Title 42, U.S.C., Sec. 1320a-  
7b(b)(2) - Unlawful Remuneration;  
Title 18, U.S.C., Sec. 2 - Aiding  
and Abetting; Title 18, U.S.C.,  
Secs. 982(a)(7), 981(a)(1)(C), and  
Title 28, U.S.C., Sec. 2461(c) -  
Criminal Forfeiture

19 The Grand Jury charges:

20 INTRODUCTORY ALLEGATIONS

21 At all times pertinent to this Indictment:

22 THE DEFENDANTS AND OTHER PARTICIPANTS

23 1. Defendant JOSERODEL ZAVALA CANDELARIO, (CANDELARIO), was a  
24 chiropractor licensed by the State of California Board of Chiropractic  
25 Examiners. CANDELARIO was the owner of Candelario Chiropractic, a  
26 Professional Corporation, and R.I.S.E. Medical Center, a Professional  
27 Corporation, dba R.I.S.E. Wellness Center ("RISE Wellness"), which  
28 operated multiple locations in the Southern District of California,

1 including at 5030 Bonita Road, Suite B, in Bonita and at 3231 Waring  
2 Road, Suite N, in Oceanside.

3 2. Defendant JAMES WARD, JR., (WARD), was a licensed Physical  
4 Therapist ("PT") in the State of California. On June 20, 2014, the  
5 Physical Therapy Board of California issued a decision and disciplinary  
6 order against WARD, on the basis that WARD violated Section 2630 of the  
7 California Business and Professions Code, by simultaneously supervising  
8 two physical therapy aides while practicing physical therapy at West  
9 Coast Physical Therapy in 2008. WARD was publicly reprimanded and was  
10 required to pay \$3,000 in investigative costs. From approximately 2009  
11 to 2016, WARD worked at RISE Wellness as a PT.

12 3. Defendant ROBERT COHEN, (COHEN), was a chiropractor licensed  
13 by the State of California Board of Chiropractic Examiners. From at  
14 least 2013 to 2016, COHEN worked at RISE Wellness as a chiropractor  
15 under the direction of CANDELARIO.

16 4. Defendant ANTONY Y. LIM, (LIM), was an acupuncturist licensed  
17 by the State of California Acupuncture Board. From 2003 to 2017, he  
18 worked at RISE Wellness as an acupuncturist under the direction of  
19 CANDELARIO. Sometime in 2016 or 2017, LIM took on some of the duties  
20 of an office manager at RISE Wellness.

21 5. Meriam Reyes (charged elsewhere) was a Tricare patient at RISE  
22 Wellness.

23 6. "R.M." was the Medical Director at RISE Wellness from  
24 approximately 2013 to 2016, who was, on paper, the owner of 51 percent  
25 of the shares of RISE Wellness.

26 7. "R.P." was the Physician Assistant ("PA") at RISE Wellness who  
27 worked under the supervision of R.M.

1 **THE MEDICARE PROGRAM**

2 8. The Medicare Program ("Medicare") was a federal health care  
3 benefit program, affecting commerce that provides benefits to  
4 individuals who are over the age of 65 or disabled. Medicare was a  
5 "health care benefit program" as defined by Title 18, United States  
6 Code, Section 24(b) and a "Federal health care program," as defined by  
7 Title 42, United States Code, Section 1320a-7b(f).

8 9. When submitting a claim, a provider was required to certify,  
9 among other things, that the contents of the claim were true, correct,  
10 and complete, and that the claim was prepared in compliance with the  
11 laws and regulations governing Medicare.

12 10. Providers could submit claims electronically to Medicare for  
13 reimbursements. Payments were made via electronic funds transfer or via  
14 checks.

15 11. Medicare reimbursed a provider only for services that were  
16 actually performed and that were deemed "medically necessary."

17 12. Medicare did not cover acupuncture or massage therapy.  
18 Medicare only covered physical therapy provided by a licensed physical  
19 therapist.

20 **THE TRICARE PROGRAM**

21 13. The Tricare program ("Tricare") was the Department of Defense  
22 ("DoD") health care program for uniformed service members, both active  
23 duty and retired, and their families. Tricare was a "health care benefit  
24 program" as defined by Title 18, United States Code, Section 24(b) and  
25 a "Federal health care program," as defined by Title 42, United States  
26 Code, Section 1320a-7b(f).

1 14. Tricare only reimbursed providers for services and procedures  
2 that were actually performed by an authorized licensed medical provider  
3 and deemed to be medically necessary.

4 15. Under Tricare rules, massage therapists, acupuncturists,  
5 physical therapy aides, and physical therapy assistants were not  
6 authorized providers, and Tricare would not reimburse for services by  
7 these individuals.

8 16. Tricare did not cover acupuncture, massage therapy, or  
9 chiropractic services.

10 **PRACTICE OF MEDICINE IN CALIFORNIA**

11 17. The California Medical Board prohibited the unlicensed  
12 practice of medicine, and required that any medical practice be owned  
13 at least 51 percent by a medical doctor. Another licensed professional,  
14 such as a chiropractor, could own the remaining 49 percent. According  
15 to the Medical Board, the non-physician owner could not do any of the  
16 following: "hire" the physician or other medical staff, determine what  
17 coding and billing to use, select the medical equipment and supplies,  
18 have authority over clinical decision making, recommend what diagnostic  
19 tests are appropriate, determine the need for referrals, or control the  
20 medical records.

21 18. Physicians, including doctors, surgeons, and chiropractors,  
22 owed a fiduciary duty to their patients. This duty required that  
23 physicians act in their patients' best interests, and not for their own  
24 professional, pecuniary, or personal gain. Under California law, a  
25 physician had a fiduciary duty to disclose all information material to  
26 the patient's decision, when soliciting a patient's consent to a medical  
27 procedure; such information included personal interests unrelated to the  
28 patient's health, whether research or economic, that might affect the

1 physician's professional judgment. Accepting kickbacks, bribes, and  
2 referral fees without the patient's consent was a breach of a physician's  
3 fiduciary duty to his patient.

4 Count 1

5 CONSPIRACY (18 U.S.C. § 371)

6 [CANDELARIO, WARD, COHEN, LIM]

7 19. Paragraphs 1 through 18 of the Introductory Allegations of  
8 this Indictment are realleged and incorporated by reference.

9 20. Beginning on a date unknown and continuing up to and including  
10 at least July 2016, within the Southern District of California and  
11 elsewhere, defendants JOSERODEL ZAVALA CANDELARIO, (CANDELARIO), JAMES  
12 WARD, JR., (WARD), ROBERT COHEN, (COHEN), ANTONY Y. LIM, (LIM), and  
13 others, did knowingly and intentionally conspire to commit the following  
14 offenses against the United States:

15 a. To knowingly and willfully, with the intent to defraud,  
16 execute a material scheme to defraud a health care benefit program (i.e.  
17 Tricare), and to obtain, by means of materially false and fraudulent  
18 pretenses, representations, promises, and omissions and concealments of  
19 material facts, money and property owned by, and under the custody and  
20 control of, Tricare, in connection with the delivery of and payment for  
21 health care benefits, items, and services, in violation of 18 U.S.C.  
22 § 1347;

23 b. To knowingly and willfully, with the intent to defraud,  
24 execute a material scheme to defraud a health care benefit program (i.e.  
25 Medicare), and to obtain, by means of materially false and fraudulent  
26 pretenses, representations, promises, and omissions and concealments of  
27 material facts, money and property owned by, and under the custody and  
28 control of, Medicare, in connection with the delivery of and payment for

1 health care benefits, items, and services, in violation of 18 U.S.C.  
2 § 1347;

3 c. To knowingly and willfully offer to pay and pay  
4 remuneration directly and indirectly, overtly and covertly, in cash and  
5 in kind to any person to induce such person to purchase any good for  
6 which payment may be made in whole and in part under a Federal health  
7 care program, namely, Tricare and Medicare, in violation of 42 U.S.C. §  
8 1320a-7b(b)(2)(B); and

9 d. To knowingly and with the intent to defraud, execute a  
10 material scheme to defraud and to deprive patients of the intangible  
11 right to their physicians' honest services, in violation of Title 18,  
12 United States Code, Sections 1343 and 1346.

13 PURPOSE OF THE CONSPIRACY

14 21. It was the purpose of the conspiracy for the defendants and  
15 their co-conspirators to unlawfully enrich themselves by, among other  
16 things, submitting and causing the submission of false and fraudulent  
17 claims to Medicare and Tricare, by billing for services provided by  
18 unauthorized individuals, billing for services not provided by the  
19 rendering provider, and billing for services due to meet internal quotas  
20 and not because the services were medically necessary for the treatment  
21 of the patients.

22 MANNER AND MEANS OF THE CONSPIRACY

23 22. The co-conspirators sought to accomplish the objects of the  
24 conspiracy using the following manners and means:

25 a. It was a part of the scheme that CANDELARIO and his co-  
26 conspirators told patients they offered an "integrated"  
27 approach to wellness, to convince patients to accept physical  
28 therapy, acupuncture, chiropractic, and diagnostic services

1 at RISE Wellness, in order to fraudulently bill for non-  
2 covered services provided by unauthorized individuals, and  
3 collect as much money as possible from health care benefit  
4 programs.

5 b. It was a part of the scheme that CANDELARIO and the co-  
6 conspirators specifically targeted Tricare beneficiaries as  
7 patients, despite knowing that Tricare did not cover many of  
8 the services rendered by providers at RISE Wellness, and so  
9 they also knew that the services would have to be  
10 mischaracterized in bills to Tricare.

11 c. It was a part of the scheme that the co-conspirators offered  
12 diagnostic tests to every patient, regardless of medical  
13 necessity, to increase billing and payment.

14 d. It was a part of the scheme that the co-conspirators, to  
15 increase billing and payment, fraudulently billed Medicare and  
16 Tricare for therapy services conducted by non-therapists who  
17 were unsupervised.

18 e. It was a part of the scheme that CANDELARIO demanded, and co-  
19 conspirators agreed, to meet quotas for the minimum number of  
20 diagnostic tests, purchases of Durable Medical Equipment  
21 ("DME"), massages and other services, regardless of whether  
22 specific patients needed the items and services.

23 f. It was a part of the scheme that CANDELARIO demanded, and co-  
24 conspirators agreed, to meet quotas for the minimum number of  
25 patients with specific types of insurance coverage at RISE  
26 Wellness, e.g., "60 Tricare patients per day," regardless of  
27 whether those patients needed treatments.

28

1 g. It was a part of the scheme that, to recruit and retain  
2 patients, the co-conspirators offered and paid kickbacks,  
3 incentives, and other remuneration, including free massages  
4 and waivers of co-pays, to patients to induce them to obtain  
5 more services at RISE Wellness.

6 h. It was a part of the scheme that the co-conspirators concocted  
7 generic reasons to explain why each diagnostic test should be  
8 conducted on each patient, without specific assessment of the  
9 medical needs for each patient.

10 i. It was a part of the scheme that the co-conspirators, knowing  
11 that Tricare and Medicare did not pay for acupuncture  
12 services, mischaracterized acupuncture as physical therapy in  
13 bills submitted to Tricare and Medicare.

14 j. It was a part of the scheme that the co-conspirators, knowing  
15 that Tricare did not pay for chiropractic services,  
16 mischaracterized chiropractic services as physical therapy in  
17 bills submitted to Tricare.

18 k. It was a part of the scheme that the co-conspirators, knowing  
19 that Tricare and Medicare did not pay for massages,  
20 mischaracterized massages as physical therapy in bills  
21 submitted to Tricare and Medicare.

22 l. It was a part of the conspiracy that the co-conspirators  
23 discussed using therapy Current Procedural Terminology ("CPT")  
24 codes to bill Tricare and Medicare for acupuncture,  
25 chiropractic, and massage, knowing that Tricare and Medicare  
26 would not pay if the accurate CPT codes were used.

27 m. It was a part of the conspiracy that the co-conspirators  
28 billed therapy codes to Tricare and Medicare under WARD's



1 provider number, although WARD did not render the therapy  
2 service, knowing that Tricare and Medicare would not pay if  
3 the true rendering individual were known.

4 n. It was a part of the scheme that, to avoid rules against the  
5 corporate practice of medicine, CANDELARIO hired R.M. and  
6 induced him to sign a Medical Directorship agreement providing  
7 that R.M. was the 51 percent owner of RISE Wellness, and,  
8 among other duties, that R.M. would review and approve the  
9 billing codes to be used for the procedures and services  
10 provided, even though neither CANDELARIO nor R.M. expected  
11 R.M. to do so, and R.M. did not, in fact, do so.

12 o. It was a part of the scheme that CANDELARIO used R.M.'s billing  
13 provider number, to bill for services that were not provided  
14 by R.M. nor under his supervision.

15 p. It was a part of the scheme that the co-conspirators would  
16 change the diagnostic code on a bill to make the service  
17 reimbursable, without consulting with the medical staffer who  
18 had selected the diagnosis.

19 q. It was a part of the scheme that, when R.P. did not agree that  
20 a diagnostic test or service was medically necessary,  
21 CANDELARIO diverted patients away from R.P. and instead turned  
22 to co-conspirators, including WARD, and COHEN, to generate the  
23 referral or prescription for the test.

24 r. It was part of the scheme that, to increase billing and  
25 payment, the co-conspirators would schedule as many as 50  
26 patients per day for each provider.

27 s. It was part of the scheme that CANDELARIO set billing targets  
28 for each patient of as much as \$14,000, and pushed the co-

1 conspirators and other staff at RISE Wellness to increase  
2 billing and payment to reach these targets.

3 t. It was part of the scheme that the co-conspirators would fire  
4 or marginalize staff who disagreed with CANDELARIO's efforts  
5 to prescribe, recommend, provide, or bill in a manner  
6 primarily intended to increase the billing and payment to RISE  
7 Wellness, and contrary to Medicare and Tricare rules and the  
8 medical need of the patients.

9 u. It was part of the scheme that, to increase billing and  
10 payment, the co-conspirators directed the billing staff to  
11 "pre-bill," that is, to prepare bills prior to the  
12 appointment.

13 v. It was part of the scheme that if the patient failed to show  
14 up for an appointment, co-conspirators directed staff to bill  
15 the health care benefit program for the visit, even though no  
16 visit had occurred and no service had been provided.

17 w. It was part of the scheme that co-conspirators discussed what  
18 false statements to make to law enforcement if they were  
19 questioned about the practices at RISE Medical.

20 x. It was part of the scheme that, using the mean and manners  
21 described above, and others, the co-conspirators submitted and  
22 caused to be submitted over \$23.8 million in false and  
23 fraudulent bills to Tricare, and over \$9.3 million in false  
24 and fraudulent bills to Medicare.

25 **OVERT ACTS**

26 23. In furtherance of the conspiracy and to effect and accomplish  
27 the objects thereof, the following overt acts, among others, were  
28 committed within the Southern District of California, and elsewhere:

- 1 a. In or about November 2012, CANDELARIO interviewed and hired  
2 R.M., representing that all R.M. would have to do at RISE  
3 Wellness was to supervise the PA.
- 4 b. On or about November 27, 2012, CANDELARIO and WARD met to  
5 discuss the PT department, and documented certain financial  
6 goals of the conspiracy, including "PT visit goals is for 3  
7 PT visits per week (2PT + 1 massage therapy) for all  
8 appropriate PT patients," and that the "revenue goal for PT +  
9 PT Massage patients: \$2,000,000."
- 10 c. On or about February 12, 2013, CANDELARIO discussed with staff  
11 that "Massage is one of our biggest reasons for our patient  
12 satisfaction, patient retention, and new patient recruitment  
13 . . . coupled with not offering to pay deductibles and copays,"  
14 and explained that "[f]or massage therapy, we bill as  
15 Myofascial release that can be justified per other CPT codes  
16 as well . . . ."
- 17 d. On or about October 24, 2013, CANDELARIO told the PA, "I want  
18 Joseph to start . . . testing every day on all patients who  
19 have pain and then xray...I need you at the end to sign off  
20 on each test they perform."
- 21 e. On or about April 28, 2014, when the PA expressed the concern  
22 that RISE Wellness should not be giving certain tests if they  
23 did not have the capacity to treat any resulting disorders  
24 revealed by the test, CANDELARIO overruled the PA, saying: "We  
25 can't discontinue these tests. Remember in our last meeting  
26 w/ [R.M.] we discussed this . . . . You just need to refer  
27 them . . . ."
- 28

1 f. On or about May 5, 2014 CANDELARIO sent a text message to his  
2 staff regarding the expected quota of patients with certain  
3 benefits: "Goal 8 medicare/tricare plus 8 wc [Workers'  
4 Compensation] a day let's get it."

5 g. On or about May 20, 2014, a staff member emailed CANDELARIO  
6 and others: "I currently am scheduling tricare patients for  
7 physical therapy, massage, sleep, and [R.P.] once a month as  
8 of now."

9 h. On or about June 6, 2014, CANDELARIO instructed a staff member,  
10 "Joseph I need you to do 5 axonii [diagnostic tests] a day no  
11 matter what for now on."

12 i. On or about June 6, 2014, CANDELARIO sent a text message  
13 instructing the billers as follows: "I also want the  
14 cancelations and reschedule and missed appointments billed and  
15 caught up."

16 j. On or about June 12, 2014, CANDELARIO sent an email instructing  
17 a biller to falsely "bill massage under [R.P.] . . . Bill  
18 chiro under medicare cohen. Bill tricare chiro under james  
19 [WARD]."

20 k. On or about June 23, 2014, CANDELARIO, WARD, and COHEN billed  
21 and caused to be billed to Tricare under WARD's billing number  
22 services rendered that day by COHEN and other unauthorized  
23 individuals, misrepresenting the services as physical therapy,  
24 in order to induce Tricare to pay.

25 l. On or about July 7, 2014, CANDELARIO texted, "OK team you are  
26 receiving 2 new diagnostic testing devices this month. I need  
27 20 patients to be tested on each one this month no matter What  
28 [sic]."

1 m. On or about July 22, 2014, CANDELARIO texted his staff, "The  
2 ultrasound osteoporosis diagnostic machine will be arriving  
3 this week. Please refer all women over age of 40 for this test  
4 then for therapy on the vibration plate."

5 n. In or about July 2014, WARD and CANDELARIO signed letters  
6 informing patients about RISE Wellness' "no fault system" of  
7 scheduling appointments, which included the notification that  
8 RISE Wellness would "[bill] the original visit. . . to offset  
9 the reserved time that we put aside for your care."

10 o. On or about August 18, 2014, CANDELARIO directed that an  
11 employee "have the rubber stamp signatures scanned and  
12 emailed," and attached a scan of R.M.'s signature.

13 p. On or about September 4, 2014, CANDELARIO and WARD billed and  
14 caused to be billed to Tricare and Medicare under WARD's  
15 billing number services rendered that day by unsupervised and  
16 unauthorized individuals, misrepresenting the services as  
17 physical therapy, in order to induce payment from those  
18 benefit programs.

19 q. No later than September 4, 2014, the main page on the website  
20 for RISE Wellness (<http://risewellnesscenter.com>) featured a  
21 photograph of an individual in a military uniform, saluting,  
22 with the message, "Supporting spinal health . . . You've only  
23 got one spine. Take great care of it with supportive  
24 chiropractic care," even though Tricare, the DoD health care  
25 program for uniformed service members, did not cover  
26 chiropractic treatment.

27 r. On or about October 23, 2014, CANDELARIO and WARD billed and  
28 caused to be billed to Tricare and Medicare under WARD's

1 billing number services rendered that day by unsupervised and  
2 unauthorized individuals, misrepresenting the services as  
3 physical therapy, in order to induce payment from those  
4 benefit programs.

5 s. On or about January 6, 2015, COHEN informed CANDELARIO about  
6 how "[I] pluck people out of the lobby. . . [that] I've never  
7 seen, establishing rapport, educating them about us and our  
8 goal for them."

9 t. On or about February 27, 2015, CANDELARIO instructed the X-  
10 ray technician, "The goal is that we need . . .to exceed the  
11 average total of 2 body parts for xrays and 3 dx [diagnostic]  
12 texts [sic] for our patient population. . . .Then for each  
13 patient mark in your spreadsheet what missing xray or dx test  
14 you will perform so that each patient fulfills the  
15 requirement."

16 u. On or about March 3, 2015, COHEN instructed a fellow  
17 chiropractor at RISE Wellness to misrepresent her chiropractic  
18 services by using therapy CPT codes, explaining, "Tricare uses  
19 a maximum of 3 cpt codes: use 97140 for Chiro, not 989 codes  
20 ever," even though the 989 codes accurately described the  
21 chiropractic service provided, in order to induce Tricare to  
22 pay for the non-covered chiropractic treatment.

23 v. On or about March 9, 2015, CANDELARIO wrote, about late  
24 reimbursements, that "the only solution is to start billing  
25 the missed appointments like i asked following the system."

26 w. On or about April 1, 2015, CANDELARIO, WARD, COHEN and LIM  
27 billed and caused to be billed to Tricare under WARD's billing  
28 number services rendered that day by COHEN and LIM and other

1 unauthorized individuals, misrepresenting the services as  
2 physical therapy, in order to induce Tricare to pay.

3 x. On or about April 3, 2015, CANDELARIO emailed the X-ray  
4 technician, "Just remember in the dx tests the total of them  
5 all must net out at 2k. You will have to add an additional 1  
6 or 2 dx tests to meet this goal. Xray net goal \$800."

7 y. On or about June 4, 2015, CANDELARIO and WARD billed and caused  
8 to be billed to Tricare under WARD's billing number services  
9 rendered by unsupervised and unauthorized individuals,  
10 misrepresenting the services as physical therapy, in order to  
11 induce Tricare to pay.

12 z. On June 11, 2015, CANDELARIO observed certain "front desk  
13 issues" including: "No[one] has called any patients to fill  
14 empty slots in provider schedules or grab patients in lobbies  
15 to put into provider schedules."

16 aa. On or about July 15, 2015, COHEN emailed CANDELARIO reminding  
17 him that COHEN had trained other chiropractors on how to  
18 prepare their notes, and complained that another chiropractor  
19 only treated 12 patients in a day, while COHEN saw over 40.

20 bb. On or about July 15, 2015, COHEN complained to CANDELARIO,  
21 "I'm charged with seeing 50 people per day. If I don't go  
22 into the lobby and pull patients and tell the girls to add  
23 them to my schedule, then I won't hit that number . . . ."

24 cc. On or about July 29, 2015, CANDELARIO sent a link to billing  
25 employees, ordering, "Read this so that you understand that  
26 xpress claims will allow us to bill on the spot before service  
27 is performed and print out a patient summary receipt . . . If  
28 you do it right we get paid from 24 hours to less than 5 days.

1 Have every[one] read this so no one can say Dr. Jose trained  
2 me wrong."

3 dd. On or about October 1, 2015, CANDELARIO instructed that the  
4 chiropractors were "not allowed to treat" patients unless they  
5 first prescribed X-rays and three other diagnostic tests, plus  
6 DME.

7 ee. On or about October 1, 2015, COHEN promised CANDELARIO,  
8 "you'll get all the referrals you want. I'll put those  
9 referrals in the notes . . . So get ready, I'm going to bring  
10 every patient to you."

11 ff. On or about October 13, 2015, CANDELARIO stated: "From now on  
12 all patients will be charged for their copays . . . in return  
13 they will receive complimentary services such as one hour  
14 massages, chiropractic adjustments, [or] acupuncture."

15 gg. On or about October 17, 2015, when interviewing new PTs to  
16 hire, WARD suggested rejecting one candidate because she was  
17 too "by the book," explaining that "[m]ost PT's like this  
18 would think that our treatment model is illegal and fraud  
19 (Just like the last PT we interviewed did). We need to stay  
20 away from PT's who are going to speed dial the [PT Board]."

21 hh. On October 19, 2015, CANDELARIO ordered, "Do not give patients  
22 [to R.P.] anymore have them go to [COHEN] first."

23 ii. On or about October 19, 2015, CANDELARIO informed COHEN, "I  
24 am finding it very difficult what needs we have [to retain the  
25 PA] moving forward."

26 jj. On or about October 21, 2015, CANDELARIO sent a text message  
27 to staff saying, "I'll say it again. . . Because a lot of what  
28 we do as chiropractors we can't bill on our own so I collected



1 professions that can bill for it under one roof to give the  
2 patient better results and the business a better chance of  
3 survival."

4 kk. On or about October 30, 2015, CANDELARIO, WARD, and COHEN  
5 fired R.P., who had resisted CANDELARIO's directions on  
6 billing and treatment.

7 ll. On or about November 2, 2015, CANDELARIO reminded WARD and LIM  
8 that "Jocelyn knows the quotas for each department and what  
9 they need to produce a day . . . These departments depend on  
10 [you] the Doctors in the clinic to refer to them daily."

11 mm. On or about March 17, 2016, staff meeting notes were emailed  
12 to CANDELARIO, WARD, and LIM regarding a meeting that took  
13 place on March 16, including the following entry for Chiro:  
14 "Billing units 2-2-1 across the board for Tricare, Tricare for  
15 life, Medicare, VA," referencing the set of therapy CPT codes  
16 that were used to bill chiropractic treatment to Tricare,  
17 which did not cover chiropractic treatments.

18 nn. On or about April 11, 2016, CANDELARIO told WARD, LIM, and  
19 others that he wanted all departments "[t]o be PRE scheduled  
20 starting tomorrow . . . with the minimum requirements for that  
21 day and going forward. . . . Bottom line every department must  
22 have a schedule of appointments that are filled for each day  
23 PRE pared," and noting that he would meet with WARD the  
24 following day to review each department.

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

26 //

27 //

28 //

1 Counts 2-23

2 **HEALTH CARE FRAUD (18 U.S.C. §§ 1347 AND 2)**

3 [CANDELARIO, WARD, COHEN, LIM]

4 24. Paragraphs 1 through 18 of the Introductory Allegations of  
5 this Indictment are realleged and incorporated by reference.

6 25. Beginning on a date unknown and continuing up to and including  
7 at least July 2016, within the Southern District of California and  
8 elsewhere, defendants JOSERODEL ZAVALA CANDELARIO, (CANDELARIO), JAMES  
9 WARD, JR., (WARD), ROBERT COHEN, (COHEN), and ANTONY Y. LIM, (LIM), in  
10 connection with the delivery of and payment for health care benefits,  
11 items, and services, knowingly and willfully devised and intended to  
12 devise a material scheme and artifice to defraud healthcare benefit  
13 programs, that is, Tricare and Medicare, and to obtain money from  
14 Tricare and Medicare by means of materially false and fraudulent  
15 pretenses, representations, promises, and omissions and concealment of  
16 material facts.

17 THE SCHEME TO DEFRAUD

18 26. The fraudulent scheme operated, in substance, in the manner  
19 described in Paragraphs 22-23 of this Indictment, which are realleged  
20 and incorporated by reference as though fully set forth herein.

21 ACTS IN EXECUTION OF THE SCHEME

22 27. On about the dates set forth below, within the Southern  
23 District of California and elsewhere, the referenced defendants and  
24 others knowingly and willfully executed the scheme to defraud described  
25 above, by submitting and causing to be submitted to the referenced health  
26 care benefit program, the following false and fraudulent claims for  
27 reimbursement for medical testing and services, each containing the  
28 false and fraudulent representation that WARD had rendered the services:

Count	Date	Defendant	Insurer	Patient	Claim Amount
2	6/23/14	CANDELARIO WARD COHEN	TRICARE	Carlos A.	\$610.00
3	6/23/14	CANDELARIO WARD COHEN	TRICARE	Jeannie A.	\$550.00
4	6/23/14	CANDELARIO WARD COHEN	TRICARE	Palar C.	\$670.00
5	6/23/14	CANDELARIO WARD COHEN	TRICARE	Jimmy D.	\$660.00
6	6/23/14	CANDELARIO WARD COHEN	TRICARE	Carmelita F.	\$610.00
7	9/4/14	CANDELARIO WARD	TRICARE	Dina A.	\$440.00
8	9/4/14	CANDELARIO WARD	MEDICARE	Virginia C.	\$300.00
9	9/4/14	CANDELARIO WARD	MEDICARE	Jose G.	\$240.00
10	10/23/14	CANDELARIO WARD	TRICARE	Herminia L.	\$430.00
11	10/23/14	CANDELARIO WARD	TRICARE	Nestor C.	\$430.00
12	10/23/14	CANDELARIO WARD	MEDICARE	Jose G.	\$120.00
13	10/23/14	CANDELARIO WARD	MEDICARE	Shirley T.	\$430.00
14	1/23/15	CANDELARIO WARD COHEN	TRICARE	Myron P.	\$560.00
15	3/13/15	CANDELARIO WARD COHEN LIM	TRICARE	Reynaldo B.	\$720.00
16	3/13/15	CANDELARIO WARD COHEN LIM	TRICARE	Merly C.	\$750.00
17	3/13/15	CANDELARIO WARD COHEN	TRICARE	Marirose A.	\$620.00

Count	Date	Defendant	Insurer	Patient	Claim Amount
18	4/1/15	CANDELARIO WARD LIM	TRICARE	Weldon R.	\$690.00
19	6/4/15	CANDELARIO WARD	TRICARE	Maria C.	\$400.00
20	6/4/15	CANDELARIO WARD	TRICARE	Henry A.	\$360.00
21	6/4/15	CANDELARIO WARD	TRICARE	Suntly L.	\$280.00
22	6/4/15	CANDELARIO WARD	MEDICARE	Nenita N.	\$490.00

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

Counts 24-33

**Payment of Illegal Remuneration (42 U.S.C. § 1320a-7b(b)(2))**

[CANDELARIO]

28. Paragraphs 1 through 18 of the Introductory Allegations of this Indictment are realleged and incorporated by reference.

29. On or about the dates below, in the Southern District of California, defendant JOSERODEL ZAVALA CANDELARIO, did knowingly and willfully offer to pay and did pay remuneration directly and indirectly, overtly and covertly, in cash and in kind to Meriam Reyes (charged elsewhere), to induce her to refer individuals to RISE Wellness and CANDELARIO for the furnishing and arranging for the furnishing of benefits, items, and services, payment for which was made in whole and in part under a federal health care program, namely, TRICARE, each payment constituting a separate count:

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Count	Date	Check No.	Amount
	6/5/13	318	\$1,000.00
	11/19/13	1040	\$1,100.00
	12/23/13	1126	\$1,350.00
	2/6/14	1505	\$1,500.00
	3/25/14	1595	\$1,500.00
	5/1/14	1655	\$1,500.00
	6/4/14	1721	\$1,500.00
	7/25/14	1801	\$1,500.00
	2/23/15	1272	\$1,500.00
	4/6/15	1331	\$1,500.00
	5/1/15	1362	\$1,500.00
	6/24/15	1450	\$1,500.00
	8/4/15	1583	\$1,500.00

All in violation of Title 42, United States Code, Section 1320a-7b(b) (2).

CRIMINAL FORFEITURE

30. Paragraphs 1 through 29 of this Indictment are realleged and incorporated as if fully set forth herein for the purpose of alleging forfeiture.

31. Upon conviction of the offenses in Counts 1 through 33, defendants JOSERODEL ZAVALA CANDELARIO, JAMES WARD, JR., ROBERT COHEN, and ANTONY Y. LIM, pursuant to Title 18, United States Code, Section 982(a) (7), shall forfeit to the United States all property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offenses. The property to be forfeited includes, but is not limited to:

- i. the real property located at 3231 Waring Court, Suite N, Oceanside, California, 92056, legally described as:

Assessor's Parcel No. 166-560-23-48  
 Real property in the City of Oceanside, County of San Diego, State of California, described as follows:  
 A CONDOMINIUM COMPRISED OF:

1 PARCEL 1:

2 AN UNDIVIDED 1.254% INTEREST IN AND TO PARCELS 1,2 AND 3, IN THE  
3 CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CLIFORNIA, AS SHOWN  
ON PARCEL MAP NO. 12486, FILED IN THE OFFICE OF THE COUNTY RECORDER  
OF SAN DIEGO COUNTY, DECEMBER 20, 1982.

4 EXCEPTING THEREFROM THE FOLLOWING;

5 UNITS 1 THROUGH 52, INCLUSIVE, AS SHOWN AND DEFINED UPON SUPERSEDING  
6 CONDOMINIUM PLAN OF TRI-CITY MEDICAL PARK, RECORDED MAY 1, 1987 AS  
INSTRUMENT NO. 87-240089 OF OFFICIAL RECORDS, SAN DIEGO COUNTY,  
CALIFORNIA.

7 ALSO EXCEPTING THEREFROM ONE-HALF OF ALL OIL, GAS AND MINERALS WHICH  
8 MAY BE REMOVED FRON UNDER OR TAKEN AWAY FROM SAID LAND IN ANY  
9 FASHION LYING WITHIN LOTS 2 AND 3 OF TRI-CITY MEDICAL PARK, IN THE  
10 CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA,  
11 ACCORDING TO MAP THEREOF NO.6122, FILED IN THE OFFICE OF THE COUNTY  
12 RECORDER ON JUNE 10, 1968. DISTRICT SHALL HAVE NO RIGHT TO RE-ENTER  
THE PREMISES IN CONNECTION WITH THIS GRANT AND IT SHALL NOT HAVE  
ANY RIGHT TO RDEMAND OR INSIST UPON OR IN ANY WAY REQUIRE THE  
REMOVAL OF SAID SUBSTANCES. IT SHALL BE ENTITLED ONLY TO ONE-HALF  
OF SAID OIL, GAS AND MINERALS AFTER THEY HAVE BEEN REMOVED FROM  
SAID PREMISES, AS RESERVED BY VISTA IRRIGATION DISTRICT IN DEED  
RECORDED OCTOBER 8, 1968 AS ISNTRUMENT NO. 175483 OF OFFICIAL  
RECORDS.

13 PARCEL 2:

14 UNIT NO. 48 AS SHOWN UPON SAID CONDOMINIUM PLAN ABOVE REFERRED TO.

15 Owner of Record: Rise Investments, LLC, a Wyoming  
16 Limited Liability Company, and

17 ii. A money judgment equal to the amount of gross proceeds  
18 traceable to the commission of the offenses.

19 32. If any of the above described forfeitable property, as a result  
of any act or omission of defendants:

20 (a) cannot be located upon the exercise of due diligence;

21 (b) has been transferred or sold to, or deposited with, a  
22 third party;

23 (c) has been placed beyond the jurisdiction of the Court;

24 (d) has been substantially diminished in value; or

25 (e) has been commingled with other property which cannot be  
26 divided without difficulty;

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1 it is the intent of the United States, pursuant to Title 18, United  
2 States Code, Section 982(b) and Title 28, United States Code,  
3 Section 2461(c), to seek forfeiture of any other property of defendants  
4 up to the value of the forfeitable property described above.

5 All pursuant to Title 18, United States Code, Section 982(a)(7),  
6 Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United  
7 States Code, Section 2461(c).

8 DATED: June 27, 2018.

9 A TRUE BILL:  
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12 ADAM L. BRAVERMAN  
13 United States Attorney

14 By:   
15 VALERIE H. CHU  
16 Assistant U.S. Attorney  
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