

COUNTY OF : Miami Dade
State of Florida:

The Affidavit in Support of Arrest Warrant

Before me, _____ Judge of the Eleventh Judicial Circuit of Florida, appeared Affiant, Samuel Mercado, Law Enforcement Investigator II with the Medicaid Fraud Control Unit of the Office of the Attorney General who first being duly sworn, deposes and states that there is probable cause to believe the facts establishing the grounds for this affidavit are as follows:

GENERAL ALLEGATIONS

BACKGROUND

The Medicaid Program is a jointly funded program between Federal and State governments that provides medical assistance and health coverage for categories of individuals whose income and resources are insufficient to meet the costs of medical services. The Medicaid Program is authorized by Title XIX of the Social Security Act. In Florida, the Medicaid Program is authorized by Chapter 409, Florida State Statutes and Chapter 59G, Florida Administrative Code.

The Agency for Health Care Administration (AHCA) is the State of Florida Agency that oversees the Medicaid Program.

Affiliated Computer Systems (hereinafter ACS), and previously known as Consultec Corporation, is the current fiscal agent for the State of Florida that administers funds to Medicaid providers. Stephanie Oakes is the acting Claims Manager and record's Custodian for ACS.

Medicaid Providers contract with the Medicaid Program and agree to the terms and laws of the program. Providers submit claims to the fiscal agent, ACS, for the reimbursement of costs of services.

Medicaid Provider Pharmacies' claims are submitted to ACS for payment electronically, at the point of sale. For example, at the completion of entering the prescription information into the computer and dispensing the prescribed medication to the Medicaid recipient the claim is submitted for payment. Upon approval by the fiscal agent, the Medicaid provider is paid.

The Medicaid Fraud Control Unit (hereinafter, "MFCU"), exists to investigate fraud in the Medicaid Program in the State of Florida. The MFCU is under the authority and supervision of the State of Florida, Office of the Attorney General, Department of Legal Affairs.

Your Affiant, a Law Enforcement Investigator, has been employed with the Medicaid Fraud Control Unit since June 21, 2001. Prior to my employment with MFCU, I was a Police Detective and employed with the City of Hialeah for more than twenty-three (23) years. During my tenure as a Police investigator with both departments, I've personally conducted and coordinated criminal fraud investigations. In addition, I have an Associate of Arts degree from Miami Dade Community College.

INVESTIGATIVE SUMMARY

On March 13, 2002, Medicaid recipient MP contacted MFCU to file a formal complaint. The complainant had attempted to fill a prescription at his local pharmacy and was denied. The pharmacy advised that the medications had already been billed to the Medicaid Program by another pharmacy. Additionally, Mr. MP stated that a pharmacy named Ola's had sent an oxygen concentrator to his home without his authority.

Ola's Pharmacy, a Florida Corporation (P99000038451), was located at 3068B Palm

Ave., Hialeah, Fla., 33010, Miami Dade County. Ola's Pharmacy is licensed in the State of Florida and is enrolled as a Medical provider under Florida's Medicaid Program. Ola's Pharmacy was enrolled as a pharmaceutical service provider in Florida's Medicaid Program from April 26, 1999 to November 27, 2002, and assigned provider number 0216160 00.

On or about July 07, 2002, Ola's Pharmacy was purchased by Jorge Hernandez and moved to 765 E9 St., Hialeah Fla., 33010. A new provider number, with the name of Ola's Pharmacy, Inc. (hereinafter "Olas"), 02153901-00 was assigned on 11/27/02 by AHCA.

A review of the record with the State of Florida Division of Corporations during this time period indicates Ola's as a for-profit organization, Florida Corporation number P99000038451, Jorge L. Hernandez (hereinafter "HERNANDEZ"), as the sole owner of Ola's. The State of Florida Agency for Health Care Administration Medicaid Program indicates Medicaid Provider Enrollment application dated March 25, 2002, with Medicaid provider number 02153901-00 to Hernandez with social security number 593-47-0814.

March 19, 2003, Mrs. Eka Chaparro, staff of the Florida Department of Health, Investigation Specialist II, Division of Quality Assurance, visited Ola's for a surprise inspection at the request of DOH/Investigative Services. Upon arrival, Mrs. Eka Chapparo witnessed and verified that Ola's had billed the Medicaid Program and was paid for prescriptions that were not dispensed nor did the pharmacy have in stock for Medicaid recipients. During this inspection, 203 claims were billed and not dispensed. Both the pharmacy Manager, Shelton Lander, and Pharmacy Technician Maria Luisa Gonzalez confirmed the recipients had not received the medications of the labels billed to the Florida Medicaid program. Based upon their findings, on April 17, 2003, the Agency for Health Care Administration Office of Program Integrity referred their administrative case to the MFCU for criminal investigation.

On March 25, 2002, a criminal investigative file was opened and assigned to your Affiant. A lengthy investigation was conducted that included interviewing witnesses, surveillance, and reviews of prescriptions.

On June 10, 2003, the Agency for Health Care Administration Office of Medicaid Program Integrity (hereinafter "MPI"), initiated an investigation of OIas based upon an allegation they received from the Florida Department of Health (Mrs. Eka Chaparro findings). The investigation focused on the allegation that OIas had pre-billed the Medicaid Program prior to dispensing medication for claims identified by a stack of labels found in the pharmacy by Mrs. Eka Chaparro. An Audit of OIa's was initiated by AHCA on June 10, 2003 and AHCA placed OIa's on prepayment review and requested an onsite audit by Heritage, a contract pharmacy audit firm. Heritage sent a letter demanding documentation to support the 203 claims, found by Mrs. Eka Chaparro, billed to the Florida Medicaid program by OIa's Pharmacy Inc. The audit revealed that an overpayment had been identified in the amount of \$87,921.09, for the reviewed period of November 04, 2002, through February 28, 2003. Additional \$3,241.60 was identified in prescriptions review for the same dates of services.

According to the audit by HERITAGE conducted on June 10, 2003, during the audit period of 11/04/2002 to 02/28/03, ASC (Medicaid's fiscal agent) paid, by checks, a total of \$776,514.74 for 3,457 claims to OIa's and HERNANDEZ. The funds were deposited into Union Planters Bank, account number 9660034092, held in the name of OIa's. Bank records held at Union Planters Bank on this account show that HERNANDEZ is the sole authorized signatory on this account.

Review of the Heritage Audit report and subsequent interviews by your Affiant, revealed the following: OIa's and its owner, HERNANDEZ, billed an unusually high percentage of claims for prescriptions by Dr. Aitala Giron (hereinafter referred to as "Giron"). These prescriptions showed similar patterns (multiple drugs on a blank prescription; unusual

combination of drugs prescribed; usually expensive brand name products; and, a high percentage of mental health products.

Interviews by your Affiant with Dr. Aitala Giron and Medicaid recipients revealed Dr. Giron did not prescribe or authorize the prescription drugs that were billed to the Medicaid program. A total of twenty-six Florida Medicaid recipients with claims by Ola's was identified and presented to Dr. Giron for review. The interview of Dr. Giron was conducted on February 13, 2004. Dr. Giron stated that for the past two years she has been working at the V. A. Hospital, and that the only patients she sees are veterans who only receive federal benefits. When she gives a prescription, they are filled with the V.A. Pharmacy which are paid by VA, US government funds. Your Affiant showed Dr. Giron copies of the prescriptions that your Affiant got from Ola's. Dr. Giron reviewed the prescriptions for whom Ola's billed claim for. Dr. Giron told your Affiant none of the patients in question were her patients. Dr. Giron assured your Affiant that the prescriptions uncovered are forged. Dr. Giron did not know Dr. Proano, Dr. Barquero, and Dr. Gomez which were doctors appearing on the scripts with her forged signature. Additionally, Dr. Giron stated that she had never heard of nor worked at the address, 4186 NW 36 ST, Suite 110, Miami, Fla., 33166, as stated on the prescriptions. Dr. Giron stated to your Affiant that the signatures on the prescriptions, appearing at the bottom, are similar to hers; however, the signatures in question were not hers. All of the prescriptions were apparently fictitious and forged. Medicaid's policy states that pharmacy services must be authorized by the prescribing physician. Numerous prescriptions were not authorized by the prescribing physician. Dr. Giron stated she had no knowledge of Ola's, and did not recall ever dealing with this pharmacy. Thus, an overpayment of \$29,901.91, identified by your Affiant, was illegally obtained by the submission of false information by Ola's, HERNANDEZ, and Maria Gonzalez. The estimated financial loss to the Medicaid program is at least \$29,901.91 for prescriptions alleged to have been prescribed by Dr. Giron.

Your Affiant interviewed twelve of the twenty-six recipients identified that Ola's billed claims for showing the prescribing physician as Dr. Aitala Giron and presented to Dr. Giron for review. The following Medicaid recipients were interviewed. Note the recipient number

five, AF, also made statements for his wife, RV who was deceased. Recipient number twelve claims were billed and than credited to the Florida Medicaid program.

1. Medicaid recipient AF told your Affiant she has never been to the office of Dr. Aitala Giron nor she has never been treated by her. Recipient AF told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for AF show that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,017.40 for medications allegedly prescribed to AF by Dr. Aitala Giron.
2. Medicaid recipient AA told your Affiant she has never been to the office of Dr. Aitala Giron nor has she ever been treated by her. Recipient AA told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for AF show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$833.55 for medications allegedly prescribed to AA by Dr. Aitala Giron.
3. Medicaid recipient DC told your Affiant she has never been to the office of Dr. Aitala Giron nor has she ever been treated by her. Recipient DC told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for DC shows that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,037.51 for medication allegedly prescribed to DC by Dr. Aitala Giron. Ola's Pharmacy was paid by the Florida Medicaid program \$1,360.48 for medications allegedly prescribed by Dr. Mikhail N. Berman. DC also had prescriptions which were billed and credited to the Florida Medicaid program in which Dr. Rolando Velasco was the prescribing physician. All three of these physicians stated that DC was not their patient.
4. Medicaid recipient HD told your Affiant he has never been to the office of Dr. Aitala Giron nor he has never been treated by her. Recipient HD told your Affiant he has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for HD show that during the period November 2002 through April 2003, Ola's Pharmacy billed Medicaid \$1,684.06 for medication allegedly prescribed to Mr. HD

by Dr. Giron. Mr. HD reviewed the billing records and denied having received the medications billed by OIas Pharmacy.

5. Medicaid recipient AF told your Affiant he has never been to the office of Dr. Aitala Giron nor he has never been treated by her. Recipient AF told your Affiant he has never obtained prescriptions from OIa's Pharmacy. Review of computerized records for AF show that during the period of November 2002 through April 2003, OIa's Pharmacy was paid by the Florida Medicaid program \$1,583.22 for medication allegedly prescribed to AF by Dr. Aitala Giron. Mr. AF spoke for his wife, RV who had passed away on 09/20/03. AF stated RV has never been to the office of Dr. Aitala Giron nor he has never been treated by her. Recipient AF told your Affiant RV has never obtained prescriptions from OIa's Pharmacy. Review of computerized records for RV show that during the period of November 2002 through April 2003, OIa's Pharmacy was paid by the Florida Medicaid program \$1,565.21 for medication allegedly prescribed to RV by Dr. Aitala Giron.
6. Medicaid recipient AH told your Affiant he has never been to the office of Dr. Aitala Giron nor he has never been treated by her. Recipient AH told your Affiant he has never obtained prescriptions from OIa's Pharmacy. Review of computerized records for AH show that during the period of November 2002 through April 2003, OIa's Pharmacy was paid by the Florida Medicaid program \$1,035.55 for medication allegedly prescribed to AH by Dr. Aitala Giron.
7. Medicaid recipient JH told your Affiant she has never been to the office of Dr. Aitala Giron nor has she ever been treated by her. Recipient JH told your Affiant she has never obtained prescriptions from OIa's Pharmacy. Review of computerized records for JH show that during the period of November 2002 through April 2003, OIa's Pharmacy was paid by the Florida Medicaid program \$1,249.03 for medication allegedly prescribed to JH by Dr. Aitala Giron.
8. Medicaid recipient DL told your Affiant he has never been to the office of Dr. Aitala Giron nor he has never been treated by her. Recipient DL told your Affiant he has never obtained prescriptions from OIa's Pharmacy. Review of computerized records

for DL show that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,339.37 for medication allegedly prescribed to DL by Dr. Aitala Giron.

9. Medicaid recipient BP told your Affiant she has never been to the office of Dr. Aitala Giron nor has she ever been treated by her. Recipient BP told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for BP show that during the period of November 2002 through April 2003 Ola's, Pharmacy was paid by the Florida Medicaid program \$1,241.45 for medication allegedly prescribed to BP by Dr. Aitala Giron.
10. Medicaid recipient SB was interviewed by Investigator Minerva Arocho, who is employed by the MFCU Tampa Office. SB's home residence is in Tampa, Fla. SB told Investigator Arocho that she has never visited any doctor out of Tampa and does not know any doctor by the name of Aitala Giron or Berman Mikhail. Her current Doctor is Camile Caldwell who is located in the City of Tampa. Review of computerized records for BP show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$1,436.37.45 for medication allegedly prescribed to SB by Dr. Aitala Giron. Ola's, Pharmacy was paid by the Florida Medicaid program \$2,280.82 for medication allegedly prescribed by Dr. Mikhail N. Berman.
11. Medicaid recipient PP told your Affiant he has never been to the office of Dr. Mikhail N. Berman nor Dr. Rolando Velasco. He stated he never has been treated by them. Recipient PP told your Affiant he has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for PP shows that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,037.51 for medication allegedly prescribed to PP by Dr. Aitala Giron. Ola's Pharmacy was paid by the Florida Medicaid program \$1,294.40 for medication allegedly prescribed by Dr. Mikhail N. Berman. Ola's Pharmacy was paid by the Florida Medicaid program \$1,386.06 for medication allegedly prescribed by Dr. Rolando Velasco. All three of these physicians stated that PP was not their patient.

12. *Medicaid recipient JG told your Affiant she has never been to the office of Dr. Aitala Giron nor has she ever been treated by her. Recipient JG told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for JG show that during the period of November 2002 through April 2003, Ola's, Pharmacy submitted claims to the Florida Medicaid program \$1,542.33 for medication allegedly prescribed to JG by Dr. Aitala Giron. However these claims were credited to the Florida Medicaid Program. Ola's, Pharmacy submitted claims to the Florida Medicaid program \$1,523.69 of which \$517.61 was paid for medication allegedly prescribed to JG by Dr. Berman Mikhail.*

Computerized record for Ola's show that during the period of November 2002 through April 2003, Ola's was paid by the Florida Medicaid program \$29,091.91 for medication allegedly prescribed to the 26 recipients by Dr. Aitala Giron.

Interviews by your Affiant with Dr. Berman Mikhail and Medicaid recipients revealed Dr. Berman did not prescribe or authorize the prescription drugs that were billed to the Medicaid program. The interview of Dr. Berman was conducted as a result of an investigative subpoena for patient records of recipients in which Ola's had submitted claims to the Florida Medicaid program listing Dr. Berman as the prescribing physician. The interview was conducted at the law office of Hirschhorn & Biber, PA. The interview began at 8:15 A.M., Dr. Mikhail N. Berman "stated that the charts that were requested are not my patients with the exception of DC. This investigator then showed Dr. Mikhail N Berman prescriptions obtained from Ola's Pharmacy of 19 patients. After reviewing the prescriptions, Dr. Mikhail N Berman made the following statement: "Signatures on the prescriptions presented are not mine. Note that the signatures on the prescriptions were the initials, MB." Dr. Mikhail N Berman then showed me a sample of his signature which was lengthy and appeared to show that his first name was an initial with the last being his last name. Dr. Mikhail N Berman was asked about the prescription for DC and stated that he does not usually prescribe Zyprexa. Dr. Mikhail N

Berman then again reviewed the prescription for DC and stated that the signature on the prescription was not his and that he never had prescribed the medications listed.

Your Affiant interviewed the following Medicaid recipients that Ola's billed claims for showing the prescribing physician as Dr. Mikhail N Berman

- 1. Medicaid recipient DC told your Affiant she has never been to the office of Dr. Aitala Giron nor has she ever been treated by her. Recipient DC told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for DC show that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,037.51 for medication allegedly prescribed to DC by Dr. Aitala Giron. Ola's Pharmacy was paid by the Florida Medicaid program \$1,360.48 for medication allegedly prescribed by Dr. Mikhail N. Berman. DC also had prescriptions which were billed and credited to the Florida Medicaid program in which Dr. Rolando Velasco was the prescribing physician. All three of these physicians stated that DC was not their patient.*
- 2. Medicaid recipient SB was interviewed by Investigator Minerva Arocho, who is employed by the MFCU Tampa Office. SB's home residence is in Tampa, Fla. SB told Investigator Arocho that she has never visited any doctor out of Tampa and does not know any doctor by the name of Aitala Giron or Berman Mikhail. Her current Doctor is Camile Caldwell who is located in the City of Tampa. Review of computerized records for SB show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$1,436.37.45 for medication allegedly prescribed to SB by Dr. Aitala Giron. Ola's, Pharmacy was paid by the Florida Medicaid program \$2,280.82 for medication allegedly prescribed by Dr. Mikhail N. Berman.*
- 3. Medicaid recipient PP told your Affiant he has never been to the office of Dr. Mikhail N. Berman nor Dr. Rolando Velasco. He stated he never has been treated by them. Recipient PP told your Affiant has he never obtained prescriptions from Ola's Pharmacy. Review of computerized records for PP shows that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida*

Medicaid program \$1,037.51 for medication allegedly prescribed to PP by Dr. Aitala Giron. Ola's Pharmacy was paid by the Florida Medicaid program \$1,294.40 for medication allegedly prescribed by Dr. Mikhail N. Berman. Ola's Pharmacy was paid by the Florida Medicaid program \$1,386.06 for medication allegedly prescribed by Dr. Rolando Velasco. All three of these physicians stated that PP was not their patient.

4. Medicaid recipient FB told your Affiant he has never been to the office of Dr. Mikhail N. Berman nor he has never been treated by him. Recipient FB told your Affiant he has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for FB show that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$996.59 for medication allegedly prescribed to FB by Dr. Mikhail N. Berman.
5. Medicaid recipient AIA told your Affiant she has never been to the office of Dr. Mikhail N. Berman nor Dr. Rolando Velasco. She stated she has never been treated by them. Recipient AIA told your Affiant he has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for AIA show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$1,242.60 for medication allegedly prescribed by Dr. Mikhail N. Berman. Ola's Pharmacy was paid by the Florida Medicaid program \$1,749.33 for medication allegedly prescribed by Dr. Rolando Velasco. Both of these physicians stated that AIA was not their patient.
6. Medicaid recipient JG told your Affiant he has never been to the office of Dr. Mikhail N. Berman nor Dr. Rolando Velasco nor Emilio Morillo. He has never been treated by these doctors. Recipient JG told your Affiant he has never obtained prescriptions from Ola's Pharmacy. During the review period, JG stated that he was incarcerated in the Miami-Dade county Jail awaiting trial on charges of domestic violence. Review of computerized records for JG shows that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,174.41 for medication allegedly prescribed to JG by Dr. Mikhail N. Berman. Ola's Pharmacy was paid by the Florida Medicaid program \$120.31 for medication allegedly prescribed by

Dr. Emilio Morillo for JG. Ola's Pharmacy was paid by the Florida Medicaid program \$1379.14 for medication allegedly prescribed by Dr. Rolando Velasco for JG. Dr. Mikhail N. Berman and Dr. Rolando Velasco stated that JG was not their patient.

7. *Medicaid recipient MA told your Affiant she has never been to the office of Dr. Mikhail N. Berman nor she has never been treated by him. Recipient MA told your Affiant he has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for MA show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$1275.87f or medication allegedly prescribed to MA by Dr. Mikhail N. Berman.*
8. *Medicaid recipient DG told your Affiant she has never been to the office of Dr. Berman Mikhail nor has she ever been treated by him. Recipient DG told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for DG show that during the period of November 2002 through April 2003, Ola's, Pharmacy submitted claims to the Florida Medicaid program \$42.66 for medication allegedly prescribed to DG by Dr. Berman Mikhail. However these claims were credited to the Florida Medicaid Program.*

Computerized record for Ola's show that during the period of November 2002 through April 2003, Ola's was paid by the Florida Medicaid program \$24,301.73 for medication allegedly prescribed to the 20 recipients by Dr. Mikhail N. Berman.

An investigative subpoena by your Affiant of Dr. Rolando Velasco and Medicaid recipients revealed Dr. Rolando Velasco did not prescribe or authorize the prescription drugs that were billed to the Medicaid program. Dr. Velasco was issued a subpoena for 11 patient records in which he was the prescribing physician. Dr. Velasco stated he had no record of these patients.

1. *Medicaid recipient PP told your Affiant he has never been to the office of Dr. Mikhail N. Berman nor Dr. Rolando Velasco. He stated he has never been treated by them. Recipient PP told your Affiant he has never obtained prescriptions from Ola's*

- Pharmacy. Review of computerized records for PP shows that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,037.51 for medication allegedly prescribed to PP by Dr. Aitala Giron. Ola's Pharmacy was paid by the Florida Medicaid program \$1,294.40 for medication allegedly prescribed by Dr. Mikhail N. Berman. Ola's Pharmacy was paid by the Florida Medicaid program \$1,386.06 for medication allegedly prescribed by Dr. Rolando Velasco. All three of these physicians stated that PP was not their patient.*
2. *Medicaid recipient AIA told your Affiant she has never been to the office of Dr. Mikhail N. Berman nor Dr. Rolando Velasco. She stated she has never been treated by them. Recipient AIA told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for AIA show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$1,242.60 for medication allegedly prescribed by Dr. Mikhail N. Berman. Ola's Pharmacy was paid by the Florida Medicaid program \$1,749.33 for medication allegedly prescribed by Dr. Rolando Velasco. Both of these physicians stated that AIA was not their patient.*
 3. *Medicaid recipient DC told your Affiant she has never been to the office of Dr. Aitala Giron nor has she ever been treated by her. Recipient DC told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for DC shows that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,037.51 for medication allegedly prescribed to DC by Dr. Aitala Giron. Ola's Pharmacy was paid by the Florida Medicaid program \$1,360.48 for medications allegedly prescribed by Dr. Mikhail N. Berman. DC also had prescriptions which were billed and credited to the Florida Medicaid program in which Dr. Rolando Velasco was the prescribing physician. All three of these physicians stated that DC was not their patient.*
 4. *Medicaid recipient JG told your Affiant he has never been to the office of Dr. Mikhail N. Berman nor Dr. Rolando Velasco nor Emilio Morillo. He has never been treated by these doctors. Recipient JG told your Affiant he has never obtained prescriptions from Ola's Pharmacy. During the review period, JG stated that he was incarcerated in the*

Miami-Dade county Jail awaiting trial on charges of domestic violence. Review of computerized records for JG shows that during the period of November 2002 through April 2003, Ola's Pharmacy was paid by the Florida Medicaid program \$1,174.41 for medication allegedly prescribed to JG by Dr. Mikhail N. Berman. Ola's Pharmacy was paid by the Florida Medicaid program \$120.31 for medication allegedly prescribed by Dr. Emilio Morillo for JG. Ola's was paid by the Florida Medicaid program \$1379.14 for medication allegedly prescribed by Dr. Rolando Velasco for JG. Dr. Mikhail N. Berman and Dr. Rolando Velasco stated that JG was not their patient.

Computerized record for Ola's show that during the period of November 2002 through April 2003, Ola's was paid by the Florida Medicaid program \$13,056.09 for medication allegedly prescribed to the 10 recipients by Dr. Rolando Velasco.

On May 2, 2002, an interview of Dr. Kohl Benjamin's wife, Ester Kohl was conducted by Investigator David Schue and Diane Fernandez. Mrs. Kohl stated to the investigator at that time, that her husband had a heart attack around the end of March 2002, and, as a result, he had surgery on or about April 4, 2002 and was no longer practicing medicine. A social security index search shows Dr. Kohl deceased as of November 2002. A review of the freedom computer download for Medicaid claims for Ola's, from the period of 11/01/02 to 04/04/03, revealed that Dr. Kohl was the prescribing doctor for 41 prescriptions for three recipients for total claims of \$12,345.19 and payment to Ola's of \$10,546.98. An interview of the recipient revealed that they never have been to Dr. Benjamin Kohl nor had then received medication from Ola's.

- 1. Medicaid recipient OB told your Affiant she has never been to the office of Dr. Benjamin Kohl nor she has never been treated by him. Recipient OB told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for OB show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$2,726.93. for medication allegedly prescribed to OB by Dr. Benjamin Kohl.*

2. *Medicaid recipient RA told your Affiant she has never been to the office of Dr. Benjamin Kohl nor she has never been treated by him. Recipient RA told your Affiant he has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for RA show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$5,540.89.87 for medication allegedly prescribed to RA by Dr. Benjamin Kohl.*
3. *Medicaid recipient EM told your Affiant she has never been to the office of Dr. Benjamin Kohl nor she has never been treated by him. Recipient EM told your Affiant she has never obtained prescriptions from Ola's Pharmacy. Review of computerized records for EM show that during the period of November 2002 through April 2003 Ola's Pharmacy was paid by the Florida Medicaid program \$4,549.26 for medications allegedly prescribed to EM by Dr. Benjamin Kohl.*

Technician Maria Luisa Gonzalez was observed on March 19, 2003, by Mrs. Eka Chapparo working at Ola's. Maria Luisa Gonzalez witnessed and verified to Mrs. Eka Chapparo that Ola's had billed the Medicaid Program and was paid for prescriptions that were not dispensed nor did the pharmacy have in stock for Medicaid Recipients. During this inspection 203 claims were billed and not dispensed. Technician Maria Luisa Gonzalez confirmed the recipients had not received the medications of the labels billed to the Florida Medicaid program. During an interview conducted on July 27, 2005, Mrs. Gonzalez she stated that she was employed by Jorge Hernandez, her fiancée, as a Pharmacy Tech of Ola's and was employed with Ola's until it was sold. Mrs. Gonzalez stated that if the medication were not available after the information was entered into the computer the pharmacy labels which are attached to the medications were set aside until the medications was ordered.

"During an interview conducted on July 27, 2005, of Jorge Hernandez he stated that when he purchased Ola's he hired his fiancée, Maria Luisa Gonzalez, to be the Pharmacy Tech and manage Ola's. On September 05, 2003, your Affiant interviewed the new owner of Ola's, Marian Yanes. Mrs. Yanes stated that she and her husband had purchased Ola's for \$160,000 from Hernandez in June 2003. Since the purchase, Mrs. Yanes had unknown subject offered to bring her recipients if she would pay a kickback. Amarilys M. Varela, who

was employed at Ola's by Hernandez, stayed to show Mrs. Yanes how to conduct pharmacy business. Gonzalez and Varela were familiar with the soliciting subjects and encouraged Mrs. Yanes to accept the offers from these unknown subjects to bring in Medicaid recipient Ola's. Mrs. Yanes refused and only made one sale after she took possession of the pharmacy. Mrs. Yanes was interviewed again on July 28, 2005, and added that she questioned Amarilys M. Varela about a suspicion she had that Maria Gonzalez was going outside and calling in prescriptions, coming into the pharmacy and taking those medications with her prior to her purchase of the Pharmacy. Amarilys M. Varela stated that she would have to pay recipients for them to come to the pharmacy.

During an interview conducted on August 1-2, 2005, Amarilys M. Varela stated that Hernandez and Maria Gonzalez were paying recipients and other persons in the office of the pharmacy for bringing prescriptions to the pharmacy. Mrs. Yanes provided me with a copy of Ola's Income tax for the year 2002 which she found in the pharmacy after the purchase.

The return shows that *Technician Maria Luisa Gonzalez* was paid, as a contract employee, \$22,987.23 for the year 2003. Amarilys M. Varela was paid \$20,800.00 for the year 2002. Mrs. Varela gave me a copy of her income tax return for the year 2002, which matched the 2002 tax return of Ola's given to me by Mrs. Yanes. Payment Roberto Varela showing the same home address as Amarilys M. Varela was paid \$42,036.00. *During an interview conducted on August 01-02, 2005, Roberto Varela stated that he was employed by Hernandez at OIas as a delivery man. He worked for approximately three months earning \$4 to \$5 thousand for the year 2002. Mr. Varela gave me his income tax return of 2002 which was filed by Tax Prep, Inc., 707 E 9TH St., Hialeah Fla., Lilia A Gomez. This tax preparer was recommenced by Ola's previous owners. Mr. Varela's tax return showed a Schedule C. Profit and business of \$179, 943 in sales of pharmaceuticals. With the cost of \$155,204, his profits were \$16,666.00. Mr. Varela stated that he never owned or was aware that he had a business. Ola's Pharmacy's tax return showed that Hernandez was paid \$25,000. A corporation owned by Hernandez, Pharmatriz, was paid \$27,300.00.*

These funds were obtained by Ola's, from the State of Florida's Medicaid program,

through fraudulent billing, submitting false claims not authorized for reimbursement, and submitting false claims for services not rendered. One hundred and sixty claims over one hundred dollars were submitted by Ola's for over \$100.00 and sixty-seven claims were submitted under \$100.00 on fifty-seven recipients claims for payment by Ola's Pharmacy.

Ola's, Pharmacy Technician Maria Luisa Gonzalez and HERNANDEZ committed Organized Scheme to Defraud, 817.034(4)(a)1, one count and, Grand Theft, 812.041(2)(b) one count. Technician Maria Luisa Gonzalez and HERNANDEZ deprive the State of Florida's Medicaid Program of said funds, committing a 1st and 2nd degree felony. Total Medicaid funds paid to Ola's during this period for these prescribing physicians were \$77,806.71.

Affiant

SAMUEL Mercado LE II

Medicaid Fraud Control Unit

Sworn and subscribed on this _____ day of _____, 2005

Notary State of Florida

County/Circuit Court Judge

Eleventh Judicial Circuit of Florida