

IN THE DISTRICT COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA,

Plaintiff,

vs.

AGNES P. FRANCISCO

DOB: 03/23/1959

APSIN ID: 7059553

DMV NO.: 7070953 AK

ATN: 114356682

GOOD FAITH SERVICES, LLC

ATN: 114356691

Defendant.

No. 3AN-14-

CR (Good Faith Services, LLC)

No. 3AN-14-

CR (Agnes P. Francisco)

INFORMATION

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

The following counts charge a crime involving DOMESTIC VIOLENCE as defined in AS 18.66.990:

Count I - 47.05.210(a)(1) Fel B

Medical Assistance Fraud

Good Faith Services, LLC - 001

Count II - 47.05.210(a)(1) Fel C

Attempted Medical Assistance Fraud

Agnes P. Francisco - 001

THE OFFICE OF SPECIAL PROSECUTIONS CHARGES:

COUNT I

That in the Third Judicial District, State of Alaska, on or about January 2011, through September 2013, at or near Anchorage, GOOD FAITH SERVICES

knowingly submitted or authorized the submission of a claim to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit.

All of which is Class B felony offense being contrary to and in violation of 47.05.210(a)(1) and against the peace and dignity of the State of Alaska.

COUNT II:

That in the Third Judicial District, State of Alaska, on or about January 2011 through September 2013, at or near Anchorage, AGNES P. FRANCISCO knowingly submitted or authorized the submission of a claim to a medical assistance agency for property, services, or a benefit with reckless disregard that the claimant is not entitled to the property, services, or benefit.

All of which is Felony Class C offense being contrary to and in violation of 47.05.210(a)(1) and against the peace and dignity of the State of Alaska.

Probable Cause Statement

The undersigned swears under oath this Information is based upon a review of investigative report submitted to date.

Good Faith Services, LLC (Good Faith) was a business that provided personal care assistant (PCA) and waiver services (transportation, respite and care coordination services) to eligible Medicaid recipients primarily in Anchorage, Alaska. Good Faith was owned by Agnes Francisco, Rene Allen Francisco, and Analiza Pentecostes.

In February 2013, the Alaska Medicaid Fraud Control Unit (MFCU) initiated a joint investigation with the Alaska Department of Health and Social Services (DHSS), the federal Department of Health and Human Service Office of Inspector General (DHSS-OIG), FBI and Immigration into allegations of medical assistance fraud by individual employees, officers and directors of Good Faith as well as the corporation. On March 19, 2013, MFCU executed search warrant no. 13-459 SW on the premises of Good Faith. Evidence gathered from the business premises and subsequent

investigations revealed numerous schemes employed by the employees, recipients and owner of Good Faith designed to maximize the billing to Medicaid regardless of whether or not the services were actually provided and/or authorized to be provided. The MFCU investigation resulted in medical assistance fraud charges being filed against 50 individuals associated with Good Faith.

Corporate Liability:

Alaska law defines the term “person” as a “natural person and, when appropriate, an organization, government, or governmental instrumentality.” See AS 11.81.900(45). Alaska law defines “organization” as “a legal entity, including a corporation....” See AS 11.81.900(43). Alaska law provides that an organization is legally accountable for conduct constituting an offense if the conduct is the conduct of its agent and within the scope of the agent’s employment and on behalf of the organization. See AS 11.16.130. The acts of a corporation constitute the acts of all of the corporation’s employees and/or board members acting within the scope of their employment. Consequently, the knowledge obtained by corporate employees acting within the scope of their employment is imputed to the corporation for purposes of *mens rea* in criminal liability. Alaska law provides that upon conviction, a defendant organization, in addition to other allowable penalties, may be sentenced to pay a fine not exceeding the greater of \$2,500,000 for a felony offense or three times the pecuniary gain realized as a result of the offense. See AS 12.55.035(c)(1)(A) or (c)(2).

Evidence seized from the offices of Good Faith documented that referral fees ranging from \$100 - \$500 were authorized by Good Faith through owner Agnes Francisco from January 2011 through September 2013. Business ledgers and checks document that company checks were frequently written to Agnes Francisco referencing RF, Marketing, and Marketing/RF in the memo section. Reagan Medina and accountant Ferd Skud confirmed that RF was the initials for referral fee. The MFCU investigation to date identified 63 instances of referral fee payments totaling \$7,320.00. Alaska law provides that a person commits the crime of medical assistance fraud if the person confers, offers to confer, solicits, agrees to accept or accepts property, services or a

benefit to refer a medical assistance recipient to a health care provider. See Alaska Statute 47.05.210(a)(5). Similarly, Alaska regulations prohibit PCAs from soliciting clients for personal care services. See Alaska Regulation 7AAC 125.120(e).

The MFCU investigation revealed that Good Faith billed Medicaid for office employees claiming to perform PCA duties. Specifically, a review of billing revealed that ten full-time office employees and agents of the corporation billed Medicaid \$394,257.00 for PCA services they claimed to perform during the period January 1, 2011 through January 31, 2013 while simultaneously working in the office. Alaska law provides that a person commits the crime of medical assistance fraud if the person knowingly submits or authorizes the submission of a claim to a medical assistance agency for a benefit with a reckless disregard that the claimant is not entitled to the benefit. See AS 47.05.210(a)(1).

MFCU investigators learned during the course of the investigation that Good Faith would employ PCAs prior to the PCA receiving and/or applying for a criminal history background check or provisional authorization to work. Labor, payroll and DHSS background check records identified 158 PCAs that Good Faith employed prior to receiving a valid background check and/or provisional work authorization from DHSS. Five of the individuals, including Agnes Francisco's son, Philip Francisco, required variances from DHSS to legally work as a PCA. Medicaid paid a total of \$1,033,673.83 to Good Faith for services prior to the individual employees being legally able to work for Medicaid from January 1, 2011 through September 2013.

Alaska Administrative Regulation 7AAC 10.910(a)(3) provides that an entity or provider must complete a criminal history check or receive a valid provisional check under 7AAC 10.920 prior to hiring or retaining an employee, independent contractor or unsupervised volunteer. PCA agencies are subject to the applicable background check regulations and shall submit to DHSS a request for a criminal history check for each PCA as required under 7AAC 10.910. See 7AAC 125.090(c). DHSS will not pay for services provided by a PCA for whom a criminal history check was not requested. See id.

Dated at Anchorage, Alaska, this ____ day of November, 2014.

MICHAEL C. GERAGHTY
ATTORNEY GENERAL

By: _____
A. Andrew Peterson
Assistant Attorney General
Alaska Bar No. 0601002

SUBSCRIBED AND SWORN TO before me this ____ day of
November 2014, at Anchorage, Alaska.

Notary Public in and for Alaska
My Commission Expires: End of Hire