

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

AFFIDAVIT IN SUPPORT OF ARREST WARRANT

BEFORE ME, appeared Affiant Joyce Cohen Cavallo, Law Enforcement Investigator for the Medicaid Fraud Control Unit of the Office of the Attorney General, who first being duly sworn, deposes and states as follows:

I, Joyce Cohen Cavallo, have been employed as a Law Enforcement Investigator/ Senior Investigator with the Medicaid Fraud Control Unit, of the Office of the Attorney General, Department of Legal Affairs, State of Florida, since November 22, 1999. Prior to being with the Medicaid Fraud Control Unit, I was employed as a Public Assistance Specialist II, determining Medicaid recipient eligibility for the Department of Children and Families (DCF). In 1989, while still employed with DCF, I began working for Adult Services, the program responsible for adult abuse investigations and protective services. I was initially employed as a Human Services Counselor, and subsequently held the positions of Senior Human Services Supervisor, Protective Investigator Supervisor, and Program Operations Administrator. As such, I was responsible for directing and supervising protective investigations, staff, office procedure, and ensuring appropriate provision of services to victims of abuse, neglect, and exploitation. During my tenure with the Medicaid Fraud Control Unit, I have received specialized training and attended numerous seminars specifically related to health care fraud. I have investigated and/or participated in the investigation and/or arrest of numerous individuals for violating the Medicaid fraud laws of the State of Florida.

The Agency for Health Care Administration [hereinafter referred to as "AHCA"] is the State of Florida Agency that oversees the Medicaid Program to provide medical services for indigent recipients. Affiliated Computer Systems (ACS), formerly known as Consultec, is the fiscal agent for the State of Florida, and as such, administers program funds to the providers.

The Medicaid Fraud Control Unit [hereinafter referred to as "MFCU"] exists to investigate Medicaid fraud occurring in the State of Florida. The MFCU operates under the authority and supervision of the Office of the Attorney General, of the State of Florida. The MFCU may investigate any criminal violations discovered during the course of those investigations, pursuant to Florida Statute §16.59.

ALLEGATION

This Affidavit details an investigation conducted by the MFCU. This investigation is predicated upon information received in a related MFCU investigation. Your Affiant received information from a Florida Department of Health Investigator stating an unlicensed individual was practicing dentistry at a facility, located at 3411 - 3413 NW 17 Avenue, Miami, Miami-Dade County, Florida. This individual was identified as Orlando Sotolongo.

THE INVESTIGATION

Dr. Lorenzo Puentes owns a dental office, Puentes Dental Group, P.A., located at 2414 NW 7 Street, Suite 200, Miami, Florida. Dr. Puentes owns a second dental office, Puentes Dental Services, Inc., located at 3411 - 3413 NW 17 Avenue, Miami, Florida.

Your Affiant conducted a records check of the Florida Secretary of State records. The Division of Corporation records indicate Lorenzo Puentes, D.D.S., is the President, Director, and Registered Agent of Puentes Dental Group, P.A. Dr. Puentes is the *sole* corporate officer. Lorenzo Puentes, D.D.S., is also the President, Vice-President, Secretary, Treasurer, Director, and Registered Agent of Puentes Dental Services, Inc. Dr. Puentes is also the *sole* corporate officer.

Your Affiant conducted a records check of the Florida Department of Health database. Records indicate Dr. Puentes is a licensed Dentist since June 1, 1992. Your Affiant conducted a records check of the Florida Department of Health database. Records indicate Orlando Sotolongo recently received a license as a Dental Radiographer, effective March 16, 2006. A records check of the names: Orlando Sotolongo and Orlando Sotolongo Guarton did not reveal any dental or any other professional licenses, other than Dental Radiographer, in the State of Florida.

DOH Investigator Julio Colon also conducted a records check at the Department of Health. He confirmed Orlando Sotolongo [or Orlando Sotolongo Guarton] is not a licensed dentist in the State of Florida.

Your Affiant also conducted a records check of the Florida Medicaid Management Information Systems (FMMIS) Provider screen(s). FMMIS Medicaid Provider records indicate Lorenzo Puentes, D.D.S., became a State of Florida Medicaid provider on April 16, 1993. Dr. Puentes' subsequently added an additional provider number on February 10, 2005 for Puentes Dental Services, Inc., located at 3411 NW 17 Avenue, Miami, Florida.

Your Affiant downloaded Medicaid provider claims for Dr. Puentes, for the newly created Medicaid provider number location, for the facility located at 3411 NW 17 Avenue, Miami, Florida. A records check of provider claims revealed for the calendar year 2005, Dr. Puentes was paid \$20,340.50 in reimbursements from the Medicaid program. To date, your Affiant notes, Dr. Puentes has been paid approximately \$10,000.00 by the Medicaid program for claims in the calendar year 2006.

Your Affiant selected Medicaid recipients to interview to verify the claims submitted by Puentes Dental to the Medicaid program. Interviews with Medicaid recipients confirm that Dr. Puentes did not exam and/or provide dental services to these patients. Instead, the Medicaid recipient/patients were examined and treated by Orlando Sotolongo. In some instances, the interviews confirmed Sotolongo wrote prescriptions for pain and/or infection using Dr. Puentes' prescription pad. Below is a summary of the recipient interviews:

1. MEDICAID RECIPIENT MS:

Your Affiant interviewed Medicaid recipient, MS. MS reported receiving dental services at Puentes Dental. MS was shown a photographic line-up for identification purposes. The photographic line-up contained a photograph of an individual named "Orlando Sotolongo Guarton." MS reviewed the line-up and stated Guarton's picture "looked like Lorenzo." She was subsequently shown a photographic line-up depicting the photograph of Dr. Lorenzo Puentes. She did not identify Dr. Puentes as "Dr. Lorenzo."

Your Affiant conducted a records check of the Medicaid billing by Puentes Dental for MS. Your Affiant confirmed Puentes Dental billed and received payment by the Medicaid program for providing dental services to MS. Medicaid billing records confirm MS's statement about the services rendered to her at Puentes Dental.

Puentes Dental received a reimbursement of \$180.00 from the Medicaid Program for services rendered to MS.

2. MEDICAID RECIPIENT LP:

Your Affiant interviewed Medicaid recipient, LP, with the assistance of his advocate, Zoila Guerra. LP reported receiving dental services at Puentes Dental. LP was shown a photographic line-up for identification purposes. The photographic line-up contained a photograph of an individual named "Orlando Sotolongo Guarton." LP reviewed the line-up and identified Guarton's photograph as the "dentist" he saw at the clinic. He was subsequently shown a photographic line-up depicting the photograph of Dr. Lorenzo Puentes. He did not identify Dr. Puentes as the "dentist."

Your Affiant conducted a records check of the Medicaid billing by Puentes Dental for LP. Your Affiant confirmed Puentes Dental billed and received payment by the Medicaid program for providing dental services to LP. Medicaid billing records confirm LP's statement about the services rendered to her at Puentes Dental. Puentes Dental received a reimbursement of \$822.00 from the Medicaid Program for services rendered to LP.

3. MEDICAID RECIPIENT FT:

Your Affiant interviewed Medicaid recipient, FT. FT reported receiving dental services at Puentes Dental. FT was also shown a photographic line-up for identification purposes. The photographic line-up contained a photograph of an individual named "Orlando Sotolongo Guarton." FT reviewed the line-up and identified Guarton's photograph as the "dentist" who treated him. He was subsequently shown a photographic line-up depicting the photograph of Dr. Lorenzo Puentes. He did not identify Dr. Puentes as the "dentist" who treated him.

Your Affiant conducted a records check of the Medicaid billing by Puentes Dental for FT. Your Affiant confirmed Puentes Dental billed and received payment by the Medicaid program for providing dental services to LP. Medicaid billing records confirm FT's statement about the services rendered to her at Puentes Dental. Puentes Dental received a reimbursement of \$483.80 from the Medicaid Program for services rendered to FT.

4. MEDICAID RECIPIENT SP:

Your Affiant interviewed Medicaid recipient, SP. SP reported receiving dental services at Puentes Dental. SP was also shown a photographic line-up for identification purposes. The photographic line-up contained a photograph of an individual named "Orlando Sotolongo Guarton." SP reviewed the line-up and identified Guarton's photograph as the "dentist" who treated him. He was subsequently shown a photographic line-up depicting the photograph of Dr. Lorenzo Puentes. He did not identify Dr. Puentes as the "dentist" who treated him.

Your Affiant conducted a records check of the Medicaid billing by Puentes Dental for SP. Your Affiant confirmed Puentes Dental billed and received payment by the Medicaid program for providing dental services to LP. Medicaid billing records confirm SP's statement about the services rendered to her at Puentes Dental.

Puentes Dental received a reimbursement of \$27.00 from the Medicaid Program for services rendered to SP.

5. MEDICAID RECIPIENT SA:

Your Affiant interviewed Medicaid recipient, SA. SA reported receiving dental services at Puentes Dental. SA was also shown a photographic line-up for identification purposes. The photographic line-up contained a photograph of an individual named "Orlando Sotolongo Guarton." SA reviewed the line-up and could not identify Guarton's photograph. She was subsequently shown a photographic line-up depicting the photograph of Dr. Lorenzo Puentes. She did not identify Dr. Puentes as the "dentist" who treated her.

Your Affiant conducted a records check of the Medicaid billing by Puentes Dental for SA. Your Affiant confirmed Puentes Dental billed and received payment by the Medicaid program for providing dental services to LP. Medicaid billing records confirm SA's statement about the services rendered to her at Puentes Dental. Puentes Dental received a reimbursement of \$172.00 from the Medicaid Program for services rendered to SA.

On March 26, 2006, your Affiant arrested Orlando Sotolongo for Practicing Dentistry without a License and Medicaid Fraud, pursuant to F.S. §466.026(1)(a) and §409.920(2)(a) respectively. Your Affiant also executed a Search Warrant upon the premises of Puentes Dental. Your Affiant seized numerous patient files, records, and computers used to submit fraudulent claims to the Medicaid Program.

On June 21, 2006, Orlando Sotolongo, pursuant to a negotiated plea agreement, provided your Affiant with a sworn statement outlining his employment at Puentes Dental.

Sotolongo stated he was hired by Francisco Torres to work as a dentist at a dental facility located within Primary Medical. Your Affiant identified Francisco Torres [hereinafter referred to as "Torres"] as the owner and operator of Primary Medical. The dental office is known as Puentes Dental. Torres hired Sotolongo to exam and provide dental services to adults. Torres was aware Sotolongo was not a licensed dentist in Florida.

Sotolongo explained he would treat the adults and document the dental services he rendered on a 'yellow post-it note[®]' inside the file on the progress note(s). Puentes would then write the dental services rendered in his own handwriting directly on the progress note. Your Affiant notes that a review of patient files seized in the Search Warrant of the Premises confirmed files that still had the 'yellow post-it note[®]' inside the file, where the note was inadvertently left once the progress note was written.

Sotolongo also reviewed patient files and identified those patients he treated for dental services where Dr. Puentes wrote the note in the patient's respective chart. Your Affiant compared the patient charts to the claims submitted to the Medicaid Program.

Subsequently, claims were submitted for those patients that were State of Florida Medicaid recipients. The claims information reflected Lorenzo Puentes, D.D.S., a Medicaid service provider, as the dentist that rendered the dental services. Sotolongo was paid a percentage of the amount collected by Medicaid for these patients. The following chart describes the breakdown of claims and payment information:

TOTAL NUMBER OF PATIENT FILES REVIEWED BY SOTOLONGO	TOTAL AMOUNT BILLED TO THE MEDICAID PROGRAM	TOTAL AMOUNT PAID BY THE MEDICAID PROGRAM	TOTAL AMOUNT OF FRAUDULENT CLAIMS SUBMITTED TO MEDICAID PROGRAM
144	\$23,290.00	\$22,590.00	\$18,525.80

Sotolongo further stated Dr, Puentes demonstrated how to write a prescription in Florida, since he was accustomed to a different format for issuing prescriptions. Puentes provided detailed instructions on how to write the drug name, dosage, and strength. Sotolongo reported he was told to sign the prescriptions, using Dr. Puentes' name, on those days when Dr. Puentes was not at the dental office. Below is a summary of prescriptions billed to the Medicaid Program issued by Sotolongo, as instructed by Puentes and/or Torres:

TOTAL NUMBER OF PRESCRIPTIONS ISSUED TO PATIENTS TREATED BY SOTOLONGO	TOTAL AMOUNT BILLED TO THE MEDICAID PROGRAM	TOTAL AMOUNT PAID BY THE MEDICAID PROGRAM
57	\$1,708.02	\$1,148.68

FLORIDA MEDICAID PROGRAM REGULATIONS

Dentists who wish to provide services to patients whose care is covered by Medicaid must first sign a Provider Agreement. Lorenzo Puentes, D.D.S., signed such an agreement.

An Electronic Claims Submission Agreement with the Florida Medicaid Program was

also signed. In so doing, Lorenzo Puentes, D.D.S., used his bank account to facilitate the “electronic transfer of funds” from the Medicaid program for reimbursement of services rendered.

Your Affiant obtained the following coverage information from the Medicaid Provider Enrollment Agreement which states:

Quality of Service:	<i>The Provider agrees that services or goods billed to the Medicaid program must be medically necessary, or a quality comparable to those furnished by the provider’s peers, and within the parameters permitted by the provider’s license or certification. The provider further agrees to <u>bill only for the services performed</u> within the specialty or specialties designated in the provider application on file with AHCA. <u>The services or goods must have been actually provided by the provider prior to submitting the claim.</u> [Emphasis added]</i>
----------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Moreover, a Medicaid provider in Florida, is specifically charged with the responsibility of insuring accurate claims are submitted to the Medicaid program.

Florida Statute §409.913(7) states, in part,
“*[w]hen presenting a claim for payment under the Medicaid program, a provider has an affirmative duty to supervise the provision of, and be responsible for, goods and services claimed to have been provided, to supervise and be responsible for preparation and submission of the claim, and to present a claim that is true and accurate. . .*”

FINANCIAL ANALYSIS

Your Affiant obtained bank records from Washington Mutual Bank. Washington Mutual Bank was identified as the bank receiving electronic reimbursements from the Medicaid program. Your Affiant reviewed these bank records.

A review of the records confirmed the afore-mentioned electronic transfers from the Medicaid program to Lorenzo Puentes’ bank account, bearing the name “Puentes Dental.” However, a further review demonstrates despite Medicaid deposits to Puentes Dental, Francisco Torres is a signatory and appears as the sole individual issuing checks from this account.

A breakdown of checks issued by Francisco Torres from the Puentes Dental bank account revealed checks Torres paid Orlando Sotolongo (approximately \$13,000.00), Dr.

Puentes (approximately \$30,000.00), and other office staff, as well as dental supply companies. Your Affiant also discovered checks issued to Primary Care/Primary Medical (Torres' medical clinic) for approximately \$26,000.00, along with ATM debits for apparent private spending including restaurants, hotels, a pool service, a charitable contribution, a mortgage company (identified as Torres' home mortgage company), and car payments.

Based on the aforementioned information, your Affiant has probable cause to believe and does believe that beginning on or about February 10, 2005 and continuing through March 15, 2006: **Francisco Torres and Lorenzo Puentes**, did commit and/or aided and abetted in committing the following crime of: *Organized Fraud*, by engaging in a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, or promises or willful misrepresentations of a future act, to wit: by submitting claims for payment to the State of Florida Medicaid Program and/or its fiscal agent(s) the Affiliated Computer Systems Corporation (ACS), formerly Consultec Corporation, and/or the State of Florida Agency for Health Care Administration (AHCA) for services that were not performed and obtaining U.S. currency, with an aggregate value of more than twenty thousand dollars (\$20,000.00), but less than fifty thousand dollars (\$50,000.00), in violation of Florida Statute §817.034(4)(a)2 (one count); and *Grand Theft*, by knowingly obtaining or using, or endeavoring to obtain or to use, the property of another with intent to, either temporarily or permanently deprive the other person of a right to the property or a benefit from the property, to wit: by receiving payment from the State of Florida Medicaid Program and/or its fiscal agent(s) the Affiliated Computer Systems Corporation (ACS), formerly Consultec Corporation, and/or the State of Florida Agency for Health Care Administration (AHCA) for services that were not performed and obtaining U.S. currency, with an aggregate value of more than twenty thousand dollars (\$20,000.00), but less than one hundred thousand dollars (\$100,000.00), in violation of Florida Statute §812.014(2)(b)(one count).

AFFIANT

Joyce Cohen Cavallo, Law Enforcement Investigator
Medicaid Fraud Control Unit

SWORN TO and **SUBSCRIBED** before me on this _____ day of _____, 2006.

Circuit Court Judge
Eleventh Judicial Circuit of Florida
Miami-Dade County