

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **17-20453**

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 1956(h)
18 U.S.C. § 1956(a)(1)(B)(i)
18 U.S.C. § 2
18 U.S.C. § 982(a)(7)

OR-MD-135

MAGISTRATE
TURNOFF

TB
JUN 29 2017
STEPHEN J. LARSON
CLERK OF COURT
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

vs.

YARA SUAREZ,
JESUS SANCHEZ,
ANTHONY MOYA, and
YOEL CONCEPCION,

Defendants.

_____ /

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).

Medicare Drug Plan Sponsors

8. CIGNA, Humana, Aetna, CVS Caremark ("CVS") and UnitedHealth Group ("UnitedHealth"), among others, were Medicare drug plan sponsors.

The Defendants, Related Entities and Individuals

9. Albe Pharmacy, Inc. ("Albe Pharmacy") was a Florida corporation that did business in Miami-Dade County, with a principal place of business of 161 NW 29th Street, Miami, Florida. Albe Pharmacy purported to provide prescription drugs to Medicare beneficiaries.

10. Defendant **YARA SUAREZ**, a resident of Miami-Dade County, was an owner and the president and sole registered agent of Albe Pharmacy.

11. Defendant **JESUS SANCHEZ**, a resident of Miami-Dade County, was an owner and the vice-president of Albe Pharmacy.

12. Kohly General Services, Corp. ("Kohly General Services") was a Florida corporation that purported to do business in Miami-Dade County, with a principal place of business of 7815 SW 152 Avenue, Miami, Florida.

13. Defendant **ANTHONY MOYA**, a resident of Miami-Dade County, was the owner, incorporator, president and sole registered agent of Kohly General Services.

14. Conly Inc. was a Florida corporation that purported to do business in Miami-Dade County, with a principal place of business of 9412 SW 36 Street, Miami, Florida.

15. Wandlost Inc. was a Florida corporation that purported to do business in Miami-Dade County, with a principal place of business of 9412 SW 36 Street, Miami, Florida.

16. Defendant **YOEL CONCEPCION**, a resident of Miami-Dade County, was the owner, incorporator, president and sole registered agent of Conly Inc. and Wandlost Inc.

COUNT 1
Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)

1. Paragraphs 1 through 11 of the General Allegations in this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around at least August of 2011, through in or around June of 2014, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

YARA SUAREZ
and
JESUS SANCHEZ,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with each other and others known and unknown to the Grand Jury, to commit offenses against the United States, that is:

a. to knowingly and willfully 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), that is, Medicare, CIGNA, Humana, Aetna, CVS, and UnitedHealth, 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, in violation of Title 18, United States Code, Section 1347; and

b. to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce, certain writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

3. It was the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to health care benefit programs; (b) concealing the submission of false and fraudulent claims to health care benefit programs; and (c) diverting fraud proceeds for the personal use and benefit of themselves and others.

Manner and Means of the Conspiracy

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

4. **YARA SUAREZ, JESUS SANCHEZ**, and other co-conspirators submitted and caused the submission of claims, via interstate wire transmissions, that falsely and fraudulently represented various health care benefits, primarily prescription drugs, were medically necessary, prescribed by a doctor, and provided to Medicare beneficiaries by Albe Pharmacy.

5. As a result of such false and fraudulent claims, Medicare prescription drug plan sponsors, through their PBMs, made approximately \$3.4 million in overpayments funded by the Medicare Part D Program to Albe Pharmacy.

6. **YARA SUAREZ, JESUS SANCHEZ**, and other co-conspirators used the proceeds from the false and fraudulent Medicare Part D claims for their own use, the use of others, and to further the fraud.

All in violation of Title 18, United States Code, Section 1349.

COUNT 2
Health Care Fraud
(18 U.S.C. § 1347)

1. Paragraphs 1 through 11 of the General Allegations in this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around at least August of 2011, through in or around June of 2014, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

YARA SUAREZ
and
JESUS SANCHEZ,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully, execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce as defined by Title 18, United States Code, Section 24(b), that is, Medicare, CIGNA, Humana, Aetna, CVS, and UnitedHealth, 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.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendants and their accomplices to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to health care benefit programs; (b) concealing the submission of false and fraudulent claims to health care benefit programs; (c) concealing the

receipt and transfer of fraud proceeds; and (d) diverting fraud proceeds for the personal use and benefit of themselves and others.

The Scheme and Artifice

4. The allegations contained in paragraphs 4 through 6 of the Manner and Means section of Count 1 of the Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution or Attempted Execution of the Scheme and Artifice

5. On or about the date set forth below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **YARA SUAREZ** and **JESUS SANCHEZ**, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, CIGNA, Humana, Aetna, CVS, and UnitedHealth, 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 that the defendant submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Albe Pharmacy provided pharmaceutical items and services to Medicare beneficiaries pursuant to physicians’ orders and prescriptions:

Count	Medicare Beneficiary	Approx. Date of Service	Medicare Claim Number	Medicare Drug Plan Sponsor	Item Claimed; Approx. Amount Claimed
2	M.H.	7/23/2012	1220550373761489989098	CVS	Restasis EMU .05%; \$288

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

COUNT 3

**Conspiracy to Commit Money Laundering
(18 U.S.C. § 1956(h))**

From in or around at least August of 2011, through in or around June of 2014, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**YARA SUAREZ,
JESUS SANCHEZ,
ANTHONY MOYA, and
YOEL CONCEPCION,**

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate, and agree with each other and with others, known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1956(a)(1)(B)(i), that is, to knowingly conduct a financial transaction affecting interstate and foreign commerce involving the proceeds of specified unlawful activity, knowing that the property involved in such financial transaction represented the proceeds of some form of unlawful activity, and knowing that such financial transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity.

It is further alleged that the specified unlawful activity is health care fraud, in violation of Title 18, United States Code, Section 1347, and wire fraud, in violation of Title 18, United States Code, Section 1343.

All in violation of Title 18, United States Code, Section 1956(h).

**COUNTS 4-11
Money Laundering
(18 U.S.C. § 1956(a)(1)(B)(i))**

On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants, identified in each count, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, which

financial transaction involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that such transaction was designed in whole and in part, to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of specified unlawful activity, as set forth below:

Count	Defendant	Approximate Date of Transaction	Description of Financial Transaction
4	ANTHONY MOYA	10/9/2012	Deposit of check no. 1771, in the approximate amount of \$3,620, drawn on Albe Pharmacy's bank account at Wells Fargo ending 7525, into Kholy General Service's bank account at Wells Fargo ending 1964
5	ANTHONY MOYA	10/10/2012	Withdrawal of approximately \$3,260 in cash from Kholy General Service's bank account at Wells Fargo ending 1964
6	ANTHONY MOYA	10/23/2012	Deposit of check no. 1825, in the approximate amount of \$3,380, drawn on Albe Pharmacy's bank account at Wells Fargo ending 7525, into Kholy General Service's bank account at Wells Fargo ending 1964
7	ANTHONY MOYA	10/30/2012	Withdrawal of approximately \$3,000 in cash from Kholy General Service's bank account at Wells Fargo ending 1964
8	YOEL CONCEPCION	11/15/2012	Deposit of check no. 1895, in the approximate amount of \$3,840, drawn on Albe Pharmacy's bank account at Wells Fargo ending 7525, into Conly Inc.'s bank account at Wells Fargo ending 9923
9	YOEL CONCEPCION	11/19/2012	Withdrawal of approximately \$3,500 in cash from Conly Inc.'s bank account at Wells Fargo ending 9923
10	YOEL CONCEPCION	11/26/2012	Deposit of check no. 1936, in the approximate amount of \$3,920, drawn on Albe Pharmacy's bank account at Wells Fargo ending 7525, into Conly Inc.'s bank account at Wells Fargo ending 9923

Count	Defendant	Approximate Date of Transaction	Description of Financial Transaction
11	YOEL CONCEPCION	11/27/2012	Withdrawal of approximately \$3,520 in cash from Conly Inc.'s bank account at Wells Fargo ending 9923

It is further alleged that the specified unlawful activity is health care fraud, in violation of Title 18, United States Code, Section 1347, and wire fraud, in violation of Title 18, United States Code, Section 1343.

In violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

FORFEITURE
(18 U.S.C. § 982(a)(7))

1. The allegations in this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States certain property in which defendants **YARA SUAREZ, JESUS SANCHEZ, ANTHONY MOYA,** and **YOEL CONCEPCION** have an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1349, as alleged in Counts 1 through 5 of this Indictment, defendants **YARA SUAREZ** and **JESUS SANCHEZ** 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).

3. Upon conviction of a violation of Title 18, United States Code, Section 1956(h) and (a)(1)(B)(i), as alleged in Counts 6 through 13 of this Indictment, defendants **YARA SUAREZ, JESUS SANCHEZ, ANTHONY MOYA,** and **YOEL CONCEPCION** shall each forfeit to the United States any property, real or personal, that is involved in the offense, or any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. The property subject to forfeiture includes, but is not limited to, approximately \$3.4 million in U.S. currency, which the United States may seek as a forfeiture money judgment.

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

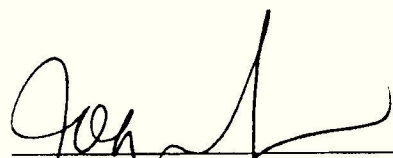
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be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

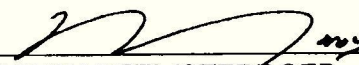
the United States shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

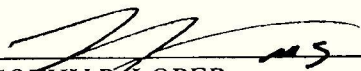
All pursuant to Title 18, United States Code, Section 982(a)(1) and 982(a)(7), Title 31, United States Code, Section 5317(c), and the procedures set forth in Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON


BENJAMIN G. GREENBERG
ACTING UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA


JOSEPH BEEMSTERBOER
DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE


TIMOTHY P. LOPER
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

17-20453

UNITED STATES OF AMERICA

CASE NO.

v.

CERTIFICATE OF TRIAL ATTORNEY **CR-MORENO**

YARA SUAREZ,
JESUS SANCHEZ,
ANTHONY MOYA, and
YOEL CONCEPCION,

Defendants.

_____ /

Superseding Case Information:

Court Division: (Select One)

X Miami _____ Key West
_____ FTL _____ WPB _____ FTP

New Defendant(s) Yes _____ No _____
Number of New Defendants _____
Total number of counts _____

MAGISTRATE
TURNOFF

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) Yes _____
List language and/or dialect Spanish
- This case will take 7-10 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I	0 to 5 days	_____	Petty	_____
II	6 to 10 days	<u> X </u>	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u> X </u>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge: _____

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter?

(Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes _____ No X

8. Does this case originate from a matter pending in the Central Region of the U. S. Attorney's Office prior to September 1, 2007? Yes _____ No X

TIMOTHY P. LOPER
DOJ TRIAL ATTORNEY
Court ID No. A5502016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: YARA SUAREZ

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud and Wire Fraud

Title 18, United States Code, Section 1349

***Max Penalty:** Ten (10) years' imprisonment

Count #: 2

Health Care Fraud

Title 18, United States Code, Section 1347

***Max Penalty:** Ten (10) years' imprisonment as to each count

Count #: 3

Conspiracy to Commit Money Laundering

Title 18, United States Code, Section 1956(h)

***Max Penalty:** Twenty (20) years' imprisonment

Count #:

***Max Penalty:** _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: JESUS SANCHEZ

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud and Wire Fraud

Title 18, United States Code, Section 1349

***Max Penalty:** Ten (10) years' imprisonment

Count #: 2

Health Care Fraud

Title 18, United States Code, Section 1347

***Max Penalty:** Ten (10) years' imprisonment as to each count

Count #: 3

Conspiracy to Commit Money Laundering

Title 18, United States Code, Section 1956(h)

***Max Penalty:** Twenty (20) years' imprisonment

Count #:

***Max Penalty:** _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: ANTHONY MOYA

Case No: _____

Count #: 3

Conspiracy to Commit Money Laundering

Title 18, United States Code, Section 1956(h)

*Max Penalty: Twenty (20) years' imprisonment

Counts #: 4 – 7

Money Laundering

Title 18, United States Code, Section 1956(a)(1)(B)(i)

*Max Penalty: Twenty (20) years' imprisonment as to each count

Count #:

*Max Penalty: _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

PENALTY SHEET

Defendant's Name: YOEL CONCEPCION

Case No: _____

Count #: 3

Conspiracy to Commit Money Laundering

Title 18, United States Code, Section 1956(h)

***Max Penalty:** Twenty (20) years' imprisonment

Counts #: 8 - 11

Money Laundering

Title 18, United States Code, Section 1956(a)(1)(B)(i)

***Max Penalty:** Twenty (20) years' imprisonment as to each count

Count #:

***Max Penalty:** _____

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**