

**FILED**  
JUL 31 2012  
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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO HEADQUARTERS**

12 UNITED STATES OF AMERICA,  
13 Plaintiff,

14 v.

15 California Rural Indian Health Board, Inc.,  
16 Defendant.

CASE NO **CV 12 4024**  
**COMPLAINT**

**LB**

19 **I. INTRODUCTION**

20 1. The United States brings this action pursuant to the False Claims Act (hereinafter the Act),  
21 31 U.S.C. §§ 3729-3733, and the common law. The Act provides that an individual or entity that  
22 causes false or fraudulent claims for payment to be submitted to the government is liable for treble  
23 damages, as well as civil penalties of up to \$11,000 for each false or fraudulent claim.

24 2. This action concerns false and/or fraudulent claims that Defendant submitted or caused to  
25 be submitted to U.S. Department of Health and Human Services, Substance Abuse and Mental Health  
26 Services Administration (hereinafter "SAMHSA"). Defendant systematically defrauded SAMHSA  
27 by submitting false and fraudulent claims for payment under the Access to Recovery (hereinafter  
28 "ATR") program administered by SAMHSA.

1           **II. JURISDICTION**

2           3. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331  
3 and 1345, and supplemental jurisdiction over the common law and equitable claims pursuant to 28  
4 U.S.C. § 1367(a). The Court may exercise personal jurisdiction over Defendant pursuant to 31  
5 U.S.C. § 3732(a).

6           4. Intradistrict Assignment to the San Francisco Division of the Court is proper because the  
7 Defendant's conduct occurred in substantial part in Alameda, Del Norte, Humboldt, Lake, Marin,  
8 Mendocino, San Mateo, and Sonoma counties.

9           **III. VENUE**

10          5. Venue is proper in this district pursuant to 31 U.S.C. § 3732 because Defendant committed  
11 acts within this district that violated 31 U.S.C. § 3729.

12          **IV. THE PARTIES**

13          6. Plaintiff the United States administers the ATR program through SAMHSA, the federal  
14 agency responsible for meeting the substance abuse and mental health treatment needs of individuals  
15 nationwide.

16          7. Defendant California Rural Indian Health Board, Inc., (hereinafter "CRIHB") is a  
17 California corporation located in Sacramento, California. At all times relevant hereto, CRIHB was  
18 the recipient of an ATR Grant awarded by SAMHSA to administer a voucher program for American  
19 Indians and Alaskan Native in California, who needed treatment and recovery support for alcohol and  
20 drug abuse.

21          **V. THE ACCESS TO RECOVERY GRANT**

22          8. The ATR program is a voucher initiative to provide client choice among substance abuse  
23 treatment and recovery support service (hereinafter "RSS") providers. The voucher system ensured  
24 that funding to providers was made indirectly, through a voucher issued to the client. The client,  
25 rather than the government or an intermediary organization, would take the voucher to a provider of  
26 the client's choosing, and the provider would receive payment after the service was rendered.

27          9. In March 2004, SAMHSA, through the Center for Substance Abuse Treatment, announced  
28 that it was accepting applications for ATR grants under sections 501(d)(5) and 509 of the Public

1 Health Service Act, 42 U.S.C. §§ 290aa(d)(5), 290bb-2 (hereinafter the “Grant Announcement”)

2 10. On June 4, 2004, Defendant applied for a three-year ATR Grant,  
3 seeking \$39 million to administer a voucher program, the California American Indian Recovery  
4 (“CAIR”) program, through a coalition of tribal health care entities and treatment and recovery  
5 support service providers, and to service in excess of 13,000 clients (hereinafter the “Grant  
6 Application”).

7 11. On August 3, 2004, SAMHSA awarded Defendant CRIHB a \$17.140 million, three-year,  
8 grant to manage the CAIR program (hereinafter the “Grant”). Of that amount, approximately \$2.72  
9 million was allotted for Defendant’s administrative expenses. Under the Grant, Defendant CRIHB  
10 was required to serve 6,697 clients during the three years: 1,197 during the first year, and 2,752 in the  
11 second and third years.

12 12. The Grant was subject to annual renewal. Defendant submitted two subsequent Grant  
13 Applications on March 11, 2005 and March 15, 2006, requesting renewal of the Grant subject to the  
14 same conditions on which the original Grant Award was made. SAMHSA approved both renewals.  
15 The Executive Director of CRIHB, James Crouch, executed all the Grant Applications and  
16 certifications as required by the grant award, on behalf of Defendant CRIHB. The Grant Applications  
17 contained statements or certifications that Defendant had complied with all provisions of the initial  
18 grant Application, including but not limited to, conducting the requisite substance abuse screening  
19 and assessments.

20 13. In accepting the Grant, Defendant was subject to the requirements stated in the Grant  
21 Announcement; the promises made in the Grant Applications; the terms and conditions of the Grant  
22 as stated in SAMHSA’s Award Notices issued during the life of the grant; the regulations at 45  
23 C.F.R. Parts 74 and Part 92; the Grants Policy Statement issued by the U.S. Department of Health and  
24 Human Services (HHS), Office of the Assistant Secretary for Resources and Technology, Office of  
25 Grants (January 1, 2007); the Office of Management and Budget (OMB) Circular A-133 (Audits of  
26 States, Local Governments, and Non-Profit Organizations, 6/27/2003 and 6/26/2007); and OMB  
27 Circular A-122 (Cost Principles for Nonprofit Organizations, 5/10/2004) (collectively hereinafter the  
28



1 “Grant Rules”).

2 14. In order to determine the appropriate level of care for either clinical treatment or RSS, the  
3 Grant Rules required that Defendant CRIHB ensure that each person receive a substance abuse  
4 screening. The substance abuse screening was intended to distinguish individuals who did not have  
5 alcohol or substance abuse problems from those who were at risk for substance abuse and needed  
6 treatment and/or recovery support services. Traditional screening instruments that could be used  
7 included the CAGE questionnaire (a four-question form to detect the possibility of alcoholism), the  
8 CRAFFT questionnaire, and the AADIS questionnaire (which screened children and adolescents for  
9 drug and alcohol abuse).

10 15. The Grant Rules also required that individuals who screened positive for substance abuse  
11 were to receive an assessment to gauge the clinical treatment and RSS options likely to be most  
12 appropriate for the individual. Assessment tools for adults included the Addiction Severity Index  
13 (“ASI”), Substance Use Disorders Diagnostic Schedule (“SUDDS-IV”), and for adolescents the  
14 Comprehensive Adolescent Severity Inventory (“CASI”). Pursuant to the Grant Announcement, the  
15 “assessment must occur prior to any referral of the individual to a particular kind of clinical treatment  
16 and/or recovery support service.”

17 16. In implementing the ATR program, grantees, including Defendant CRIHB, were required  
18 to make periodic financial reports to SAMHSA about the administration of the award, and to provide  
19 SAMHSA with outcome data pursuant to the Government Performance and Results Act (“GPRA”).  
20 Information gathered from clients during the screening and assessment stage was necessary to meet  
21 the GPRA reporting requirements.

22 17. Eligible RSS authorized under the Grant Rules included sober living transitional housing,  
23 child care, relapse prevention, case management, family counseling, transportation to and from  
24 treatment, and job training, among others. Sober living housing is transitional housing where the  
25 individual can adjust to living and working in a clean and sober environment, while attending  
26 treatment or 12-step programs.

27 18. Although Defendant CRIHB utilized tribal providers, also known as contractors or  
28

1 sub-recipients, to furnish treatment and services, under the controlling regulations CRIHB alone  
2 remained ultimately responsible for the providers' conduct. *See, e.g.*, 45 C.F.R. § 74.51.

### 3 VI. THE FRAUDULENT SCHEME AND FALSE CLAIMS

4 19. From the beginning of the Grant period in 2004, Defendant had difficulty meeting the  
5 client enrollment goals specified in the Grant Applications and Awards, and embarked on a scheme to  
6 increase their enrollment numbers and expend all Grant funds by ignoring the Grant Rules.

7 20. In 2004, Defendant contracted with James Ward and Associates Inc., and in 2005, with  
8 Turtle Health Plan Inc., to provide advice to the CAIR program, without complying with the  
9 solicitation requirements of 45 C.F.R. Parts 74, and the Grant rules. Mr. Ward had written the June 4,  
10 2004 Grant Application, pursuant to a contract with Defendant which promised him a salary of  
11 \$100,000 annually should the Grant be awarded. Turtle Health Plan Inc., was indebted to Defendant  
12 CRIHB in the amount of approximately \$300,000 at the time it entered into the contract with  
13 Defendant. Both of these circumstances created prohibited conflicts of interest in violation of Grant  
14 rules, including but not limited to, 45 C.F.R. Parts 74. Defendant compensated James Ward and  
15 Associates, Inc., and the Turtle Health Plan Inc., from Grant award funds, in violation of the Grant  
16 rules.

17 21. Beginning in 2005, Defendant gave providers client enrollment applications with  
18 instructions to evaluate clients' needs for RSS without conducting the required substance abuse  
19 screening or assessments. Instead, providers were asked to "evaluate" clients' needs for RSS simply  
20 by checking off the items and services to be provided through vouchers.

21 22. Because Defendant had eliminated the substance abuse screening and assessments,  
22 providers had difficulty determining who was eligible for RSS. As a result, providers enrolled  
23 individuals who were not in treatment, were not addicts, or were not in substance abuse recovery, and  
24 therefore were not eligible for RSS.

25 23. Beginning in 2006, Defendant instructed providers to pay ineligible items and services,  
26 including but not limited to, clients' rent and utilities, mortgage payments, automobile tires, repairs  
27 and related auto expenses, court fines and fees, and personal expenses, and other expenses unrelated  
28

1 to alcohol or substance abuse treatment, or recovery, and charged the expenses to the Grant as RSS.  
2 All of these expenses were prohibited and unallowable by the Grant rules, and were ineligible for  
3 funding by the Grant. Defendant instructed providers to pay for the expenses themselves out of the  
4 providers' pockets, and then request the voucher to reimburse themselves. This procedure was  
5 prohibited by the Grant rules, in that all services had to be provided pursuant to a voucher issued to  
6 the client, based on substance abuse screening and assessment, and taken by the client to the client's  
7 provider of choice.

8 24. Beginning in 2006, Defendant instructed providers to give clients American Express and  
9 other cash and gift cards instead of vouchers. Such cash cards were utilized by the providers until  
10 SAMHSA learned of the conduct and ordered Defendant to stop. The Grant prohibited giving cash  
11 equivalents to clients as all client services had to be provided pursuant to a voucher based on a  
12 substance abuse screening and assessment, and taken by the client to the client's provider of choice.

13 25. In October 2006, Defendant eliminated the residential clinical treatment program in favor  
14 of RSS vouchers. A residential treatment program is a substance abuse treatment program that offers  
15 continuous 24-hour a day, observation, monitoring, and treatment by professional and licensed staff,  
16 to individuals who are not sufficiently stable to benefit from outpatient treatment. As a result, several  
17 tribal providers were forced to turn away clients who were in need of alcohol and substance abuse  
18 treatment. Despite tribal protests, Defendant did not restore the residential clinical treatment program  
19 until January 2007.

20 26. Beginning in 2006, Defendant instructed providers to drive clients directly to retail stores,  
21 pay for the clients' purchases out of the provider's pockets, and then request the vouchers to  
22 reimburse themselves for their out of pocket expenses. This procedure was prohibited by the grant  
23 rules, in that all services had to be provided pursuant to a voucher issued to the client, based on a  
24 substance abuse screening and assessment, and taken by the client to the client's provider of choice.  
25 In many of these instances, the entire voucher amount allotted for RSS was spent on a single retail  
26 purchase. For example, in one instance in 2007, a client was permitted to buy \$1,275 in clothing at a  
27 J.C. Penny store, but no appropriate RSS was provided.

28 27. In May 2007, Defendant more than doubled the single amount of the RSS voucher that

1 could be given to a client every 61 days, as an incentive for clients to sign up with the CAIR program.  
2 On June 30, 2007, Denise Pollard, member of Defendant's CRIHB Finance Committee, questioned  
3 this decision. Mr. James Crouch dismissed the concern stating the recovery support service award  
4 was "designed by Uncle Sam to, in essence, wrap this fragile abuser."

5 28. Of the \$3,200,000 paid on RSS vouchers during the three-year Grant period, nearly  
6 \$1,200,000 was paid for unallowable housing expenses, most of which include but are not limited to,  
7 an individual's rent and utilities, and mortgage payments. These expenses were prohibited under the  
8 Grant in that only sober living transitional housing was an allowed housing expense. In excess of  
9 \$800,000 was paid for ineligible personal necessities, including but not limited, to expensive  
10 clothing, car tires and repairs. These were ineligible Grant expenses that Defendant inappropriately  
11 charged to the Grant as RSS. In contrast, eligible RSS categories that related to substance abuse  
12 treatment or sobriety, such as child care, recovery coaching, and family services, accounted for only a  
13 negligible fraction of the vouchers issued during the life of the Grant.

14 29. By the foregoing acts, Defendant acted in violation and reckless disregard of the Grant  
15 Rules.

#### 16 FIRST CAUSE OF ACTION

17 (False Claims Act: Presentation of False Claims; 31 U.S.C. § 3729(a)(1) (2008))

18 30. Plaintiff repeats and realleges paragraphs 1 through 29 as fully set forth herein.

19 31. Defendant knowingly presented or caused to be presented false or fraudulent claims for  
20 payment or approval to the United States. Such false records or statements include, but are not  
21 limited to, draws made by Defendant from the Grant account award.

22 32. By virtue of the false or fraudulent claims made by Defendant, the United States suffered  
23 damages and therefore is entitled to statutory damages under the Act, to be determined at trial, plus  
24 civil penalties.

#### 25 SECOND CAUSE OF ACTION

26 (False Claims Act: Making or Using False Record or Statement to Cause False Claim to be Presented;

27 (31 U.S.C. § 3729(a)(2) (2008))

28 33. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.



1 34. Defendant knowingly made, used, or caused to be made or used, false records or false  
2 statements to get false or fraudulent claims paid or approved by the United States. Such false records  
3 or statements include, but are not limited to, the Grant applications, Grant reports, no-cost extension  
4 requests, and complaints about providers' conduct, that Defendant submitted to SAMHSA and to the  
5 United States.

6 35. By virtue of the false records or false statements made by Defendant in support of false or  
7 fraudulent claims, the United States suffered damages and therefore is entitled to statutory damages  
8 under the Act, to be determined at trial, plus civil penalties.

9 **THIRD CAUSE OF ACTION**

10 (False Claims Act: Making or Using False Record or Statement to Conceal, Avoid, or Decrease an  
11 Obligation to Pay Money to the United States; (31 U.S.C. § 3729(a)(7) (2008))

12 36. Plaintiff repeats and realleges paragraphs 1 through 29 as set forth herein.

13 37. Defendant knowingly made, used, or caused to be made or used, false records or false  
14 statements to conceal, avoid or decrease an obligation to pay or transmit money or property to the  
15 United States. Such false records or statements were made in Grant Applications, Grant reports, no-  
16 cost extension requests, and complaints about providers' conduct, that Defendant submitted to  
17 SAMHSA and to the United States.

18 38. By virtue of the false records or false statements made by Defendant to avoid an  
19 obligation, the United States suffered damages and therefore is entitled to statutory damages under the  
20 Act, to be determined at trial, plus civil penalties.

21 **FOURTH CAUSE OF ACTION**

22 (Recoupment of Payment by Mistake)

23 39. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

24 40. This is a claim for recoupment of monies paid by the United States as a result of mistaken  
25 understandings of fact.

26 41. The United States, acting in reasonable reliance on the truthfulness of Defendant's  
27 certifications and representations, paid Defendant CRIHB certain sums of money to which it was not  
28 entitled, and Defendant is therefore liable to account and return such amounts, which are to be



1 determined at trial, to the United States.

2 **FIFTH CAUSE OF ACTION**

3 (Unjust Enrichment)

4 42. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

5 43. This is a claim for the recovery of monies by which Defendant has been unjustly  
6 enriched.

7 44. By directly or indirectly obtaining or not returning Grant funds to which Defendant was  
8 not entitled, including but not limited the award allotted for Defendant's administrative expenses, and  
9 sums charged to the Grant award for ineligible RSS, Defendant was unjustly enriched, and is liable to  
10 account and pay such amounts, or the proceeds therefrom, which are to be determined at trial, to the  
11 United States.

12 **SIXTH CAUSE OF ACTION**

13 (Breach of Contract)

14 45. Plaintiff repeats and realleges paragraphs 1 through 29 as if fully set forth herein.

15 46. This is a claim for breach of Defendant's contractual obligations to the United States.

16 47. The United States paid Defendant all monies owed under the Grant, but Defendant  
17 breached its contractual obligations under the Grant and is therefore liable to pay to the United States  
18 such contractual damages as may be determined at trial.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, the United States demands and prays that judgment be entered in its favor  
21 against Defendant, as follows:

22 1. On the First, Second and Third Causes of Action under the False Claims Act:

23 (A) For three times the amount of the damages the United States has sustained as a  
24 result of Defendant's unlawful conduct;

25 (B) For a civil monetary penalty of \$11,000 for each false or fraudulent claim  
26 submitted to the United States; and

27 (C) For a permanent injunction enjoining Defendant, and each of them, from violating  
28 the False Claims Act, 31 U.S.C. § 3729 *et seq.*



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
United States of America

DEFENDANTS
California Rural Indian Health Board, Inc.,

(b) County of Residence of First Listed Plaintiff San Francisco
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Sacramento
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Gioconda Molinari, Assistant United States Attorney
United States Attorney's Office; 450 Golden Gate Avenue, Box 36055,
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Attorneys (If Known)
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GOODIN, MacBRIDE, SQUERI, DAY & LAMPREY LLP
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CV 12 4024 LB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
[X] 1 U.S. Government Plaintiff
[ ] 2 U.S. Government Defendant
[ ] 3 Federal Question (U.S. Government Not a Party)
[ ] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)
PTF DEF
Citizen of This State [ ] 1 [ ] 1
Citizen of Another State [ ] 2 [ ] 2
Citizen or Subject of a Foreign Country [ ] 3 [ ] 3
Incorporated or Principal Place of Business In This State [ ] 4 [ ] 4
Incorporated and Principal Place of Business In Another State [ ] 5 [ ] 5
Foreign Nation [ ] 6 [ ] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each category contains a list of specific legal claims with checkboxes.

V. ORIGIN (Place an "X" in One Box Only)
[ ] 1 Original Proceeding [ ] 2 Removed from State Court [ ] 3 Remanded from Appellate Court [ ] 4 Reinstated or Reopened [ ] 5 Transferred from another district (specify) [ ] 6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Federal False Claims Act (31 U.S.C. §§ 3729-3733), and Common Law claims
Brief description of cause:
Plaintiff submitted false or fraudulent claims for payment to the U.S. Government

VII. REQUESTED IN COMPLAINT:
[ ] CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: [ ] Yes [X] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)
(Place an "X" in One Box Only) [X] SAN FRANCISCO/OAKLAND [ ] SAN JOSE [ ] EUREKA

DATE 07/31/2012 SIGNATURE OF ATTORNEY OF RECORD [Signature]