

For Immediate Release

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\$55 Million Settlement in Whistleblower Suit Against National For-Profit Hospital System, HMA, for Anti-Kickback and Stark Kickback Violations Related to Whole Hospital - Physician Joint Ventures

PHILADELPHIA, PA (September 26, 2018) –The United States Department of Justice and the United States Attorney’s Office for the Eastern District of Pennsylvania in Philadelphia announced late on Tuesday, September 25, 2018, that Health Management Associates, Inc., now known as Health Management Associates, LLC,¹ (its parent is Community Health Systems, Inc. (CHS)), will pay \$55 million, plus accrued interest, to resolve claims against HMA alleged in a *qui tam* whistleblower lawsuit under the federal False Claims Act (FCA) related to the company’s whole hospital joint ventures. The whistleblower lawsuit alleged that HMA used dozens of whole-hospital joint ventures to induce physicians across the country to invest in and steer patients to HMA-owned facilities in violation of the Stark statute, 42 U.S.C. § 1395nn, and the Anti-Kickback Statute (AKS), 42 U.S.C. § 1320a7b(b). This case was settled as part of a \$260 million global civil and criminal resolution settlement between the hospital chain and the United States.

Case History

The “*qui tam*” whistleblower lawsuit was filed in June 2010 in federal district court in Philadelphia under the federal FCA by two “relators,” George E. Miller, MBA, LFACHE, LNHA, and Michael J. Metts, CPA, MHA. Miller and Metts are former hospital executives at HMA’s Lancaster, PA facilities, Lancaster Regional Medical Center and Heart of Lancaster Medical Center.

The allegations in the 86-page amended complaint featured two whole hospital joint ventures at HMA’s Lancaster-based hospitals, and detailed lucrative inducements HMA offered to a large Lancaster-based physician group, Physicians Alliance, Ltd. (“PAL”). The whistleblowers’ case also alleged that HMA paid a general surgeon practicing in Lancaster, PA, Glenn Kline, D.O. compensation far in excess of fair market value in exchange for his valuable referrals to HMA’s Lancaster-area hospitals.

¹ HMA was a multi-billion dollar for-profit hospital corporation based in Naples, Florida, which, as of 2010, operated through its subsidiaries 55 hospitals in 15 states, totaling approximately 8,400 beds. In early 2014, HMA merged with another for-profit hospital chain Community Health Systems, Inc. (CHS), headquartered in Nashville, TN, in early 2014. CHS is traded on the New York Stock Exchange (NYSE): CYH.

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This case was initially assigned to the Honorable Mitchell S. Goldberg. After several years of investigation, the case was transferred, along with other lawsuits against HMA, to Washington, D.C. for multi-district litigation (MDL), under the supervision of Judge Reggie Walton. No other whistleblower lawsuit in the MDL raised allegations of AKS or Stark violations related to HMA's national efforts to joint venture its hospitals with local physicians.

The United States intervened in the Relators' lawsuit against HMA on December 16, 2013. On September 30, 2015, Relators Miller and Metts filed a sealed amended *qui tam* complaint naming as defendants members and/or executives of PAL or its subsidiary entities (Michael Warren, M.D., Wallace Longton, M.D., and Lee Meyers), and Dr. Glenn Kline, all of whom were featured in the complaint as filed in 2010. The amended complaint was unsealed in December 2017, when, as described below, the Department of Justice resolved the whistleblowers' claims against PAL and its related individual defendants.

United States Attorney for the Eastern District of Pennsylvania, William M. McSwain commenting on the Miller and Metts Relators' case said:

“Our resolution of this matter and the significant recovery we have obtained show once again that no matter how complex the scheme is, we will find it, stop it, and punish it...HMA covered up kickbacks for patient referrals with sham joint venture agreements, lease payments, and management agreements. These sorts of improper physician inducements are a form of ‘pay to play’ business practices that will not be tolerated. Healthcare institutions cannot pad their bottom line at the expense of the American taxpayers. And most importantly, this conduct must be rooted out because it gets in the way of providing top-notch patient care to American citizens.”

Following today's settlement, the case will soon be remanded to the Eastern District of Pennsylvania for further litigation of the FCA allegations against the only non-settling defendant, Dr. Kline.

HMA's Lancaster Whole Hospital Joint Ventures

With regard to the Lancaster-based hospital joint ventures, the whistleblower suit alleges that HMA conspired with PAL, whose steady referral stream was critical to HMA's survival in the competitive Lancaster hospital market, by offering lucrative kickbacks in violation of federal and state anti-kickback statutes and self-referral prohibitions. The whistleblowers alleged that in 2009, in conjunction with the Lancaster Regional joint venture, HMA offered and PAL accepted inducements worth millions of dollars in exchange for a valuable stream of patient referrals by PAL's one hundred physicians to HMA's Lancaster-area hospitals. The whistleblowers further allege that HMA's inducements to PAL included: paying PAL far in excess of fair market value for two businesses then owned by PAL, Willow Street Imaging and Keystone Cancer Center; and beginning in 2009, paying PAL in excess of fair market value for services allegedly performed by PAL physicians. They allege that, based on these inducements, PAL became a major investor in HMA's whole hospital joint venture at Lancaster Regional Medical Center, Rose City HMA, LLC.

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Earlier Settlement in December 2017 with HMA's Co-Conspirator, PAL Physicians

Yesterday's global FCA settlement between the United States, Relators, and HMA follows a December 19, 2017 settlement between the United States Department of Justice and the United States Attorney's Office for the Eastern District of Pennsylvania, PAL, and individuals associated with PAL (Dr. Warren and Longton, and Mr. Meyers). At that time, in order to resolve the whistleblowers' FCA claims, the PAL and the individual defendants paid the United States \$4 million, plus a percentage of proceeds from any sale of PAL's interest in the Lancaster Regional joint venture. As provided under the False Claims Act, the PAL defendants were responsible for and paid the whistleblowers' legal fees, expenses, and costs.

The United States' Recovery on The Joint Venture Allegations Exceeds \$59 Million

The United States did not file its own complaint. This settlement is based on the Relators' FCA claims against HMA as laid out in their amended complaint. Combined with the PAL settlement of late last year, today's settlement brings the United States' total recovery on the whistleblowers' joint venture allegations to more than \$59 million, exclusive of interest.

For their efforts, pursuant to the provisions of the federal False Claims Act (FCA), the whistleblowers will receive a relator share of the Government's recovery of \$55 million, plus applicable interest. Under the terms of today's settlement, Messrs. Miller and Metts will receive a relator's share of \$12,390,000, plus pro rata interest, for their efforts.

U.S. Attorney McSwain lauded the contributions of Miller, Metts, and their legal team:

“We sincerely thank Mr. Miller and Mr. Metts. Together with their lawyers, these two citizens provided essential assistance to the government throughout this case. Without the willingness of relators to shed light on allegations of fraud, preserving government program funds would be far more challenging. Their efforts played a vital role in the resolution of these cases.”

The Relators and their counsel also have a separate and outstanding claim under the federal FCA against HMA and its affiliates for statutory fees, costs and expenses related to the thousands of hours their legal team has expended over eight years assisting the government in the global resolution of their joint venture allegations against HMA.

The Settlement Agreement is neither an admission of liability by Defendants nor a concession by the United States or the Relators that their claims are not well founded. A copy of the Settlement Agreement and all related documents are available on the Department of Justice's website and Twitter account at: <https://www.justice.gov/civil> and <https://twitter.com/thejusticedept>, as well as the website and Twitter account for the U.S. Attorney's Office for the Eastern District of Pennsylvania at: <https://www.justice.gov/usao-edpa> and https://twitter.com/usao_edpa.

Claims Against Glenn Kline, D.O. Will Proceed in Federal District Court in Philadelphia

The whistleblowers also brought allegations that Lancaster-based general surgeon, Dr. Kline, demanded and HMA paid excessive compensation in exchange for his lucrative patient referrals to

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HMA's Lancaster hospitals, and that HMA then fraudulently billed the government for inpatient and outpatient healthcare services that were tainted by illegal kickbacks and Stark law violations. The whistleblowers' allegations against HMA related to excessive compensation paid to Dr. Kline are resolved in today's settlement. The claim against Dr. Kline for violations of the FCA, however, has not been resolved through either the current settlement between the United States and HMA, or the late-2017 settlement between the United States and the PAL defendants. The whistleblowers' case against Dr. Kline is pending in the MDL and is expected to be remanded to U.S. District Court Judge Mitchell S. Goldberg.

The Public-Private Prosecution Team

This matter was aggressively investigated by the United States Department of Justice, the United States Attorney's Office for the Eastern District of Pennsylvania, the United States Department of Health & Human Services - Office of the Inspector General ("HHS-OIG"), and the Federal Bureau of Investigation ("FBI"). Messrs. Miller, Metts, and their legal counsel wish to acknowledge the Government lawyers and investigators who worked tirelessly with us to return millions to the taxpayers. In particular, they thank William M. McSwain, United States Attorney, Louis D. Lappen, Deputy United States Attorney, Charlene Keller Fullmer, Assistant United States Attorney - Deputy Chief, Civil Division, Veronica J. Finkelstein, Assistant United States Attorney, Eastern District of Pennsylvania, Laurie Oberembt, Senior Trial Counsel, Commercial Litigation Branch - Civil Division, United States Department of Justice, and Justin Draycott, Senior Trial Counsel, Commercial Litigation Branch - Civil Division, United States Department of Justice.

Counsel for the Relators comment on this unusual case:

Lead counsel in the case, Marc S. Raspanti, of the law firm of Pietragallo Gordon Alfano Bosick & Raspanti, LLP:

"This case required sophisticated and dedicated hospital executives who understood and identified a complex and widespread fraud being committed by a national hospital system. The relators and their counsel spent thousands of hours over eight years meticulously building this case. This whistleblower lawsuit exposed the willingness of hospital, division, and corporate executives to use inducements to influence a physician's determination of where thousands of patients should receive their medical care,"

Pamela Coyle Brecht, partner with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, and co-lead counsel:

"The Relators saw through the transactional complexity that HMA hoped would obscure its efforts to induce physician investors to steer patients to HMA's hospitals, rather than the facility that was best suited for their patients' medical needs. The whistleblowers and their counsel appreciate the confidence the Government placed in our ability to assist their investigative team over the past eight years. This resolution culminates many years of hard work unraveling sophisticated deals intended to disguise payments intended to induce

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patient referrals in violation of the Anti-Kickback Statute and Stark laws.”

Bill Pietragallo, II, managing partner of Pietragallo Gordon Alfano Bosick & Raspanti, LLP:

“We applaud the perseverance of our two clients and our partners who worked tirelessly with the government to see this important and complex case to a successful conclusion for American taxpayers. It was a very long road, but the results prove the value of their collective persistence.”

The lawsuit is captioned *United States of America, et. al. ex rel. Miller and Metts, v. Health Management Associates, Inc., et. al.*, No. 10-3007 (ED PA). A copy of the *qui tam* complaint can also be found at www.falseclaimsact.com.

Pietragallo Gordon Alfano Bosick & Raspanti, LLP, is one of the largest and most successful whistleblower law firms in the United States. Lawyers in the nationwide False Claims Act whistleblower practice group of Pietragallo have served for more than 30 years as lead counsel in *qui tam* cases that have recovered over \$2 billion for federal and state taxpayers. The Whistleblowers in this case were represented by Marc S. Raspanti, Pamela Coyle Brecht, and Michael A. Morse. In addition to its Philadelphia office, the firm has offices in Pittsburgh and Sharon, Pennsylvania; Steubenville, Ohio; and Weirton, West Virginia. For more information, visit our websites at www.PIETRAGALLO.com and www.FalseClaimsAct.com.

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