

**U.S. District Court
Southern District of Florida (Miami)
CRIMINAL DOCKET FOR CASE #: 1:11-cr-20587-JAL-4**

Case title: USA v. Macli et al

Date Filed: 08/25/2011

Assigned to: Judge Joan A. Lenard

Defendant (4)

Gary Kushner

97276-004

YOB: 1940 LANGUAGE: ENGLISH

represented by **David B. Rothman**

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ATTORNEY TO BE NOTICED

Designation: Temporary

Pending Counts

18:1349.F CONSPIRACY TO COMMIT
HEALTH CARE FRAUD

(1)

18:1347.F HEALTH CARE FRAUD

(2)

18:1347.F HEALTH CARE FRAUD

(12)

Disposition

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/25/2011	<u>1</u>	MOTION to Seal by USA as to Antonio Macli, Jorge Macli, Sandra Huarte, Gary Kushner, Carmen Mercado, Rafael Alalu, Barbara Morales, Debora De Jesus, Gala Myriam Onofre, Thomas Hamer, Wilson Arteaga, Jacqueline Moran, Wyatt Barnfield, III, Derek Alexander, Anthony Roberts, Gregory Murphy, Larry Word, James Wynn, Robert Revels, Curtis Gates, Biscayne Milieu Health Center, Inc.. Responses due by 9/12/2011 (gm1) (Entered: 08/26/2011)
08/25/2011	<u>2</u>	INDICTMENT as to Antonio Macli (1) count(s) 1, 2-13, 14, 15-25, 35, 36-42, 43-49, Jorge Macli (2) count(s) 1, 2-13, 14, 15-25, 35, 37-38, 40, 42, 44-45, 47, 49, Sandra Huarte (3) count(s) 1, 2-13, 14, 35, 36, 39, 43, 46, Gary Kushner (4) count(s) 1, 2, 12, Carmen Mercado (5) count(s) 1, 4-7, 10-11, Rafael Alalu (6) count(s) 1, 3, 8-10, 12, Barbara Morales (7) count(s) 1, 13, Debora De Jesus (8) count(s) 1, Gala Myriam Onofre (9) count(s) 1, 6, 11, Thomas Hamer (10) count(s) 1, 8-9, 11, Wilson Arteaga (11) count(s) 1, 14, 27, Jacqueline Moran (12) count(s) 1, 4-5, 10-11, Wyatt Barnfield, III (13) count(s) 14, 29, Derek Alexander (14) count(s) 14, 30, Anthony Roberts (15) count(s) 14, 33, Gregory Murphy (16) count(s) 14, 28, Larry Word (17) count(s) 14, 32, James Wynn (18) count(s) 14, 31, Robert Revels (19) count(s) 14, 34, Curtis Gates (20) count(s) 14, 26, Biscayne Milieu Health Center, Inc. (21) count(s) 1, 2-13, 14 AND FORFEITURE. (gm1) (Entered: 08/26/2011)
08/25/2011	<u>3</u>	ORDER granting <u>1</u> Motion to Seal as to Antonio Macli (1), Jorge Macli (2), Sandra Huarte (3), Gary Kushner (4), Carmen Mercado (5), Rafael Alalu (6), Barbara Morales (7), Debora De Jesus (8), Gala Myriam Onofre (9), Thomas Hamer (10), Wilson Arteaga (11), Jacqueline Moran (12), Wyatt Barnfield III (13), Derek Alexander (14), Anthony Roberts (15), Gregory Murphy (16), Larry Word (17), James Wynn (18),

		Robert Revels (19), Curtis Gates (20), Biscayne Milieu Health Center, Inc. (21). Signed by Ch. Magistrate Judge Stephen T. Brown on 8/25/2011. (gm1) (Entered: 08/26/2011)
09/06/2011	24	Order to Unseal as to Antonio Macli, Jorge Macli, Sandra Huarte, Gary Kushner, Carmen Mercado, Rafael Alalu, Barbara Morales, Debora De Jesus, Gala Myriam Onofre, Thomas Hamer, Wilson Arteaga, Jacqueline Moran, Wyatt Barnfield, III, Derek Alexander, Anthony Roberts, Gregory Murphy, Larry Word, James Wynn, Robert Revels, Curtis Gates, Biscayne Milieu Health Center, Inc.. Signed by Magistrate Judge Peter R. Palermo on 9/6/2011.(gm1) (Entered: 09/07/2011)
09/06/2011	31	Minute Order for proceedings held before Magistrate Judge Peter R. Palermo: Initial Appearance held on 9/6/2011. Bond Hearing Held. Special Conditions: a. Surrender all passports and travel documents to the Pretrial Services Office; b. Report to Pretrial Services as directed; q. Comply with additional conditions of bond-No employment in health care field. Bond as to Gary Kushner (4) \$500,000 CSB w/ Nebbia. Arraignment set for 9/12/2011 10:00 AM in Miami Division before Duty Magistrate. Report Re: Counsel Hearing set for 9/12/2011 10:00 AM in Miami Division before Duty Magistrate. Appointment of Attorney David B. Rothman for Gary Kushner. Jeanne Melendez appearing for David Rothman. Notice of Temporary Appearance filed in open court. (Digital 15:37:42.). Signed by Magistrate Judge Peter R. Palermo on 9/6/2011. (mno) (Entered: 09/07/2011)
09/06/2011	32	NOTICE OF TEMPORARY ATTORNEY APPEARANCE: David B. Rothman appearing for Gary Kushner (mno) (Entered: 09/07/2011)
09/06/2011		Arrest of Gary Kushner (mno) (Entered: 09/07/2011)
09/06/2011	62	Report Commencing Criminal Action as to Gary Kushner - YOB: **/**/1940 Prisoner #: 97276-004 (mno) (Entered: 09/07/2011)
09/08/2011	87	NOTICE OF TEMPORARY ATTORNEY APPEARANCE: David B. Rothman appearing for Gary Kushner (tas) (Entered: 09/09/2011)
09/09/2011	85	NEBBIA PROFFER by Gary Kushner (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Rothman, David) (Entered: 09/09/2011)

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09/11/2011 10:46:33			
PACER Login:	zm0147	Client Code:	
Description:	Docket Report	Search Criteria:	1:11-cr-20587-JAL
Billable Pages:	2	Cost:	0.16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **11-20587 CR-LENARD**

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(2)
42 U.S.C. § 1320a-7b(b)(1)
18 U.S.C. § 1956(h)
18 U.S.C. § 1957
18 U.S.C. § 1956(a)(1)(B)(i)
18 U.S.C. § 982
18 U.S.C. § 2

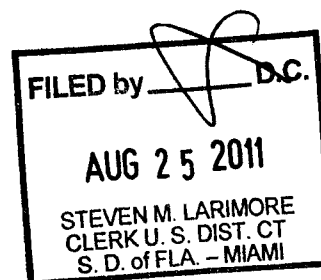
MAGISTRATE JUDGE
O'SULLIVAN

Sealed

UNITED STATES OF AMERICA

vs.

**ANTONIO MACLI,
JORGE MACLI,
SANDRA HUARTE,
GARY KUSHNER,
CARMEN MERCADO,
RAFAEL ALALU,
BARBARA MORALES,
DEBORA DE JESUS,
GALA MYRIAM ONOFRE,
a/k/a Consuelo Onofre
THOMAS HAMER,
WILSON ARTEAGA,
a/k/a Wilson Artiaga,
JACQUELINE MORAN,
WYATT BARNFIELD, III,
DEREK ALEXANDER,
ANTHONY ROBERTS,
GREGORY MURPHY,
LARRY WORD,
JAMES WYNN,
a/k/a Riley Wynn,
ROBERT REVELS,
CURTIS GATES, and**



BISCAYNE MILIEU HEALTH CENTER, INC.,

Defendants.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment,

1. The Medicare Program ("Medicare") was a health care program providing benefits to persons who were over the age of sixty-five or disabled. Medicare is administered by the Centers for Medicare and Medicaid Services ("CMS"), an agency under the United States Department of Health and Human Services. Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries." Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b) and a "Federal health care program," as defined by Title 42, United States Code, Section 1320a-7b(f) .

2. Part B of the Medicare program covered the reimbursement for partial hospitalization programs ("PHPs") connected with the treatment of mental illness. The treatment program of PHPs closely resembled that of a highly structured, short-term hospital inpatient program, but it was a distinct and organized intensive treatment program that offered less than 24-hour daily care and was designed, in part, to reduce medical costs by treating qualifying individuals outside the hospital setting.

3. Under the PHP benefit, Medicare covered the following services: (1) individual and group therapy with physicians or psychologists (or other authorized mental health professionals); (2) occupational therapy; (3) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients; (4) drugs and biologicals

furnished for therapeutic purposes that cannot be self-administered; (5) individualized activity therapies that are not primarily recreational or diversionary; (6) family counseling (for treatment of the patient's condition); (7) patient training and education; and (8) diagnostic services.

4. Part A of Medicare helped to pay for the care in facilities such as inpatient care in hospitals. Medicare generally required that the PHP be provided at a facility that is hospital-based or hospital-affiliated, but Medicare also allowed a PHP to be provided in a Community Mental Health Center ("CMHC"), which is a provider type under Part A of Medicare.

5. Medicare requires that, to qualify for the PHP benefit, the services must be reasonable and necessary for the diagnosis and active treatment of the individual's condition. The program also must be reasonably expected to improve or maintain the condition and functional level of the patient and to prevent relapse or hospitalization. The program must be prescribed by a physician and furnished under the general supervision of a physician and under an established plan of treatment that meets Medicare requirements.

6. Typically, a patient who needs this intensive PHP treatment has a long history of mental illness that has been treated. Patients are ordinarily referred either (a) by a hospital after full inpatient hospitalization for severe mental illness or (b) by a doctor who is trying to prevent full inpatient hospitalization for a severely mentally ill patient the doctor has been treating.

7. Medicare guidelines specifically exclude meals and transportation from coverage under the PHP benefit.

8. Medicare does not cover programs involving primarily social, recreational, or diversionary activities.

9. In order to receive payment from Medicare, a CMHC, medical clinic, or physician is required to submit a health insurance claim form to Medicare, called a Form 1450. The claims

may be submitted in hard copy or electronically. A CMHC, medical clinic, and physician may contract with a billing company to transmit claims to Medicare on their behalf.

10. Medicare Part B is administered in Florida by Mutual of Omaha, which, pursuant to contract with the United States Department of Health and Human Services, serves as a contracted carrier to receive, adjudicate and pay Medicare Part B claims submitted to it by Medicare beneficiaries, physicians, or CMHCs. Medicare Part B pays CMHCs and physicians directly for the cost of PHP services furnished to eligible Medicare beneficiaries, provided that the services meet Medicare requirements.

Defendants and Relevant Entities

11. **BISCAYNE MILIEU HEALTH CENTER, INC. ("BISCAYNE MILIEU")** was a Florida corporation incorporated by **ANTONIO MACLI** in 1996. Beginning in or around 1996, and continuing through in or around January 2010, **BISCAYNE MILIEU** was located at 13499 Biscayne Boulevard, Suite 101, North Miami, Florida 33181. In or around January 2010, **BISCAYNE MILIEU** relocated to 1000 Park Centre Boulevard, Suite 138, Miami, Florida 33169. **BISCAYNE MILIEU** was a CMHC and operated a purported PHP.

12. Quality Care Network, Inc. ("Quality Care") was a Florida corporation incorporated by **ANTONIO MACLI** in 1997. Beginning in or around 1997, and continuing through in or around January 2010, Quality Care's listed address was 13499 Biscayne Boulevard, Suite 101, North Miami, Florida 33181. In or around January 2010, Quality Care's listed address changed to 1000 Park Centre Boulevard, Suite 150, Miami, Florida 33169. Quality Care purported to administer management services to **BISCAYNE MILIEU**.

13. Global Management Network, Inc. ("Global") was a Florida corporation incorporated by **ANTONIO MACLI** in 1998. Beginning in or around 1998, and continuing

through in or around January 2010, Global's listed address was 13499 Biscayne Boulevard, Suite 201, North Miami, Florida 33181. In or around January 2010, Global's listed address changed to 1000 Park Centre Boulevard, Suite 150, Miami, Florida 33169.

14. North Biscayne Investment, Inc. ("North Biscayne") was a Florida corporation incorporated by **SANDRA HUARTE** in 1996. Beginning in or around 2001, and continuing through 2002, North Biscayne's listed address was 13499 Biscayne Boulevard, Suite 201, North Miami, Florida 33181. In 2003, North Biscayne's listed address changed to 10743 SW 142nd Street, Miami, Florida 33186. North Biscayne purported to be the "landlord" for **BISCAYNE MILIEU**.

15. Defendant **ANTONIO MACLI**, a resident of Miami-Dade County, was the CEO and owner of **BISCAYNE MILIEU**. **ANTONIO MACLI** was also the CEO of Quality Care, and the CEO of Global until 2007.

16. Defendant **JORGE MACLI**, a resident of Miami-Dade County, and the son of **ANTONIO MACLI**, was the manager, and at one time, the president, of **BISCAYNE MILIEU** and a purported employee of Quality Care. In 2007, **JORGE MACLI** became the president of Global, and in 2009, he became its CEO.

17. Defendant **SANDRA HUARTE**, a resident of Miami-Dade County, and the daughter of **ANTONIO MACLI**, was an employee of **BISCAYNE MILIEU** responsible for submitting claims to Medicare. **HUARTE** was also a purported employee of Quality Care. In 2010, **HUARTE** became the vice-president of Global. **HUARTE** was also the CEO and sole officer of North Biscayne.

18. Defendant **GARY KUSHNER**, a resident of Miami-Dade County, was a medical doctor licensed in the State of Florida and an attending physician at **BISCAYNE MILIEU**.

KUSHNER also referred patients to **BISCAYNE MILIEU** from various hospitals where he had physician privileges.

19. Defendant **CARMEN MERCADO**, a resident of Miami-Dade County, was a registered nurse in the State of Florida and the "Program Coordinator" at **BISCAYNE MILIEU**.

20. Defendant **RAFAEL ALALU**, a resident of Miami-Dade County, was a licensed mental health counselor in the State of Florida and the "Clinical Director" at **BISCAYNE MILIEU**.

21. Defendants **BARBARA MORALES**, **DEBORA DE JESUS**, residents of Miami-Dade County, and **GALA MYRIAM ONOFRE**, a resident of Broward County, were licensed mental health counselors in the State of Florida and therapists at **BISCAYNE MILIEU**.

22. Defendant **THOMAS HAMER**, a resident of Broward County, was a licensed marriage and family counselor in the State of Florida and a therapist at **BISCAYNE MILIEU**.

23. Defendant **WILSON ARTEAGA**, a/k/a **Wilson Artiaga**, a resident of Miami-Dade County, was a "Supervisor of Case Management" at **BISCAYNE MILIEU**.

24. Defendant **JACQUELINE MORAN**, a resident of Miami-Dade County, was an employee at **BISCAYNE MILIEU** responsible for submitting claims to Medicare.

25. Defendants **WYATT BARNFIELD, III**, **LARRY WORD**, **JAMES WYNN**, a/k/a **Riley Wynn**, **CURTIS GATES**, residents of Broward County, and **DEREK ALEXANDER**, **ANTHONY ROBERTS**, **GREGORY MURPHY**, residents of Miami-Dade County, as well as **John Jackson**, **Sabrina Pressley** and **James Edwards**, were "Case Managers" at **BISCAYNE MILIEU**.

26. **ROBERT REVELS**, a resident of South Carolina, was a "Program Liaison" at **BISCAYNE MILIEU**.

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

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2007, and continuing through in or around June 2011, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendants,

**ANTONIO MACLI,
JORGE MACLI,
SANDRA HUARTE,
GARY KUSHNER,
CARMEN MERCADO,
RAFAEL ALALU,
BARBARA MORALES,
DEBORA DE JESUS,
GALA MYRIAM ONOFRE,
a/k/a Consuelo Onofre
THOMAS HAMER,
WILSON ARTEAGA,
a/k/a Wilson Artiaga,
JACQUELINE MORAN,
and
BISCAYNE MILIEU HEALTH CENTER, INC.,**

did knowingly and willfully 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 1347, that is, 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), that is, Medicare, 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

program, in connection with the delivery of and payment for health care benefits, items, and services.

PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, GARY KUSHNER, CARMEN MERCADO, RAFAEL ALALU, BARBARA MORALES, DEBORA DE JESUS, GALA MYRIAM ONOFRE, THOMAS HAMER, WILSON ARTEAGA, JACQUELINE MORAN, BISCAYNE MILIEU**, and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting false and fraudulent claims to Medicare through **BISCAYNE MILIEU** for services that were medically unnecessary, that were not eligible for Medicare reimbursement, and that were never provided; (b) offering and paying kickbacks and bribes to patient brokers for recruiting Medicare beneficiaries who would attend **BISCAYNE MILIEU**; (c) paying and receiving kickbacks and bribes to ensure the attendance of these ineligible Medicare beneficiaries at **BISCAYNE MILIEU**; (d) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks and bribes to patient recruiters and Medicare beneficiaries; and (e) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators in the form of compensation and other remuneration.

MANNER AND MEANS OF THE CONSPIRACY

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

4. **ANTONIO MACLI** operated **BISCAYNE MILIEU** as a company registered in the State of Florida.

5. **ANTONIO MACLI** employed his son, **JORGE MACLI** as the manager of **BISCAYNE MILIEU**.

6. **ANTONIO MACLI** also employed his daughter, **SANDRA HUARTE**, who was responsible for submitting **BISCAYNE MILIEU**'s PHP claims to Medicare.

7. **ANTONIO MACLI**, **JORGE MACLI** and **SANDRA HUARTE** maintained a Medicare provider number for **BISCAYNE MILIEU** in order to submit Medicare claims for PHP services.

8. **ANTONIO MACLI** and **JORGE MACLI** caused the payment of kickbacks to patient brokers, including **WILSON ARTEAGA**, James Edwards, John Jackson, Sabrina Pressley, and others, in exchange for those patient brokers providing Medicare beneficiaries to attend **BISCAYNE MILIEU**. In some instances, the patient brokers used a portion of the kickback payments they received to pay kickbacks to the ineligible patients they sent to **BISCAYNE MILIEU**.

9. **ANTONIO MACLI** and **JORGE MACLI** designated these patient brokers as "Case Managers," in order to disguise the true nature of their employment at **BISCAYNE MILIEU**, which was to recruit patients for its PHP.

10. **ANTONIO MACLI** and **JORGE MACLI** caused their patient brokers to recruit patients from outside the State of Florida. **ANTONIO MACLI**, **JORGE MACLI**, **WILSON ARTEAGA**, and others caused to be paid, and paid, transportation costs for the out-of-state patients to be brought to the State of Florida to attend the PHP at **BISCAYNE MILIEU**.

11. **JORGE MACLI** paid additional monies to some of the patient brokers, including John Jackson, Sabrina Pressley, and others for the purpose of purchasing or leasing boarding houses to board the patients they recruited to attend the PHP at **BISCAYNE MILIEU**.

12. **WILSON ARTEAGA**, John Jackson, Sabrina Pressley, and others purchased, leased or managed houses in order to house some of the patients attending **BISCAYNE MILIEU's** PHP. **ARTEAGA**, Jackson, Pressley, and others collected rent and other monies from the patients they recruited to attend **BISCAYNE MILIEU's** PHP. Additionally, **ARTEAGA** had patients assign their Social Security Disability payments over to him as a means of controlling these Medicare beneficiaries and ensuring their continued attendance at **BISCAYNE MILIEU**.

13. **WILSON ARTEAGA** and others forced their patients to attend **BISCAYNE MILIEU's** PHP by threatening to evict them from their boarding houses if they did not attend the PHP at **BISCAYNE MILIEU**. Because many of these patients were recruited and transported from outside of the State of Florida, if evicted from the boarding house, they would have become homeless.

14. **ANTONIO MACLI**, **JORGE MACLI** and **SANDRA HUARTE** purchased vans in order to transport the recruited patients living in the various boarding houses to and from the program each day.

15. **ANTONIO MACLI** and **JORGE MACLI** directed the patient brokers to fabricate "invoices" to make it appear as if the patient brokers were providing legitimate "case management" services to the patients they recruited in order to disguise the kickback payments. James Edwards, Sabrina Pressley, and other co-conspirators routinely sent these fake invoices to **BISCAYNE MILIEU** as instructed.

16. **GARY KUSHNER** and others acted as attending physicians for **BISCAYNE MILIEU's** patients and signed charts authorizing treatment, or continued treatment, for patients who were not eligible for PHP treatment, often without examining the patients or the charts.

KUSHNER and others authorized **BISCAYNE MILIEU** to bill Medicare using their Medicare identifiers as attending physicians to legitimize fraudulent claims. **KUSHNER** further referred a number of patients to **BISCAYNE MILIEU** who did not qualify for PHP treatment.

17. **JAQUELINE MORAN** and **CARMEN MERCADO** admitted patients into the PHP at **BISCAYNE MILIEU** and fraudulent claims were submitted to Medicare on behalf of those patients before the patients had been evaluated by a qualified clinician or psychiatrist to determine whether they qualified for PHP treatment. Some of the patients admitted to the program suffered from dementia or Alzheimer's disease, and therefore did not qualify for PHP treatment.

18. **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE,** and **JACQUELINE MORAN** also routinely caused the submission of fraudulent claims to Medicare for individual therapy sessions and group therapy sessions that the patients allegedly attended when the patients did not, in fact, attend these sessions.

19. **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, RAFAEL ALALU, BARBARA MORALES, DEBORA DE JESUS, GALA MYRIAM ONOFRE,** and **THOMAS HAMER** caused the alteration of patient files, including the fabrication of therapist notes, to make it falsely appear that patients had attended group or individual therapy sessions they purported to conduct. **ALALU, MORALES, DE JESUS, ONOFRE,** and **HAMER** also altered patient files and therapist notes to make it falsely appear that patients being treated by **BISCAYNE MILIEU** qualified for PHP treatment.

20. **ANTONIO MACLI** listed Quality Care in the Medicare application as purportedly providing "management services" to **BISCAYNE MILIEU**. In reality, Quality Care's leadership and management were identical to that of **BISCAYNE MILIEU**, and Quality

Care provided no services to **BISCAYNE MILIEU**. Rather, Quality Care was used as a vehicle to conceal the transfer of health care fraud proceeds from **BISCAYNE MILIEU** to **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE**, and others.

21. **ANTONIO MACLI** and **JORGE MACLI** used Global as a vehicle to conceal the transfer of health care fraud proceeds from **BISCAYNE MILIEU** to himself, **JORGE MACLI, SANDRA HUARTE**, and others.

22. **ANTONIO MACLI** listed North Biscayne as the "landlord" for **BISCAYNE MILIEU** on documents he filed with Medicare. **SANDRA HUARTE** was the CEO and sole director of North Biscayne. In reality, North Biscayne was not the landlord for **BISCAYNE MILIEU**, as it did not own either property where **BISCAYNE MILIEU** was located. **HUARTE** and **ANTONIO MACLI** used North Biscayne as a vehicle to further conceal the transfer of health care fraud proceeds from **BISCAYNE MILIEU** to themselves and others.

23. From in or around January 2007 and continuing through in or around June 2011, **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, GARY KUSHNER, CARMEN MERCADO, RAFAEL ALALU, BARBARA MORALES, DEBORA DE JESUS, GALA MYRIAM ONOFRE, THOMAS HAMER, WILSON ARTEAGA, JACQUELINE MORAN**, James Edwards, John Jackson, Sabrina Pressley, and others caused false and fraudulent claims to be submitted to Medicare for services purportedly provided at **BISCAYNE MILIEU** in an amount exceeding \$50 million. As a result of these false and fraudulent claims, Medicare paid **BISCAYNE MILIEU** approximately \$10.9 million.

24. **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, GARY KUSHNER, CARMEN MERCADO, RAFAEL ALALU, BARBARA MORALES, DEBORA DE JESUS, GALA MYRIAM ONOFRE, THOMAS HAMER, WILSON**

ARTEAGA, JACQUELINE MORAN, James Edwards, John Jackson, Sabrina Pressley, and others caused the transfer and disbursement of illicit proceeds derived from the fraudulent billing scheme to themselves and others.

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

COUNTS 2-13
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From in or around January 2007, and continuing through in or around June 2011, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendants,

**ANTONIO MACLI,
JORGE MACLI,
SANDRA HUARTE,
GARY KUSHNER,
CARMEN MERCADO,
RAFAEL ALALU,
GALA MYRIAM ONOFRE,
a/k/a Consuelo Onofre,
THOMAS HAMER,
BARBARA MORALES,
JACQUELINE MORAN,**

and

BISCAYNE MILIEU HEALTH CENTER, INC.,

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 Medicare, 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, Medicare, that is, the defendants, through **BISCAYNE MILIEU**, submitted and caused the submission of false and fraudulent claims to Medicare, seeking reimbursement for the cost of PHP services.

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was the purpose of the scheme and artifice for **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, GARY KUSHNER, CARMEN MERCADO, RAFAEL ALALU, BARBARA MORALES, GALA MYRIAM ONOFRE, THOMAS HAMER, JACQUELINE MORAN**, James Edwards, John Jackson, Sabrina Pressley, and their accomplices to unlawfully enrich themselves by, among other things: (a) submitting false and fraudulent claims to Medicare through **BISCAYNE MILIEU** for services that were medically unnecessary, that were not eligible for Medicare reimbursement, and that were never provided; (b) offering and paying kickbacks and bribes to patient brokers for recruiting Medicare beneficiaries who would attend **BISCAYNE MILIEU**; (c) paying kickbacks and bribes to ensure the attendance of these ineligible Medicare beneficiaries at **BISCAYNE MILIEU**; (d) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks and bribes to patient recruiters and Medicare beneficiaries; and (e) diverting proceeds of the fraud for the personal use and benefit of **ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, GARY KUSHNER, CARMEN MERCADO, RAFAEL ALALU, BARBARA MORALES, GALA MYRIAM ONOFRE, THOMAS HAMER, JACQUELINE MORAN**, James Edwards, John Jackson, Sabrina Pressley, and their accomplices in the form of compensation and other remuneration.

THE SCHEME AND ARTIFICE

4. The allegations in Paragraphs 4 through 24 of the Manner and Means section of Count 1 of this Indictment are realleged 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 dates set forth below, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendants listed below, each aided and abetted by one another, and by others known and unknown to the Grand Jury, 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 in Title 18, United States Code, Section 24(b), that is, Medicare, and obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, Medicare, in connection with the delivery of and payment for health care benefits, items, and services, as listed below:

C o u n t	Defendant(s)	Benefi- ciary Name	Services Billed	Listed Dates of Service	Approx. Date of Claim	Approx. Amt. Billed	Claim Number
2	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, GARY KUSHNER, BISCAYNE MILIEU	E.S.	Individual Therapy, Group Psychotherapy, Training & Education Services	4/3/09 through 4/8/09	4/13/09	\$7,220	209103007472 04NTA
3	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, RAFAEL ALALU, BISCAYNE MILIEU	B.H.	Individual Therapy, Group Psychotherapy, Training & Education Services	4/19/10 through 4/23/10	4/26/10	\$1,900	210116008395 04NTA
4	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, CARMEN MERCADO, JACQUELINE MORAN, BISCAYNE MILIEU	F.F.	Group Psychotherapy	5/25/10	6/1/10	\$400	210152004001 04NTA

C o u n t	Defendant(s)	Benefi- ciary Name	Services Billed	Listed Dates of Service	Approx. Date of Claim	Approx. Amt. Billed	Claim Number
5	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, CARMEN MERCADO, JACQUELINE MORAN, BISCAYNE MILIEU	M.M.	Group Psychotherapy	5/25/10	6/1/10	\$400	210152006027 04NTA
6	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, CARMEN MERCADO, GALA MYRIAM ONOFRE, a/k/a Consuelo Onofre, BISCAYNE MILIEU	S.O.	Individual Therapy	10/11/10	10/22/10	\$100	210295001808 04NTA

C o u n t	Defendant(s)	Benefi- ciary Name	Services Billed	Listed Dates of Service	Approx. Date of Claim	Approx. Amt. Billed	Claim Number
7	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, CARMEN MERCADO, BISCAYNE MILIEU	S.O.	Individual Therapy, Group Psychotherapy, Training & Education Services	10/29/10 through 11/4/10	11/15/10	\$1,500	210319003784 04NTA
8	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, RAFAEL ALALU, THOMAS HAMER, BISCAYNE MILIEU	A.W.	Individual Therapy, Group Psychotherapy, Training & Education Services	11/18/10 through 11/20/10	11/22/10	\$1,100	210326005912 04NTA

C o u n t	Defendant(s)	Benefi- ciary Name	Services Billed	Listed Dates of Service	Approx. Date of Claim	Approx. Amt. Billed	Claim Number
9	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, RAFAEL ALALU, THOMAS HAMER, BISCAYNE MILIEU	A.W.	Group Psychotherapy, Training & Education Services	11/22/10 through 11/25/10	11/29/10	\$1600	210333005132 04NTA
10	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, CARMEN MERCADO, RAFAEL ALALU, JACQUELINE MORAN, BISCAYNE MILIEU	K.T.	Individual Therapy, Group Psychotherapy, Training & Education Services	12/7/10 through 12/16/10	12/20/10	\$3,100	210354006163 04NTA

C o u n t	Defendant(s)	Benefi- ciary Name	Services Billed	Listed Dates of Service	Approx. Date of Claim	Approx. Amt. Billed	Claim Number
11	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, CARMEN MERCADO, GALA MYRIAM ONOFRE, a/k/a Consuelo Onofre, THOMAS HAMER, JACQUELINE MORAN, BISCAYNE MILIEU	N.S.	Group Psychotherapy, Training & Education Services	1/22/11	1/24/11	\$400	211024005264 04NTA
12	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, GARY KUSHNER, RAFAEL ALALU, BISCAYNE MILIEU	G.D.	Individual Therapy, Group Psychotherapy, Training & Education Services	1/31/11 through 2/5/11	2/7/11	\$2,300	211038003988 04NTA

C o u n t	Defendant(s)	Benefi- ciary Name	Services Billed	Listed Dates of Service	Approx. Date of Claim	Approx. Amt. Billed	Claim Number
13	ANTONIO MACLI, JORGE MACLI, SANDRA HUARTE, BARBARA MORALES, BISCAYNE MILIEU	C.O.	Group Psychotherapy, Training & Education Services	2/9/11	2/14/11	\$400	211045005367 04NTA

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

COUNT 14

**Conspiracy to Receive and Pay Health Care Kickbacks
(18 U.S.C. § 371)**

1. Paragraphs 1 through 17, 23, 25, and 26 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around 2007, and continuing through in or around June 2011, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendants,

**ANTONIO MACLI,
JORGE MACLI,
SANDRA HUARTE,
WILSON ARTEAGA
a/k/a Wilson Artiaga,
WYATT BARNFIELD, III,
DEREK ALEXANDER,
ANTHONY ROBERTS,
GREGORY MURPHY,
LARRY WORD,
JAMES WYNN**

**a/k/a Riley Wynn,
ROBERT REVELS,
CURTIS GATES,
and
BISCAYNE MILIEU HEALTH CENTER, INC.,**

did knowingly and willfully combine, conspire, confederate and agree with each other and with others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is,

- a. To violate Title 42, United States Code, Section 1320a-7b(b)(2), by knowingly and willfully offering and paying any remuneration, including, kickbacks, bribes, and rebates, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual to **BISCAYNE MILIEU** for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare; and to induce such person to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare; and
- b. To violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving remuneration, including any kickback, bribe, and rebate, 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 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 in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering of any good, facility, service, and item for which payment may be made in whole and in part under a Federal health

care program, that is, Medicare.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by paying and receiving kickbacks and bribes in exchange for (a) securing the attendance of Medicare beneficiaries at **BISCAYNE MILIEU** and (b) providing beneficiary information that was used to submit claims to Medicare.

MANNER AND MEANS OF THE CONSPIRACY

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

4. **ANTONIO MACLI** operated **BISCAYNE MILIEU** as a purported CMHC offering PHP services in Miami, Florida.

5. **ANTONIO MACLI** employed his son, **JORGE MACLI** as the manager of **BISCAYNE MILIEU**.

6. **ANTONIO MACLI** also employed his daughter, **SANDRA HUARTE**, who was responsible for submitting **BISCAYNE MILIEU**'s PHP claims to Medicare.

7. **ANTONIO MACLI**, **JORGE MACLI** and **SANDRA HUARTE** maintained a Medicare provider number for **BISCAYNE MILIEU** in order to submit Medicare claims for PHP services.

8. **ANTONIO MACLI** and **JORGE MACLI** caused the payment of kickbacks to patient brokers, including **WILSON ARTEAGA**, **WYATT BARNFIELD, III**, **DEREK ALEXANDER**, **ANTHONY ROBERTS**, **GREGORY MURPHY**, **LARRY WORD**, **JAMES WYNN**, **ROBERT REVELS**, **CURTIS GATES**, James Edwards, John Jackson, Sabrina Pressley, and others, in exchange for those patient brokers providing Medicare beneficiaries to

attend **BISCAYNE MILIEU**. In some instances, the patient brokers used a portion of the kickback payments they received to pay kickbacks to the patients they sent to **BISCAYNE MILIEU**.

9. **ANTONIO MACLI, JORGE MACLI, and SANDRA HUARTE** maintained charts for the purpose of determining the amount of kickback payments owed to the patient brokers by listing the patients that each patient broker recruited to attend the PHP at **BISCAYNE MILIEU**, and the number of days that each patient attended the program in a given pay period. **ANTONIO MACLI, JORGE MACLI, HUARTE**, Jackson and other patient brokers referred to these charts as the "money sheets."

10. The patient brokers routinely went to **SANDRA HUARTE**, and often times to **JORGE MACLI**, when they had an issue with the amount of kickback monies received for a particular pay period. **HUARTE** resolved these issues by checking the "money sheets" against the daily attendance logs signed by the patients to determine the number of days a particular patient attended the program so that she could determine the amount of the kickback payment owed to the patient broker.

11. **ANTONIO MACLI and JORGE MACLI** designated these patient brokers, with the exception of **ROBERT REVELS**, as "Case Managers," in order to disguise the true nature of their employment at **BISCAYNE MILIEU**, which was to recruit patients for its PHP. Because **ROBERT REVELS** lived outside of the State of Florida, and therefore could not perform any alleged "case management" services for patients attending **BISCAYNE MILIEU**, **ANTONIO MACLI and JORGE MACLI** designated **REVELS** as a "Program Liaison," a title that was given to him to disguise the true nature of his employment at **BISCAYNE MILIEU** as a patient broker.

12. **ANTONIO MACLI** and **JORGE MACLI** caused their patient brokers to recruit patients from outside the State of Florida. **ANTONIO MACLI, JORGE MACLI, WILSON ARTEAGA, ROBERT REVELS**, and others caused to be paid, and paid, one-way transportation costs for the out-of-state patients to be brought to the State of Florida to attend the PHP at **BISCAYNE MILIEU**.

13. **JORGE MACLI** paid additional monies to some of the patient brokers, including **ANTHONY ROBERTS, LARRY WORD, GREGORY MURPHY**, John Jackson, Sabrina Pressley, and others for the purpose of purchasing or leasing boarding houses to board the patients they recruited to attend the PHP at **BISCAYNE MILIEU**.

14. **WILSON ARTEAGA, ANTHONY ROBERTS, LARRY WORD, GREGORY MURPHY**, John Jackson, Sabrina Pressley, and others purchased, leased or managed houses in order to house some of the patients attending **BISCAYNE MILIEU's** PHP. **ARTEAGA, ROBERTS, WORD, MURPHY**, Jackson, Pressley, and others collected rent and other monies from the patients they recruited to attend **BISCAYNE MILIEU's** PHP. Additionally, **ARTEAGA** and Jackson had patients assign their Social Security Disability payments over to them as a means of controlling these Medicare beneficiaries and ensuring their continued attendance at **BISCAYNE MILIEU**.

15. **WILSON ARTEAGA, ANTHONY ROBERTS, LARRY WORD, GREGORY MURPHY**, and others forced their patients to attend **BISCAYNE MILIEU's** PHP by threatening to evict them from their boarding houses if they did not attend the PHP at **BISCAYNE MILIEU**. Because many of these patients were recruited and transported from outside of the State of Florida, if evicted from the boarding house, they would have become homeless.

16. **ANTONIO MACLI** and **JORGE MACLI** directed the "Case Managers" to fabricate "invoices" to make it appear as if the patient brokers were providing legitimate "case management" services to the patients they recruited in order to disguise the kickback payments.

OVERT ACTS

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

1. On or about August 6, 2007, **ANTONIO MACLI** wrote check number 3413 in the approximate amount of \$320 from the **BISCAYNE MILIEU** corporate bank account at Bank of America, account number ending in 5339 to James Edwards.
2. On or about September 11, 2008, **ANTONIO MACLI** wrote check number 3936 in the approximate amount of \$4,000 from the **BISCAYNE MILIEU** corporate bank account at Bank of America, account number ending in 5339 to **ANTHONY ROBERTS**.
3. On or about August 14, 2009, **JORGE MACLI** wrote check number 4661 in the approximate amount of \$397 from the **BISCAYNE MILIEU** corporate bank account at Bank of America, account number ending in 5339 to **JAMES WYNN**.
4. On or about May 13, 2010, **JORGE MACLI** wrote check number 5277 in the approximate amount of \$700 from the **BISCAYNE MILIEU** corporate bank account at Bank of America, account number ending in 5339 to **LARRY WORD**.
5. On or about August 15, 2007, **CURTIS GATES** negotiated a check number 3424 in the approximate amount of \$3,500 written to **GATES** from the **BISCAYNE MILIEU** Bank of America account ending in 5339 to a company called Tri County Placement, which was controlled by **GATES**.

6. On or about March 3, 2009, **ANTHONY ROBERTS** negotiated a check number 4332 in the approximate amount of \$4,000 written to **ROBERTS** from the **BISCAYNE MILIEU** Bank of America account ending in 5339.

7. On or about June 29, 2009, **ROBERT REVELS** negotiated a check number 4552 in the approximate amount of \$856 written to **REVELS** from the **BISCAYNE MILIEU** Bank of America account ending in 5339.

8. On or about December 18, 2009, **WILSON ARTEAGA**, negotiated a check number 4935 in the approximate amount of \$2,515 written to **ARTEAGA** from the **BISCAYNE MILIEU** Bank of America account ending in 5339.

9. On or about February 24, 2010, **WYATT BARNFIELD, III**, negotiated a check number 5110 in the approximate amount of \$1,200 written to **BARNFIELD** from the **BISCAYNE MILIEU** Bank of America account ending in 5339.

10. On or about March 5, 2010, **GREGORY MURPHY** negotiated a check number 5129 in the approximate amount of \$3,000 written to **MURPHY** from the **BISCAYNE MILIEU** Bank of America account ending in 5339.

11. On or about March 24, 2010, **JAMES WYNN**, negotiated a check number 5177 in the approximate amount of \$2,089 written to **WYNN** from the **BISCAYNE MILIEU** Bank of America account ending in 5339.

12. On or about May 13, 2010, **LARRY WORD** negotiated a check number 5177 in the approximate amount of \$2,089 written to **WORD** from the **BISCAYNE MILIEU** Bank of America account ending in 5339.

13. On or about June 22, 2010, **DEREK ALEXANDER** negotiated a check number 5353 in the approximate amount of \$1,500 written to **ALEXANDER** from the **BISCAYNE**

MILIEU Bank of America account ending in 5339.

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

COUNTS 15 – 25

**Payment of Kickbacks in Connection with a Federal Health Care Program
(42 U.S.C. § 1320a-7b(b)(2)(A))**

1. Paragraphs 1 through 17, 23, 25, and 26 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below as to each count, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendants,

**ANTONIO MACLI
and
JORGE MACLI,**

did knowingly and willfully offer and pay remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in the form of checks and direct deposits, to the patient brokers listed below to induce such patient recruiters to refer individuals to **BISCAYNE MILIEU** 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:

Count	Approximate Date of Payment	Check Number	Approximate Amount of Kickback Paid	Patient Recruiter
15	8/15/07	3424	\$3,500	CURTIS GATES
16	12/30/09	4935	\$3,500	WILSON ARTEAGA, a/k/a Wilson Artiaga
17	2/24/10	5170002404	\$2,280	GREGORY MURPHY
18	2/24/10	5170002400	\$270	James Edwards
19	4/21/10	5170002498	\$1,020	WYATT BARNFIELD, III
20	4/21/10	5170002496	\$990	DEREK ALEXANDER
21	5/19/10	5170002545	\$2,943	JAMES WYNN, a/k/a Riley Wynn
22	5/19/10	5277	\$700	LARRY WORD
23	6/3/10	5170002579	\$3,720	Sabrina Pressley
24	6/30/10	Direct Deposit	\$2,310	ANTHONY ROBERTS
25	6/30/10	Direct Deposit	\$1,000	ROBERT REVELS

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

COUNTS 26- 34

**Receipt of Kickbacks in Connection with a Federal Health Care Program
(42 U.S.C. § 1320a-7b(b)(1)(A))**

1. Paragraphs 1 through 17, 23, 25, and 26 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below as to each count, in Miami-Dade and

Broward Counties, in the Southern District of Florida, and elsewhere, the defendants listed below did knowingly and willfully solicit and receive remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in the form of checks, in return for referring individuals to **BISCAYNE MILIEU** 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,:

Count	Approximate Date of Payment	Defendant	Check Number	Approximate Amount of Kickback Paid
26	8/15/07	CURTIS GATES	3424	\$3,500
27	12/30/09	WILSON ARTEAGA, a/k/a Wilson Artiaga	4935	\$3,500
28	2/24/10	GREGORY MURPHY	5170002404	\$2,280
29	4/21/10	WYATT BARNFIELD, III	5170002498	\$1,020
30	4/21/10	DEREK ALEXANDER	5170002496	\$990
31	5/19/10	JAMES WYNN, a/k/a Riley Wynn	5170002545	\$2,943
32	5/19/10	LARRY WORD	5277	\$700
33	6/30/10	ANTHONY ROBERTS	Direct Deposit	\$2,310
34	6/30/10	ROBERT REVELS	Direct Deposit	\$1,000

In violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A).

COUNT 35
Conspiracy to Commit Money Laundering
(18 U.S.C. § 1956(h))

1. Paragraphs 1 through 17 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around 2007, and continuing through in or around June 2011, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

ANTONIO MACLI,
JORGE MACLI,
and
SANDRA HUARTE,

did knowingly combine, conspire, and agree with each other and with other persons, known and unknown to the Grand Jury, to commit offenses against the United States in violation of Title 18, United States Code, Sections 1956 and Section 1957, that is:

- a. to conduct financial transactions involving the proceeds of specified unlawful activity, knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, and knowing that the transactions were 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, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and
- b. to engage in monetary transactions by, through, and to financial institutions, affecting interstate commerce, such transactions involving criminally derived property of a value greater than \$10,000 and such property having been derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

It is further alleged that the specified unlawful activity is health care fraud and the payment of kickbacks, in violation of Title 18, United States Code, Section 1347, and Title 42, United States Code, Section 1320a-7b, respectively.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendants and their co-conspirators to engage in money laundering for the purpose of (1) unlawfully enriching themselves and their co-conspirators; and (2) concealing and disguising the nature, location, source, ownership, and control of the proceeds of their health care fraud and kickback offenses.

MANNER AND MEANS

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

4. **ANTONIO MACLI, JORGE MACLI and SANDRA HUARTE** maintained several accounts at various banks for **BISCAYNE MILIEU**, Quality Care, Global, North Biscayne, and other companies.

5. **ANTONIO MACLI and JORGE MACLI** received deposits from Medicare into **BISCAYNE MILIEU's** main account at Bank of America, account number ending in 8287 (the "Main Account"). **ANTONIO MACLI and JORGE MACLI** were joint signors on the Main Account.

6. **ANTONIO MACLI and JORGE MACLI** transferred the bulk of the fraudulent Medicare proceeds from **BISCAYNE MILIEU's** Main Account into another **BISCAYNE MILIEU** account at Bank of America, account number ending in 5339. **ANTONIO MACLI and JORGE MACLI** were joint signors on the 5339 account.

7. **ANTONIO MACLI and JORGE MACLI** transferred a large portion of the

fraudulent Medicare proceeds from **BISCAYNE MILIEU's** Bank of America account ending in 5339 to Quality Care's Bank of America account ending in 8342. **ANTONIO MACLI** and **JORGE MACLI** were joint signors on the 8342 account.

8. **ANTONIO MACLI** and **JORGE MACLI** transferred the fraudulent Medicare proceeds from Quality Care's Bank of America account ending in 8342 to themselves, **SANDRA HUARTE**, and others.

9. **ANTONIO MACLI** and **JORGE MACLI** also transferred a large portion of the fraudulent Medicare proceeds from **BISCAYNE MILIEU's** Bank of America account ending in 5339 to Global's Bank of America account ending in 9188. **ANTONIO MACLI** and **JORGE MACLI** were joint signors on this account.

10. **ANTONIO MACLI** and **JORGE MACLI** transferred the fraudulent Medicare proceeds from Global's Bank of America account ending in 9188 to themselves, **SANDRA HUARTE**, and others directly, and indirectly through Quality Care's account at Bank of America ending in 8342.

11. **ANTONIO MACLI** and **JORGE MACLI** further transferred a large portion of the fraudulent Medicare proceeds from **BISCAYNE MILIEU's** Bank of America account ending in 5339 to North Biscayne's CNB Bank account ending in 6632. **SANDRA HUARTE** was the sole signor on this account.

12. **SANDRA HUARTE** transferred the fraudulent Medicare proceeds from North Biscayne's CNB Bank account ending in 6632 to herself, **ANTONIO MACLI**, **JORGE MACLI** and others. On documents filed with Medicare, **ANTONIO MACLI** listed North Biscayne as the "landlord" for **BISCAYNE MILIEU**, despite the fact that North Biscayne did not own the property being leased by **BISCAYNE MILIEU**. **BISCAYNE MILIEU** had, in

reality, a different landlord not affiliated with North Biscayne, **ANTONIO MACLI, JORGE MACLI** or **HUARTE**.

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

COUNTS 36 - 42
Money Laundering
(18 U.S.C. § 1957)

On or about the dates set forth below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants listed below did knowingly engage and attempt to engage in monetary transactions affecting interstate commerce, by, through, and to a financial institution, in criminally derived property of a value greater than \$10,000, and such property having been derived from specified unlawful activity, as more specifically described below:

Count	Approx. Date	Defendant(s)	Monetary Transaction
36	12/28/09	ANTONIO MACLI and SANDRA HUARTE	Negotiated check number 4950 made out to North Biscayne Investment, Inc. in the amount of \$19,973.32 from BISCAYNE MILIEU's Bank of America account ending in 5339
37	12/29/09	ANTONIO MACLI and JORGE MACLI	Wire transferred \$400,000 from BISCAYNE MILIEU's T.D. Bank account ending in 6063 to Quality Care's Bank of America account ending in 8342
38	12/30/09	ANTONIO MACLI and JORGE MACLI	Negotiated check number 4955 made out to Global Management Network, Inc. in the amount of \$42,500 from BISCAYNE MILIEU's Bank of America account ending in 5339
39	12/31/09	SANDRA HUARTE and ANTONIO MACLI	Negotiated check number 7892 made out to HUARTE in the amount of \$100,000 from Quality Care's Bank of America account ending in 8342

Count	Approx. Date	Defendant(s)	Monetary Transaction
40	5/5/10	ANTONIO MACLI and JORGE MACLI	Negotiated check number 5260 made out to Quality Care in the amount of \$210,000 from BISCAYNE MILIEU's Bank of America account ending in 5339
41	5/12/10	ANTONIO MACLI	Negotiated check number 5270 made out to ANTONIO MACLI in the amount of \$300,000 from BISCAYNE MILIEU's Bank of America account ending in 5339
42	6/16/10	ANTONIO MACLI and JORGE MACLI	Transferred \$70,000 from BISCAYNE MILIEU's Bank of America account ending in 5339 to JORGE MACLI and ANTONIO MACLI's Bank of America account ending in 7085

It is further alleged that the specified unlawful activity is health care fraud for Counts 36 through 39, in violation of Title 18, United States Code, Section 1347, and health care fraud and payment of kickbacks for Counts 40 through 42, in violation of Title 42, United States Code, Section 1320a-7b.

In violation of Title 18, United States Code, Sections 1957 and 2.

COUNTS 43 - 49
Money Laundering
(18 U.S.C. § 1956(a)(1)(B)(i))

On or about the dates set forth below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants listed below did knowingly conduct financial transactions involving the proceeds of specified unlawful activity, knowing that the property involved in the financial transactions represented proceeds of some form of unlawful activity, and knowing that the transactions were 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 more specifically described below:

Count	Approx. Date	Defendant(s)	Monetary Transaction
43	12/28/09	ANTONIO MACLI and SANDRA HUARTE	Negotiated check number 4950 made out to North Biscayne Investment, Inc. in the amount of \$19,973.32 from BISCAYNE MILIEU's Bank of America account ending in 5339
44	12/29/09	ANTONIO MACLI and JORGE MACLI	Wire transferred \$400,000 from BISCAYNE MILIEU's T.D. Bank account ending in 6063 to Quality Care's Bank of America account ending in 8342
45	12/30/09	ANTONIO MACLI and JORGE MACLI	Negotiated check number 4955 made out to Global Management Network, Inc. in the amount of \$42,500 from BISCAYNE MILIEU's Bank of America account ending in 5339
46	12/31/09	SANDRA HUARTE and ANTONIO MACLI	Negotiated check number 7892 made out to HUARTE in the amount of \$100,000 from Quality Care's Bank of America account ending in 8342
47	5/5/10	ANTONIO MACLI and JORGE MACLI	Negotiated check number 5260 made out to Quality Care in the amount of \$210,000 from BISCAYNE MILIEU's Bank of America account ending in 5339
48	5/12/10	ANTONIO MACLI	Negotiated check number 5270 made out to ANTONIO MACLI in the amount of \$300,000 from BISCAYNE MILIEU's Bank of America account ending in 5339
49	6/16/10	ANTONIO MACLI and JORGE MACLI	Transferred \$70,000 from BISCAYNE MILIEU's Bank of America account ending in 5339 to JORGE MACLI and ANTONIO MACLI's Bank of America account ending in 7085

It is further alleged that the specified unlawful activity is health care fraud for Counts 43 through 46, in violation of Title 18, United States Code, Section 1347, and health care fraud and the payment of kickbacks for Counts 47 through 49, in violation of Title 42, United States Code, Section 1320a-7b.

In violation of Title 18, United States Code, Sections 1957 and 2.

FORFEITURE ALLEGATIONS
(18 U.S.C. § 982)

1. The allegations contained in the General Allegations of this Indictment and in Counts 1 through 49 of 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 America of certain property in which the defendants,

ANTONIO MACLI,
JORGE MACLI,
SANDRA HUARTE,
GARY KUSHNER, MD,
CARMEN MERCADO, RN,
RAFAEL ALALU, LMHC,
BARBARA MORALES, LMHC,
DEBORA DE JESUS, LMHC,
GALA MYRIAM ONOFRE, LMHC,
a/k/a Consuelo Onofre
THOMAS HAMER, LMFT,
WILSON ARTEAGA,
a/k/a Wilson Artiaga,
JACQUELINE MORAN,
WYATT BARNFIELD, III,
DEREK ALEXANDER,
ANTHONY ROBERTS,
GREGORY MURPHY,
LARRY WORD,
JAMES WYNN,
a/k/a Riley Wynn,
ROBERT REVELS,
CURTIS GATES, and
BISCAYNE MILIEU HEALTH CENTER, INC.,

have an interest.

2. Upon conviction of a violation of, or a conspiracy to violate, Title 18, United States Code, Section 1347, as alleged in Counts 1 through 13 of this Indictment, or a violation of, or a conspiracy to violate, Title 42, United States Code, Section 1320a-7b, as alleged in Counts

14 through 34 of this Indictment, the defendant so convicted shall forfeit all of his or her respective right, title and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation, 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 or 1957, as alleged in Counts 35 through 49 of this Indictment, the defendant so convicted shall forfeit all of his or her respective right, title and interest in any property, real or personal, involved in such violation, or any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. The property which is subject to forfeiture includes, but is not limited to, the following:

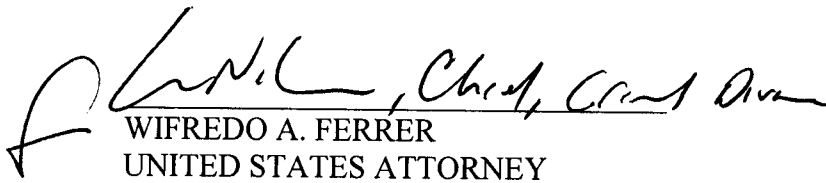
(a) A sum of money equal in value to the property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of, or the conspiracy to commit, a Federal health care offense, as alleged in this Indictment, which the United States will seek as a forfeiture money judgment against each defendant so convicted, jointly and severally, as part of their respective sentence; and

(b) A sum of money equal in value to the property, real or personal, involved in the commission of, or the conspiracy to commit, a money laundering offense, as alleged in this Indictment, or the property traceable to such property, which the United States will seek as a forfeiture money judgment against each defendant so convicted, jointly and severally, as part of their respective sentence.

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

A TRUE BILL —

FOR PERSON —


WIFREDO A. FERRER
UNITED STATES ATTORNEY


ALICIA E. SHICK
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

ANTONIO MACLI, et al,

Defendants. /

Superseding Case Information

Court Division: (Select One)

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

X Miami _____ Key West _____
_____ FTL _____ WPB _____ FTP _____

I do hereby certify that:

1. 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.
2. 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.

3. Interpreter: (Yes or No) Yes
List language and/or dialect Spanish

4. This case will take 15 days for the parties to try.

5. 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 _____	Minor _____
III 11 to 20 days <u>X</u> _____	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 X No

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 X No


ALICIA E. SHICK
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 124842

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Antonio Macli

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 2-13

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Counts #: 15-25

Payment of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(2)

***Max. Penalty:** 5 years' imprisonment as to each count

Count #: 35

Conspiracy to Commit Money Laundering

18 U.S.C. § 1956(h)

***Max. Penalty:** 20 years' imprisonment

Counts #: 36-38 and 40-42

Money Laundering

18 U.S.C. § 1957

***Max. Penalty:** 10 years' imprisonment as to each count

Counts #: 43-45 and 47-49

Money Laundering

18 U.S.C. § 1956(a)(1)

***Max. Penalty:** 20 years' imprisonment as to each count

***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: Jorge Macli

Case No: _____

Count #: 1

_____ Conspiracy to Commit Health Care Fraud

_____ 18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 2-13

_____ Health Care Fraud

_____ 18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

Count #: 14

_____ Conspiracy to Receive and Pay Health Care Kickbacks

_____ 18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Counts #: 15-25

_____ Payment of Kickbacks in Connection with a Federal Health Care Program

_____ 42 U.S.C. § 1320a-7b(b)(2)

***Max. Penalty:** 5 years' imprisonment as to each count

Count #: 35

Conspiracy to Commit Money Laundering

18 U.S.C. § 1956(h)

***Max. Penalty:** 20 years' imprisonment

Counts #: 36-38 and 40, 42

Money Laundering

18 U.S.C. § 1957

***Max. Penalty:** 10 years' imprisonment as to each count

Counts #: 44-45 and 47, 49

Money Laundering

18 U.S.C. § 1956(a)(1)

***Max. Penalty:** 20 years' imprisonment as to each count

***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: Sandra Huarte

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 2-13

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 35

Conspiracy to Commit Money Laundering

18 U.S.C. § 1956(h)

***Max. Penalty:** 20 years' imprisonment

Counts #: 36, 39

Money Laundering

18 U.S.C. § 1957

***Max. Penalty:** 10 years' imprisonment

Count #: 43, 46

Money Laundering

18 U.S.C. § 1956(a)(1)

***Max. Penalty:** 20 years' imprisonment

***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: Gary Kushner

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 2, 12

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

***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: Carmen Mercado

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 4-7, 10-11

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

***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: Rafael Alalu

Case No: _____

Count #: 1

_____ Conspiracy to Commit Health Care Fraud

_____ 18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 3, 8-10, 12

_____ Health Care Fraud

_____ 18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

***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: Barbara Morales

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Count #: 13

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

***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: Debora De Jesus

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

***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: Gala Myriam Onofre a/k/a Consurelo Onofre

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 6, 11

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

***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: Thomas Hamer

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 8 - 9, 11

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

***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: Wilson Arteaga a/k/a Wilson Artiaga

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 27

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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: Jacqueline Moran

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

18 U.S.C. § 1349

*** Max. Penalty:** 10 years' imprisonment

Counts #: 4 - 5, 10 - 11

Health Care Fraud

18 U.S.C. § 1347

***Max. Penalty:** 10 years' imprisonment as to each count

***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: Wyatt Barnfield, III

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 29

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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: Derek Alexander

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 30

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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 Roberts

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 33

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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: Gregory Murphy

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 28

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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: Larry Word

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 32

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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: James Wynn, a/k/a Riley Wynn

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 31

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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: Robert Revels

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 34

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

***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: Curtis Gates

Case No: _____

Count #: 14

Conspiracy to Receive and Pay Health Care Kickbacks

18 U.S.C. § 371

***Max. Penalty:** 5 years' imprisonment

Count #: 26

Receipt of Kickbacks in Connection with a Federal Health Care Program

42 U.S.C. § 1320a-7b(b)(1)

***Max. Penalty:** 5 years' imprisonment

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

MINUTE ORDER

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Magistrate Judge Peter R. Palermo

King Building Courthouse - Room 1067

Date: 09/06/11 Time: 01:30

Defendant: Gary Kushner J#: 97276-204 Case #: 11-20587-CR-LENARD SEALEDAUSA: Alicia Shick Attorney: Jeanne Nebbica for
SAVIL ROTHMANViolation: Conspiracy to Commit Health Care FraudProceeding: Initial AppearanceCJA Appt: Temp.Bond/PTD Held: ☒ Yes ☐ NoRecommended Bond: \$500,000 CSB/Nebbica

Bond Set at: _____

Co-signed by: _____

☒ Surrender and/or do not obtain passports/travel docsLanguage: ENGLISH☒ Report to PTS as directed of _____ x's a week/month by
phone: _____ x's a week/month in person

Disposition:

Case unsealed.☐ Random urine testing by Pretrial Services

Treatment as deemed necessary

☐ Refrain from excessive use of alcoholΔ PSB w/10% requested.☐ Participate in mental health assessment & treatment☐ Maintain or seek full-time employment/education☐ No contact with victims/witnesses☐ No firearms☐ Not to encumber property☐ May not visit transportation establishments☐ Home Confinement/Electronic Monitoring and/or

Curfew _____ pm to _____ am, paid by _____

☐ Allowances: Medical needs, court appearances, attorney visits,
religious, employment☐ Travel extended to: _____☒ Other: No employ in health care field.

NEXT COURT APPEARANCE

Date:

Time:

Judge:

Place:

Report RE Counsel: 9/12 10:00

PTD/Bond Hearing: _____

Prelim/Arraignment or Removal: 9/12 10:00

Status Conference RE: _____

D.A.R. 15:37:42Time in Court: 12

s/Peter R. Palermo

Magistrate Judge

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA, CASE NO: 11-20587-CR-LENARD

Plaintiff,
vs.

GARY KUSHNER, *NEBBIA* PROFFER
Defendant.

THE DEFENDANT, **GARY KUSHNER**, through counsel, submits the following in support of his position that the *Nebbia* requirement, imposed as a condition of the \$500,000.00 corporate surety bond set in this matter, has been satisfied.

The Collateral For The Bond

The bond, which was posted yesterday, is to be collateralized by the home owned by Dr. and Ms. Diane Kushner, his wife. The bondsman has researched the property and is satisfied the house is sufficient security to support the bond, even given the charge in this case, which has, literally, changed how insurance companies backing bonds do business.¹

The Premium For The Bond

The premium, in the amount of \$75,0000, has been paid (yesterday) by wire transfer from a savings account in the name of Ms. Diane Kushner to the bonding company. The government has been previously provided with the attached documents proving Ms. Kushner was the beneficiary of her father's estate, that she inherited \$242,633.64 in 2005 and the money in the above referenced

¹Based upon email communications with the prosecutor, AUSA Alicia Shick, defense counsel understands the refusal of the government to stipulate to the satisfaction of the *Nebbia* is predicated on the statement by defense counsel in response to a question posed by Ms. Shick that the defense cannot disprove that (Ms. Shick's language in an email) "any part of the mortgage (on the homestead) was paid through funds he (Dr. Kushner) secured from Biscayne . . ."

savings account was derived from that inheritance. The government has not expressed to counsel for Dr. Kushner any concern regarding this sum of money.

FACTUAL PROFFER

1. Gary Kushner is 71 years old. He is a psychiatrist. Dr. Kushner has been a psychiatrist for 37 years. He and his wife Diane have been married for 45 years. They have four children, two who are married and two who are not. The two children who are not married are both in law school. Dr. Kushner and his wife have three grandchildren and one on the way.
2. Dr. Kushner is in poor health.² Though embarrassed and reluctant to talk about it, Dr. Kushner suffers or has recently suffered from the following:
 - A. Cancer (the radiation treatment led to a cranial blood clot which had to be surgically removed, causing a seizure disorder).
 - B. Loss of hearing
 - C. Seizure disorder
 - D. Hypertension
 - E. Kidney infection (required hospitalization in June 2011)

Dr. Kushner presently is on seizure and blood pressure medications.

2. Dr. Kushner and his family have lived in South Florida for 37 years. He has practiced psychiatry for all of his adult life. Aside from Social Security income, all of his income for all of his adult life has been derived from his profession, including any income he earned for returns on investments.

²A picture is worth a thousands words. This proffer cannot capture what the court will see with its own eyes. Dr. Kushner looks more like 81 years old, than 71. And, a sick 81 at that.

3. Dr. Kushner and his wife live in Davie, Florida, in a home they bought 14 years ago, in 1997. Dr. Kushner and his wife own that house in both their names. Attached hereto as Exhibit A is the printout for the Kushners house from the Broward County Property Appraiser's website. As noted, the present assessed value of the house is \$774,820.³
4. Dr. Kushner and his wife paid \$582,200 to purchase the house. They put \$257,200 down on the house and obtained a mortgage, at 7.625% for the balance, \$325,000. The money for the down payment was derived from money they saved and obtained from the sale of their prior home.
5. The Kushners paid their mortgage down by way of mortgage payments, and the mortgage has been reduced to approximately \$174,000 (CitiMortgage Statement, dated August 1, 2011, is attached hereto as Exhibit C), which means in the last 14 years, Dr. Kushner and his wife paid off approximately \$151,000 of the mortgage.
6. There is a line of credit secured by the home, in addition to the first mortgage. The line of credit is for \$137,000, however, only approximately \$40,000 has been drawn down on that line of credit.⁴
7. With a value, according to Broward County, of \$774,820, a first mortgage of

³On www.Zillow.com, a website used in the real estate/mortgage industry to estimate current market values for real property, estimated value of the Kushners' house is \$810,300 (Printout attached hereto as Exhibit B).

⁴Before the government expressed any concern about the home as collateral, in order to satisfy the bonding company that the equity in the house would not and could not be diminished by the Kushners, counsel provided to the holder of the line of credit, Bank of America, a letter, signed by Ms. Kushner, with a power of attorney from her husband, instructing the bank not to allow any draws on the credit line until further notice from the bonding company. The letter is attached hereto as Exhibit D.

\$174,000 and the \$40,000 drawn on the line of credit, there is approximately \$560,820 equity in the home.

8. Over the last 3 years, the professional association Dr. Kushner formed many years ago for his practice has earned a gross income of \$2.1 million. (Copies of the Corporate tax returns for the years 2007, 2008 and 2009 will be provided to the Court and counsel for the Government at the *Nebbia* hearing. (Undersigned counsel was informed by Mr. Christopher Hutchins of Cherry Bekaert & Holland, LLP, the return for 2010 has not been done yet and due to technical problems at their firm, they are unable at this time to retrieve any earlier tax returns, though they do exist.) The monthly payments from Biscayne, believed by counsel to be \$5,000.00, were paid into the corporate account. Therefore, assuming Dr. Kushner received \$5,000 per month from Biscayne during the tax years of 2007-2009, the amount Dr. Kushner received from Biscayne would be less than 9% of the total gross receipts for Dr. Kushner's professional association.
9. The bookend years for the conspiracy in this case are 2007 to 2011. During those years, the mortgage on the Kushser home was reduced by a total of approximately \$54,000 (assuming a \$1,000 average monthly payment to principal).
10. In addition to the business expenses, like all other families, the Kushners experienced the regular and routine, though incredibly expensive, costs involved in taking care of one's family, including college tuition (the two younger children were in college during the relevant years). The point is, these amounts necessarily were paid out of the income the Kushners derived from all of the sources identified above.
11. The equity in the home is what is used by the bonding company to protect its bond.

In 1997, when it was purchased for \$582,200, the amount of equity was \$257,200. It now is \$560,820. In large part the increase in equity is due to the increase in value over the last 14 years, even including the reduction in value suffered by all home owners over the last few years. The other part of the increase in equity, in the amount of \$151,000 is the reduction of the mortgage through mortgage payments. Therefore, assuming that Dr. Kushner received \$5,000 per month from Biscayne over the 54 months of the conspiracy alleged in the Indictment, and assuming for purposes of this proffer the entire \$1,000 monthly payment towards the mortgage principal was derived from the \$5,000 from Biscayne, the amount of untainted equity would still be in excess of \$500,000.00.

WHEREFORE DEFENDANT, GARY KUSHNER, requests that the forgoing be considered by this Court in determining that the *Nebbia* requirement, imposed as a condition of the \$500,000.00 corporate surety bond set in this matter, has been satisfied.

Respectfully Submitted,

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By: /s/ David Rothman
DAVID ROTHMAN
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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of September, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

By: /s/ David Rothman

DAVID ROTHMAN
Florida Bar No. 240273

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Federal agents busted 42 South Florida suspects on Medicare fraud charges as part of a Justice Department sweep targeting hotspots from Miami to Los Angeles.

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BY JAY WEAVER
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The out-of-state patients, suffering from disabilities and addictions, were lured to South Florida with the promise of a roof over their head.

But once they arrived, with their valuable Medicare cards in hand, they would be squeezed into rundown assisted-living facilities and steered to purported mental-health programs -- at a multimillion-dollar cost to taxpayers, authorities say. If they dropped out of the group therapy sessions, the ALF owners would toss the patients out into the street.

"They were down on their luck," U.S. Attorney Wifredo Ferrer said, explaining how the latest Medicare scam would target patients from the Southeast. "Come on down, have a fresh start in Miami. But there was a catch."

On Wednesday, Ferrer announced that federal agents arrested 42 suspects on Medicare fraud charges in South Florida, including the owners of Biscayne Milieu Health Center, a Fort Lauderdale psychiatrist who referred patients to the Miami Gardens clinic, patient recruiters and ALF landlords. Other defendants were operators of home healthcare agencies, HIV-therapy clinics and medical equipment businesses.

Collectively, they're accused of submitting \$160 million in false claims to Medicare for services that were either not needed or provided to patients. In turn, Medicare paid out more than \$90 million, according to authorities.

The various South Florida indictments were unveiled as part of a Justice Department crackdown on Medicare fraud in hot spots such as Brooklyn, Detroit and Los Angeles, resulting in a total of 91 defendants being charged with \$295 million in bogus billing.

The federal program, which caters to more than 40 million elderly and disabled patients, has been bleeding billions of dollars a year because of waste, fraud and abuse, according to healthcare experts and law enforcement.

Medicare officials recently unveiled new computer software weapons to screen prospective Medicare operators, including criminal background checks, and to scrutinize claims, which are regularly paid within 14 days. But the FBI's special agent in charge of the Miami regional office said the massive healthcare agency needs to be far more aggressive to prevent the fraud up front.

"The FBI, Health and Human Services-Office of Inspector General and the U.S. attorney's office devote vast resources to investigate, catch and prosecute those committing healthcare fraud," said John Gillies, the FBI's top South Florida agent. "But that's addressing the problem after the fact. By then, the criminals have squandered away the money they stole."

On Tuesday and Wednesday, federal agents fanned out across three South Florida counties, arresting a total of 42 Medicare fraud offenders. Three others charged are believed to be in Florida.

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The sweep came almost one year after the indictment of Miami-based American Therapeutic Corp., with seven regional clinics. A total of 24 defendants, including senior executives, psychiatrists and counselors, were charged, netting several guilty pleas and one trial conviction. That case alone accounted for \$200 million in fraudulent Medicare claims during the past decade. The agency paid out \$83 million.

This week, 10 more patient recruiters and others were charged as part of the conspiracy.

But the biggest case was the new indictment of Biscayne Milieu and 23 defendants, including the family owners, a psychiatrist, Dr. Gary Kushner, patient recruiters and ALF operators. The clinic owners are accused of paying recruiters and landlords to lure out-of-state patients into the scheme.

Among those charged: Antonio and Jorge Macli, the father and son who owned the clinic in an office park off the Palmetto Expressway. Since 2007, authorities say, Biscayne Milieu submitted \$50 million in fraudulent Medicare bills, resulting in \$11 million in payments.

Earlier this year, Jorge Macli told The Miami Herald that his business was totally legitimate.

"We're not doing what other people are doing," Macli said in February. "All of our patients are coming from hospitals."

But Ferrer, the U.S. attorney, painted a very different picture: "Biscayne Milieu was set up for fraud."

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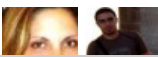
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