

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	NO. 21-CR-00098
VS.	*	SECTION: “I”
SHIVA AKULA	*	MAGISTRATE ()

* * *

MOTION FOR APPOINTMENT OF RECEIVER

NOW INTO COURT, through undersigned counsel, comes plaintiff, the United States of America (“United States”), and hereby moves this Court to appoint a Receiver for the corporations, various entities and property in which the defendant, Shiva Akula owns or controls an interest pursuant to 28 USC § 1651, 28 USC § 3101, et seq., 28 USC § 3103 et seq, and in support shows unto the Court the following:

1. On August 5, 2021, the defendant Shiva Akula (Akula) was charged in a 23 count Indictment with committing healthcare fraud in violation of 18 USC § 1347 by fraudulent billing to Medicare from his four hospice facilities. (Rec. Doc. 1).
2. A jury trial was held and on November 6, 2023 and Akula was found guilty on all 23 counts. He is scheduled to be sentenced April 10, 2024. As a result of Akula’s criminal activity, he has caused a substantial loss to the government in the amount of appx. \$42 million and will owe restitution to Medicare in this amount under the Mandatory Victims Restitution Act (MVRA).
3. The government’s investigation has determined that Akula has substantial assets available for restitution and he has been attempting to dissipate those assets after

his conviction. The government's financial investigation revealed that Akula maintained several accounts with E-Trade valued at appx. \$2 million including various accounts at Gulf Coast and Investar Banks in the name of his four hospice businesses.

4. The Court issued a bond Order on November 7, 2023 that specifically prohibits Akula from withdrawing funds from several accounts, however, following the court's order Akula withdrew over \$240,000 in one week from his E-Trade account without the knowledge or authority of the Court.
5. This Court held a hearing on November 22, 2023 to determine Akula's bond status and at this hearing the government learned of two additional accounts the defendant owned and the defendant confirmed he withdrew funds in excess of the \$200,000 limit in the court's order.
6. Following the November 22, 2023 hearing, Akula attempted to withdraw over \$100,000 from his E*TRADE account without the court's knowledge.
7. On December 14, 2023 the government filed an Ex Parte Motion for Restraining Order to Prevent Dissipation of Asset pursuant to the All-Writs Act, 28 USC §1651 which was granted by the court on December 22, 2023. (Rec. Doc. 360, 367). The court granted the government's motion and issued the restraining order to prevent the dissipation of Akula's assets on December 22, 2023.
8. The restraining order provides that Akula shall not sell, trade, withdraw, dissipate, encumber, or transfer title to any property, real or personal in which he, or any of his companies or nominees, has any property interest, without the knowledge and consent of the United States Attorney's Office, including but not limited to:

Business: Canon Hospice LLC;
Business: Canon Health Care LLC;
Business: Canon Hospice of Mississippi LLC;
Business: Canon Hospice North Shore LLC;
E*TRADE Securities; investment account #5550-0731;
E*TRADE Securities; investment account #5550-0732;
E*TRADE Securities; self-directed brokerage account #511-360251- 209;
E*TRADE Securities; self-directed brokerage account #511-360311-209; Gulf Coast Bank & Trust, business checking account #101289031;
Gulf Coast Bank & Trust, business checking account #101288983;
Gulf Coast Bank & Trust, business checking account #101289049;
Investar Bank, business checking account #4004112934;
Investar Bank, business checking account #4004112942;
Real Property; 1750 St. Charles Condominiums, Unit PH-D, New Orleans, LA.

9. The court held a bond revocation hearing and revoked Akula's bond on January 8, 2024 and ordered him to be held in custody. (Rec. Doc. 380).
10. In an effort to preserve the defendant's business so that it can be sold for restitution, counsel for Akula and the government agreed to the withdrawal of funds from Akula's accounts to cover payroll and taxes for the employees of his four hospice facilities that is the subject of the fraud. (Rec. Docs. 381, 384).
11. However, the government learned that on December 30, 2023 Akula filed an application with the Department of Health to suspend his business license which would jeopardize the operation and potential sale of the businesses which can be sold and applied to the impending restitution judgment.
12. Additionally, counsel for Akula filed a third Motion to Access appx. \$56,000.00 to retain bankruptcy counsel which would further dissipate the defendant's assets and impede the government's collection efforts to secure them for restitution. (Rec. Doc. 386).

13. The Government opposed the release of funds for bankruptcy counsel and after a status conference with the court and counsel for Akula, the court denied the defendant's third Motion to Access Funds. (Rec. Docs. 387, 395).
14. The government requests that the court appoint a Receiver pursuant to 28 U.S.C. § 3103, et seq. which provides: if the requirements of section 3101 are satisfied, a court may appoint a receiver for property in which the debtor has a substantial nonexempt interest if the United States shows reasonable cause to believe that there is a substantial danger that the property will be removed from the Jurisdiction of the court, lost, concealed, materially injured or damaged, or mismanaged.
15. Based on the foregoing, the United States requests that the Court appoint Wilbur Babin Jr., as receiver to assume control, investigate the financial affairs, and sell the assets of the corporations in which the defendant has an interest, as necessary. Attached marked Exhibit A is a Resume of Wilbur Babin, Jr. which outlines his qualifications for service as a receiver. The receiver should be empowered to make all business decisions regarding the management or sale of the four Canon hospice facilities and to take control of all business bank accounts related to the four facilities, namely:
 - 1) Gulf Coast Bank & Trust, business checking account #101289031;
 - 2) Gulf Coast Bank & Trust, business checking account #101288983;
 - 3) Gulf Coast Bank & Trust, business checking account #101289049;
 - 4) Investar Bank, business checking account #4004112934; and
 - 5) Investar Bank, business checking account #4004112942.
16. The receiver should further be empowered to retain any professionals, including but not limited to, CPAs and attorneys necessary to carry out the powers of the receiver set forth in this Motion. Said retention of professionals shall be subject to

Court approval after notice and hearing. The receiver shall retain said rights until such time as the above businesses are disposed of or the United States no longer is owed the debts set out above. The receiver shall seek the assistance of the U. S. Marshal's Service or a commercial real estate broker in the sale of the businesses.

17. The United States requests that the Court order Akula and any shareholders, administrators, officers, directors and employees of any corporation in which defendant Akula owns or controls an interest to turn over to the receiver all corporate books, bank account records, and business records for said corporations. All officers, administrators, directors and employees of any corporation in which the defendant Akula has an interest shall be further ordered to fully cooperate with the receiver in providing a full and complete accounting of all ownership interest, income, and expenses of the corporations.
18. The government requests that the receiver be paid a fee from the sale of the hospice businesses in an amount equivalent to that fee set forth in 28 USC § 3103(g) plus any out-of-pocket expenses incurred by the receiver. All fees and out-of-pocket expenses of the receiver and all professionals retained by the receiver shall only be paid after approval by this Court after notice and hearing. The net proceeds from the sales of the hospice businesses shall be turned over to the Clerk of Court for payment of Akula's impending restitution judgment. Should the sale of the businesses generate proceeds greater than necessary to satisfy the indebtedness to the United States, then the excess should be paid into the Registry of the Clerk of Court. An appropriate bond by the receiver should be posted.
19. The government has consulted with Akula's counsel, and the defendant opposes

this motion. Therefore, Akula shall be afforded an opportunity for a hearing.

WHEREFORE, for these reasons, the United States respectfully prays that this Court grant its motion for appointment of receiver in this matter.

Respectfully Submitted,

DUANE A. EVANS
UNITED STATES ATTORNEY

s/Churita H. Hansell
KATHRYN M. McHUGH (IL-630658)
RYAN MCLAREN (36577)
CHURITA H. HANSELL (25694)
Assistant United States Attorney
650 Poydras Street, Suite 1600
New Orleans, LA 70130
Telephone: (504) 680-3000
Facsimile: (504) 589-4014
Email: *Churita.Hansell@usdoj.gov*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon all counsel of record via electronic filing,-CM/ECF on this 28th day of February, 2024.

s/Churita H. Hansell
CHURITA H. HANSELL
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	NO. 21-CR-00098
VS.	*	SECTION: “I”
SHIVA AKULA	*	MAGISTRATE ()
	*	

ORDER

Considering the Motion to Appoint Receiver by the United States of America (“United States”);

IT IS HEREBY ORDERED that the United States’ motion is **GRANTED**.

1. That the defendant, Shiva Akula, was convicted in the above captioned criminal action of 23 counts of healthcare fraud in violation of 18 USC §1347 on November 6, 2023.

2. That as a result of Akula’s criminal activity he has caused a substantial loss to the government by fraudulent billing to Medicare through his four hospice facilities.

3. That as a result of Akula’s conviction restitution is imminent and mandatory pursuant to the Mandatory Victims Restitution Act.

4. That the defendant, Shiva Akula appears to be the sole owner/member of the four corporations that are the subject of the healthcare fraud, namely Canon Hospice LLC, Canon Hospice Healthcare LLC, Canon Hospice of Mississippi LLC; and Canon Hospice North Shore LLC . That these corporations may have real estate holdings that can be sold and the sale proceeds applied to the impending restitution judgment debts.

5. That the defendant, Shiva Akula has substantial assets available for restitution and has made several attempts to dissipate those assets prior to sentencing which necessitated the need

for the court's restraining order to prevent further dissipation of those assets and to preserve them for restitution.

6. It appears to the Court that pending an execution sale, there is substantial danger that the businesses may be removed from the jurisdiction of this court, lost, concealed, materially injured or damaged, or mismanaged. The Court finds that no one has incentive to properly and independently manage the real estate holdings of the corporations owned or controlled by the defendant or the real estate holdings of the defendant held individually or jointly, pending a sale of the same. Further a receiver is necessary to ensure a complete and proper accounting for defendants real estate holdings in the corporations in which he owns or controls an interest.

7. Therefore, the Court hereby appoints Wilbur Babin Jr. as receiver to assume control, manage, and investigate the financial affairs of the following corporations: Canon Hospice LLC, Canon Hospice Healthcare LLC, Canon Hospice of Mississippi LLC and Canon Hospice North Shore LLC including, the real estate holdings of the corporations, and the real estate holdings of Shiva Akula, both individually and jointly. The receiver is hereby empowered to make all business decisions regarding the sale of these corporations and the real estate holdings of these corporations in which the defendant, Shiva Akula owns or controls an interest and to take control of all business bank accounts related to the four facilities, namely:

- 1) Gulf Coast Bank & Trust, business checking account #101289031;
- 2) Gulf Coast Bank & Trust, business checking account #101288983;
- 3) Gulf Coast Bank & Trust, business checking account #101289049;
- 4) Investar Bank, business checking account #4004112934; and
- 5) Investar Bank, business checking account #4004112942.

8. The receiver is further empowered to retain any professionals, including but not limited to, CPAs and attorneys necessary to carry out the powers of the receiver set forth in this Motion. Said retention of professionals shall be subject to Court approval after notice and hearing. The receiver shall retain these rights until such time the corporations and the real estate holdings of

the corporations are disposed of or the United States no longer is owed the debts set out above. The receiver shall seek the assistance of the U. S. Marshals Service or a commercial real estate broker in the sale of the four hospice facilities.

9. It is further ordered that any shareholders, administrators, officers, directors and employees of any corporation in which defendant, Shiva Akula owns or controls an interest shall turn over to the receiver all corporate books, bank account records, and business records for said corporations. All officers, administrators, directors and employees of any corporation in which defendant, Shiva Akula owns or controls an interest shall be further ordered to fully cooperate with the receiver in providing a full and complete accounting of all ownership interest, income, and expenses of the corporations.

10. In addition, it is ordered that the receiver shall be paid a fee from the sale of the hospice businesses in an amount equivalent to that fee set forth in 28 USC § 3103 plus any out-of-pocket expenses incurred by the receiver. All fees and out-of-pocket expenses of the receiver and all professionals retained by the receiver shall only be paid after approval by this Court after notice and hearing. The net proceeds from the sales of the hospice businesses shall be turned over to the Clerk of Court for payment of Akula's impending restitution judgment. Should the sale of the businesses generate proceeds greater than necessary to satisfy the indebtedness to the United States, then the excess shall be paid into the Registry of the Clerk of Court. The receiver shall be bonded appropriately.

New Orleans, Louisiana, this _____ day of _____, 2024.

UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	NO. 21-CR-00098
v.	*	SECTION: "I"
SHIVA AKULA	*	MAGISTRATE ()

*** * ***

NOTICE OF SUBMISSION

PLEASE TAKE NOTICE that the undersigned will bring the attached Motion to Appoint Receiver before the Honorable Lance M. Africk, United States District Judge, at 2:00 o'clock p.m. on the 20th day of March, 2024.

Respectfully submitted,

DUANE A. EVANS
UNITED STATES ATTORNEY

s/Churita H. Hansell
CHURITA H. HANSELL (25694)
Assistant United States Attorney
650 Poydras Street, Suite 1600
New Orleans, Louisiana 70130
Telephone: (504) 680-3000
Email: *Churita.Hansell@usdoj.gov*

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	NO. 21-CR-00098
VS.	*	SECTION: "I"
SHIVA AKULA	*	MAGISTRATE ()

* * *

**MEMORANDUM IN SUPPORT OF MOTION
FOR APPOINTMENT OF RECEIVER**

NOW INTO COURT, comes the United States of America ("United States"), through the undersigned Assistant United States Attorney who hereby moves this Court to appoint a Receiver for the corporations, various entities and property in which the defendant, Shiva Akula owns or controls an interest pursuant to 28 USC § 1651, and 28 U.S.C § 3101, et seq., 28 USC § 3103, et seq. to preserve these properties for the impending restitution judgment.

RELEVANT FACTS

On August 5, 2022, the defendant Shiva Akula (Akula) was charged in a 23 count Indictment with committing healthcare fraud in violation of 18 USC § 1347 by fraudulent billing to Medicare from his four hospice facilities. (Rec. Doc. 1). A jury trial was held and on November 6, 2023 Akula was found guilty on all 23 counts. (Rec. Doc. 339). He is scheduled to be sentenced on April 10, 2024. (Rec. Doc. 398). As a result of Akula's criminal activity, he has caused a substantial loss to the government in the amount of appx. \$42 million and will owe restitution to Medicare in this amount under the Mandatory Victims Restitution Act (MVRA), 18 USC § 3663 A.

The government's investigation has determined that Akula has substantial assets available for restitution and he has been attempting to dissipate those assets after his conviction. The government's financial investigation revealed that Akula maintained several accounts with E-Trade valued at appx. \$2 million including various accounts at Gulf Coast and Investar Banks in the name of his four hospice businesses.

The Court held a bond hearing on November 7, 2023 and Akula testified that he has assets valued at approximately \$2 million dollars. (Rec. Doc. 360-4). The Court subsequently issued a bond Order on November 7, 2023 that specifically stated Akula "shall not sell or mortgage any real estate, business or license, without prior notification to the United States Probation Officer (USPO) and the government." (Rec. Doc. 341, pg. 2). The Order additionally prohibited Akula from withdrawing funds in excess of \$200,000 from his accounts without prior notification to the USPO and the government. *Id.* However, Akula disregarded this Court's order and withdrew over \$200,000 in one week from his E-Trade account without prior notification to the USPO and the government. (Rec. Doc. 341, 348). A hearing was held on November 22, 2023 to determine Akula's bond status and at this hearing the government learned of two additional accounts the he owned and he confirmed he withdrew funds in excess of the \$200,000 limit in the court's order. *Id.* Following the November 22, 2023 hearing, Akula attempted to withdraw over \$100,000 from his E*TRADE account without the court's knowledge.

On December 14, 2023 the government filed an Ex Parte Motion for Restraining Order to Prevent Dissipation of Assets pursuant to the All-Writs Act, 28 USC §1651 which was granted by the court on December 22, 2023. (Rec. Doc. 360, 367). The restraining order provides that Akula shall not sell, trade, withdraw, dissipate, encumber, or transfer title to any property, real or personal in which he, or any of his companies or nominees, has any property interest, without the knowledge

and consent of the United States Attorney's Office, including but not limited to:

Business: Canon Hospice LLC;
Business: Canon Health Care LLC;
Business: Canon Hospice of Mississippi LLC;
Business: Canon Hospice North Shore LLC;
E*TRADE Securities; investment account #5550-0731;
E*TRADE Securities; investment account #5550-0732;
E*TRADE Securities; self-directed brokerage account #511-360251-209;
E*TRADE Securities; self-directed brokerage account #511-360311-209; Gulf Coast Bank & Trust, business checking account #101289031;
Gulf Coast Bank & Trust, business checking account #101288983;
Gulf Coast Bank & Trust, business checking account #101289049;
Investar Bank, business checking account #4004112934;
Investar Bank, business checking account #4004112942;
Real Property; 1750 St. Charles Condominiums, Unit PH-D, New Orleans, LA.

The court held a bond revocation hearing due to Akula's constant attempts to withdraw funds and revoked his bond on January 8, 2024, and ordered him to be held in custody. (Rec. Doc. 380). In an effort to preserve the defendant's businesses so they can be sold for restitution, counsel for Akula and the government agreed to the withdrawal of funds from Akula's accounts to cover payroll and taxes for the employees of his four hospice facilities that is the subject of the fraud. (Rec. Docs. 381, 384). However, the government learned that on December 30, 2023 Akula filed an application with the Department of Health to suspend his business license which would jeopardize the operation and potential sale of the businesses which can be sold and applied to the impending restitution judgment.

Additionally, counsel for Akula filed a third Motion to Access appx. \$56,000.00 to retain bankruptcy counsel which would further dissipate the defendant's assets and impede the government's collection efforts to secure them for restitution. (Rec. Doc. 386). The Government opposed the release of funds for bankruptcy counsel and after a status conference with the court

and counsel for Akula, the court denied the defendant's third Motion to Access Funds. (Rec. Docs. 387, 395). The government files this Motion to Appoint Receiver to manage the businesses until they can be sold and the net proceeds applied to restitution.

LAW & ARGUMENT

The purpose of the Restraining Order issued by this court on December 22, 2023 was to preserve the defendant's assets for restitution and provided that "in the event voluntary sales of Akula's property cannot be successfully accomplished the United States Attorney's Office may seek prejudgment relief under the Federal Debt Collection Procedures Act (FDCPA), 28 USC § 3001, et seq.; the All-Writs Act, 28 USC § 1651 and any and all federal forfeiture statutes." (Rec. Doc. 367).

1. The FDCPA allows the government to pursue prejudgment remedies to secure an impending debt for restitution.

Pursuant to 28 USC §§ 3001(a)(1)(2), the FDCPA provides the exclusive civil procedures for the United States to recover a judgment on a debt and to seek prejudgment remedies. The FDCPA authorizes district courts to secure a debtor's property through several different means, including writs of attachment and the appointment of a receiver. *See* 28 U.S.C. §§ 3102, 3103. The purpose of these prejudgment remedies is to establish "security to satisfy such judgment, and interest and costs, as the United States may recover on such claim for a debt". 28 U.S.C. § 3102(a). The government must set forth the factual and legal basis for each prejudgment remedy sought, state that the debtor shall be afforded an opportunity for a hearing and set forth with particularity that all statutory requirements for the issuance of the prejudgment remedy sought have been satisfied. 28 USC §§3101(a)(1)(2) (A)(B).

A prejudgment remedy may be granted if the United States can show reasonable cause to believe the defendant has or is about to assign, dispose, remove, conceal, ill-treat, waste or

destroy property with the effect of hindering, delaying, or defrauding the United States pursuant to 28 USC § 3101(b)(1)(B), and that the requirements for the prejudgment remedies sought have been satisfied pursuant to 28 U.S.C. § 3101. Additionally, the FDCPA requires that the government “shall include an affidavit establishing with particularity to the court’s satisfaction facts supporting the probable validity of the claim for a debt and the right of the United States to recover what is demanded in the application.” 28 U.S.C. §3101(c)(1). This affidavit, which may be made on information and belief, 28 U.S.C. § 3006, shall also state “specifically the amount of the debt claimed by the United States and any interest or costs attributable to such debt.” 28 U.S.C. § 3101(c)(2)(A). The court may consider the “totality of the circumstances” when evaluating whether the government has established the probable validity of its claims. *United States, ex rel. Jane Doe v. DeGregorio*, 510 F. Supp. 2d 877 at 885(M.D. Fla. 2007), (*citing United States v. Teeven*, 862 F. Supp. 1200, 1218 n.24 (D. Del. 1992)). The FDCPA does not require the United States to prove bad intent by the debtor to be entitled to prejudgment relief; instead, the Government need only show the debtors’ actions will have the harmful effect of hindering the ability of the United States to recover. *Teeven*, 862 F. Supp. at 1214, n.12. To be entitled to prejudgment relief under the FDCPA, the Government need not show the debtor’s actions are fraudulent or secretive. *Id.* Rather, the Government must provide the Court with a reasonable cause to believe the defendant has or is about to take actions with regard to his properties that would have “the effect of hindering, delaying or defrauding the United States.” *Id.*, *citing* 28 U.S.C. § 3101(b).

2. A receivership is necessary to preserve the defendant’s businesses for restitution.

In this case, the government has sought the prejudgment remedy of appointment of a receiver under 28 USC § 3103, et seq., which in pertinent part provides: “if the requirements of

section 3101 are satisfied, a court may appoint a receiver for property in which the debtor has a substantial nonexempt interest if the United States shows reasonable cause to believe that there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, concealed, materially injured or damaged, or mismanaged”. The court may grant the receiver the authority to take possession of real and personal property and sue for, collect, and sell obligations upon such conditions for such purposes as the court shall direct; and to administer, collect, improve, lease, repair or sell pursuant to section 3007 such real and personal property as the court shall direct. 28 USC § 3103 (b)(A)(B). A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. *Id.* Unless expressly authorized by order of the court a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. *Id.* The receivership shall not continue past the entry of judgment or the conclusion of an appeal of such judgment unless the court orders it continued under section 3203(e) or unless the court directs its continuation. 28 USC § 3103(c).

3. The government has met the FDCPA’s requirements for prejudgment remedy.

The government has satisfied the requirements for the appointment of a receiver because the record and Affidavit of FBI Agent Krista Bradford reflect that there is reasonable cause to believe there is a substantial danger, Akula’s assets will be removed from the jurisdiction of this court, lost, concealed, materially injured or damaged or mismanaged. The record reflects that Akula has repeatedly violated this Court’s orders by transferring funds from his accounts, concealing additional accounts, attempting to transfer additional funds and attempting to file for Bankruptcy. (Rec. Docs. 341, 348, 360, 367, 380, 386). Moreover, Akula’s mismanagement of the hospices led to the government and Akula’s counsel, with the assistance of Agent Bradford,

processing payroll and taxes for the employees of the four hospices. (Rec. Do. 381, 384). The Affidavit of Agent Bradford, and the record in this case, clearly reflect that there is reasonable cause to believe Shiva Akula has or is about to assign, dispose, remove, conceal, ill-treat, or waste property with the effect of hindering or delaying the United States' ability to collect restitution. (See Affidavit of Agent Krista Bradford attached hereto as Exhibit B).

It is undisputed that Akula will owe restitution in this case as he already been found guilty after a jury trial for 23 counts of healthcare fraud for fraudulent billing practices to Medicare. (Rec. Doc. 1). The Affidavit of Agent Bradford provides that her investigation revealed Akula fraudulently for billed Medicare \$84 million dollars of which he has received approximately \$42 million. (Exhibit B, par. 4, pg. 1). Therefore, restitution under the MVRA is mandatory and the loss amount to Medicare is approximately \$42 million dollars.

Following his conviction on November 6, 2023, Akula's actions show that he has consistently tried to hinder the government's ability to collect restitution in this case by transferring over \$200,000 from his bank accounts in one week in violation of the Court's bond order which was issued November 7, 2023. (Rec. Doc. 341, 348, Exhibit B, par. 9 pg. 2). This Court held a bond hearing on November 22, 2023 and Akula testified that he indeed violated the bond order by withdrawing funds in excess of \$200,000 and additionally testified that he held ownership of two other accounts that he failed to disclose to the court. Following the bond hearing, Akula attempted to withdraw over \$100,000 from his ETrade account without the government's knowledge and in violation of the court's bond order. (Exhibit B, par. 10, pg. 2). The government then filed a Motion for Restraining Order to Prevent Dissipation of Assets which this Court granted on December 22, 2023. (Rec. Doc. 360, 367). A bond revocation hearing was held on January 8, 2024 and Akula was remanded to the custody of the US Marshal. (Rec. Doc.

380).

The defendant filed a Motion to Access Funds in order to pay the employees of the Hospice facilities as well as payroll taxes. In an attempt to preserve the businesses so they can be sold for restitution, Agent Bradford assisted the government and counsel for defendant with arranging the withdrawal of over \$200,000 in funds for payroll and taxes for employees of the four hospices. (Rec. Doc. 381, 386, Exhibit B par. 11, pg. 2). However, Akula's actions dictate that he had no intention of preserving the businesses because he filed an application with the Department of Health to suspend his business license which would jeopardize the operation and potential sale of businesses. (Exhibit B par. 14, pg. 2). Moreover, he filed a third Motion to Access Funds in the amount of \$56,822.00 to retain a bankruptcy attorney in an attempt to place the hospice facilities under a Chapter 11 bankruptcy. (Rec. Doc. 386, 387). A bankruptcy proceeding would remove Akula's assets from the jurisdiction of this Court and further prolong the government's ability to enforce and collect the full amount of restitution in a timely manner pursuant to 18 USC § 3771(6).

Additionally, the government recently learned there is an outstanding bill on equipment for the hospices in the amount \$90,000.00 that Akula neglected to pay and he opened an additional account with an investment institution without the knowledge and consent of the government. There is no one with incentive to properly manage the hospices and any other ownership interests Akula has in other assets. Likewise, a receiver is necessary to ensure that an independent and complete accounting of all corporate and individual assets are performed. Therefore, the government requests that the Court appoint Wilbur Babin Jr., as receiver to assume control, investigate the financial affairs, and sell the assets of the corporations in which the defendant has an interest, as necessary. (See resume of Wilbur Babin, Jr. which outlines his

qualifications for service as a receiver, attached hereto as Exhibit A).

Mr. Babin is an experienced attorney licensed in the state of Louisiana, as well as all Federal Courts within the state. He has extensive experience as a Bankruptcy Trustee, State Court Liquidator and experience in residential and commercial real estate closings. (Rec. Doc. A).

CONCLUSION

Based on the above, the United States has satisfied the requirements for the prejudgment remedy of an appointment of a receiver and respectfully prays that this Court grant its motion for the reasons discussed herein.

Respectfully Submitted,

DUANE A. EVANS
UNITED STATES ATTORNEY

s/Churita H. Hansell
KATHRYN M. McHUGH (IL-630658)
RYAN MCLAREN (36577)
CHURITA H. HANSELL (25694)
Assistant United States Attorney
650 Poydras Street, Suite 1600
New Orleans, LA 70130
Telephone: (504) 680-3000
Facsimile: (504) 589-4014
Email: *Churita.Hansell@usdoj.gov*

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon all counsel of record via electronic filing, -CM/ECF on this 28th day of February, 2024.

s/Churita H. Hansell
CHURITA H. HANSELL
Assistant United States Attorney

Wilbur J. “Bill” Babin, Jr.
3027 Ridgelake Drive
Metairie, LA 70002
504-207-0908
babin@derbeslaw.com

Practice Areas

Bankruptcy Law, Chapter 7 Bankruptcy Trustee, State Court Liquidator, Business Law, Successions Law, Residential and Commercial Real Estate Closings

Education

Louisiana State University, J.D., 1982
Tulane University, B.S., 1979

**Professional
Certifications**

Louisiana State Bar, 1982
Chapter 7 Panel Trustee in Bankruptcy,
Eastern District of Louisiana since 1990
Louisiana State Court Liquidator 2003

**Martindale-Hubbell
Rating**

AV Preeminent

**Federal Court
Admissions**

United States Court of Appeals, Fifth Circuit, 1982
United States Tax Court, 1989
United States District Court
Eastern District of Louisiana, 1982
Middle District of Louisiana, 1993
Western District of Louisiana, 2016

**Professional
Organizations**

Member, Louisiana State Bar Association

**Representative
Cases**

*Campo Electronic, Appliances and Computers, Inc.
a Louisiana Corporation*
U. S. Bankruptcy Court, E.D. LA 97-13057
(Chapter 7 Trustee)
Schwegmann Giant Super Markets
U.S. Bankruptcy Court, E.D. LA. 00-15876
(Chapter 7 Trustee)
Louis J. Provenza, M.D.
U.S. Bankruptcy Court, E.D.LA 00-11830
(Chapter 7 Trustee)

GOVERNMENT
EXHIBIT

A

Northshore Neurological Surgery Association
U.S. Bankruptcy Court, E.D.LA 00-11831
(Chapter 7 Trustee)
Lundy Enterprises, L.L.C.
U.S. Bankruptcy Court, E. D. LA. 01-17028
(Distribution Trustee)
Point Investment Company, Inc.
Civil District Court for the Parish of Orleans 03-6199 Div. G
(State Court Liquidator)
Valentine Paper, Inc.
U.S. Bankruptcy Court, E.D.LA 05-14659
(Distribution Trustee)
Gulf South Medical & Surgical Institute, Inc.
U.S. Bankruptcy Court, E.D.LA 11-11551
(Chapter 7 Trustee)
Kenner Dermatology Clinic, APMC
U.S. Bankruptcy Court, E.D.LA 11-11553
(Chapter 7 Trustee)
Southern Solutions Land Management, L.L.C.
Civil District Court for the Parish of Orleans 2014-3050 Div. L
(State Court Liquidator)
Gerard McGovern
U.S. Bankruptcy Court, E.D.LA 21-11033
(Chapter 7 Trustee)

Other

Born New Orleans, LA 1956
Member of Derbes Law Firm, L.L.C. since 2002

Personal

Married for 39 years to Margaret Medo Babin
Jesuit High School Alumnus of the Year 2014

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	NO. 21-CR-00098
VS.	*	SECTION: "I"
SHIVA AKULA	*	MAGISTRATE ()
	*	*

AFFIDAVIT OF KRISTA BRADFORD

Your Affiant, Special Agent Krista Bradford, being duly sworn, deposes and says as follows:

1. I am an Agent with the Federal Bureau of Investigation (FBI) and have held this position since 2010. I am currently assigned to New Orleans Field Office in the Complex Financial Crimes unit.
2. During my employment as an FBI Agent, I have been assigned to investigate violations of federal law including health care fraud, money laundering, bank fraud, wire fraud, and other violations of Title 18, United States Code.
3. I have been personally involved in the investigation of Shiva Akula for fraudulent billing practices to Medicare as it relates to his operation of Canon Hospice LLC, Canon Healthcare LLC, Canon Northshore LLC and Canon Hospice of Mississippi.
4. Through the course of my investigation, I learned that Shiva Akula fraudulently billed Medicare approximately \$84 million and received approximately \$42 million.
5. As a result of my investigation Shiva Akula was subsequently charged by the United States Attorney's Office with 23 counts of healthcare fraud in violation of 18 USC § 1347. (Rec. Doc. 1).
6. Shiva Akula chose to go to trial and on November 6, 2023 the jury rendered a guilty verdict against Shiva Akula for 23 counts of healthcare fraud. (Rec. Doc. 339).
7. During the course of my investigation, I learned Shiva Akula has substantial assets at various financial entities valued at approximately \$2 million dollars and ownership interests in real property at various locations, namely:

Business: Canon Hospice LLC;
Business: Canon Health Care LLC;
Business: Canon Hospice of Mississippi LLC;

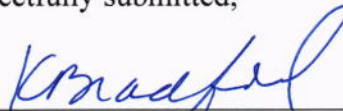
**GOVERNMENT
EXHIBIT
B**

Business: Canon Hospice North Shore LLC;
E*TRADE Securities; investment account #5550-0731;
E*TRADE Securities; investment account #5550-0732;
E*TRADE Securities; self-directed brokerage account #511-360251-209;
E*TRADE Securities; self-directed brokerage account #511-360311-209;
Gulf Coast Bank & Trust, business checking account #101289031;
Gulf Coast Bank & Trust, business checking account #101288983;
Gulf Coast Bank & Trust, business checking account #101289049;
Investar Bank, business checking account #4004112934;
Investar Bank, business checking account #4004112942;
Real Property: 1750 St. Charles Condominiums, Unit PH-D, New Orleans, LA.
Real Property: 19375 4th Street, Covington , LA.

8. Following the jury trial, I learned that Shiva Akula began transferring over \$200,000 in one week, in violation of the Court's bond order issued on November 7, 2023
9. The Court held a hearing on November 22, 2023 to determine Akula's bond status and at this hearing I learned of two additional accounts owned by the defendant and he confirmed he withdrew funds in excess of the \$200,000 limit in the Court's order. (Rec. Doc. 341, 348).
10. Following the November 22, 2023 hearing, Shiva Akula attempted to withdraw over \$100,000 from his E*TRADE account without the Court's knowledge.
11. I assisted the AUSAs with identifying assets owned by Shiva Akula in preparation of the Restraining order that was filed by the government on December 14, 2023 and granted by the Court on December 22, 2023. (Rec. Doc. 360, 367).
12. The Court held a bond revocation hearing and revoked Akula's bond on January 8, 2024 and ordered him to be held in custody. (Rec. Doc. 380).
13. In an effort to preserve the defendant's businesses so they can be sold for restitution, I assisted counsel for Shiva Akula and the government in arranging the withdrawal of funds from Akula's accounts to cover payroll and taxes for the employees of his four hospice facilities that are the subject of the fraud. (Rec. Docs. 381, 384).
14. On February 5, 2024 I learned that Shiva Akula filed an application with the Department of Health to suspend his business license which would jeopardize the operation and potential sale of the businesses which can be sold and applied to the impending restitution judgment.
15. Additionally, I learned counsel for Akula filed a third Motion to Access approximately \$56,000.00 to retain bankruptcy counsel which would further dissipate the defendant's assets and impede the government's collection efforts to secure them for restitution. The motion was subsequently denied by the court and the parties discussed the option of appointing a receiver to manage the businesses until they can be sold. (Rec.386, 387).

16. On February 22, 2024 I learned that Shiva Akula opened an account with another investment agency on December 6, 2023 and failed to disclose this information to the government.

Respectfully submitted,



Krista Bradford, Special Agent
Federal Bureau of Investigations

Sworn to and subscribed before me, Notary Public, this
26th day of February, 2024 at New Orleans, Louisiana.



Churita H. Hansell, AUSA
Notary Public, LSB#25694

My commission expires upon my death.