

**AFFIDAVIT IN SUPPORT OF ARREST WARRANT**

**BEFORE ME,** \_\_\_\_\_, Judge of the Circuit Court, in and for Dade County, Florida, personally appeared Investigator RAYMOND ALAMO of the Florida Attorney General's Medicaid Fraud Control Unit, who being first duly sworn, deposes and says that he has reason to believe that certain laws of the State of Florida have been violated, in particular: Florida Statutes section 895.03(3) Racketeering, section 812.014(2)(a)1 Grand Theft in the first degree, section 812.014(2)(b)1 Grand Theft in the second degree and section 812.014(2)(c)3 Grand Theft in the third degree and that the facts tending to establish probable cause for this application are as follows: Your Affiant, who has been an Investigator with the Florida Attorney General's Medicaid Fraud Control Unit for the past five (5) years, was previously employed as a police officer with the New York City Police Department for twenty (20) years and held the position of Detective Investigator assigned to the Organized Crime Control Bureau. Your Affiant has attended numerous career development courses in the field of criminal investigations and attended specialized training and seminars. Over the years, your Affiant has conducted and participated in all types of criminal investigations addressing crimes against persons and property. Your Affiant has participated in surveillance and undercover operations and has obtained and executed numerous search and arrest warrants.

Pursuant to Florida Statutes section 16.59, the Medicaid Fraud Control Unit (MFCU) is authorized to investigate all violations of Florida Statutes section 409.920 (Medicaid provider fraud) and any criminal violations discovered during the course of

those investigations. The Agency for Health Care Administration (AHCA) is the State agency that oversees the Medicaid Program which provides health care services to the indigent. Affiliated Computer Systems (ACS), formerly Consultec, is the fiscal agent for the State of Florida that administers Medicaid funds to the providers.

In November, 2003, MFCU received a complaint from AHCA regarding activity at the NebuMed pharmacy located at 5847 SW 8<sup>th</sup> Street, West Miami, Dade County, Florida. The pharmacy, which had never been very active with Medicaid, had billed the State-funded program for prescription medications in excess of four (4) million dollars in slightly more than four (4) months between June 12 and October 9, 2003. Medicaid, through its fiscal agent, paid NebuMed \$2,787,348.51 based on these billings.

Investigation has determined that the Medicaid billings submitted by NebuMed for this period were fraudulent; specifically, the pharmacy billed Medicaid for prescriptions that were never issued or filled. Your Affiant visited the NebuMed premises on November 24, 2003, and found the pharmacy to be closed and the landlord attempting to rent the premises anew. Investigation revealed that NebuMed had been purchased by LAURA FUENTES in August, 2001, and the business then relocated to the address on SW 8<sup>th</sup> Street in October, 2001. Further investigation revealed that one JEANNETTE RIVERA and LAURA FUENTES were partners in life and in business and that they owned and ran the day-to-day operations of NebuMed Pharmacy together until they took on ELISEO MARTINEZ as a silent partner in June, 2003, as detailed below. Interviews with various employees revealed that from the time FUENTES and RIVERA took over the pharmacy it began losing money on a regular basis and the number of prescriptions filled declined steadily over time. Your Affiant discovered that on June 12, 2003,

FUENTES allegedly “sold” NebuMed Pharmacy to one ROGER MOREIRA.

Your Affiant located MOREIRA, a trucker who has never worked in the pharmacy or medical field. MOREIRA did not know FUENTES, RIVERA or MARTINEZ and had no knowledge of NebuMed or any connection to the pharmacy and is considered a victim of identity theft. Further investigation revealed that the fingerprint card submitted to AHCA as MORIERA’s was a complete forgery. The address listed on the card and the promissory note executed as part of the “sale” was a drop box at a Mail Boxes Etc. The “sale” itself was fake; simply a ruse employed by FUENTES, RIVERA and MARTINEZ to distance themselves from the fraud they perpetrated upon the Medicaid Program. Your Affiant spoke with the people who worked at the pharmacy between June 12, 2003, when it was “sold” and October, 2003, when the doors closed to determine who was running the business and learned that FUENTES and RIVERA had introduced MARTINEZ as the new owner. Investigation determined the pharmacy did not stock the medications required to fill the prescriptions Medicaid was billed for, and after the “sale” had little or no traffic during business hours. Its pharmacist, when it had one, was filling on average one or two prescriptions a day.

One of the pharmacists employed during the period of the fraud identified MARTINEZ as the person who hired her and delivered payroll checks to the pharmacy. This pharmacist has testified that JUAN CARLOS OCANA, the pharmacy technician during the period of the fraud, ran the pharmacy department, was in regular contact with MARTINEZ, and often went outside to meet with MARTINEZ in his car. This pharmacist quit when she found evidence on the pharmacy’s computer that Medicaid was billed for prescriptions she knew had not been filled.

Your Affiant has also taken testimony from JUAN CARLOS OCANA who is related to MARTINEZ. OCANA stated that he was contacted in June, 2003, by MARTINEZ who told him that he now had a pharmacy and hired him as the pharmacy technician at NebuMed. Shortly after taking the job, OCANA stated he was approached by RIVERA and FUENTES to come in after hours and bill Medicaid from the pharmacy's computer for prescriptions that were never filled or intended to be filled. OCANA said the fraudulent prescriptions were given directly to him by RIVERA and FUENTES and that when he told MARTINEZ what he was doing, MARTINEZ told him not to worry about it.

Your Affiant visited the Wachovia bank where NebuMed pharmacy maintained its checking account and discovered that the Medicaid funds were deposited directly to this account and those funds steadily depleted with checks made out in large amounts to various corporate entities which were then cashed at a check-cashing store in Miami. Banking records indicate that some of these checks were cashed by MARTINEZ; FUENTES and RIVERA maintain that MARTINEZ cashed all of the checks until his surrender on a federal prison sentence.

Investigation has revealed that RIVERA and FUENTES maintained a joint checking account at Eastern Financial Florida Credit Union which they used to pay their personal expenses and where they deposited cash and checks from a company operated by MARTINEZ during the relevant time period. FUENTES and RIVERA have both given sworn statements in which they identify MARTINEZ as the architect of the fraud stating that he recruited them for the scheme, set up the fake sale of the pharmacy, obtained the fake fingerprint card, recruited the individual who masqueraded

as MOREIRA at the time of the “sale,” ran the operation after the “sale,” signed the pharmacy checks using MOREIRA’s name, cashed the pharmacy checks that depleted the account, and paid them their cut in cash and checks from his other business. By permitting an individual to masquerade as ROGER MOREIRA, creating a “ghost” using MOREIRA’s name and identification, arranging a fake sale of Nebumed, using the pharmacy’s Medicaid provider number by employing the services of JUAN CARLOS OCANA to bill for prescriptions that were never issued or filled and then collecting the proceeds for same, LAURA FUENTES, JEANNETTE RIVERA and ELISEO MARTINEZ participated directly in the criminal enterprise and facilitated the fraud itself, making them principals in each act of Grand Theft set forth below.

The investigation as outlined above has established that from June 12 through October 31, 2003, LAURA FUENTES, JEANNETTE RIVERA and ELISEO MARTINEZ, while employed by or associated with an enterprise as defined by Florida Statutes section 895.02(3) as a group of individuals associated in fact although not a legal entity acting together and through NebuMed Pharmacy, did knowingly, willfully and unlawfully conduct or participate in said enterprise, directly or indirectly, through a continuous pattern of racketeering activity as defined by Florida Statutes section 895.02(4), committing crimes chargeable by indictment or information under Florida Statutes Chapter 812 relating to theft, by engaging in at least two predicate incidents of racketeering activity which had similar intents, results, accomplices, victims or methods of commission or were otherwise related by distinguishing characteristics and were not isolated incidents; specifically the following incidents of Grand Theft in the first, second and third degree based on the following Medicaid billings attributed to doctors who

confirmed that they never wrote the prescriptions the State-funded program was billed for:

1. June 18, 2003: Medicaid paid in excess of \$10,000.00 but less than \$20,000.00 to NebuMed Pharmacy for prescription that were never filled;
2. June 25, 2003: Medicaid paid in excess of \$20,000.00 but less than \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
3. July 2, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
4. July 9, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
5. July 16, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
6. July 23, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
7. July 30, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
8. August 6, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
9. August 13, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
10. August 20, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed Pharmacy for prescription that were never filled;
11. August 27, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled;

12. September 3, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled;

13. September 10, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled;

14. September 17, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled;

15. September 24, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled;

16. October 1, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled;

17. October 8, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled;

18. October 22, 2003: Medicaid paid in excess of \$100,000.00 to NebuMed

Pharmacy for prescription that were never filled.

**WHEREFORE**, your Affiant prays that an Arrest Warrant be issued commanding the Sheriffs of the State of Florida, all and singular, their Deputies, the Commissioner of the Florida Department of Law Enforcement, any of his duly constituted agents, the Attorney General's Director of Medicaid Fraud and his duly appointed Law Enforcement Investigators and all Florida police officers with the proper and necessary assistance, to arrest ELISEO EUGENIO MARTINEZ for one (1) count each of Racketeering, Grand Theft second degree and Grand theft third degree and sixteen (16) counts of Grand Theft first degree.

---

INVESTIGATOR RAYMOND ALAMO, AFFIANT

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

---

CIRCUIT JUDGE IN AND FOR DADE COUNTY