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CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
June 2012 Grand Jury

12	UNITED STATES OF AMERICA,	)	CR No. 11-134(A) -GW
13	Plaintiff,	)	F I R S T
14	v.	)	S U P E R S E D I N G
15	CHARLES ACHIKE AGBU,	)	I N D I C T M E N T
16	aka "Charles A. Agbu,"	)	[18 U.S.C. § 1349: Conspiracy
17	aka "Charles Agbu,"	)	to Commit Health Care Fraud;
18	aka "Charles,"	)	18 U.S.C. § 1347: Health Care
19	OBIAGELI BROOKE AGBU,	)	Fraud; 18 U.S.C. § 2(b):
20	aka "Obiageli Brook. Agbu,"	)	Causing an Act to be Done; 18
21	aka "Obiageli B. Agbu,"	)	U.S.C. § 1957: Unlawful
22	aka "Obiagele B. Agbu,"	)	Monetary Transactions; 18
23	aka "Obiagele,"	)	U.S.C. § 982: Criminal
24	aka "Brooke,"	)	Forfeiture]
25	aka "Ivon,")	
26	DR. EMMANUEL ADEBAYO AYODELE,)	
27	DR. JUAN TOMAS VAN PUTTEN,)	
28	ALEJANDRO MACIEL,)	
	aka "Enrique Maciel)	
	Gonzales,")	
	aka "Alex,")	
	aka "Carlos," and)	
	CANDALARIA CORRAL ESTRADA,)	
	aka "Candi,")	
	aka "Candy,")	
	Defendants.)	

The Grand Jury charges:

COUNT ONE

[18 U.S.C. §§ 1349, 2]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this First Superseding Indictment:

The Conspirators

1. Defendant CHARLES ACHIKE AGBU ("C. AGBU"), also known as ("aka") "Charles A. Agbu," aka "Charles Agbu," aka "Charles," owned and operated a durable medical equipment ("DME") supply company called Bonfee Inc., which did business as Bonfee Medical Supplies ("Bonfee"). Defendant C. AGBU submitted applications to Medicare to obtain and maintain a Medicare Program ("Medicare") provider number for Bonfee.

2. Bonfee's offices were located at 550 East Carson Plaza Drive, Suite 113, Carson, California, within the Central District of California.

3. Defendant OBIAGELI BROOKE AGBU ("O. AGBU"), aka "Obiageli Brook Agbu," aka "Obiageli B. Agbu," aka "Obiagele B. Agbu," aka "Obiagele," aka "Brooke," aka "Ivon," who is C. AGBU's daughter, owned and operated a DME supply company called Ibon, Inc. ("Ibon"). Defendant O. AGBU submitted applications to Medicare to obtain and maintain a Medicare provider number for Ibon.

4. Ibon's offices were located at 550 East Carson Plaza Drive, Suite 107, Carson, California, within the Central District of California.

5. Defendant DR. EMMANUEL ADEBAYO AYODELE ("AYODELE") operated Beth Medical Clinic ("Beth Medical"), a fraudulent medical clinic located at 11126 South Main Street, Los Angeles,

1 California, within the Central District of California. Like
2 defendant DR. JUAN TOMAS VAN PUTTEN ("VAN PUTTEN"), defendant
3 AYODELE wrote fraudulent prescriptions for DME and other items
4 and services which he, defendant C. AGBU, defendant O. AGBU, and
5 other DME supply companies used as a basis to bill Medicare.

6 6. Defendant VAN PUTTEN operated Greater South Bay Medical
7 Group ("Greater South Bay"), a medical clinic located at 930 East
8 Dominguez Street, Suite C, Carson, California, within the Central
9 District of California. Defendant VAN PUTTEN wrote fraudulent
10 prescriptions for DME and other items and services which he,
11 defendant C. AGBU, defendant O. AGBU, and other DME supply
12 companies used as a basis to bill Medicare.

13 7. Defendant ALEJANDRO MACIEL ("MACIEL"), aka "Alex," aka
14 "Carlos," aka "Enrique Maciel Gonzales," worked for Bonfee and
15 Ibon as, among other things, a "marketer" or "capper," illegally
16 soliciting Medicare beneficiaries for DME and other items and
17 services which the beneficiaries did not want or need. Defendant
18 MACIEL also worked for Bonfee and Ibon as a delivery driver, and
19 he delivered power wheelchairs and other DME to beneficiaries who
20 were ambulatory and had no legitimate need for the power
21 wheelchairs and DME.

22 8. Defendant CANDALARIA CORRAL ESTRADA ("ESTRADA"), aka
23 "Candy," aka "Candi," was married to defendant MACIEL. Defendant
24 ESTRADA also worked for Bonfee and Ibon as, among other things, a
25 marketer, illegally soliciting Medicare beneficiaries for DME and
26 other items and services which the beneficiaries did not want or
27 need. Like defendant MACIEL, defendant ESTRADA also worked for
28 Bonfee and Ibon as a delivery driver, and she delivered power

1 wheelchairs and other DME to beneficiaries who were ambulatory
2 and had no legitimate need for the power wheelchairs and DME.

3 9. A co-conspirator known to the Grand Jury ("CC1") was
4 associated with individuals who owned and operated fraudulent
5 medical clinics that generated false and fraudulent prescriptions
6 and other documents for power wheelchairs and other DME. CC1 and
7 others provided and sold the false and fraudulent prescriptions
8 and documents to the owners and operators of DME supply
9 companies, including Bonfee.

10 10. Between in or about July 2005 and in or about February
11 2011, Bonfee and Ibon collectively submitted to Medicare claims
12 totaling approximately \$11,094,918.59, and received approximately
13 \$5,788,725.40 in reimbursement payments from Medicare to which
14 they were not entitled.

15 The Medicare Program

16 11. Medicare was a federal health care benefit program,
17 affecting commerce, that provided benefits to individuals who
18 were over the age of 65 or disabled. Medicare was administered
19 by the Centers for Medicare and Medicaid Services ("CMS"), a
20 federal agency under the United States Department of Health and
21 Human Services ("HHS").

22 12. CMS contracted with private insurance companies to (a)
23 certify DME providers for participation in the Medicare program
24 and monitor their compliance with Medicare standards; (b) process
25 and pay claims; and (c) perform program safeguard functions, such
26 as identifying and reviewing suspect claims.

27 13. Individuals who qualified for Medicare benefits were
28 referred to as Medicare beneficiaries. Each Medicare beneficiary

1 was given a Health Identification Card containing a unique
2 identification number ("HICN").

3 14. DME companies, physicians, and other health care
4 providers which provided medical services that were reimbursed by
5 Medicare were referred to as Medicare "providers."

6 15. To obtain payment from Medicare, a DME company first
7 had to apply for and obtain a provider number. By signing the
8 provider application, the DME company agreed to abide by Medicare
9 rules and regulations, including the Anti-Kickback Statute (42
10 U.S.C. § 1320a-7b(b)), which, among other things, prohibits the
11 payment of kickbacks or bribes for the referral of Medicare
12 beneficiaries for any item or service for which payment may be
13 made by the Medicare program.

14 16. If Medicare approved a provider's application, Medicare
15 assigned the provider a Medicare provider number, enabling the
16 provider (such as a DME company or physician) to submit claims to
17 Medicare for services and supplies provided to Medicare
18 beneficiaries.

19 17. To obtain and maintain their Medicare provider number
20 billing privileges, DME suppliers and physicians had to meet
21 Medicare standards for participation. The Medicare contractor
22 responsible for evaluating and certifying DME and physician
23 providers' compliance with these standards was Palmetto GBA
24 ("Palmetto").

25 18. From in or about January 2003 through in or about
26 September 2006, CIGNA processed and paid Medicare claims in
27 Southern California. From in or about October 2006 onward,
28

1 Noridian Administrative Services ("Noridian") performed this
2 function.

3 ~~19. Most Medicare providers, including Bonfee and Ibon,~~
4 submitted their claims electronically pursuant to an agreement
5 with Medicare that they would submit claims that were accurate,
6 complete, and truthful.

7 20. Medicare paid DME providers and physicians only for DME
8 and services that were medically necessary to the treatment of a
9 beneficiary's illness or injury, were prescribed by a
10 beneficiary's physician, and were provided in accordance with
11 Medicare regulations and guidelines that governed whether a
12 particular item or service would be paid by Medicare.

13 21. To bill Medicare for DME or a service that they
14 provided to a beneficiary, a DME provider or physician was
15 required to submit a claim (Form 1500) to Noridian or CIGNA.
16 Medicare required claims to be truthful, complete, and not
17 misleading. In addition, when a claim was submitted, the DME
18 provider or physician was required to certify that the DME or
19 services covered by the claim were medically necessary.

20 22. Medicare required a claim for payment to set forth,
21 among other things, the beneficiary's name and HICN, the type of
22 DME provided to the beneficiary, the date the DME was provided,
23 and the name and unique physician identification number ("UPIN")
24 of the physician who prescribed or ordered the DME.

25 23. Medicare had a co-payment requirement for DME.
26 Medicare reimbursed providers 80% of the allowed amount of a DME
27 claim and the beneficiary was ordinarily obligated to pay the
28 remaining 20%.

1 B. THE OBJECT OF THE CONSPIRACY

2 24. Beginning in or about July 2005, and continuing through
3 on or about February 17, 2011, in Los Angeles County, within the
4 Central District of California, and elsewhere, defendants C.
5 AGBU, O. AGBU, VAN PUTTEN, AYODELE, MACIEL, and ESTRADA, together
6 with CCI and others known and unknown to the Grand Jury,
7 knowingly combined, conspired, and agreed to commit health care
8 fraud, in violation of Title 18, United States Code, Section
9 1347.

10 C. THE MANNER AND MEANS OF THE CONSPIRACY

11 25. The object of the conspiracy was carried out, and to be
12 carried out, in substance, as follows:

13 a. Defendants MACIEL and ESTRADA obtained and
14 assisted fraudulent medical clinics, doctor's offices, and other
15 locations in obtaining the personal and Medicare information of
16 Medicare beneficiaries by offering them medically-unnecessary
17 power wheelchairs, hospital beds, orthotics, and other DME. To
18 convince the beneficiaries to part with their information,
19 defendants MACIEL and ESTRADA lied to some beneficiaries about
20 the legitimacy of obtaining power wheelchairs, DME, and other
21 services through them.

22 b. Defendants MACIEL and ESTRADA solicited Medicare
23 beneficiaries for medically-unnecessary power wheelchairs and
24 other DME in person and by telephone. Two of the telephone
25 numbers which defendants MACIEL and ESTRADA used to solicit the
26 beneficiaries were listed on a business card for defendants
27 MACIEL and ESTRADA that they handed to the beneficiaries. A
28 third telephone number that defendants MACIEL and ESTRADA used to

1 solicit beneficiaries was in a document maintained on Bonfee's
2 computer that contained a list of names and telephone numbers
3 under the heading "MARKETERS," with the name "Candy" on this list
4 next to this third telephone number.

5 c. Defendants C. AGBU, O. AGBU, VAN PUTTEN, and
6 AYODELE used the personal and Medicare information of the
7 beneficiaries solicited by defendants MACIEL and ESTRADA, and
8 other co-conspirators known and unknown to the Grand Jury, to
9 defraud Medicare.

10 d. In some cases, defendants MACIEL and ESTRADA, and
11 other co-conspirators known and unknown to the Grand Jury, took
12 or referred the beneficiaries to fraudulent medical clinics,
13 doctors' offices, and other locations where fraudulent
14 prescriptions and medical documents were generated using the
15 beneficiaries' personal information and HICNs. Two of the
16 locations where defendants MACIEL and ESTRADA, and other co-
17 conspirators known and unknown to the Grand Jury, took or
18 referred the beneficiaries were Greater South Bay, which
19 defendant VAN PUTTEN operated, and Beth Medical, which defendant
20 AYODELE operated.

21 e. Defendants MACIEL and ESTRADA, and other co-
22 conspirators known and unknown to the Grand Jury, took or
23 referred the beneficiaries to defendants VAN PUTTEN and AYODELE,
24 rather than to the beneficiaries' regular primary care
25 physicians, in order for defendants VAN PUTTEN and AYODELE to
26 prescribe medically-unnecessary power wheelchairs, DME, and other
27 services for the beneficiaries.

28

1 f. Defendants C. AGBU, O. AGBU, MACIEL, ESTRADA, and
2 other co-conspirators known and unknown to the Grand Jury
3 ~~acquired false and fraudulent prescriptions and medical documents~~
4 not only from defendants VAN PUTTEN and AYODELE, but from other
5 fraudulent medical clinics, doctors' offices, and other sources
6 for the purpose of using the prescriptions and documents to
7 submit and cause the submission of false and fraudulent claims to
8 Medicare on behalf of Bonfee and Ibon.

9 g. Defendant C. AGBU and other co-conspirators known
10 and unknown to the Grand Jury also bought false and fraudulent
11 prescriptions and other documents for power wheelchairs and other
12 DME from CC1 and others for the purpose of using the false and
13 fraudulent documents to submit and cause the submission of false
14 and fraudulent claims to Medicare on behalf of Bonfee.

15 h. After acquiring the false and fraudulent documents
16 from CC1 and other sources, defendants C. AGBU and O. AGBU
17 submitted and caused the submission of false and fraudulent
18 claims to Medicare for power wheelchairs, power wheelchair
19 accessories, orthotics, hospital beds, and other DME purportedly
20 provided by Bonfee and Ibon to Medicare beneficiaries.

21 i. Defendants C. AGBU and O. AGBU submitted and
22 caused the submission of claims to Medicare for power
23 wheelchairs, orthotics, hospital beds, and other DME that were
24 not provided to the beneficiaries or that the beneficiaries did
25 not want or medically need. In some cases, defendants C. AGBU
26 and O. AGBU claimed to Medicare that Bonfee and Ibon had provided
27 the beneficiaries with expensive power wheelchairs, orthotics, or
28 other DME when, in fact, as defendants C. AGBU and O. AGBU well

1 knew, Bonfee and Ibon had provided the beneficiaries with less
2 expensive DME.

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COUNTS TWO THROUGH TWENTY-ONE

[18 U.S.C. §§ 1347, 2(b)]

A. INTRODUCTORY ALLEGATIONS

26. The Grand Jury incorporates by reference and re-alleges paragraphs 1 through 23 of this First Superseding Indictment as though set forth in their entirety herein.

B. THE SCHEME TO DEFRAUD

27. Beginning in or about July 2005, and continuing through on or about February 17, 2011, in Los Angeles County, within the Central District of California, and elsewhere, defendants C. AGBU, O. AGBU, VAN PUTTEN, AYODELE, MACIEL, and ESTRADA, together with CC1 and others known and unknown to the Grand Jury, knowingly, willfully, and with intent to defraud, executed, and attempted to execute, a scheme and artifice: (a) to defraud a health care benefit program, namely Medicare, as to material matters in connection with the delivery of and payment for health care benefits, items, and services; and (b) to obtain money from Medicare by means of material false and fraudulent pretenses and representations and the concealment of material facts in connection with the delivery of and payment for health care benefits, items, and services.

C. MEANS TO ACCOMPLISH THE SCHEME TO DEFRAUD

28. The fraudulent scheme operated, in substance, as described in paragraph 25 of this First Superseding Indictment, which is hereby incorporated by reference as if stated in its entirety herein.

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1 D. THE EXECUTION OF THE FRAUDULENT SCHEME

2 29. On or about the dates set forth below, within the
3 Central District of California and elsewhere, the defendants
4 identified below, together with others known and unknown to the
5 Grand Jury, for the purpose of executing and attempting to
6 execute the fraudulent scheme described above, knowingly and
7 willfully caused to be submitted to Medicare the following false
8 and fraudulent claims for payment:

9	COUNT	DEFENDANTS	CLAIM NUMBER	APPROX DATE (BY DME)	APPROX AMOUNT	NATURE OF CLAIM
10	TWO	C. AGBU	106356842806000	12/22/06 (Bonfee)	\$6,722	Power wheelchair and accessories for Lin C.
11						
12	THREE	C. AGBU	107226847325000	8/14/07 (Bonfee)	\$5,910	Power wheelchair and accessories for Nghia N.
13						
14	FOUR	C. AGBU	107226847328000	8/14/07 (Bonfee)	\$5,910	Power wheelchair and accessories for Sang D.
15						
16	FIVE	C. AGBU	108354831047000	12/19/08 (Bonfee)	\$6,500	Power wheelchair and accessories for Carmen M.
17						
18	SIX	C. AGBU	109093837855000	4/03/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Pedro A.
19						
20	SEVEN	O. AGBU	109254844880000	9/11/09 (Ibon)	\$218	Hospital bed for Francisco J.
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COUNT	DEFENDANTS	CLAIM NUMBER	APPROX DATE (BY DME)	APPROX AMOUNT	NATURE OF CLAIM
EIGHT	O. AGBU	109254844882000	9/11/09 (Ibon)	\$1,264	Orthotic equipment for Francisco J.
NINE	O. AGBU	110029800852000	1/29/10 (Ibon)	\$915	Orthotic equipment for Arnulfo H.
TEN	O. AGBU	110103805092000	4/13/10 (Ibon)	\$1,214	Orthotic equipment for Celia G.
ELEVEN	C. AGBU AYODELE MACIEL	108051845496000	2/20/08 (Bonfee)	\$6,720	Power wheelchair and accessories for Jesus R.
TWELVE	C. AGBU AYODELE MACIEL	108053847872000	2/22/08 (Bonfee)	\$6,720	Power wheelchair and accessories for Esperanza R.
THIRTEEN	O. AGBU AYODELE MACIEL ESTRADA	108255819538000	9/11/08 (Ibon)	\$7,304	Power wheelchair and accessories for Edelmira R.
FOURTEEN	C. AGBU AYODELE MACIEL ESTRADA	108319845097000	11/14/08 (Bonfee)	\$6,180	Power wheelchair and accessories for Miguel M.
FIFTEEN	O. AGBU AYODELE MACIEL ESTRADA	109008828340000	1/08/09 (Ibon)	\$7,229	Power wheelchair and accessories for Eva D.

COUNT	DEFENDANTS	CLAIM NUMBER	APPROX DATE (BY DME)	APPROX AMOUNT	NATURE OF CLAIM
SIXTEEN	O. AGBU AYODELE MACIEL ESTRADA	109051839188000	2/20/09 (Ibon)	\$7,229	Power wheelchair and accessories for Anastacio M.
SEVENTEEN	C. AGBU AYODELE	109127800080000	5/07/09 (Bonfee)	\$6,393	Power wheelchair for Margarita Z.
EIGHTEEN	C. AGBU VAN PUTTEN MACIEL ESTRADA	109168810424000	6/17/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Joaquin B.
NINETEEN	C. AGBU VAN PUTTEN MACIEL	109195805536000	7/14/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Juana M.
TWENTY	C. AGBU VAN PUTTEN MACIEL	109217810068000	8/05/09 (Bonfee)	\$6,393	Power wheelchair and accessories for Irene S.
TWENTY-ONE	O. AGBU VAN PUTTEN	109254844884000	9/11/09 (Ibon)	\$6,714	Power wheelchair and accessories for Francisco J.

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COUNTS TWENTY-TWO THROUGH TWENTY-FIVE

[18 U.S.C. §§ 1957, 2]

30. The Grand Jury incorporates by reference and re-alleges paragraphs 1 through 23 and 25 of this First Superseding Indictment as though set forth in their entirety herein.

31. On or about the dates set fourth below, within the Central District of California and elsewhere, defendant C. AGBU, knowing that the funds involved represented the proceeds of some form of unlawful activity, conducted and attempted to conduct, and willfully caused others to conduct and attempt to conduct, the following monetary transactions in criminally derived property of a value greater than \$10,000, which property, in fact, was derived from specified unlawful activity, namely conspiracy to commit health care fraud and health care fraud, in violation of 18 U.S.C. §§ 1347 and 1349:

COUNT	DATE POSTED	MONETARY TRANSACTION
TWENTY-TWO	7/29/09	Transfer of \$17,593 from Bonfee's Wells Fargo Bank Account #XXXXXX8271 to defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448
TWENTY-THREE	8/5/09	Transfer of \$12,000 from Bonfee's Wells Fargo Bank Account #XXXXXX8271 to defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448
TWENTY-FOUR	8/7/09	Transfer of \$14,000 from defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448 to Bonfee's Wells Fargo Bank Account #XXXXXX8271
TWENTY-FIVE	8/17/09	Transfer of \$15,000 from Bonfee's Wells Fargo Bank Account #XXXXXX8271 to defendant C. AGBU's Wells Fargo Bank Account #XXXXXX1448

FORFEITURE ALLEGATION ONE

[18 U.S.C. § 982(a)(7)]

32. The Grand Jury hereby realleges and incorporates by reference counts one through twenty-one of this First Superseding Indictment as though fully set forth herein, for the purpose of alleging forfeiture, pursuant to the provisions of Title 18, United States Code, Section 982(a)(7).

33. Counts one through twenty-one of this First Superseding Indictment allege acts or activities constituting federal health care fraud offenses pursuant to Title 18, United States Code, Sections 1347 and 1349. Pursuant to Title 18, United States Code, Section 982(a)(7), upon conviction of a federal health care fraud offense, defendants C. AGBU, O. AGBU, VAN PUTTEN, AYODELE, MACIEL, and ESTRADA shall forfeit to the United States of America:

a. All right, title, and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense; and

b. A sum of money equal to the total amount of gross proceeds derived from such offense.

34. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), and Title 28, United States Code, Section 2461(c), a defendant so convicted shall forfeit substitute property, up to the value of the amount described in paragraph 33, if, by any act or omission of said defendant, the property described in paragraph 33, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred, sold to, or deposited with a

1 third party; has been placed beyond the jurisdiction of this
2 court; has been substantially diminished in value; or has been
3 commingled with other property that cannot be divided without
4 difficulty.

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FORFEITURE ALLEGATION TWO

[18 U.S.C. § 982(a)(1)]

35. The Grand Jury hereby realleges and incorporates by reference counts twenty-two through twenty-five of this First Superseding Indictment as though fully set forth herein, for the purpose of alleging forfeiture, pursuant to the provisions of Title 18, United States Code, Section 982(a)(1).

36. Counts twenty-two through twenty-five of this First Superseding Indictment allege acts or activities constituting offenses involving Transactional Money Laundering pursuant to Title 18, United States Code, Section 1957(a). Pursuant to Title 18, United States Code, Section 982(a)(1), each defendant who is convicted of such an offense shall forfeit to the United States any right, title, and interest in any property, real or personal, involved in such offense, or any property traceable to such property, including, but not limited to \$59,593.00.

37. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), each defendant so convicted shall forfeit substitute property, up to the value of the amount described in paragraph 36, if, by any act or omission of said defendant, the property described in paragraph 36, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred, sold to, or deposited with a third party; has been placed beyond the jurisdiction of this court; has been substantially diminished

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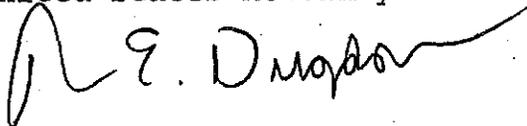
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1 in value; or has been commingled with other property that cannot
2 be divided without difficulty.

3 A TRUE BILL

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5 151
6 Foreperson

7 ANDRÉ BIROTTE JR.
8 United States Attorney

9 

10 ROBERT E. DUGDALE
11 Assistant United States Attorney
12 Chief, Criminal Division

13 RICHARD ROBINSON
14 Assistant United States Attorney
15 Chief, Major Frauds Section

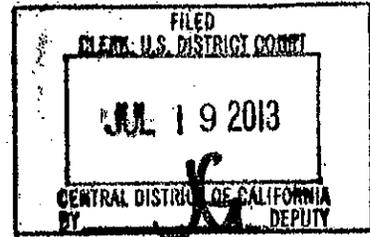
16 CONSUELO WOODHEAD
17 Assistant United States Attorney
18 Deputy Chief, Major Frauds Section

19 SAM SHELDON
20 Deputy Chief, Fraud Section
21 United States Department of Justice

22 BENTON CURTIS
23 Deputy Chief, Fraud Section
24 United States Department of Justice

25 JONATHAN T. BAUM
26 Trial Attorney, Fraud Section
27 United States Department of Justice
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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) No. CR 11-134(A) -GW
))
 Plaintiff,)
) VERDICT FORM
 v.)
))
OBIAGELI BROOKE AGBU,)
))
 Defendant.)

COUNT ONE

Count One of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with conspiracy to commit health care fraud in violation of Title 18, United States Code, Section 1349.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

 X GUILTY

 NOT GUILTY

of conspiracy to commit health care fraud as charged in Count One of the First Superseding Indictment.

COUNT SEVEN

Count Seven of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Seven is based on a claim for \$218 submitted to Medicare for a hospital bed that was never delivered to Francisco Jimenez.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

 X GUILTY

 NOT GUILTY

of health care fraud as charged in Count Seven of the First Superseding Indictment.

COUNT EIGHT

Count Eight of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Eight is based on a claim for \$1,264 submitted to Medicare for a back brace that was never delivered to Francisco Jimenez.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

X GUILTY

____ NOT GUILTY

of health care fraud as charged in Count Eight of the First Superseding Indictment.

COUNT NINE

Count Nine of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Nine is based on a claim for \$915 submitted to Medicare for a back brace that was never delivered to Arnulfo Higuera.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

GUILTY

NOT GUILTY

of health care fraud as charged in Count Nine of the First Superseding Indictment.

COUNT TEN

Count Ten of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Ten is based on a claim for \$1,214 submitted to Medicare for a back brace that was never delivered to Celia Gomez.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

 X GUILTY

 NOT GUILTY

of health care fraud as charged in Count Ten of the First Superseding Indictment.

COUNT THIRTEEN

Count Thirteen of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Thirteen is based on a claim for \$7,304 submitted to Medicare for a medically unnecessary power wheelchair and accessories for Edelmira Ramos.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

 X GUILTY

 NOT GUILTY

of health care fraud as charged in Count Thirteen of the First Superseding Indictment.

COUNT FIFTEEN

Count Fifteen of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Fifteen is based on a claim for \$7,229 submitted to Medicare for a medically unnecessary power wheelchair and accessories for Eva Dominguez.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

GUILTY

NOT GUILTY

of health care fraud as charged in Count Fifteen of the First Superseding Indictment.

COUNT SIXTEEN

Count Sixteen of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Sixteen is based on a claim for \$7,229 submitted to Medicare for a medically unnecessary power wheelchair and accessories for Anastacio Munoz.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

X GUILTY

____ NOT GUILTY

of health care fraud as charged in Count Sixteen of the First Superseding Indictment.

COUNT TWENTY-ONE

Count Twenty-One of the First Superseding Indictment charges Defendant OBIAGELI BROOKE AGBU with health care fraud in violation of Title 18, United States Code, Section 1347. Count Twenty-One is based on a claim for \$6,714 submitted to Medicare for a medically unnecessary power wheelchair and accessories for Francisco Jimenez.

We, the jury in the above-captioned cause, unanimously find the defendant OBIAGELI BROOKE AGBU:

X GUILTY

____ NOT GUILTY

of health care fraud as charged in Count Twenty-One of the First Superseding Indictment.

FOREPERSON OF THE JURY

DATED: July 19, 2013, at Los Angeles, California.

**United States District Court
Central District of California**

**** AMENDED ****

UNITED STATES OF AMERICA vs.

Docket No.

CR 11-134-GW

MD JS-32

Defendant 2. Obiageli Brooke Agbu

Social Security No. █ █ █ █

akas: _____

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
03	31	2014

COUNSEL

WITH COUNSEL

Errol H. Stambler, CJA Appointed

(Name of Counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea.

NOLO
CONTENDERE

NOT
GUILTY

FINDING

There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:
Count 1: 18 U.S.C. §§ 1349, 2 Conspiracy to Commit Health Care Fraud, Causing an Act to be Done
Counts 7-10, 13, 15, 16, 21: 18 U.S.C. §§ 1347, 2(b) Health Care Fraud, Causing an Act to be Done

**JUDGMENT
AND PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of: **Fourteen (14) Months.**

It is ordered that the defendant shall pay to the United States a special assessment of \$900, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

It is ordered that the defendant shall pay restitution in the total amount of **\$887,604** pursuant to 18 U.S.C. § 3663A to victims as set forth in a separate victim list prepared by the probation office which this Court adopts and which reflects the Court's determination of the amount of restitution due to each victim. The victim list, which shall be forwarded to the fiscal section of the clerk's office, shall remain confidential to protect the privacy interests of the victims.

Restitution shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program. If any amount of the restitution remains unpaid after release from custody, nominal monthly payments of at least \$25 shall be made during the period of supervised release. These payments shall begin 30 days after the commencement of supervision. Nominal restitution payments are ordered as the court finds that the defendant's economic circumstances do not allow for either immediate or future payment of the amount ordered.

The victim's recovery is limited to the amount of the victim's loss and the defendant's liability for restitution ceases if and when the victim receives full restitution. Pursuant to 18 U.S.C. § 3612(f)(3)(A), interest on the restitution ordered is waived because the defendant does not have the ability to pay interest. Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

The defendant shall comply with General Order No. 01-05.

All fines are waived as it is found that the defendant does not have the ability to pay a fine in addition to restitution.

The court has found that the property identified in the preliminary order of forfeiture is subject to forfeiture. The preliminary order is incorporated by reference into this judgment and is final.

USA vs. **2. Obiageli Brooke Agbu**Docket No.: **CR 11-134-GW**

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Obiageli Brooke Agbu, is hereby committed on Counts 1, 7, 8, 9, 10, 13, 15, 16, and 21 of the First Superseding Indictment to the custody of the Bureau of Prisons for a term of 14 months. This term consists of 14 months on each of Counts 1, 7, 8, 9, 10, 13, 15, 16, and 21 of the First Superseding Indictment, to be served concurrently.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years. This term consists of three years on each of Counts 1, 7, 8, 9, 10, 13, 15, 16, and 21 of the First Superseding Indictment, all such terms to run concurrently under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation Office, General Order 05-02, and General Order 01-05, including the three special conditions delineated in General Order 01-05.
3. The defendant shall participate in mental health treatment, which may include evaluation and counseling, until discharged from the treatment by the treatment provider, with the approval of the Probation Officer.
4. As directed by the Probation Officer, the defendant shall pay all or part of the costs of treating the defendant's psychiatric disorder to the aftercare contractor during the period of community supervision, pursuant to 18 U.S.C. § 3672. The defendant shall provide payment and proof of payment as directed by the Probation Officer.
5. During the period of community supervision, the defendant shall pay the special assessment and restitution in accordance with this judgment's orders pertaining to such payment.
6. When not employed or excused by the Probation Officer for schooling, training, or other acceptable reasons, the defendant shall perform 20 hours of community service per week as directed by the Probation Office.
7. The defendant shall not obtain or possess any driver's license, Social Security number, birth certificate, passport, or any other form of identification in any name, other than the defendant's true legal name; nor shall the defendant use, for any purpose or in any manner, any name other than her true legal name or names without the prior approval of the Probation Officer.
8. The defendant shall not engage, as whole or partial owner, employee or otherwise, in any business involving federally funded health insurance or entitlement programs without the express written approval of the Probation Officer prior to engaging in such employment. Further, the defendant shall provide the Probation Officer with access to any and all business records, client lists, and other records pertaining to the operation of any business owned, in whole or in part, by the defendant, as directed by the Probation Officer. ***Employment is permitted at a medical doctor's office or hospital so long as such position does not have direct duties with Medicare or Medical billing and the defendant contacts the Probation Office before such employment and receives its permission in writing.***
9. The defendant shall not be employed in any position that requires licensing and/or certification by any local, state, or federal agency without the prior written approval of the Probation Officer.
10. The defendant shall cooperate in the collection of a DNA sample from the defendant.
11. The defendant shall apply monies received from income tax refunds, lottery winnings, inheritance, judgments, and any anticipated or unexpected financial gains to the outstanding Court-ordered financial obligation.

The Court authorizes the Probation Officer to disclose the Presentence Report, and/or any previous mental health evaluations or reports, to the treatment provider. The treatment provider may provide information (excluding the Presentence report), to State or local social service agencies (such as the State of California, Department of Social Service), for the purpose of the client's rehabilitation.

It is further ordered that the defendant surrender herself to the institution designated by the Bureau of Prisons on or before 12 noon, on July 1, 2014. In the absence of such designation, the defendant shall report on or before the same date and time to the United States Marshal located at the Royal Federal Building, 255 East Temple Street, Los Angeles, California 90012.

Bond is exonerated upon self surrender.

The Court recommends that the defendant be placed in a Southern California facility.

The Court informs the defendant of her appeal rights.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

USA vs. 2. Obiageli Brooke Agbu

Docket No.: CR 11-134-GW

April 2, 2014

Date



GEORGE H. WU, U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

April 2, 2014

Filed Date

By /s/ Kamilla Sali-Suleyman

Deputy Clerk

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. The defendant shall not commit another Federal, state or local crime; 2. the defendant shall not leave the judicial district without the written permission of the court or probation officer; 3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month; 4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer; 5. the defendant shall support his or her dependents and meet other family responsibilities; 6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons; 7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment; 8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician; 9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered; | <ol style="list-style-type: none"> 10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer; 11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer; 12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer; 13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; 14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement; 15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours; 16. and, <u>for felony cases only</u>; not possess a firearm, destructive device, or any other dangerous weapon. |
|--|--|

The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

USA vs. 2. Obiageli Brooke Agbu

Docket No.: CR 11-134-GW

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

USA vs. 2. Obiageli Brooke Agbu Docket No.: CR 11-134-GW

at _____
the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By _____
Deputy Marshal

Date

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By _____
Deputy Clerk

Filed Date

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant

Date

U. S. Probation Officer/Designated Witness

Date