

For Immediate Release

Contact: Pamela Coyle Brecht, Esquire (PCB@Pietragallo.com)
Micaela A. Famiglietti, Business Development Coordinator (MAF@Pietragallo.com)
Pietragallo Gordon Alfano Bosick & Raspanti, LLP
www.pietragallo.com, www.falseclaimsact.com

Third and Final Settlement Announced in Philadelphia Whistleblowers' \$63 Million Case: Glenn Kline, D.O., Lancaster, PA Surgeon, Pays \$4.25 Million to Resolve Allegations of Kickback Relationship with HMA

PHILADELPHIA, PA – Thursday, October 3, 2019 –The United States Attorney's Office for the Eastern District of Pennsylvania (USAO E.D. Pa.) announced today that Dr. Glenn Kline, DO, a Lancaster, Pennsylvania-based general surgeon, together with his company, Community Surgical Associates, will pay \$4.25 million, with interest, plus the whistleblowers' attorney's fees, to settle a longstanding *Qui Tam* lawsuit filed under the federal False Claims Act ("FCA"). The two whistleblowers, George E. Miller and Michael J. Metts, former Health Management Associates, Inc. (HMA) executives who worked at the company's two Lancaster-based hospitals, will receive nearly 25% of the proceeds of the settlement or \$1,054,000 for their significant contribution to the Government's prosecution of their whistleblower claims.¹ The Government did not file its own Complaint against Kline, but intervened today in the Relators' Amended *Qui Tam* Complaint for purposes of this settlement.

Dr. Kline's Settlement Ends a Decade-Long, \$63 Million Philadelphia *Qui Tam* Case

The whistleblowers, through their counsel at Pietragallo Gordon Alfano Bosick & Raspanti, LLP, brought their "*qui tam*" whistleblower lawsuit in June 2010 in federal court in Philadelphia. It was assigned to the Honorable Mitchell S. Goldberg. Their complaint raised allegations that HMA violated the Anti-Kickback Statute and the Stark laws by paying lucrative inducements to physicians and physician groups in exchange for a stream of millions of dollars of referrals to HMA's two Lancaster, PA-based hospitals.²

¹ A copy of the Settlement Agreement and related documents are available on the United States Attorney's Office for the Eastern District of Pennsylvania's website <https://www.justice.gov/usao-edpa>. The Amended *Qui Tam* Complaint in *US ex rel Miller & Metts v. HMA, et.al.*, is available at www.falseclaimsact.com.

² When the Miller and Metts whistleblower case was filed, HMA was a multi-billion-dollar for-profit hospital corporation which, as of 2010, operated through its subsidiaries 55 hospitals in 15 states, totaling approximately 8,400 beds. Miller and Metts also alleged that HMA used whole-hospital joint ventures to induce physicians across the country to invest in and steer patients to HMA-owned facilities across the United States. The United States intervened in the Relators' lawsuit against HMA on December 16, 2013. On September 25, 2018, the United States Department of Justice (DOJ) and the USAO E.D. Pa announced a \$55 million, plus accrued interest, resolution of Miller and Metts' claims against HMA, including those related to the company's whole hospital joint ventures. That settlement

In Dr. Kline's case, the whistleblowers alleged that in 2008, HMA's Physician management group subsidiary paid excessive compensation to Dr. Kline (\$1.2 million annually for a general surgeon in Lancaster) and absorbed \$250,000 in costs related to Kline's medical practice as kickbacks for patient referrals by Dr. Kline to HMA's Lancaster hospitals. Under existing national guidelines, the median annual pay for a general surgeon at that time was just over \$360,000.

The whistleblowers further alleged that the illegal arrangement in effect in 2008 had been blessed by high-level executives at HMA. The *Qui Tam* Complaint described how Dr. Kline demanded an even richer compensation package from HMA executives in 2009, including payment of Dr. Kline's malpractice insurance, \$55,000 per year, and a lucrative 401(k) retirement benefit worth at least \$25,000 annually.

The \$4.25 million settlement with Dr. Kline was reached following a successful mediation before The Honorable David R. Strawbridge, United States Magistrate, Eastern District of Pennsylvania in which all parties participated. The Settlement Agreement provides that the resolution is neither an admission of liability by Defendants nor a concession by the United States or the two Relators that their claims are not well founded.

The payment by Dr. Kline, and his practice, marks the third recovery by the United States and final chapter in the multi-faceted FCA case filed brought by these whistleblowers. In earlier settlements, HMA paid \$55 million, plus interest and attorney fees, and Physicians Alliance Limited (PAL) along with several individuals associated with PAL, paid \$4 million plus attorneys' fees to resolve FCA claims. In all, the Miller and Metts whistleblower case returned over \$63 million in taxpayer funds to the Treasury.

Holding Individuals Accountable

Dr. Kline was named as defendant on September 30, 2015, with three other involved individuals who were members and/or executives of PAL or its subsidiary entities (Michael Warren, M.D., Wallace Longton, M.D., and Lee Meyers). None of the four individuals named in the amended complaint were new to the case, as all of them were identified in the whistleblowers' original 2010 complaint. For purposes of settlement, the United States intervened against PAL, Warren, Longton, and Meyers, HMA, and Dr. Kline, but did not file a separate complaint against any of the Defendants.

These FCA settlements with individuals align with recent Department of Justice policy statements aimed at individuals with substantial personal involvement and financial gain in fraud schemes. On September 9, 2015, then-Deputy Attorney General Sally Yates issued a memorandum outlining DOJ's policy on Individual Accountability for Corporate Wrongdoing (the "Yates Memo"). In it, DOJ stated that cooperation credit would follow when organizations provide the Government with "all relevant facts about individuals involved in corporate misconduct," and that DOJ would be looking to hold individual wrongdoers accountable. More recently, on November 29, 2018, then-Deputy Attorney General Rod Rosenstein clarified that policy, stating that the United States would

with HMA was part of the hospital management giant's \$260 million global civil and criminal resolution with the United States and several states.

hold corporations to identify, and separately pursue fraud recoveries from, individuals “substantially involved” in the misconduct.

As noted in the United States Attorney’s Office’s October 3, 2019 press release, the First Assistant United States Attorney for the Eastern District of Pennsylvania, Jennifer Arbittier Williams commented on the settlement of the Relators’ case against Dr. Kline, stating:

“Our resolution of this matter and the significant recovery we have obtained from this physician show once again that no matter how complex the fraud scheme is, we will find it, stop it, and punish it. The alleged improper physician inducements that Dr. Kline demanded, and received, are a form of ‘pay to play’ business practice that could compromise professional judgment. In sum, this conduct must be rooted out because it interferes with a physician’s ability to provide top-notch patient care to American citizens.”

* * * * *

Ms. Williams further thanked counsel for the whistleblowers Marc S. Raspanti, Esquire and Pamela Coyle Brecht, Esquire from the law firm of Pietragallo Gordon Alfano Bosick & Raspanti, LLP who worked closely with the United States to investigate and resolve this case.

* * * * *

“We sincerely thank Mr. Miller and Mr. Metts. Together with their lawyers, these two citizens provided invaluable 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 Public/Private Prosecution Team

This matter was 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”). Miller, Metts, and their legal counsel at Pietragallo wish to acknowledge the Government lawyers and investigators who worked with us for nine years to return millions to the taxpayers. In particular, we thank the extraordinary efforts of two veteran civil prosecutors Charlene Keller Fullmer, Assistant United States Attorney – Deputy Chief, Affirmative Litigation, and Veronica J. Finkelstein, Assistant United States Attorney, Eastern District of Pennsylvania who have tenaciously pursued this complex and unique case in an unwavering manner for nearly a decade.

Lead Trial Counsel Pamela Coyle Brecht, partner with Pietragallo Gordon Alfano Bosick & Raspanti, LLP said:

“We very much appreciate the confidence the Government placed in our ability, their shared determination, and the true sense of teamwork that resulted from our participation in all aspects of the investigation and resolution of this claim. This public-private partnership culminated in our co-litigation of the case against Dr. Kline. This third settlement marks the successful completion of many, many collective years of hard work.”

Co-Lead Counsel in the case, Marc S. Raspanti, also of the Philadelphia law firm of Pietragallo Gordon Alfano Bosick & Raspanti, LLP stated:

“This settlement reflects the willingness of the United States Attorney for the Eastern District of Pennsylvania to investigate novel fraud schemes, to include Relators’ counsel as a meaningful member of the Government’s team, and to pursue individuals who were pivotal to these fraud schemes. Patients need to trust in the independent medical judgment of their physicians and cannot be at the unchecked mercy of providers motivated by financial gain.”

Managing Partner William Pietragallo, II

“commended his law partners for their vision, tenacity, and diligence over nine years of intense litigation.”

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 whistleblower practice group of Pietragallo Gordon Alfano Bosick & Raspanti 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 were represented by Pamela Coyle Brecht, Marc S. Raspanti, and Michael A. Morse.

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 unsealed *qui tam* complaint, along with the Settlement Agreement and the Department of Justice’s press release can be found at www.FalseClaimsAct.com.

Pietragallo Gordon Alfano Bosick & Raspanti, LLP is a regional litigation and business law firm with a national client base. In addition to its Pittsburgh and Philadelphia offices, the firm has offices in Sharon, Pennsylvania; Steubenville, Ohio; and Weirton, West Virginia. For more information, visit our website at www.PIETRAGALLO.com.

###