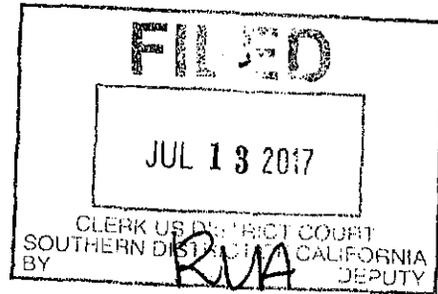


ORIGINAL



9 **UNITED STATES DISTRICT COURT**
 10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 FERNANDO VALDES,

15 Defendant.

Case No. 15CR2822-CAB

SUPERSEDING INFORMATION

Title 18, United States Code,
 Section 1349 - Conspiracy to Commit
 Honest Services Mail Fraud and
 Health Care Fraud; and Title 28,
 U.S.C., § 2461(c) - Criminal
 Forfeiture

18 The United States charges:

19 **COUNT 1**

20 **CONSPIRACY**

21 **18 U.S.C. § 1349**

22 Beginning on a date unknown and continuing through at least April
 23 2017, within the Southern District of California and elsewhere,
 24 defendant FERNANDO VALDES did knowingly and intentionally conspire with
 25 LEE MATHIS, FOREMOST SHOCKWAVE SOLUTIONS, and others to: commit Honest
 26 Services Mail Fraud, that is, knowingly and with the intent to defraud,
 27 devise and participate in a material scheme to defraud and to deprive
 28 patients of the intangible right to their doctors' honest services, and
 cause mailings in furtherance of the scheme, in violation of Title 18,
 United states Code, Sections 1341 and 1346; and commit Health Care Fraud,

1 that is, knowingly and with the intent to defraud, devise and participate
2 in a material scheme to defraud a health care benefit program, or to
3 obtain money or property owned by, or under the custody or control of,
4 a health-care benefit program by means of false or fraudulent pretenses,
5 representations, or promises, in violation of Title 18, United States
6 Code, Section 1347.

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

8 FORFEITURE ALLEGATION

9 Upon conviction of the felony offense alleged in this Information
10 set forth above and pursuant to 18 U.S.C. § 981(a)(1)(C), 28 U.S.C.
11 § 2461(c), and Federal Rule of Criminal Procedure 32.2, defendant
12 FERNANDO VALDES shall forfeit to the United States any property, real
13 or personal, which constitutes or was derived from proceeds traceable
14 to such violation.

15 If any of the above-described forfeited property, as a result of
16 any act or omission of FERNANDO VALDES cannot be located upon the
17 exercise of due diligence; has been transferred or sold to, or deposited
18 with, a third person; has been placed beyond the jurisdiction of the
19 Court; has been substantially diminished in value; or has been commingled
20 with other property which cannot be subdivided without difficulty, it
21 is the intent of the United States, pursuant to

22 //

23 //

24 //

25 //

26 //

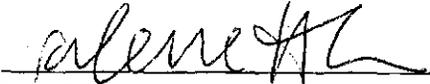
27 //

28 //

1 21 U.S.C. § 853(p), made applicable herein by 28 U.S.C. § 2461(c), to
2 seek forfeiture of any other property of FERNANDO VALDES up to the value
3 of the property subject to forfeiture.

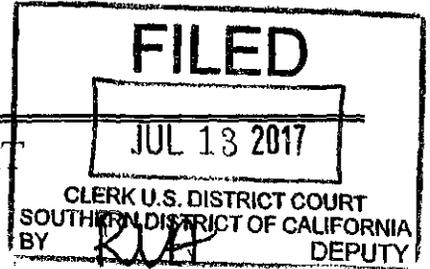
4 ALANA W. ROBINSON
5 Acting United States Attorney

6 DATED: 7/13/17

7 
8 VALERIE H. CHU
9 Assistant U.S. Attorney

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AO 455 (Rev. 01/09) Waiver of an Indictment



UNITED STATES DISTRICT COURT
 for the
 Southern District of California

United States of America

v.

Fernando Valdes

Defendant

)
)
)
)
)

Case No. 15-CR-2822-CAB

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: 7/13/17

X Fernando Valdes

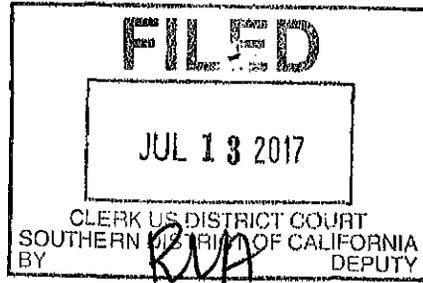
Defendant's signature

[Handwritten Signature]

Signature of defendant's attorney

[Handwritten Signature]

Judge's signature



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No.: 15cr2822-CAB
)
 Plaintiff,) FINDINGS AND RECOMMENDATION
) OF THE MAGISTRATE JUDGE
 v.) UPON A PLEA OF GUILTY
)
 Fernando Valdes,)
)
)
 Defendant.)

Upon Defendant's request to enter a guilty plea to Count 1 of the Superseding Information pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by the District Judge, with the written consents of the Defendant, counsel for the Defendant, and counsel for the United States.

Thereafter, the matter came on for a hearing on Defendant's guilty plea, in full compliance with Rule 11, Federal Rules of Criminal Procedure, before the Magistrate Judge, in open court and on the record.

1 In consideration of that hearing and the allocution
2 made by the Defendant under oath on the record and in
3 the presence of counsel, and the remarks of the
4 Assistant United States Attorney,

5 **I make the following FINDINGS - that the Defendant**
6 **understands:**

- 7 1. The government's right, in a prosecution for
8 perjury or false statement, to use against the
9 defendant any statement that the defendant
10 gives under oath;
- 11 2. The right to persist in a plea of "not guilty";
- 12 3. The right to a speedy and public trial;
- 13 4. The right to trial by jury, or the ability to
14 waive that right and have a judge try the case
15 without a jury;
- 16 5. The right to be represented by counsel-and if
17 necessary to have the court appoint counsel-at
18 trial and at every other stage of the
19 proceeding;
- 20 6. The right at trial to confront and cross-
21 examine adverse witnesses, to be protected from
22 compelled self-incrimination, to testify and
23 present evidence, and to compel the attendance
24 of witnesses;
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- 1 7. The defendant's waiver of these trial rights if
- 2 the court accepts a guilty plea or nolo
- 3 contendere;
- 4
- 5 8. The nature of each charge to which the
- 6 defendant is pleading;
- 7
- 8 9. Any maximum possible penalty, including
- 9 imprisonment, fine, and term of supervised
- 10 release;
- 11 10. Any applicable mandatory minimum penalty;
- 12 11. Any applicable forfeiture;
- 13 12. The court's authority to order restitution;
- 14 13. The court's obligation to impose a special
- 15 assessment;
- 16 14. In determining a sentence, the court's
- 17 obligation to calculate the applicable
- 18 sentencing guideline range and to consider that
- 19 range, possible departures under the Sentencing
- 20 Guidelines, and other sentencing factors under
- 21 18 U.S.C § 3553(a);
- 22
- 23 15. The term of any plea agreement and any
- 24 provision in that agreement that waives the
- 25 right to appeal or to collaterally attack the
- 26 conviction and sentence; and
- 27
- 28

1 16. That, if convicted, a defendant who is not a
2 United States citizen may be removed from the
3 United States, denied citizenship, and denied
4 admission to the United States in the future.
5

6 **I further find that:**

7 17. The defendant is competent to enter a plea;

8 18. The defendant's guilty plea is made knowingly
9 and voluntarily, and did not result from force,
10 threats or promises (other than those made in a
11 plea agreement); and
12

13 19. There is a factual basis for Defendant's plea.

14 **I therefore RECOMMEND that the District Judge**
15 **accept the Defendant's guilty plea to Count 1 of the**
16 **Superseding Information.**

17 The sentencing hearing will be before United States
18 **District Judge Cathy Ann Bencivengo, on 9/29/2017 at**
19 **9:00am.** The court excludes time from 7/13/2017 through
20 9/29/2017 pursuant to 18 USC § 3161(h)(1)(G) on the
21 ground that the District Judge will be considering the
22 proposed plea agreement.
23

24 Objections to these Findings and Recommendations
25 are waived by the parties if not made within 14 days of
26 this order. If the parties waive the preparation of the
27
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1 Presentence Report, objections are due within three
2 days of this order.

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Dated: 7/13/2017



Hon. Jan M. Adler
United States Magistrate Judge

Copies to:
Judge Cathy Ann Bencivengo
Assistant United States Attorney
Counsel for Defendant

