



Department of Justice

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UNITED STATES FILES SUIT AGAINST FLORIDA-BASED BAY AREA SLEEP ASSOCIATES LLC AND ITS OWNER

WASHINGTON – The United States has filed a complaint under the False Claims Act (FCA) against Bay Area Sleep Associates LLC, dba SomnoMedics LLC, and its owner, Edward Killmer Jr., the Justice Department announced today. The complaint, filed today in U.S. District Court for the Middle District of Florida, alleges that the defendants violated the FCA by knowingly submitting, or causing to be submitted, to the United States false claims for payments from multiple federal health care programs.

The government's complaint alleges that beginning no later than 2004, the defendants hired unlicensed sleep technicians to perform sleep tests at one or more of their facilities. Medicare regulations require that diagnostic testing services performed at independent diagnostic testing facilities such as SomnoMedics must be performed by a technician licensed or certified by a state or national credentialing body in order to be reimbursed by Medicare. The complaint alleges that SomnoMedics utilized unlicensed sleep technicians to perform sleep tests on Medicare and TRICARE beneficiaries, but knowingly requested payment for these services despite being fully aware that SomnoMedics failed to comply with federal program reimbursement regulations.

"Providers who participate in federal health care programs must play by the rules, not cut corners," said Tony West, Assistant Attorney General for the Justice Department's Civil Division. "Billing the government for diagnostic tests performed by unlicensed technicians, as we allege here, is unfair to patients and a misuse of taxpayer dollars."

"The United States Attorney's Office is committed to taking the steps necessary to protect Medicare and other federal health care programs from fraud," said Robert E. O'Neill, U.S. Attorney for the Middle District of Florida. "By bringing FCA cases such as this, we hope to recover funds obtained through the fraud and deter others from attempting similar schemes."

This lawsuit was originally filed under the qui tam or whistleblower provisions of the FCA by William Revels, a former sleep study technician. Under those FCA provisions, a private party, known as a relator, can file an action on behalf of the United States and receive a portion of the recovery. In May of this year, the United States intervened in part of the lawsuit, and today filed its own complaint. Under the FCA, the United States may recover three times the amount of its losses plus civil penalties.

The government's complaint is part of the United States' emphasis on combating health care fraud and another step for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced by Attorney General Eric Holder and Kathleen Sebelius, Secretary of the Department of Health and Human Services in May 2009. The partnership between the two departments has focused efforts to reduce and prevent Medicare and Medicaid financial fraud through enhanced cooperation. One of the most powerful tools in that effort is the False Claims Act, which the Justice Department has used to recover more than \$5.8 billion since January 2009 in cases involving fraud against federal health care programs. The Justice Department's total recoveries in False Claims Act cases since January 2009 are over \$7.4 billion.

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