

1 EDMUND G. BROWN JR. ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA
2 SUE MELTON BARTHOLOMEW
SUPERVISING DEPUTY ATTORNEY GENERAL
3 HARDY R. GOLD, STATE BAR #113328
DEPUTY ATTORNEY GENERAL
4 BUREAU OF MEDI-CAL FRAUD & ELDER ABUSE
110 WEST A STREET, SUITE 1100
5 P.O. BOX 85266
SAN DIEGO, CA 92186-5266
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7 ATTORNEYS FOR THE PEOPLE OF THE STATE OF CALIFORNIA

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11 **PEOPLE OF THE STATE OF**
12 **CALIFORNIA,**

13 **PLAINTIFF,**

14 **VS.**

15 **(1) M. TAREK KADY, M.D. (07/10/1954)**
alias M. TAREK ELKADY, alias
16 MOHAMED TAREK HELMY ELKDAY,

17 **(2) MARIO RAMIREZ ZARCO**
(06/21/1968) alias MARIO RAMIREZ, alias
18 MARIO RAMMIREZZARGO, alias MARCO
RAMIREZ ZARCO ,

19 **&**

20 **(3) ANA AUDELO (06/07/1986),** alias
21 ANITA AUDELO,

22 **DEFENDANTS.**
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Case No. _____
AG Docket No. SD2009308476

FELONY COMPLAINT

Ct 1: Medi-Cal Fraud (Kady only)
Ct 2: Grand Theft (Kady only)
Ct 3: Insurance Fraud (Kady only)
Ct 4: Grand Theft (Kady only)
Ct 5: Insurance Fraud (Kady only)
Ct 6: Grand Theft (Kady only)
Ct 7: Insurance Fraud (Kady only)
Ct 8: Grand Theft (Kady only)
Ct 9: Grand Theft (Kady only)
Ct 10: Conspiracy (all defendants)
Ct 11: Insurance Fraud (all defendants)
Ct 12: Illegal Prescribing (Kady only)
Ct 13: Illegal Prescribing (Kady only)
Ct 14: Illegal Prescribing (Kady only)
Ct 15: Illegal Prescribing (Kady only)
Ct 16: Illegal Prescribing (Kady only)
Ct 17: Illegal Prescribing (Kady only)
Ct 18: Illegal Prescribing (Kady only)
Ct 19: Failure to Obtain Worker
Compensation (Kady only)
Special Allg: >\$65,000 Loss
Special Allg: White Collar >\$100,000 Loss
Special Allg: Probation Limitation

1 The undersigned complains upon information and belief that before the making of this
2 complaint, defendants, M. TAREK KADY, M.D., MARIO ZARCO, and ANA AUDELO
3 committed the following crimes in the County of San Diego, State of California:

4 **COUNT 1**

5 **Medi-Cal Fraud - Welfare & Institutions Code §14107 (b)(4)(A)**

6 **(Defendant Kady only)**

7 Beginning on or about April 6, 2008, and continuing on through or after December 1, 2009,
8 defendant M. Tarek Kady, M.D., did knowingly and willfully execute a scheme or artifice to
9 defraud the State of California Medi-Cal program or its agents, by fraudulently claiming that he
10 rendered services to Medi-Cal patients when in fact he had not done so, in violation of Welfare
11 and Institutions Code §14107(b)(4)(A), a felony.

12 **COUNT 2**

13 **Grand Theft (Medi-Cal) -- Penal Code §487(a)**

14 **(Defendant Kady only)**

15 Beginning on or about April 6, 2008, and continuing on through or after December 1, 2009,
16 defendant M. Tarek Kady, M.D., did willfully and unlawfully take or aid, abet, solicit, and
17 conspire with others to take from the State of California money in excess of four-hundred dollars,
18 in violation of the Penal Code §487(a), a felony.

19 **COUNT 3**

20 **Insurance Fraud (Medicare) -- Penal Code §550(a)(6)**

21 **(Defendant Kady only)**

22 Beginning in or about April 6, 2008, and continuing on through or after December 1, 2009,
23 defendant M. Tarek Kady, M.D., did commit or aid, abet, solicit, or conspire with others known
24 and unknown, and did knowingly make or cause to be made fraudulent claims for payment of a
25 health care benefit, to wit, Medicare, in violation of Penal Code §550(a)(6), a felony.

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COUNT 4

**Grand Theft (Medicare) -- Penal Code §487(a)
(Defendant Kady only)**

Beginning on or about April 6, 2008, and continuing on through or after December 1, 2009, defendant M. Tarek Kady, M.D., did willfully and unlawfully take or aid, abet, solicit, and conspire with others to take from the United States Treasury and/or contracted agents of the United States Department of Health and Human Services money in excess of four-hundred dollars, in violation of the Penal Code §487(a), a felony.

COUNT 5

**Insurance Fraud (Molina Healthcare) -- Penal Code §550(a)(6)
(Defendant Kady only)**

Beginning in or about April 6, 2008, and continuing on through or after December 1, 2009, defendant M. Tarek Kady, M.D., did commit or aid, abet, solicit, or conspire with one others known and unknown, and did knowingly make or cause to be made fraudulent claims for payment of a health care benefit, to wit, Molina Healthcare, in violation of Penal Code §550(a)(6), a felony.

COUNT 6

**Grand Theft (California Managed Risk Medical Insurance Board) -- Penal Code
§487(a)
(Defendant Kady only)**

Beginning on or about April 6, 2008, and continuing on through or after December 1, 2009, defendant M. Tarek Kady, M.D., did willfully and unlawfully take or aid, abet, solicit, and conspire with others to take from the State of California Managed Risk Medical Insurance Board and/or contracted agent, Molina Healthcare, money in excess of four-hundred dollars, in violation of the Penal Code §487(a), a felony.

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COUNT 7

**Insurance Fraud (Anthem Blue Cross) -- Penal Code §550(a)(6)
(Defendant Kady only)**

Beginning in or about April 6, 2008, and continuing on through or after December 1, 2009, defendant M. Tarek Kady, M.D., did commit or aid, abet, solicit, or conspire with others known and unknown, and did knowingly make or cause to be made fraudulent claims for payment of a health care benefit, to wit, Anthem Blue Cross, in violation of Penal Code §550(a)(6), a felony.

COUNT 8

**Grand Theft (California Managed Risk Medical Insurance Board) –
Penal Code §487(a)
(Defendant Kady only)**

Beginning on or about April 6, 2008, and continuing on through or after December 1, 2009, defendant M. Tarek Kady, M.D., did willfully and unlawfully take or aid, abet, solicit, and conspire with others to take from the State of California Managed Risk Medical Insurance Board and/or contracted agent, Anthem Blue Cross, money in excess of four-hundred dollars, in violation of the Penal Code §487(a), a felony.

COUNT 9

**Grand Theft (Anthem Blue Cross) -- Penal Code §487(a)
(Defendant Kady only)**

Beginning on or about April 6, 2008, and continuing on through or after December 1, 2009, defendant M. Tarek Kady, M.D., did willfully and unlawfully take or aid, abet, solicit, and conspire with others to take from Anthem Blue Cross (private insurance), money in excess of four-hundred dollars, in violation of the Penal Code §487(a), a felony.

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1 **COUNT 10**

2 **Conspiracy to Cheat and Defraud, Commit Grand Theft, and Commit Insurance**

3 **Fraud -- Penal Code §§182(a)(1),(a)(4)/§487(a)/§550(b)(3)**

4 **(All defendants)**

5 Beginning at least as early as September 6, 2005, and continuing through at least March 6,
6 2009, in the County of San Diego, California, defendants M. Tarek Kady, M.D., Mario Ramirez
7 Zarco, and Ana Audelo, did willfully and unlawfully conspire with others known and unknown,
8 to cheat and defraud or obtain money by false pretenses or by false promises, to commit theft
9 from adult patients and the parents of minor patients, and to fail to disclose to the State of
10 California Managed Risk Medical Insurance Board and its agents, Molina Healthcare and Anthem
11 Blue Cross, facts that affect applicants' right to insurance benefits in violation of Penal Code
12 §182 (a)(1) and (4), §487(a), and §550(b)(3), a felony.

13 **OBJECT OF THE CONSPIRACY**

14 The object of the conspiracy was to mislead Dr. Kady's adult patients and the parents of
15 Kady's minor patients into believing that they had to pay money to Kady, Zarco, and Audelo to
16 enroll in the state Healthy Families and the Access for Infants and Mothers programs when in fact
17 it was illegal for Kady, Zarco, and Audelo to charge them.

18 **MEANS OF THE CONSPIRACY**

19 When pregnant women with limited income came to Kady's medical clinic for care, Zarco
20 and Audelo would assist them to apply for Access for Infants and Mothers health care insurance,
21 would collect the required \$50 payment to the state, but also would charge additional money that
22 Zarco, Audelo, and Kady all knew was illegal to charge patients. When pregnant women who
23 were or would become enrolled in the Healthy Families program gave birth, Kady charged the
24 women \$200 or more to examine their new-born children though he knew that under the rules of
25 the Healthy Families program that it was illegal to charge them.

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OVERT ACTS IN SUPPORT OF THE CONSPIRACY

1. On or about September 6, 2005, Kady and Zarco signed an application for Zarco to renew his status as a Certified Application Assistant and for Kady to renew his status as Zarco's superior to submit to the State of California Managed Risk Medical Insurance Board.
2. On or about March 5, 2007, Kady and Audelo signed an application for Audelo to register as a Certified Application Assistant, with Kady as her superior, to submit to the State of California Managed Risk Medical Insurance Board.
3. On or about October 28, 2008, Zarco told Aracila A. that Kady would charge her \$250 in the hospital after she gave birth for Kady to examine her baby, although Zarco was aware that these charges were not allowed under the Healthy Families and Access for Infants and Mothers programs.
4. On or about November 18, 2008, Kady charged Aracila A. \$250 the day after she gave birth to Ricardo A. to examine her son.
5. Before November 26, 2008, Audelo charged Belin H. \$50 more than was legal to enroll Belin H. in the Access for Infants and Mothers program.
6. Before November 26, 2008, Zarco told Belin H. that Kady would charge her \$200 in the hospital to examine her baby or \$250 if she gave birth by Cesarean section to examine her baby.
7. On or about November 30, 2008, Kady charged Belin H. \$250 for examining her son, Aaron V., who was born on November 26, 2008.
8. On or about March 2, 2009, Kady told Special Agent Craig Eastep of the Department of Justice false information that Ernesto Sanchez of the California Managed Risk Medical Insurance Board said it was okay for Kady and his staff to charge patients cash in addition to the fees to enroll in the Access for Infants and Mothers program.
9. On or about March 2, 2009, Audelo told Special Agent Craig Eastep of the Department of Justice false information that Ernesto Sanchez of the California Managed

1 Risk Medical Insurance Board said it was okay for Kady and his staff to charge patients
2 cash in addition to the fees to enroll in the Access for Infants and Mothers program.

3 10. On or about March 6, 2009, Zarco told Special Agent Craig Eastep of the Department
4 of Justice false information that Ernesto Sanchez of the California Managed Risk
5 Medical Insurance Board said it was okay for Kady and his staff to charge patients cash
6 in addition to the fees to enroll in the Access for Infants and Mothers program.

7 **COUNT 11**

8 **Insurance Fraud (California Managed Risk Medical Insurance Board)**

9 **-- Penal Code §550(b)(3)**

10 **(All defendants)**

11 Beginning at least as early as September 6, 2005, and continuing through at least March 6,
12 2009, defendants M. Tarek Kady, M.D., Mario Ramirez Zarco, and Ana Audelo did knowingly
13 conceal and did knowingly fail to disclose to the California Managed Risk Medical Insurance
14 Board the occurrence of events affecting the right of applicants for Healthy Families and Access
15 for Infants and Mothers to their right to receive health care benefits, in violation of Penal Code
16 §550(b)(3), a felony.

17 **COUNT 12**

18 **Illegal Prescribing -- Health & Safety Code §11153(a)**

19 **(Defendant Kady only)**

20 On or about April 23, 2009, defendant M. Tarek Kady, M.D., did knowingly and
21 unlawfully issue prescriptions to a patient using the name Michael Roberts for controlled
22 substances not in the usual course of professional treatment or in legitimate and authorized
23 research, in violation of Health and Safety Code §11153(a), a felony.

24 **COUNT 13**

25 **Illegal Prescribing -- Health & Safety Code §11153(a)**

26 **(Defendant Kady only)**

27 On or about June 4, 2009, defendant M. Tarek Kady, M.D., did knowingly and unlawfully
28 issue prescriptions to a patient using the name Michael Roberts for controlled substances not in

1 the usual course of professional treatment or in legitimate and authorized research, in violation of
2 Health and Safety Code §11153(a), a felony.

3 **COUNT 14**

4 **Illegal Prescribing -- Health & Safety Code §11153(a)**

5 **(Defendant Kady only)**

6 On or about July 30, 2009, defendant M. Tarek Kady, M.D., did knowingly and unlawfully
7 issue prescriptions to a patient using the name Michael Roberts for controlled substances not in
8 the usual course of professional treatment or in legitimate and authorized research, in violation of
9 Health and Safety Code §11153(a), a felony.

10 **COUNT 15**

11 **Illegal Prescribing -- Health & Safety Code §11153(a)**

12 **(Defendant Kady only)**

13 On or about August 13, 2009, defendant M. Tarek Kady, M.D., did knowingly and
14 unlawfully issue a prescription to a patient using the name Michael Roberts for a controlled
15 substance not in the usual course of professional treatment or in legitimate and authorized
16 research, in violation of Health and Safety Code §11153(a), a felony.

17 **COUNT 16**

18 **Illegal Prescribing -- Health & Safety Code §11153(a)**

19 **(Defendant Kady only)**

20 On or about September 10, 2009, defendant M. Tarek Kady, M.D., did knowingly and
21 unlawfully issue a prescription to a patient using the name T.J. Hawthorne for a controlled
22 substance not in the usual course of professional treatment or in legitimate and authorized
23 research, in violation of Health and Safety Code §11153(a), a felony.

24 **COUNT 17**

25 **Illegal Prescribing -- Health & Safety Code §11153(a)**

26 **(Defendant Kady only)**

27 On or about November 19, 2009, defendant M. Tarek Kady, M.D., did knowingly and
28 unlawfully issue a prescription to a patient using the name T.J. Hawthorne for a controlled

1 substance not in the usual course of professional treatment or in legitimate and authorized
2 research, in violation of Health and Safety Code §11153(a), a felony.

3 **COUNT 18**

4 **Illegal Prescribing -- Health & Safety Code §11153(a)**

5 **(Defendant Kady only)**

6 On or about March 11, 2010, defendant M. Tarek Kady, M.D., did knowingly and
7 unlawfully issue a prescription to a patient using the name T.J. Hawthorne for a controlled
8 substance not in the usual course of professional treatment or in legitimate and authorized
9 research, in violation of Health and Safety Code §11153(a), a felony.

10 **COUNT 19**

11 **Failure to Obtain Workers Compensation for Employees -- Labor Code §3700.5(a)**

12 **(Defendant Kady only)**

13 From at least as early as January 1, 2007, through at least December 31, 2009, M. Tarek
14 Kady, M.D., a person who knew or because of his knowledge and experience should be
15 reasonably expected to know of the obligation to secure workers compensation for his employees
16 compensation, did fail to do so as required of all employers, in violation of Labor Code §3700.5,
17 a misdemeanor.

18 **SPECIAL ALLEGATION**

19 **Loss Over \$65,000 -- Penal Code §12022.6(a)(1)**

20 **(Defendant Kady only)**

21 It is further alleged that in the commission of the felonies charged above that defendant M.
22 Tarek Kady, M.D., with the intent to do so, did cause the loss of or did take property of a value in
23 excess of \$65,000, within the meaning of Penal Code §12022.6(a)(1).

24 **SPECIAL ALLEGATION**

25 **Aggravated White Collar Crime Enhancement -- Penal Code §186.11(a)(1)**

26 **(Defendant Kady only)**

27 It is further alleged that the felonies committed by defendant M. Tarek Kady, M.D.,
28 charged above are related felonies, a material element of which is fraud. It is further alleged that

1 these related felonies resulted in the taking of more than \$100,000, within the meaning of Penal
2 Code §186.11(a)(1).

3 **SPECIAL ALLEGATION**

4 **Probation Limitation -- Penal Code §1203.045**

5 **(Defendant Kady only)**

6 It is further alleged that in the commission of the felonies charged above, that defendant
7 Kady, with the intent to do so, took in excess of \$100,000, within the meaning of the Penal Code
8 §1203.045, thereby requiring defendant Kady be denied probation.

9 **DECLARATION**

10 I declare under penalty of perjury based on information and belief that the foregoing
11 is true and correct. Executed on the 12th day of April, 2010, at San Diego, California.

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15 CRAIG EASTEP, Special Agent,
16 California Department of Justice

17 Preliminary Hearing Time Estimate: One & a half days

18 Bail Request, per County Bail Schedule:

19 **Kady by count:**

20	1. Medi-Cal Fraud	\$	10,000
21	2. Grand Theft		20,000
22	3. Insurance Fraud		25,000
23	4. Grand Theft		20,000
24	5. Insurance Fraud		25,000
25	6. Grand Theft		20,000
26	7. Insurance Fraud		25,000
27	8. Grand Theft		20,000
28	9. Grand Theft		20,000
	10. Conspiracy		20,000
	11. Insurance Fraud		25,000
	12. Illegal Prescribing		10,000
	13. Illegal Prescribing		10,000
	14. Illegal Prescribing		10,000
	15. Illegal Prescribing		10,000

1	16. Illegal Prescribing	10,000
2	17. Illegal Prescribing	10,000
3	18. Illegal Prescribing	10,000
4	19. Worker Compensation	100
	Sp All: PC 12022.6(a)(1)	50,000
	Sp All: PC 186.11(a)(1)	100,000

KADY: TOTAL BAIL PER SCHEDULE \$450,100

Defendant #2, Zarco by count:

10	10. Conspiracy	20,000
11	11. Insurance Fraud	25,000

ZARCO: TOTAL BAIL PER SCHEDULE \$45,000

Defendant #3, Audelo by count:

16	10. Conspiracy	20,000
17	11. Insurance Fraud	25,000

AUDELO: TOTAL BAIL PER SCHEDULE \$45,000

PURSUANT TO PENAL CODE §1054.5(b), THE PEOPLE ARE HEREBY INFORMALLY REQUESTING THAT DEFENDANTS' COUNSEL PROVIDE DISCOVERY TO THE PEOPLE AS REQUIRED BY PENAL CODE §1054.3.

1 **HOLDING ORDER**

2 Based on the evidence presented at the preliminary hearing, it appears that the offenses
3 charged in this Complaint have been committed and that there is sufficient cause to believe that
4 the defendants are guilty of these offenses.

5 **IT IS ORDERED**, pursuant to sections 872 and 875 of the Penal Code, that the defendants
6 M. TAREK KADY, M.D., MARIO RAMIREZ ZARCO, and ANA AUDELO are held to answer
7 to the following offenses:

- 8 Ct 1: Medi-Cal Fraud (Kady only)
- 9 Ct 2: Grand Theft (Kady only)
- 10 Ct 3: Insurance Fraud (Kady only)
- 11 Ct 4: Grand Theft (Kady only)
- 12 Ct 5: Insurance Fraud (Kady only)
- 13 Ct 6: Grand Theft (Kady only)
- 14 Ct 7: Insurance Fraud (Kady only)
- 15 Ct 8: Grand Theft (Kady only)
- 16 Ct 9: Grand Theft (Kady only)
- 17 Ct 10: Conspiracy (Kady) (Zarco) (Audelo)
- 18 Ct 11: Insurance Fraud (Kady) (Zarco) (Audelo)
- 19 Ct 12: Illegal Prescribing (Kady only)
- 20 Ct 13: Illegal Prescribing (Kady only)
- 21 Ct 14: Illegal Prescribing (Kady only)
- 22 Ct 15: Illegal Prescribing (Kady only)
- 23 Ct 16: Illegal Prescribing (Kady only)
- 24 Ct 17: Illegal Prescribing (Kady only)
- 25 Ct 18: Illegal Prescribing (Kady only)
- 26 Ct 19: Failure/Worker Comp (Kady only)
- 27 Sp Allg: >\$65K Loss (Kady only)
- 28 Spl Allg: White Collar >\$100K Loss (Kady only)

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Special Allg: Probation Limitation (Kady only)

And are committed to the custody of the Sheriff of San Diego County.

IT IS FURTHER ORDERED that this complaint shall be deemed the information.

DATED: _____ 2010.

JUDGE OF THE SUPERIOR COURT

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