

Sep 15, 2021

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
21-20475-CR-KING/BECERRA

Case No. _____

18 U.S.C. § 1349

18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

HAROLD HABER and
HENRY HABER, JR.,

Defendants.

INFORMATION

The Acting United States Attorney charges that:

GENERAL ALLEGATIONS

At all times material to this Information:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federal health care program that provided free or below-cost health care benefits to individuals who were sixty-five years of age or older or disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services (“HHS”), through its agency the Center for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

2. Medicare was subdivided into multiple program “parts.” Medicare Part A covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. Medicare Part B covered physician services and outpatient care, including an individual’s access to

durable medical equipment (“DME”), such as orthotic devices and wheelchairs.

3. DME companies and other health care providers seeking to participate in Medicare Part B and to bill Medicare for the cost of DME and related benefits, items, and services were required to apply for and receive a “provider number” (or “supplier number”). In these applications, DME companies were required to provide truthful and accurate information, including accurately listing the names of all people who have an ownership or security interest in the provider company.

4. The provider number allowed a DME company to submit bills, known as “claims,” to Medicare to obtain reimbursement for the cost of DME and related health care benefits, items, and services that a DME company provided to beneficiaries.

5. To receive payment from Medicare, a DME company, using its provider number, submitted a health insurance claim form, known as a CMS-1500. Medicare permitted DME companies to submit a CMS-1500 electronically. The CMS-1500 required DME companies to provide certain important information, including: (a) the Medicare beneficiary’s name and identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided to or supplied to the beneficiary.

6. When a claim was submitted to Medicare, the provider certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing the Medicare program. The provider further certified that the services and health care items being billed were medically necessary and were in fact provided as billed.

7. Medicare generally paid a substantial portion of the cost of the DME or related health

care benefits, items, and services that were medically necessary and ordered by licensed doctors or other licensed, qualified health care providers. Payments under Medicare Part B were often made directly to the DME company rather than to the beneficiary.

8. The Florida Medicaid Program (“Medicaid”) provided health care benefits, including DME, to certain low-income individuals and families in Florida. Medicaid was administered by CMS and the Agency for Health Care Administration (“ACHA”).

9. Medicare and Medicaid were “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b).

The Defendants and Related Entities and Individuals

10. Timely Medical Services Corp. (“Timely Medical”) was a Florida corporation located in Miami-Dade County purporting to be a DME provider.

11. Expedited Medical Supplies Corp. (“Expedited Medical”) was a Florida corporation located in Miami-Dade County purporting to be a DME provider.

12. Jesus Garces, a resident of Miami-Dade County, was an owner of Timely Medical and Expedited Medical.

13. Defendant **HAROLD HABER** was a resident of Miami-Dade County.

14. Defendant **HENRY HABER, JR.** was a resident of Miami-Dade County.

**Conspiracy to Commit Health Care Fraud
(18 U.S.C. § 1349)**

From in or around March 2018, and continuing through in or around May 2019, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**HAROLD HABER and
HENRY HABER, JR.,**

did knowingly and willfully, that is, with the intent to further the object of the conspiracy, combine,

conspire, confederate, and agree with each other, and with Jesus Garces and others, known and unknown to the Acting United States Attorney, to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicaid, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

Purpose of the Conspiracy

15. It was a purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare and Medicaid; (b) concealing the submission of false and fraudulent claims to Medicare and Medicaid; and (c) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which the defendants and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among others, the following:

16. **HAROLD HABER, HENRY HABER, JR.**, and their co-conspirators acquired, and caused the acquisition of, beneficial ownership interests in Timely Medical and Expedited Medical.

17. Co-conspirators recruited and paid individuals to serve as nominee owners of Timely Medical and Expedited Medical in order to conceal their involvement in the fraud.

18. **HAROLD HABER, HENRY HABER, JR.**, and their co-conspirators obtained the names and identification numbers of Medicare and Medicaid beneficiaries, and the names and provider numbers of physicians, in order to submit false and fraudulent claims for DME that was

not prescribed by a licensed physician, was not medically necessary, and was never provided to the beneficiaries.

19. **HAROLD HABER, HENRY HABER, JR.**, and their co-conspirators submitted, and caused the submission of, false and fraudulent claims totaling approximately \$7.6 million to Medicare and Medicaid on behalf of Timely Medical and Expedited Medical for DME that was not prescribed by a licensed physician, was not medically necessary, and was never provided to the beneficiaries.

20. **HAROLD HABER, HENRY HABER, JR.**, and their co-conspirators diverted fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

All in violation of Title 18, United States Code, Section 1349.

FORFEITURE
(18 U.S.C. § 982)

1. The allegations of this Information are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of certain property in which the defendants, **HAROLD HABER** and **HENRY HABER, JR.**, have an interest.

2. Upon conviction of a conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349, as alleged in this Information, the defendant so convicted shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, pursuant to Title 18, United States Code, Section 982(a)(7).

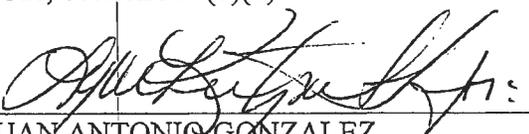
3. The property subject to forfeiture includes, but is not limited to, a sum of approximately \$192,000 in United States currency, which represents the gross proceeds of the offense alleged in this Information and which may be sought as a forfeiture money judgment.

4. If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States shall be entitled to the forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

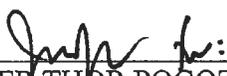
All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures set forth in Title 21, United States Code, Section 853, made applicable by Title 18, United States Code, Section 982(b)(1).



JUAN ANTONIO GONZALEZ
ACTING UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

JOSEPH S. BEEMSTERBOER, ACTING CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

ALLAN MEDINA, DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE



ALEXANDER THOR POGOZELSKI
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

v.
HAROLD HABER and
HENRY HABER, JR.,

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

Defendants/

Court Division: (Select One)

- Miami Key West FTL
- WPB FTP

New defendant(s) Yes No

Number of new defendants _____

Total number of counts _____

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) **Yes**
List language and/or dialect Spanish
4. This case will take 0 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

- | | | |
|--------------------|-------------------------------------|--|
| (Check only one) | | (Check only one) |
| I 0 to 5 days | <input checked="" type="checkbox"/> | Petty <input type="checkbox"/> |
| II 6 to 10 days | <input type="checkbox"/> | Minor <input type="checkbox"/> |
| III 11 to 20 days | <input type="checkbox"/> | Misdemeanor <input type="checkbox"/> |
| IV 21 to 60 days | <input type="checkbox"/> | Felony <input checked="" type="checkbox"/> |
| V 61 days and over | <input type="checkbox"/> | |

6. Has this case previously been filed in this District Court? (Yes or No) **No**

If yes: Judge _____ Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) **No**

If yes: Magistrate Case No. _____

Related miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

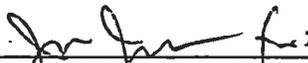
Rule 20 from the District of _____

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

7. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia O. Valle)? (Yes or No) **No**

8. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? (Yes or No) **No**

9. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss)? (Yes or No) **No**



 ALEXANDER THOR POGOZELSKI
 DOJ Trial Attorney
 Court ID No. A5502549

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: HAROLD HABER

Case No: _____

Count #: 1

Title 18, United States Code, Section 1349

Conspiracy to Commit Health Care Fraud

*Max Penalty: Ten (10) years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: HENRY HABER, JR.

Case No: _____

Count #: 1

Title 18, United States Code, Section 1349

Conspiracy to Commit Health Care Fraud

*Max Penalty: Ten (10) years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

United States of America

v.

Harold Haber,

Defendant

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Case No.

WAIVER OF AN INDICTMENT

I understand that I have been accused of one or more offenses punishable by imprisonment for more than one year. I was advised in open court of my rights and the nature of the proposed charges against me.

After receiving this advice, I waive my right to prosecution by indictment and consent to prosecution by information.

Date: _____

Defendant's signature

Signature of defendant's attorney

JUAN BERRIO, ESQ.

Printed name of defendant's attorney

Judge's signature

Judge's printed name and title

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

United States of America

v.

Henry Haber, Jr.,

Defendant

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Case No.

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Signature of defendant's attorney

Printed name of defendant's attorney

Judge's signature

Judge's printed name and title