

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-23765-CIV-MARTINEZ/BROWN

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UNITED STATES OF AMERICA,	)
	)
Plaintiff,	)
	)
v.	)
	)
AMERICAN THERAPEUTIC CORPORATION,	)
a Florida corporation; LAWRENCE S. DURAN;	)
MARIANELLA A. VALERA; JUDITH NEGRON;	)
MARGARITA ACEVEDO; MEDLINK	)
PROFESSIONAL MANAGEMENT GROUP, INC.,	)
a Florida corporation; AMERICAN SLEEP	)
INSTITUTE, INC.; a Florida corporation; D&V	)
DEVELOPMENT, INC. a Florida corporation;	)
	)
Defendants.	)
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**SEALED TEMPORARY RESTRAINING ORDER**

This Cause comes before the Court upon Plaintiff United States of America's Emergency *Ex Parte* Motion for Temporary Restraining Order filed pursuant to 18 U.S.C. § 1345. After careful consideration of this motion, the complaint filed by the United States of America ("Plaintiff" or "United States"), the memorandum of points and authorities in support of Plaintiff's motion, and the Declaration of Investigator Kendrick Bailey, the Court finds that the United States has demonstrated that:

1. there is a substantial likelihood that the Defendants, American Therapeutic Corporation; American Sleep Institute, Inc.; MedLink Professional Management Group, Inc.; D&V Development, Inc.; Lawrence S. Duran; Marianella A. Valera; Judith Negron; and Margarita Acevedo are violating and unless enjoined will continue to violate 18 U.S.C. § 1347,

18 U.S.C. § 371, and/or 18 U.S.C. § 1001, and a substantial likelihood that Defendants have committed and unless enjoined will continue to commit a Federal health care offense through the submission of false and fraudulent claims to the Medicare program;

2. there is a substantial likelihood that the Defendants are alienating or disposing of property, and intend to alienate or dispose of property, obtained as a result of a Federal health care offense, property which is traceable to such violation, or property of equivalent value; and

3. that the provision of advance notice to the Defendants will likely aggravate the damage that the order seeks to prevent because advance notice will provide the Defendants with the opportunity to transfer, expend, or conceal the remaining property.

Based on the foregoing, the Court hereby concludes as follows:

4. that the requested relief be considered and granted without prior notice to the Defendants; and

5. because the United States' motion is based upon 18 U.S.C. § 1345, which expressly authorizes injunctive relief to protect the public interest, no specific finding of irreparable harm is necessary, no showing of the inadequacy of other remedies at law is necessary, and no balancing of the interests of the parties is required prior to the issuance of a temporary restraining order in this case.

After consideration of the foregoing, it is therefore

**ORDERED, ADJUDGED, AND DECREED** that

Plaintiff United States of America's Motion for Temporary Restraining Order is **GRANTED**. Defendants, their respective owners, agents, employees, attorneys, and all persons acting in concert and participation with them, including all banking and other financial

institutions at which they do business, and all corporations over which they exercise control, who receive actual notice of this order are enjoined as follows:

1. From making or submitting or conspiring to make or submit any claims to the Medicare program or any health care benefit program, as defined in 18 U.S.C. § 24(b), in violation of 18 U.S.C. § 287, 18 U.S.C. § 371, 18 U.S.C. § 1001, or 18 U.S.C. § 1347, and from committing any Federal health care offense, as defined in 18 U.S.C. § 24;

2. From alienating, withdrawing, transferring, removing, dissipating, or otherwise disposing of, in any manner, any moneys or sums presently deposited, or held on behalf of any Defendant by any financial institution, trust fund, or other financial entity, public or private, that are proceeds or profits from Defendants' Federal health care offenses or property of an equivalent value of such proceeds or profits, **INCLUDING BUT NOT LIMITED TO** the following accounts:

<u>Bank Name</u>	<u>Account Holder</u>	<u>Account Number</u>
• Wachovia	• ASI	• XXXXXXXXXXXX9513
• Wachovia	• ASI	• XXXXXXXXXXXX6530
• Wachovia	• ATC	• XXXXXXXXXXXX8219
• Wachovia	• ATC	• XXXXXXXXXXXX5837
• Wachovia	• ATC	• XXXXXXXXXXXX2210
• Wachovia	• ATC	• XXXXXXXXXXXX6543
• Wachovia	• ATC	• XXXXXXXXX4829
• Wachovia	• D&V	• XXXXXXXXXXXX6268
• Wachovia	• Medlink	• XXXXXXXXXXXX0305
• Bank of America	• Medlink	• XXXXXXXX4157

• Regions Bank	• Acevedo, Margarita	• XXXXXXXX1807
• First Southern Bank	• Duran, Lawrence	• XXXXXXXX0006
• Wachovia Bank	• Duran, Lawrence	• XXXXX7513
• Bank of America	• Duran, Lawrence	• XXXXXXXX1058
• Wachovia	• Duran, Lawrence	• XXXXXXXXXXX9968
• Bank of America	• Duran, Lawrence	• XXXXXXXX9646
• Bank of America	• Duran, Lawrence	• XXXXXXXX8522
• Wachovia	• Duran, Lawrence	• XXXXXXXX6594
• Wachovia Bank	• Negron, Judith	• XXXXXXXX7306
• First Southern Bank	• Negron, Judith	• XXXXX8006
• Ocean Bank	• Negron, Judith	• XXXXXXXX2719
• Wachovia	• Valera, Marianella	• XXXXXXXX6072
• Wachovia	• Valera, Marianella	• XXXXXXXX6098
• Wachovia	• Valera, Marianella	• XXXXXXXX4170
• Wachovia	• Valera, Marianella	• XXXXXXXX0469

3. From alienating, withdrawing, transferring, removing, dissipating, or otherwise disposing of, in any manner, assets, real or personal (including, for example, real estate, motor vehicles, boats and watercraft, jewelry, artwork, antiques, household furniture and furnishings, etc.), in which any Defendant has an interest, up to the equivalent value of the proceeds of the Federal health care fraud.

It is **FURTHER ORDERED** that Defendants, their respective owners, agents, employees, attorneys, and all persons acting in concert and participation with them, including all banking and other financial institutions at which they do business, and all corporations over which they exercise control, who receive actual notice of this order are Ordered:

1. To preserve all business, financial and accounting records, including bank records, that detail any Defendant's business operations and disposition of any payment that directly or indirectly arose from the payment of money to any Defendant on behalf of the Medicare program; and

2. To preserve all medical records, including patient records, that relate to any Defendant's business operations and/or to services for which claims were submitted to the Medicare program.

It is **FURTHER ORDERED** that Defendants, within one calendar week of service of this Order:

1. Provide to the United States the following:
  - a. a list of all post office boxes or other locations at which mail addressed to each Defendant is received by or on behalf of each Defendant;
  - b. a list of all financial institutions, including but not limited to banks and brokerage houses, at which there are now, or have been maintained in the past three years, any savings, checking, money market, investment, retirement, or any other kind of account or other safe deposit box into which money has been deposited in any Defendant's name or in the names of any of their owners, agents, employees, officers, persons acting in concert with them, or any business names under which they operate, together with the number or other designation of each such account or box;

c. a list of all financial institutions, including but not limited to, banks and brokerage houses, at which there are now, or have been maintained in the past three years, any savings, checking, money market, investment, retirement, or any other kind of account or other safe deposit box into which monies received in response to any of the activities described in the United States' complaint, have been deposited, together with the number of such box or other designation of each such account or box; and

d. the names, addresses, and telephone numbers of any individuals who have received remuneration of any kind for assisting in record-keeping, bookkeeping, accounting, brokering, or financial, investment, or tax advice or consultation for any Defendant in the past three years.

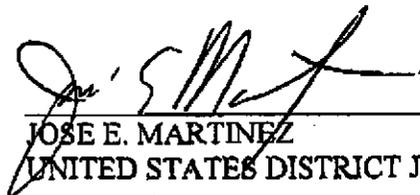
2. In addition, Defendants must complete a Financial Disclosure Statement form provided by the United States and, on a monthly basis, provide to the United States an accounting of their assets in suitable reports detailing their financial conditions.

It is **FURTHER ORDERED** that it is the responsibility of the United States to immediately attempt to serve a copy of this Order on Defendants. It is also the responsibility of the United States to provide actual notice of this order to Defendants and anyone else it deems should receive it. Pursuant to 18 U.S.C. § 1345(a)(3) and Rule 65(c) of the Federal Rules of Civil Procedure, the United States shall not be required to post security for the instant action.

This temporary restraining order shall remain in full force and effect until 14 days from the date of this order. The temporary restraining order may be extended upon the filing of a motion by the United States in which the United States demonstrates that there is good cause for such an extension or that the parties have agreed to an extension.

The parties shall take notice that a hearing shall take place on Plaintiff's motion for a preliminary injunction before the undersigned, United States District Judge Jose E. Martinez, at the United States Courthouse, 400 N. Miami Ave., Miami, Florida 33128 on **Monday, November 1, 2010** at 1:00 p.m. This hearing shall not exceed thirty (30) minutes. The parties shall confer prior to the hearing to determine how to split the allotted time. If the parties are unable to agree on how to split the allotted time, the Court will decide how to split the allotted time. Defendants may file a motion requesting an earlier hearing on the terms of this temporary restraining order in accordance with the terms of Federal Rule of Civil Procedure 65.

**DONE AND ORDERED** at Miami, Florida, this 19 day of October, 2010 at 4:35 pm.

  
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JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
Magistrate Judge Brown  
All Counsel of Record

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

Case Number: 10-23765-CIV-MARTINEZ-BROWN

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

AMERICAN THERAPEUTIC  
CORPORATION et al.,  
Defendants.

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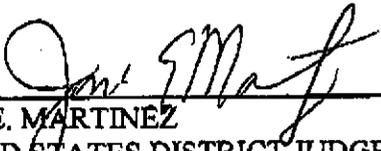
**SEALED ORDER GRANTING UNITED STATES' EX PARTE MOTION TO SEAL  
PROCEEDINGS**

THIS CAUSE came before the Court upon the United States' *Ex Parte* Motion to Seal Proceedings. After careful consideration, it is hereby:

**ORDERED AND ADJUDGED** that

United States' *Ex Parte* Motion to Seal Proceedings is **GRANTED**. This case is sealed until the individual, non-corporate Defendants are arrested and served with the Court's Sealed Temporary Restraining Order, or until the close of business on October 21, 2010, whichever comes first. **Either way, it is the United States's responsibility to immediately file a motion to unseal this case at the appropriate time.** The fact that this case is sealed shall not prevent the United States from serving the Sealed Temporary Restraining Order on Defendants or any other persons or entities it deems necessary. In fact, the United States may serve Defendants with any and all filings in this case at any time.

DONE AND ORDERED in Chambers at Miami, Florida, this 19 day of October, 2010.

  
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JOSE E. MARTINEZ  
UNITED STATES DISTRICT JUDGE

Copies provided to:  
Magistrate Judge Brown  
All Counsel of Record