

FILED  
ELECTRONIC  
DEC 18, 2006  
CLARENCE MADDOX  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
06-20787-CR-LENARD/TORRES**  
Case No. \_\_\_\_\_

**18 U.S.C. § 1343  
18 U.S.C. § 2**

**UNITED STATES OF AMERICA**

**vs.**

**JAFET GARCIA,**

**Defendant.**

**INFORMATION**

The United States Attorney charges that:

**GENERAL ALLEGATIONS**

At all times relevant to this Information:

1. The Medicare program was a federal health care program providing benefits to persons who were over the age of sixty-five or disabled. The Medicare program was administered by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency under the United States Department of Health and Human Services (“HHS”). Individuals who received benefits under Medicare were referred to as Medicare “beneficiaries.”

2. Part B of the Medicare program covered most out-patient services, including durable medical equipment (“DME”). DME is equipment which may be used in the home on a repeated basis for a medical purpose. DME suppliers who met certain criteria could obtain Medicare provider numbers, which allowed them to submit claims directly to Medicare seeking reimbursement for the cost of DME supplied to eligible Medicare beneficiaries. In order to receive payment from Medicare, the supplier was required to submit a health insurance claim form to Medicare. The claim

form was required to state, among other things, the Healthcare Common Procedural Code Systems (“HCPCS”) code corresponding to the DME provided to the Medicare beneficiary. The claim form could be submitted in hard copy or electronically. A supplier could contract with a billing company to prepare and transmit claims to Medicare on its behalf.

3. Medicare Part B was administered in Florida by Palmetto Government Benefits Administrators (“PGBA”), which, pursuant to contract with the HHS, served as a fiscal intermediary to receive, adjudicate and pay Part B claims submitted to Medicare in relation to DME items and services. Medicare Part B reimbursed DME suppliers directly for the cost of equipment provided to eligible Medicare beneficiaries provided that such equipment was ordered by a licensed physician who certified that the equipment was medically necessary for the beneficiary. Such physician certifications could be in the form of a prescription or a certificate of medical necessity. Medicare regulations required suppliers to maintain these prescriptions and certificates of medical necessity on file at their DME companies.

4. Sunset Medical Corp. (“Sunset”) and King Medical Services & Supplies, Corp. (“King”) were Florida corporations with offices in Miami-Dade County, Florida. Sunset and King were purportedly in the business of providing DME to Medicare beneficiaries. Both companies were Medicare providers and were able to submit claims directly to Medicare.

5. Beginning on or about February 24, 2004, the defendant, **JAFET GARCIA**, and his accomplices owned and controlled the activities and finances of Sunset.

6. Beginning on or about May 17, 2004, **JAFET GARCIA** and his accomplices owned and controlled the activities and finances of King.

**WIRE FRAUD  
(18 U.S.C. §§ 1343 and 2)**

1. Paragraphs 1 through 6 of the General Allegations section of this Information are realleged and incorporated by reference as though fully set forth herein.

2. From in our around February 2004, to in or around June 2004, in the Southern District of Florida, and elsewhere, the defendant,

**JAFET GARCIA,**

knowingly and with intent to defraud did devise and intend to devise a scheme and artifice to defraud and to obtain money and property from Medicare by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made.

**Purpose of the Scheme and Artifice**

3. It was the purpose of the scheme and artifice for **JAFET GARCIA** and his accomplices to unlawfully enrich themselves by obtaining reimbursement from Medicare for DME and related items and services supposedly provided to Medicare beneficiaries by Sunset and King, when, in truth and in fact, the DME was not provided as claimed.

**The Scheme and Artifice**

The manner and means by which the defendant and his accomplices sought to accomplish the purpose of the scheme and artifice included, among others, the following:

4. **JAFET GARCIA** obtained ownership and control of Sunset and King.

5. To conceal his ownership and control of King, **JAFET GARCIA** used a nominee owner on the company's Articles of Incorporation and Medicare Supplier Application.

6. **JAFET GARCIA**, either directly or through others, obtained patient and physician information, which was used to prepare false and fraudulent Medicare claims. The claims sought reimbursement for DME purportedly provided by Sunset and King to Medicare beneficiaries pursuant to physicians' prescriptions and certificates of medical necessity, when in fact the DME was not ordered or prescribed by physicians or provided to the beneficiaries.

7. **JAFET GARCIA** and his accomplices caused a Miami medical billing company to submit the false and fraudulent Medicare claims to PGBA on behalf of Sunset and King, using wire communications in interstate commerce.

8. To support the false and fraudulent claims, **JAFET GARCIA** and his accomplices caused false prescriptions and/or certificates of medical necessity to be prepared for Sunset and King. The prescriptions and certificates were false in that the physicians had never ordered DME for the beneficiaries as claimed and the physicians' signatures had been forged.

9. Between on or about February 24, 2004 and on or about April 13, 2004, **JAFET GARCIA** and his accomplices submitted false and fraudulent Medicare claims to PGBA on behalf of Sunset seeking approximately \$2,791,645 in reimbursement for DME which was not ordered by a physician or provided to the beneficiary as claimed. Based on these claims, PGBA paid **JAFET GARCIA** and his accomplices approximately \$2,179,273.93.

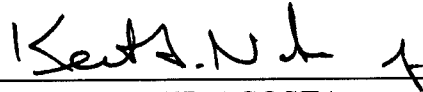
10. Between on or about May 17, 2004 and on or about June 28, 2004, **JAFET GARCIA** and his accomplices submitted false and fraudulent Medicare claims to PGBA on behalf of King seeking approximately \$2,790,300 in reimbursement for DME which was not ordered by a physician or provided to the beneficiary as claimed. Based on these claims, PGBA paid **JAFET GARCIA** and his accomplices approximately \$2,216,006.43.

**Use of Wires**

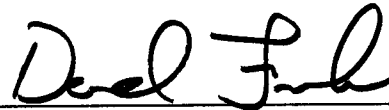
11. On or about the date specified below, **JAFET GARCIA**, for the purpose of executing the aforesaid scheme and artifice to defraud and to obtain money and property from Medicare by means of materially false and fraudulent pretenses, representations, and promises, did knowingly transmit and cause to be transmitted, by means of wire communications in interstate commerce, certain writings, signals, pictures, and sounds, as more specifically described below:

Approximate Date	Description of Wire Communication
March 11, 2004	Medicare claim electronically transmitted from the Southern District of Florida to PGBA in South Carolina, seeking reimbursement of approximately \$4,400 for HCPCS code L6648 (external powered shoulder), which was not ordered or prescribed by a physician or provided to a Medicare beneficiary.

In violation of Title 18, United States Code, Sections 1343 and 2.



\_\_\_\_\_  
 R. ALEXANDER ACOSTA  
 UNITED STATES ATTORNEY



\_\_\_\_\_  
 MARC OSBORNE  
 ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

**CERTIFICATE OF TRIAL ATTORNEY\***

JAFET GARCIA,

**Defendant.**

**Superseding Case Information:**

**Court Division:** (Select One)

Miami     Key West  
 FTL     WPB     FTP

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

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.

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

4. This case will take 0 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	<u>X</u>	Petty	_____
II	6 to 10 days	_____	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

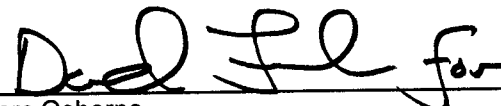
If yes:  
Judge: \_\_\_\_\_ Case No. \_\_\_\_\_

(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 9/18/06 (case 06-80136-CR-Hurley)  
Defendant(s) in state custody as of \_\_\_\_\_  
Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_

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

- Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? \_\_\_\_\_ Yes X No
- Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? \_\_\_\_\_ Yes X No  
If yes, was it pending in the Central Region? \_\_\_\_\_ Yes \_\_\_\_\_ No
- 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
- Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? \_\_\_\_\_ Yes X No

  
\_\_\_\_\_  
Marc Osborne  
ASSISTANT UNITED STATES ATTORNEY  
Court ID No. A5500796

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

PENALTY SHEET

**Defendant's Name:** Jafet Garcia

**Case No:** \_\_\_\_\_

Count #: 1

Wire Fraud

Title 18, United States Code, Sections 1343 and 2

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

AO 455 (Rev. 5/85) Waiver of Indictment

# United States District Court

SOUTHERN DISTRICT OF FLORIDA

## WAIVER OF INDICTMENT

UNITED STATES OF AMERICA

v.

CASE NUMBER:

JAFET GARCIA,

Defendant.

-----/

I, JAFET GARCIA, the above named defendant, who is accused of wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2,

being advised of the nature of the charge(s), the proposed information, and of my rights, hereby waive in open court on \_\_\_\_\_ prosecution by indictment and consent that the proceeding may be by information rather than by indictment.

*Date*

\_\_\_\_\_  
*Defendant*

\_\_\_\_\_  
*Counsel for Defendant*

Before \_\_\_\_\_

*Judicial Officer*