

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 16-CR-20549-SCOLA (s)(s)(s)**

**UNITED STATES OF AMERICA**

**vs.**

**PHILLIP ESFORMES,**

**Defendant.**

\_\_\_\_\_ /

**FACTUAL BASIS**

Beginning in or around at least September 2009 and continuing through in or around July 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant, Phillip Esformes (“ESFORMES” or the “defendant”), did knowingly and willfully conspire with Arnaldo Carmouze, Odette Barcha, Gabriel Delgado, Guillermo Delgado, and other co-conspirators, in violation of Title 18, United States Code, Section 1349, to commit health care fraud, in violation of Title 18, United States Code, Sections 1347. ESFORMES agrees that, had the case proceeded to trial, the United States would have proved the following facts beyond a reasonable doubt:

ESFORMES owned and controlled numerous skilled nursing facilities (“SNFs”) and assisted living facilities (“ALFs”) in the Southern District of Florida (collectively, “the Esformes Network”).

Beginning in or around September 2009, and continuing through in or around December 2015, ESFORMES certified to Medicare and Medicaid that he would comply with all Medicare and Medicaid rules and regulations regarding certain SNFs and ALFs in the Esformes Network

that he owned and controlled, including that he would refrain from violating the federal anti-kickback statute.

During the course of the conspiracy, both prior to and following these certifications to Medicare and Medicaid, ESFORMES knowingly and willfully paid Odette Barcha, Arnaldo Carmouze, Gabriel Delgado, Guillermo Delgado, physicians, and other individuals kickbacks and bribes to refer Medicare and Medicaid beneficiaries to SNFs he owned and controlled.

During the course of the conspiracy, and following these certifications to Medicare and Medicaid, ESFORMES knowingly and willfully received kickbacks and bribes, often through Gabriel Delgado and Guillermo Delgado, in exchange for referrals of Medicare and Medicaid beneficiaries that were living in ALFs he owned and controlled to various health care facilities and providers in the Southern District of Florida.

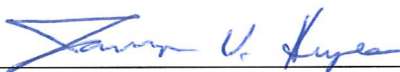
Through the kickbacks paid to Arnaldo Carmouze, Odette Barcha, Gabriel Delgado, Guillermo Delgado, physicians, and others, ESFORMES and his co-conspirators knowingly and willfully caused Medicare and Medicaid beneficiaries to be admitted into the SNFs in the Esformes Network, regardless of whether or not the patients actually qualified for admission, or actually needed the services they were billed for at these SNFs, and ESFORMES and his co-conspirators also knowingly and willfully caused Medicare and Medicaid to be billed for those services.

ESFORMES, and his co-conspirators, through the use of interstate wires, knowingly and willfully caused the billing Medicare and Medicaid to make payments for services billed by the Esformes Network's facilities that were procured through the payment of kickbacks and bribes, regardless of whether or not the patients actually qualified for admission, or actually needed the services.

ESFORMES, in or around January 2013 and continuing through in or around August 2015, through Gabriel Delgado, Guillermo Delgado, and other co-conspirators, bribed an employee of the Agency for Health Care Administration (“AHCA”) for non-public schedules providing advance notice of unannounced AHCA inspections and patient complaints at the Esformes Network’s SNFs and ALFs in order to evade detection by AHCA of administrative violations which could lead to the termination of the Esformes Network’s facilities from Medicare and Medicaid, thus making them unable to bill Medicare and Medicaid.

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the charges against me. It does not include all of the facts known to me concerning criminal activity in which I and others engaged. I make this statement knowingly and voluntarily and because I am in fact guilty of the crimes charged.


Date: 2/22/2024

By:   
JAMES V. HAYES  
SENIOR LITIGATION COUNSEL  
U.S. DEPARTMENT OF JUSTICE  
CRIMINAL DIVISION, FRAUD SECTION

Date: 2/22/2024

By:   
PHILIP ESFORMES  
DEFENDANT

Date: 2/22/2024

By:   
A SCOTT BOLDEN, ESQ.  
COUNSEL FOR PHILLIP ESFORMES