

Affidavit in Support of Arrest Warrant

Before me, _____ a Judge of the Eleventh Judicial Circuit of Florida, appeared your Affiant Jack Calvar, Law Enforcement Investigator II, Medicaid Fraud Control Unit, Office of the Attorney General, Department of Legal Affairs, State of Florida, who first being duly sworn, deposes and states as follows:

I have been employed as an investigator with the Medicaid Fraud Control Unit, since March 2001. Previously, I was employed as a police investigator with the City of Miami Police Department for over 19 years. During my tenure as a police officer, I personally conducted, supervised and coordinated criminal investigations, including homicides, robberies, burglaries, frauds and thefts.

The Agency for Health Care Administration, (hereinafter referred as AHCA), is the State of Florida agency that oversees the Medicaid Program to provide medical services for indigent recipients. Medicaid Program Integrity, (hereinafter referred as MPI), is an investigative unit within the AHCA that monitors the Medicaid program for suspicious activities and overpayments.

Affiliated Computer Systems, (hereinafter referred to as ACS), is the fiscal agent for the State of Florida that administers funds to Medicaid Providers.

The Medicaid Fraud Control Unit, (hereinafter referred to as MFCU), exists to conduct criminal investigations of Medicaid Fraud that occurs in the State of Florida. The MFCU is under the authority and supervised by the Office of the Attorney General.

INITIAL INVESTIGATION CONDUCTED BY AHCA/MPI

On April 21,2004, AHCA/MPI notified the Medicaid Fraud Control Unit of a durable medical equipment company, Vital Medical Equipment Corp., (hereinafter referred to as Vital) they suspected of defrauding the Medicaid Program. According to the information provided by MPI, during a preliminary review of Vital, investigators for MPI learned, through personal interviews with recipients, that Vital Medical Equipment Corp. solicited and over-billed for motorized wheelchairs in the Delray Beach area, which, in most instances, were not medically necessary. They also billed and were paid for unneeded and undelivered orthotic supplies.

AHCA research found that Medicaid paid Vital for an abnormally high quantity of orthotic items, including 215 knee braces (L1832) and 74 elbow braces (L3740) plus 68 payments for electric wheelchairs (K0011). Four of the wheelchairs went to Medicaid recipients in Delray Beach, over 50 miles from Hialeah, three (3) recipients in the same apartment complex. Two (2) of the recipients stated to MPI Investigators that a female solicitor told them they could get powered wheelchairs by simply signing some forms. Neither recipient required the devices and seldom used them.

On March 9, 2004, Investigator Thomas Daniels and Investigator Ed Fischer visited Vital at 3120 W. 84th Street, Bay 1, Hialeah, Florida. The office hours posted on the front door stated; Open 9a.m. to 4 p.m., however there was no one willing to open the door. An employee, observed inside the business, ran to an interior office and closed the door. The owner, Esteban Garcia, when contacted by phone, told the investigators they were mistaken, there was no one at the business. After explaining to Mr. Garcia that they were there to review records associated with Vital's Medicaid provider account, he told the investigators he would try to reach the person inside the business and call them back. Mr. Garcia never

called back the MPI Investigators. Inserted in the door jamb was a notice from the landlord stating Vital was in arrears for February and March 2004, in the amount of \$3,926.01.

Five (5) recipients were interviewed by MPI investigators. Three (3) recipients who had motorized wheelchairs in Delray Beach were contacted by phone, and two (2) recipients with orthotic items were interviewed at their residences in Miami.

Adolfo Garcia, AHCA/MPI Supervisor, talked with SC, by phone on March 9, 2004, regarding her motorized wheelchair from Vital. SC stated a woman by the name of Sandra Castro, representing Vital, had marketed the wheelchairs in Delray Beach apartment complex 2 years earlier. The wheelchair was only used occasionally. SC also stated she kept a copy of the invoice from Vital for the wheelchair.

Investigator Daniels contacted Jenny Thurn, Daughter of CY. Ms. Thurn stated her mother responded to an advertisement for a wheelchair that was distributed throughout the complex. Ms. Thurn stated her mother was not disabled so the wheelchair was seldom, if at all, used.

Investigator Daniels and AHCA Supervisor Mr. Adolfo Garcia interviewed JG at her home. JG, whose apartment building does not have an elevator, did not limp and did not appear to be in any discomfort while walking. JG told the investigators she had no medical equipment from Vital and had never been contacted by them. Her physician had prescribed a knee brace in February 2004 when she was hospitalized, however two (2) weeks after Vital alleges to have provided the brace, JG did not have it at her home.

Investigator Daniels and AHCA Supervisor Adolfo Garcia interviewed MD at her home. She stated to the investigators she had no equipment from Vital and was not familiar with the company. In fact,

she was going later in the day to pick up her prescription for a knee brace from VNL Medical Associates, the clinic where she gets all her medical treatment. MD confirmed the prescription was for her left knee, however Vital billed Medicaid \$600.00, and was paid \$559.32, for a knee orthosis for the right knee before the prescription was even issued.

Based on the wholesale and unethical solicitation of Medicaid recipients for \$3,700.00 wheelchairs in Delray Beach and the non-receipt of orthotic items by other Miami area recipients, AHCA concluded all of Vital's billing should be regarded as fraudulent.

MFCU INVESTIGATION

The referral for criminal investigation was assigned by MFCU on April 30, 2004. A check of the Florida Department of State, Division of Corporations, revealed an active corporation for Vital Medical Equipment Corp., with an address of 3120 W. 84th Street, Bay 1, Hialeah, Florida 33012, registered to Esteban Garcia. According to corporate records, Vital was originally formed on July 11, 1995, by Esteban Garcia. Mr. Garcia ran Vital until it was sold to Norberto Peraza on March 12, 2004. During Mr. Garcia's ownership of Vital, the billing between January 1, 2003, through March 10, 2004, when Vital's provider number was terminated totaled \$326,892.23. Of the total billed to Medicaid, \$208,401.08, was for orthotic devices, and \$52,916.00 for Motorized wheelchair and wheelchair accessories. Eighty percent (80%) of Vital's billing to Medicaid constituted these two types of Medical equipment. On March 12, 2004, the company changed ownership from Esteban Garcia to Norberto Peraza. After the change in ownership from Mr. Garcia to Mr. Peraza, there was no billing to the Medicaid program. All questionable billing occurred during the tenure of Esteban Garcia at Vital Medical Equipment Corp.

Vital was issued Medicaid provider number 9516808-00 on August 22, 1995, upon application by Esteban Garcia to AHCA. Payment by Medicaid was made through electronic transfer to First Union account 2090000901272, as requested by Mr. Garcia, in an Authorization Agreement for Automatic Payment/Deposits dated July 14, 1997. Subsequently, an amended Authorization Agreement for Automatic Payment/Deposits dated January 24, 2000, changing the bank account information to Nations Bank account 003060751875, was submitted by Esteban Garcia. Nations Bank eventually merged with Bank of America, the current custodian of records for Vital's bank account.

Provider number 9516808-00 was voluntarily terminated in writing by Esteban Garcia on March 15, 2004, upon learning of AHCA's intentions of placing the company on pre-payment review and the investigation into the fraudulent billing by Vital.

RECIPIENT (PATIENT) INTERVIEWS

On June 24, 2004, MFCU Investigator Baquero interviewed Medicaid recipient NB at her residence, in order to ascertain if in November 18, 2003, she had received or had been prescribed ankle foot orthosis (L2114), for which Vital billed the Medicaid system \$500.00, and was paid \$\$465.60, using NB's Medicaid recipient number. NB stated, she has never been prescribed or received any type of orthotics devices.

On July 16, 2004, MFCU Investigator W. Diamond interviewed Medicaid recipient FD. FD did not speak English, so his wife translated. She confirmed that FD has problems with his knees, however, he does not have knee braces or a cane. She also stated that he never received any equipment from Vital.

According to Information from AHCA, Vital billed Medicaid \$559.32, and was paid \$559.32, using FD's Medicaid recipient number for a knee orthosis (L1832) on August 20, 2003. The diagnosis given by Vital to justify the knee orthosis was Osteoarthritis Nos.

Investigator Diamond interviewed TR at his home. Investigator Diamond asked TR if he had problems with his knees. TR said yes and showed Investigator Diamond an aluminum walking stick. TR stated that he has therapy at U.S. Care Center Inc., located at 2128 W. Flagler Street, Miami, for a car accident he was in. Investigator Diamond asked if he had a brace or anything else for his knees, TR said no. According to the information provided by AHCA, Vital billed Medicaid \$559.32 on August 20, 2003, and was paid, \$559.32, for a knee orthosis, (L1832), allegedly delivered to TR, on August 18, 2003. The diagnosis justifying the knee orthosis was osteoarthritis Nos.

On July 23, 2004, Investigator Diamond interviewed Medicaid recipient LP. LP spoke only Spanish, so she called her niece, Doris, on the phone to translate. Doris stated that LP does not have any orthopedic problems with her knees and does not have a brace or wear one. She has problems with her heart and back and has been to the clinic on Flagler and 82nd, but they never gave her anything orthopedic equipment. According to the download, Vital billed Medicaid \$559.32 and was paid \$559.32, for a knee orthosis (L1832) for LP on 9/25/03. The diagnosis justifying the knee orthosis was Pain In Joint.

Investigator Diamond interviewed Medicaid recipient AC. AC confirmed she does have problems with her knees, however she does not have a knee brace and never received one from Vital. AC had a brace for her wrist, but it was not from Vital. Investigator Diamond also asked AC about Medicaid recipient MM, who was listed as living at the same address, and also had the same service date as AC on

the information provided by AHCA on the billing of Vital to Medicaid. MM died October 17, 2003. AC stated MM did not have any knee problems or a brace either. According to the Information provided by AHCA, Vital billed Medicaid \$559.32, and was paid \$559.32, for allegedly providing AC with a knee orthosis (I832) on 6/10/03. The diagnosis justifying the knee orthosis for AC was Osteoarthritis Nos. The information also shows billing for MM for knee orthosis (L1832) on 6/10/03. The diagnosis justifying the knee orthosis for MM was Osteoarthritis Nos. Vital billed the Medicaid program \$559.32, and was paid \$559.32, using MM's Medicaid recipient number.

Inv. W. Diamond interviewed Medicaid recipient VR at his home. He stated he has lived at this address for 10-11 years. VR had an operation on his right hand some time back, however he did not wear a brace. VR added his general doctor is located on Flagler Street and showed Investigator Diamond a prescription from Dr. Fernando Mendez-Villamil, for Xanax, Zyprexa and Viagra. According to the Information provided by AHCA, Vital billed Medicaid \$443.29, and was paid \$443.29, for an elbow orthosis (L3740) allegedly delivered to VR on 6/4/03. The diagnosis used to justify the billing by Vital was Osteoarthritis Nos.

Inv. W. Diamond interviewed Medicaid recipient BC, who stated she never had a knee brace in her life. BC stated the only thing she has is an "asthma machine" for herself and her granddaughter. According to the information provided by AHCA, Vital billed Medicaid \$559.32 twice, and was paid \$559.32 twice, totaling \$1,118.64, for a knee orthosis, allegedly delivered to BC on September 26, 2001.

Investigator Diamond interviewed Medicaid recipient AP2. AP2 stated he used to have problems

with his knees but not anymore and added that he never had a knee brace and he did not know anything about the billing to Medicaid by Vital. According to the information provided by AHCA, Vital billed Medicaid \$559.32, and was paid \$559.32, for a knee orthosis (L1832) allegedly delivered to AP2 on 5/13/03. The diagnosis used to justifying the billing by Vital was Pain In Joint. Investigator Diamond interviewed Medical Recipient JP. JP confirmed that she has had problems with her knees and has used a brace. However, the brace was borrowed from a friend and not actually delivered from any medical equipment company. JP does not have a brace now and has never actually owned one. JP did not know anything about Vital. According to the information provided by AHCA, Vital billed Medicaid \$559.32, and was paid \$559.32, for a knee orthosis (L1832), on January 22, 2003. The diagnosis justifying the billing to Medicaid by Vital was Pain In Joint.

Inv. W. Diamond interviewed Medicaid recipient CR. CR remembered going to an orthopedic doctor on Flagler Street, however she could not remember his name. CR had problems with arthritis and was given pills by the doctor. She never received an elbow brace or any other medical equipment. According to the information provided by AHCA, Vital billed Medicaid \$443.29, and was paid \$443.29, using CR's Medicaid recipient number, for an elbow orthosis, (L3740) on 7/31/03. The diagnosis used to justify the billing on behalf of CR was Osteoarthrosis Nos.

On 8/4/04, Investigator Diamond interviewed Medicaid recipients GB. GB stated that she never had a knee brace or neck collar. Investigator Diamond showed her photos of both items and she confirmed that she never had them. Her primary doctor is Manuel Fernandez and she went to an Orthopedic doctor in either 2001 or 2002. She could not remember the orthopedic doctor's name or the

location. During the visit, she got an injection and had to go for a scan at Kendall Hospital. Investigator Diamond also showed GB photos of an elbow brace and ankle brace and asked if her husband, RF ever wore any of them. She stated that RF never had the need for the orthotic equipment in the photograph either. GB's grandson stated that they just bought the house in November 2003. Billing was done in early 2002 for GB and RF at that address.

According to the information provided by AHCA, Vital billed Medicaid \$759.32, and was paid \$739.74, for GB twice on March 13, 2002, for a knee orthosis (L1832) and cervical, multiple post collar,(L0180). In both cases the diagnosis justifying the billing was Pain In Joint.

Under RF's Medicaid recipient number, Vital billed Medicaid \$893.29, on March 13, 2002, for elbow orthosis (L3740), and ankle foot orthosis (L2114),. In both cases the diagnosis justifying the billing was Osteoarthritis Nos. Vital was paid a total of \$893.29 for the billing under RF's Medicaid recipient number.

On August 6, 2004, Investigator Diamond interviewed Medicaid recipient MI. According to MI, her primary doctor is Marisela Gonzalez. She has never been to an Orthopedic doctor or a clinic and only goes to her primary doctor. MI has never had any problems with her elbows and has never worn an elbow brace or been provided with one. Investigator Diamond showed her pictures of the elbow brace alleged to have been provided by Vital, and she continued to say she never had one. According to the information provided by AHCA, Vital billed Medicaid \$443.29, and was paid \$443.29, for an elbow orthosis (L3740), on 1/13/03, alleged to have been delivered to MI. The diagnosis used to justify the elbow orthosis was Pain In Joint.

Inv. W. Diamond interviewed Medicaid recipient AR. AR told Investigator Diamond his primary doctor is Dr. Lazaro Plasencia. He has never visited an Orthopedic doctor and has never had problems with his elbows requiring the use of an elbow brace. Investigator Diamond showed AR photos of the elbow brace alleged to have been delivered by Vital. AR shook his head and said, "No, never". Investigator Diamond asked him if he ever heard of Vital in Hialeah, and he said, "No". Investigator Diamond showed AR the billing information obtained from AHCA, and he could not believe it. AR continued to say, "No, never". According to the information provided by AHCA, Vital billed Medicaid \$443.29, and was paid \$443.29, for allegedly providing AR with an elbow orthosis, (L3740) on 6/10/03. The diagnosis used to justify the billing to Medicaid by Vital was Pain In Joint.

On August 10, 2004, Investigator Diamond spoke with Medicaid recipient GL. GL stated she did not have knee problems and did not wear a knee brace. Investigator Diamond asked her about Medicaid recipient RR, who records indicated also lived at the same address as GL, and was also billed by Vital. GL stated RR no longer lives with her, however, he did live with her in 2003 when he started wearing a knee brace. RR has knee problems due to an accident he had in Cuba. GL could not remember where he bought the brace. According to the information provided by AHCA, Vital billed Medicaid \$559.32, and was paid \$559.32, for a knee orthosis, (L1832) alleged to have been delivered to GL on 5/12/03. The diagnosis used to justify the knee brace was Pain In Joint. Vital also billed \$559.32, and was paid \$559.32, for a knee orthosis, (L1832) alleged to have been provided to RR on 6/4/03. The diagnosis used to justify the billing by Vital was also Pain In Joint.

On August 16, 2004, Investigator Diamond interviewed Medicaid recipient MB. MB stated she

has Carpal Tunnel Syndrome and wears wrist bands when she has pain. She showed me the bands. MB remembers getting them from a store in Hialeah but could not remember the name. MB does not wear an elbow brace and does not own one. She admits she has back pains and needs surgery for a slipped disc, however, she does not wear a back brace or own one. According to the information provided by AHCA, Vital billed Medicaid \$443.47, for an elbow orthosis (L3740) and also \$243.47 for a lumbosacral orthosis (LSO- L0565) for MB on October 24, 2001. The diagnosis used by Vital to justify the elbow orthosis and LSO was Pain In Joint. Medicaid paid Vital a total of \$686.94.

On August 18, 2004, your Affiant interviewed Medicaid recipient AP at his home. AP told me he has never heard of Vital prior to my visit. He receives no medical equipment whatsoever and has no idea how Vital obtained his Medicaid Recipient number. July 31, 2002, Vital billed \$1,118.64, and was paid \$1,118.64, for two (2) knee orthosis (L1832) using AP's recipient number. Again on October 1, 2003, Vital billed Medicaid \$559.32, and was paid \$559.32, for another knee orthosis (L1832) on AP's recipient number. The diagnosis used to justify the billing by Vital pain in joint.

Your Affiant interviewed Medicaid recipient GG at her home. On September 4, 2003, Vital billed the Medicaid Program \$243.47, and was paid \$243.47, for a lumbosacral orthosis to treat osteoarthritis. I asked GG if she has ever received any medical equipment at her home? GG stated she receives an oxygen concentrator from Dominguez de la Torre Medical Equipment, located at 1055 E 4 Ave., Hialeah, FL. I asked Ms. Gil to show me the oxygen concentrator. GG opened a livingroom closet and under a pile of clothing and boxes was an oxygen concentrator. GG stated she is currently moving into the apartment and that is why the oxygen concentrator is in the closet. I asked GG if she has had any injuries

to her wrist or hand that would require any type of medical equipment. GG stated the only injury she had was in May of 2003, when she slipped and fell inside the Sedano's Supermarket and was treated at Mavic Medical Center located on SW 1 St. & 11 Ave., Miami, FL. The medical center provided her with a knee brace and an elastic wrap. She has not received any equipment for her wrist or hand. GG has never heard of Vital Medical Equipment.

On August 31, 2004, your Affiant interviewed Medicaid recipient YG. YG was asked if she received any medical equipment at her home. She stated she has never received any medical equipment whatsoever. Vidal billed the Medicaid program \$559.32, and was paid \$559.32, for a knee orthosis (L1832) to treat pain in the joint on June 18, 2003, using YG's Medicaid recipient number. YG stated she has never had a problem with either knee and also has never heard of Vital. Ms. Garcia states she only uses her Medicaid benefits for Medical treatment and to get her medication at VH Pharmacy.

Your Affiant interviewed Medicaid recipient OR. OR was asked if he received any medical equipment at his home. OR stated the only equipment he has received was an oxygen concentrator, portable oxygen bottle, and nebulizer. However, OR stated he has been trying to return the oxygen bottle and concentrator for several months to the company who delivered it with no success. OR stated when he calls the number provided, no one answers the phone. The company who's name appears on the oxygen concentrator is Vital Medical Equipment. OR stated it has been eight (8) months since anyone came to service the equipment and he wanted us to remove the equipment from his apartment. OR stated he has not received any type of orthotic equipment at his home. He has no problems with his elbow or wrist, hand or fingers, nor has he an injury of the knee or leg as alleged by the diagnosis used by Vital to

justify to Medicaid the billing of said orthotic equipment. According to information provided by AHCA, on September 11, 2003, Medicaid was billed \$757.57, by Vital for an elbow orthosis (L3740) and a wrist hand finger orthosis (L3910) using OR's Medicaid recipient number. Vital was paid \$757.57 for the orthotic devices billed for on September 11, 2003. On March 26, 2003, Medicaid was again billed \$559.32, by Vital for a knee orthosis (L1832), using OR's Medicaid recipient number. Vital was paid \$559.32 by Medicaid.

On November 10, 2004, Esteban Garcia, the owner of Vital, appeared at the Attorney General's Office, MFCU, for a scheduled interview. Mr. Garcia stated that Vital Medical Equipment was incorporated in 1997, however he has been in the DME business for 10 years (since 1993). He stated that he sold the business in March 2004 to Norberto Peraza. He added that when the AHCA Investigators went to Vital, he was no longer the owner and had already handed the keys over to Mr. Peraza.

Mr. Garcia stated that he advertised for the business via flyers, direct-mailing and personal visits to doctors' offices. This was done in Dade County, as well as Broward County. He conducted a full service DME, supplying scooters/wheelchairs, oxygen therapy, nutrition, hospital beds, ambulatory (canes, etc.) and orthotics. The equipment was stored in a 1500 sq ft warehouse at 3201 W. 84th Street, Hialeah, FL. Deliveries were made by Mr. Garcia, his father Jesus Garcia, his mother-in-law Josie Villa and Julio Ruiz (the orthotic fitter).

Mr. Garcia claimed that interested clients would call the office and request a particular piece of equipment. Mr. Garcia would then call that person's doctor to confirm if they really needed the item. If the client did not need the item then it was not delivered. If the client needed the item, the doctor would

then fax the prescription and Mr. Garcia would later pick up the original prescription. The item was then delivered to the recipient who in turn would sign the invoice sheet as proof of delivery. If it was an orthotic item, the orthotic fitter, Julio Ruiz would go out to the client's house and take the measurements. He then returned to Vital Medical and picked out the appropriate size. Mr. Ruiz or other personnel would then deliver the orthotic item to the client. There were no custom-made items.

Mr. Garcia had a contract with Express Medical, located at 72nd Avenue & 54th Street. They were responsible for providing Mr. Garcia's orthotic needs, as far as an orthotic fitter (Mr. Ruiz) and the products. They also did deliveries for Vital Medical. Mr. Garcia would fax the prescription to Express Medical and they would do the fitting and delivery. He would pay them for their services.

Mr. Garcia claimed that in his experience, patients have tried to sell the equipment back to him forgetting that they had gotten it from him originally.

On April 25, 2006, Investigator Gene Francar and Investigator Carlos Llopis interviewed Medicaid recipient AD. Billing data retrieved in preparation for the interview reflected that from August 20, 2003, Vital billed Medicaid \$559.32, and was paid \$559.32, for a knee orthosis (L1832) alleged to have been provided to AD.

Ms. Diaz was shown pictures of the various types of braces and asked if she ever received or used any such devices. She answered that she was involved in an accident in 1999 in which she fell, broke her arm which was then placed in a cast. As the interview continued, she then claimed that she did in fact one time have a brace for her arm. She said that after using it for awhile, she no longer needed it and eventually loaned it to a friend, who never returned it.

As the interview continued, we were joined by Elio Diguez. He explained that AD was his mother, and that up until two years ago the family frequently moved. He said that he recalled the brace his mother referred to, but he did not know who she gave it to. He supported his mother's claim that she had in the past had one or two of the devices, but that she had never had the knee brace indicated in the billing. He said that currently, she remains home and when she has to go somewhere, such as the doctor, he or one of her other children take her.

On Tuesday, April 25, 2006, at 5:40 PM, your Affiant interviewed Medicaid recipient PC at his home. PC's Medicaid recipient number was used by Vital to bill the Medicaid program for the following orthosis:

8/21/2002	Knee Orthosis, adjustable knee joints (L1832)	\$559.32
8/21/2002	Wrist Hand Finger Orthosis, Swanson design, prefabricated	\$314.28
4/2/2003	LSO, Anterior-Posterior-Lateral control, custom fitted	\$243.47
11/6/2003	Wrist Hand Finger Orthosis, Swanson Design, Prefabricated	\$314.28

PC stated he is a patient of VNL Medical Association and his primary physician is Dr. Julio Menasche (Phonetic). He has been going to VNL for several years. A review of PC's medical records confirmed him as a patient of VNL since February 2001. PC showed me an appointment card showing that he has an appointment at VNL on May 18, 2006. I asked PC if he has any medical equipment at his home. PC showed me an oxygen concentrator he has for shortness of breath. The concentrator was provided by Orietta Medical Equipment. PC also informed me he is missing his right foot and wears a prosthesis. PC removed his shoe and sock to show me his foot. He has a prosthesis which was provided

by Castillo Orthopedic Center. The person who made his boot at Castillo is Jose Del Castillo,. PC also has had prosthesis made at Quirantes Orthopedic.

Your Affiant asked PC if he has ever had a knee brace prescribed to him by anyone at VNL or other medical clinic. PC stated he has never had any knee problems. I showed PC an illustration of the knee brace billed by Vital Medical Equipment. PC said he has never had any brace for his knees. PC was also shown an illustration of the wrist, hand, finger orthosis billed by Vital. PC has never had a need for any type of orthosis or brace for his elbow, wrist, hand or finger.

On April 26, 2005, Investigator Gene Francar and Investigator Carlos Llopis interviewed Medicaid recipient AR2 to verify billing by Vital. Billing data retrieved prior to the interview indicated that Vital, on September 8, 2003 billed Medicaid \$559.32, and was paid \$559.32, for a knee orthosis (L1832) alleged to have been provided to AR2. AR2 was shown pictures of the various braces and asked if he ever received or used any such devices. AR2 answered that about ten years ago, due to an injury, he went to a clinic located in the area of 57 Avenue and 8th street. He said “they” gave him a knee brace, and he used it for four or five months. At that point, he no longer needed it, so he disposed of it. He has not used any brace type devices since then.

Investigator Gene Francar and Investigator Carlos Llopis interviewed Medicaid recipient DM. DM was asked if she ever received or used any orthotic type braces. To assist her recall, she was shown typical pictures of these appliances. DM replied that in 2003, when she injured her left ankle in a fall, she required medical treatment which consisted of injections for the pain and swelling. She said that she has never received or used any such equipment for this injury, nor has she ever received or used any brace type

device for any body joints, including arms, legs and back.

DM identified her physician as Dr. Virgilio Del Pino and added that for a period she also was a patient at Lourdes Medical Diagnostic. She described her primary medical problems as asthma, and diabetes. According to information provided by AHCA, Vital billed the Medicaid program \$443.29 on February 5, 2003, for an elbow orthosis (L3740). On September 17, 2003, Vital again billed Medicaid \$559.32, and was paid \$559.32, for a knee orthosis (L1832) all alleged to have been delivered to DM.

Lt. Albuerne and your Affiant also interviewed Medicaid recipient RO. According to AHCA Medicaid records, RO's Medicaid recipient number was used by Vital to bill \$559.32, to the Medicaid program for a knee orthosis (L1832), on October 29, 2003. Vital was paid \$559.32 for the orthotic device alleged to have been delivered to RO.

RO stated that his current medical doctors are at Humana Health, located on SW 1 St. between 8th and 9th Avenue in Miami. He has been seen at this clinic for the past 2 years. Prior to Humana, he received medical care at Mavic Medical Center and Varadero Medical Center. RO stated once he received a knee orthosis. He described it as being an elastic band that did not have any metal parts. I showed RO an illustration of the knee orthosis being billed by Vital. RO stated he never received anything remotely looking like the illustration. RO stated that if Vital billed for the equipment I showed him, they were defrauding Medicaid because he has never gotten any of the equipment. If he had know they were billing for equipment using his recipient number he would have approached the companies himself.

Investigator Gene Francar and Investigator Carlos Llopis interviewed Medicaid recipient VC. Billing data retrieved prior to the interview indicated that VC was billed \$559.32, by Vital on August 12,

2003, for a knee orthosis (I1832). VC was asked if he ever received or used any orthotic type braces. He replied that due to an injury resulting from a fall down some stairs in November 2005, he injured his knee and received a knee brace. As a result, he received a knee brace and a prescription for a wrist brace, which he has not yet filled. After briefly leaving the room, VC returned carrying a brace, which he turned over to the investigators for inspection. The brace is further described as an adjustable and stamped "CAMP" in white letters and a number (in part), "5280." Additionally, he produced a prescription dated January 20, 2006 written by Dr. Oscar Mendez Turino, which stated in part, "right elbow brace #one: Use as instructed daily Diag: Epicondylitis." VC said there was also another accident prior to the above described fall which occurred on September 19, 2004 at his prior address, when he fell down the stairs and broke his arm. For this, he was given two shoulder type braces, but no knee or wrist brace. To further substantiate the above two incidents, VC made available for inspection his copies of photographs that were taken to document his injuries and the claimed causal factor, the stairs that he says were responsible for his fall. It is noted that the billing by Vital occurred more than two years prior to the first incident described by VC. He maintains he never received any brace devices during the periods Vital billed the Medicaid program. He again said that the only knee brace he ever received was the one shown to the investigators.

On April 27, 2006, at 10:25 AM, your Affiant interviewed Medicaid recipient CM at her apartment. CM's Medicaid recipient number was used by Vital on April 10, 2003, to bill the Medicaid program \$559.32, for a knee orthosis (L1832). CM told your Affiant her current doctor is Dr. Alejandro Ferras at La Clinic Latino, located at 1070 SW 1 St., Miami, FL 33130. Prior to Dr. Ferras, CM received medical care at Mavic Medical Center located 1101 SW 1 St., Miami, FL. She left Mavic when

Dr. Ferras became her MediPass physician. Her last visit to Mavic Medical Center was in August 2004. This fact was verified from her medical records provided by Mavic Medical Center. According to CM, the only medical equipment she has ever gotten is a nebulizer for her asthma.

Your Affiant asked CM if she had problems with her knees. She stated she has lower leg pain in both legs possibly due to diabetes. She stated that she has never been prescribed or worn a brace to alleviate the pain. I also asked her if she had any back problems. She stated she has 4 dislocated discs in her back and has received therapy in the past. However, she has never been prescribed or worn any back brace (LSO) to treat her back problems. Ms. Murgado has never heard of Vital Medical Equipment and according to the medical records provided by Mavic Medical Center on Ms. Murgado, there does not appear to be any prescriptions for orthotic equipment in the file.

On April 27, 2006, your Affiant interviewed Medicaid recipient MQ at her home. MQ's Medicaid recipient number was used by Vital on February 19, 2004, to bill the Medicaid program \$559.32, for a knee orthosis (L1832). MQ stated her primary physician is Dr. Oscar Mendez-Turino at the clinic located on SW 23 Ave. & 8 St. She has not been treated by any orthopedic physician and the only medical equipment she receives at her home is an oxygen concentrator and a nebulizer. MQ suffers from chronic asthma and diabetes and needs the concentrator and nebulizer primarily before bedtime. She has not gotten any other types of medical equipment at her home. MQ also stated she does suffer from pain in her left knee and she purchased an ace bandage at Walgreens, which she uses from time to time. MQ showed me the ace bandage she uses and I asked her if she has ever been prescribed, given or worn any type of knee, elbow or wrist brace. Ms. Quintas stated she has never worn any type brace. I showed MQ

several illustration depicting the equipment alleged to have been delivered by Vital. Ms. Quintas stated she has never seen or owned anything that looked like the illustration. MQ did not know how Vital obtain her Medicaid number and has never heard of Vital Medical Equipment.

None of the Medicaid recipients interviewed by investigators of MFCU had received or heard of Vital.

**ANALYSIS OF BANK OF AMERICA RECORDS FOR ACCOUNT 003060751875,
BELONGING TO VITAL MEDICAL EQUIPMENT CORP.**

On May 8, 2006, an analysis of the Bank of America account (Acct# 0030 6075 1875) for Vital Medical Equipment Inc. was conducted. Between January 1, 2003, through July 31, 2004, when the account was forced closed, the sole authorized signer on the account was Esteban Garcia, President of Vital Medical Equipment, Inc. During that time period he received a total of \$275,853.11.

After reviewing the bank records from Bank of America, the following medical equipment companies received checks from Vital Medical Equipment:

<i>NAME</i>	<i>TOTAL CHECKS</i>	<i>AMOUNT</i>
A Quality Medical Equipment	2	\$3,024.40
ASV MEDICAL	6	\$1,334.61
EXPRESS MEDICAL	5	\$5,600.74
QUICK MEDICAL	5	\$6,925.00

The total amount written to legitimate Medical equipment related companies during the time of the Medicaid billing was \$16,894.01. These payments were not sufficient to justify the billing to

Medicaid and Medicare.

Based upon the foregoing, your Affiant has probable cause to believe and does believe that between September 2004 and continuing through September, 2005, Esteban Garcia and others, knowingly did commit the criminal offenses of : **Organized Fraud**, 1nd degree, by engaging in a scheme to defraud and obtain property, to wit: \$275,853.11, in U.S. Funds from the State of Florida, Medicaid Program, in violation of Florida Statute 817.034(4)(a)(1) ; and **Grand Theft**, 1st Degree, by knowingly and feloniously obtaining or using or endeavoring to obtain U.S. Currency valued at \$275,853.11, being the property of the State of Florida, Agency for Health Care Administration and/or its fiscal agent, Affiliated Computer System, with the intent to either temporarily or permanently deprive the same of a right to the money in violation of Florida Statute 812.014(1)(2)(a) (1)

Sworn and subscribed on this _____ day of _____, 2006.

JACK CALVAR, AFFIANT