SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

PEOPLE OF THE STATE OF NEW YORK,
by LETITIA JAMES, Attorney General of
the State of New York

Plaintiff,

- against –

SMI TRANSPORTATION INC. and PAYAM JALAL
a/k/a SHIVAN MOHAMMED
Defendants.

VERIFIED COMPLAINT

Index No.: _____

The People of the State of New York (the "State"), by its attorney Letitia James, Attorney General of the State of New York, allege the following upon information and belief:

PRELIMINARY STATEMENT

1. From April 4, 2018 through July 31, 2019 (the "Relevant Period"), SMI Transportation Inc. ("SMI") and its owner Payam Jalal a/k/a Shivan Mohammed ("Jalal") (collectively, "Defendants"), submitted false claims to the New York State Medical Assistance Program (the "Medicaid Program" or "Medicaid"), 42 U.S.C. §§ 1396 *et seq.,* and accepted payment on those false claims, purporting to provide non-emergency transportation services to Medicaid recipients traveling to or from healthcare services paid for by Medicaid. However, Defendants repeatedly and persistently submitted claims with falsified pickup and/or drop off locations to inflate the milage of the trips for which they billed, thereby falsely increasing payments to them by Medicaid. Defendants also employed the services of a vehicle driver who had been previously excluded from providing Medicaid covered services by the United States Department of Health & Human Services ("HHS").

PARTIES, JURISDICTION, AND VENUE

2. Letitia James is the Attorney General of the State of New York, and as such, is authorized on behalf of Plaintiff, the State, to bring a civil action against those who violate the New York False Claims Act ("FCA"), N.Y. State Fin. Law §§ 187–94; to enjoin and seek restitution for repeated fraudulent or illegal acts or repeated or persistent fraudulent or illegal practices in the conduct of a business pursuant to N.Y. Exec. Law 63(12); and to recover government funds without right obtained pursuant to N.Y. Exec. Law § 63-c and other causes of action under New York State laws.

3. The Medicaid Fraud Control Unit ("MFCU") in the Office of the Attorney General of the State of New York ("OAG") is responsible for investigating and prosecuting, through criminal and civil proceedings, *inter alia*, healthcare providers and persons who assist and facilitate providers' fraudulent schemes and illegal billing of the Medicaid and Medicare programs. Based upon MFCU's investigation of Defendants' conduct, the State has filed this action pursuant to the well-established authority vested in OAG by the Executive Law, Medicaid rules and regulations, and that vested in MFCU by its federal grant of authority under the Social Security Act and its Medicaid and Medicare program regulations to investigate and prosecute provider fraud. *See* Executive Law § 63(12); 42 U.S.C. § 1396b(q); 42 C.F.R. § 1007.11(a)(2).

4. Defendant SMI is a New York corporation with its principal place of business at 1225 Sycamore Street, Buffalo, New York 14225.

5. Defendant Jalal last resided at an address known to MFCU in Buffalo, New York, and was an owner and high managerial agent of SMI during the Relevant Period.

6. Venue is proper in Erie County pursuant to CPLR 503(a) and (c) because Jalal is a resident of Erie County and SMI's principal office is located in Erie County.

THE MEDICAID PROGRAM

7. The Medicaid Program, administered by the New York State Department of Health ("DOH"), is authorized by Title XIX of the Social Security Act and Title 42 of the Code of Federal Regulations. Medicaid is a joint federal-state program that provides health care benefits for certain groups, including the poor and disabled. Medicaid is funded by both federal and state tax dollars.

8. By enrolling as a Medicaid provider, a healthcare provider must agree to abide by all rules and regulations of the Medicaid Program pursuant to Title 18 of the Official Compilation of Codes, Rules, and Regulations of New York State, Section 504.3. *See* 18 NYCRR § 504.3(i); *see also* 18 NYCRR § 515.2(a)(1). Further, 18 NYCRR § 504.6(d) requires that a provider submit Medicaid claims only for services provided in compliance with Title 18 of the Official Compilation of Codes, Rules and Regulations of New York State.

9. As part of Medicaid, providers are required to submit an annual certification affirming their compliance with all program rules and regulations. *See* 18 NYCRR §§ 504.1(b)(1), 504.9; *see generally* current and archived versions (2021-1, 2018-2, 2018-1, 2016-1) of the New York State Medicaid Program, *Information for all Providers General Billing, Archive,* at, https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information _for_All_Providers-General_Billing.pdf. The certification states:

> I (or the entity) have furnished or caused to be furnished the care, services, and supplies itemized and done so in accordance with applicable federal and state laws and regulations . . . In submitting claims under this agreement, I understand and agree that I (or the entity) shall be subject to and bound by all rules, regulations, policies, standards, fee codes and procedures of the New York State Department of Health and the Office of the Medicaid Inspector General as set forth in statute or Title 18 of the Official Compilation of Codes, Rules and Regulations of New York State and other publications of the Department, including eMedNY Provider Manuals and other official bulletins of the Department.

eMedNY, *Certification Statement for Provider Billing Medicaid*, https://www.emedny.org/info/providerenrollment/ProviderMaintForms/490501_ETIN_CERT_Certification_Statement_Cert_Instructions_for_Existing_ETINs.pdf.

10. Medicaid providers are prohibited from engaging in certain "unacceptable practices." 18 NYCRR § 515.2. As relevant here, these practices include violating DOH rules and regulations and participating in conduct that constitutes fraud and abuse, including making or causing to be made a false claim for an improper amount or unfurnished services; ordering or furnishing improper, unnecessary, or excessive services; making false statements or failing to disclose events that affect the right to payment; failing to maintain or make available for audit or investigation records necessary to fully disclose the extent of the services provided; and soliciting, receiving, offering, or agreeing to make a bribe or kickback, including making any payment for the purpose of influencing a Medicaid recipient to use or refrain from using any particular source of services. *See* 18 NYCRR § 515.2(b).

11. The Medicaid Program will not knowingly pay claims resulting from unacceptable practices. All claims for payment submitted to Medicaid resulting from unacceptable practices are in violation of a material condition of payment of the Medicaid Program, and Defendants are liable for repayment of such overpayments. *See* 18 NYCRR § 518.3.

12. Further, a person who is excluded from the program cannot be involved in any activity relating to furnishing medical care, services or supplies to recipients of medical assistance for which claims are submitted to the program, or relating to claiming or receiving payment for medical care, services or supplies during the period. *See* 18 NYCRR § 515.5(c). No payments will be made to or on behalf of any person for the medical care, services or supplies furnished by or

under the supervision of the person during a period of exclusion or in violation of any condition of participation in the program. *See* 18 NYCRR § 515.5(a)

Non-Emergency Transportation for Medical Care and Services

13. To ensure access to health care for Medicaid enrollees, the Medicaid Program provides recipients with modes of transportation to necessary medical care and services covered by the Medicaid Program. The Medicaid Program covers transportation by ambulance, ambulette, taxi, livery, public transit, and personal vehicle. This action involves SMI acting under the rules for "Non-Emergency Transportation"—the lowest level of transportation service in ordinary taxi vehicles licensed under the rules of the county or city of operation.

14. To operate as a medical taxi or livery service under the Medicaid Program, a company must enroll as a provider in the Medicaid Program; provide an ownership disclosure; execute annual notarized certifications; agree to follow Medicaid rules and regulations; and, in fact, comply with those Medicaid rules and regulations, as well as with local regulations governing taxi or livery vehicles in its county of operation and the New York State Department of Motor Vehicles regulations. *See* 18 NYCRR § 510.10(e)(6)(iii).

15. Among the Medicaid rules and regulations with which a provider must comply is the requirement that a transportation provider may only claim payment for mileage actually driven and tolls actually incurred and must take the most direct route possible. When the transportation provider simultaneously carries more than one recipient in the same vehicle, the provider can only claim the mileage once for the recipient who was transported the furthest distance. Medicaid will only pay a transportation provider where a recipient "is actually being transported in the vehicle." 18 NYCRR § 505.10(e)(5).

16. Upon completing a trip, a transportation provider attests that the trip took place in a computerized system operated by DOH's third-party transportation manager. The transportation manager then issues a "prior approval," which dictates the procedure codes (e.g., mileage; tolls), modifiers, units/quantities (e.g., how many legs of a trip, mileage), and monetary amounts for which the provider is authorized to bill. The provider uses the information on the prior approval to bill Medicaid directly.

FACTUAL BACKGROUND

17. During the Relevant Period, SMI and Jalal were enrolled in the Medicaid Program under Provider ID # 04788721 and Tax ID # **-***0587. In 2017, Jalal signed Medicaid annual certifications certifying SMI's compliance during the relevant period with New York law and the rules and regulations of the Medicaid Program.[1]

18. Jalal is the sole owner and high managerial agent of SMI. During the Relevant Period, SMI submitted, and Jalal submitted or caused SMI to submit, false and fraudulent claims to, and received reimbursement from, Medicaid for providing Medicaid recipients with transportation services that contained inflated mileage.

19. Defendants submitted 145 claims during the Relevant Period in which they attested to having picked up and/or dropped off Medicaid recipients at false addresses to inflate the milage of the trips to receive higher reimbursement amounts. These claims totaled $53,263.86.[2]

[1] *See* Exhibit A, 2017 Medicaid Provider Annual Certification Statements.
[2] *See* Exhibit B for a summarized chart of the claims at issue in this case. Throughout this pleading and its attachments, the State has anonymized the Medicaid recipients due to concerns about releasing their Personal Health Information ("PHI") and Personal Identifying Information ("PII"). Upon request, the State will provide the Court and Defendants with a legend identifying each Medicaid recipient whose claims are at issue, *in camera* and, if the Court deems appropriate, subject to a protective order. Exhibit B sets forth the dollar value and number of false claims submitted by, and paid to, SMI for claims where SMI submitted a false pickup address, sorted by the alleged recipient receiving transportation, during the Relevant Period. The false claims set forth on Exhibit B are incorporated in the allegations of this Complaint by reference.

20. Medicaid payments for transports are comprised of reimbursement for both a "trip" component (flat rate per one-way trip) and a "mileage" component (rate per mile driven). Both rates are based on the county where the trip originated. Generally, the mileage component has the greater impact on the payment calculation. Defendants repeatedly and persistently submitted claims with a pick-up and/or drop-off address that was not actually where the recipient was picked up and/or dropped off.

21. Specifically, at several residences where SMI purportedly picked up and/or dropped off Medicaid recipients, the property owners and/or landlords confirmed that the individuals on Defendants' Medicaid claims did not reside there at the time of the claimed purported service.

22. SMI falsified addresses it submitted to Medicaid to inflate the mileage it could claim. For example:

a. SMI's claims and attestations for Medicaid Recipient A listed a pickup address in Olean, NY that was over 65 miles farther away from the clinic SMI purportedly transported the recipient than the address Medicaid Recipient A had on file at with the Medicaid system at the time, which was in Buffalo, New York. Recipient A could not have been transported from the address in Olean, NY as Recipient A had not lived there for several months prior to these dates of SMI's alleged transports. By using this false address, Defendants increased the mileage difference significantly, and grossly inflated SMI's payment from Medicaid for these claims.

23. During the Relevant Period, SMI also employed a driver who, since April 20, 2016, had been excluded from providing Medicaid covered services by HHS, as a result of a Medicaid Program related criminal conviction. Yet, despite the driver's exclusion from the Medicaid Program, Defendants submitted claims to, and received payment from, the Medicaid program for

266 claims on which this individual was listed as the driver. Those trips were impermissible and conducted in violation of Medicaid rules and regulations. *See* 18 NYCRR § 515.5(a) and (c). These claims amounted to $43,563.24. Exhibit B also sets forth the dollar value and number of false claims submitted by, and paid to, SMI for claims where SMI utilized this driver previously excluded from the Medicaid Program, sorted by the alleged Recipient receiving transportation, during the Relevant Period. The false claims set forth on Exhibit B are incorporated in the allegations of this Complaint by reference.

FIRST CAUSE OF ACTION
PURSUANT TO N.Y. STATE FIN. LAW §§ 189(1)(a-c):
VIOLATION OF THE FCA

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. The New York State False Claims Act, Fin. Law § 189(1) prohibits any person from knowingly: (a) presenting or causing to be presented a false or fraudulent claim for payment or approval; (b) making, using, or causing to made or used, a false record or statement material to a false or fraudulent claims; and (c) conspiring to commit a violation of subsections (a) and (b).

3. Defendants, acting with actual knowledge or with deliberate ignorance or reckless disregard of the truth, presented and/or caused the presentation of false claims to Medicaid including those for inflated mileage resulting from misrepresenting the pickup and/or drop off addresses of recipients and including those for using an employee who was excluded from providing Medicaid covered services.

4. Defendants, acting with actual knowledge or with deliberate ignorance or reckless disregard of the truth, made or used false records or statements material to a false or fraudulent

claim, including by misrepresenting the pickup and/or drop off addresses of recipients and the transportation provided.

5. Defendants acting with actual knowledge or with deliberate ignorance or reckless disregard of the truth engaged in a conspiracy to commit acts under subsections 189(1)(a) and 189(1)(b).

6. Because of Defendants' conduct, the State has sustained damages in a substantial amount to be determined at trial and is entitled to treble damages plus a civil penalty for each violation, pursuant to the FCA.

SECOND CAUSE OF ACTION
PURSUANT TO N.Y. EXEC. LAW § 63(12):
VIOLATIONS OF THE FCA
REPEATED AND PERSISTENT ILLEGALITY

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. Defendants have engaged in repeated and persistent illegal acts and/or illegality in the carrying on, conducting, or transaction of business, in violation of N.Y. Exec. Law § 63(12) by:

a. Repeatedly and persistently presenting false claims to Medicaid for payment approval including those for inflated mileage resulting from misrepresenting the pickup and/or drop off addresses of recipients and including those for using an employee who was excluded from providing Medicaid covered services in violation of Fin. Law § 189(1)(a); and

b. Repeatedly and persistently making or using false records or statements material to a false or fraudulent claim, by misrepresenting the pickup and/or drop off addresses of recipients, in violation of Fin. Law § 189(1)(b).

THIRD CAUSE OF ACTION
PURSUANT TO N.Y. EXEC. LAW § 63-c:
OVERPAYMENT OF PUBLIC FUNDS

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. Defendants directly and/or indirectly obtained, received, converted, or disposed of Medicaid funds to which they were not entitled, as alleged in the foregoing paragraphs of this Complaint.

3. The acts and practices of Defendants complained of herein constitute a misappropriation of public property, in violation of the Tweed Law, N.Y. Exec. Law § 63-c.

FOURTH CAUSE OF ACTION
PURSUANT TO N.Y. EXEC. LAW § 63(12):
VIOLATIONS OF N.Y. EXEC. LAW § 63-c
REPEATED AND PERSISTENT ILLEGALITY

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. Defendants have also engaged in repeated and persistent illegal acts and/or illegality in the carrying on, conducting, or transaction of business, in violation of N.Y. Exec. Law § 63(12) by:

a. Repeatedly and persistently obtaining, receiving, converting, or disposing of Medicaid funds, directly and/or indirectly, to which they were not entitled, in violation of the Tweed Law, N.Y. Exec. Law § 63-c, as alleged in the foregoing paragraphs of this Complaint.

FIFTH CAUSE OF ACTION
PURSUANT TO N.Y. EXEC. LAW § 63(12):
REPEATED AND PERSISTENT FRAUD

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. N.Y. Exec. Law § 63(12) authorizes the New York Attorney General to seek injunctive and other equitable relief whenever an individual or entity engages in repeated or persistent fraudulent conduct.

3. N.Y. Exec. Law § 63(12) defines fraud and fraudulent conduct broadly to include "any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contractual provisions." Defendants, repeatedly and persistently committed fraud by, to wit:

a. Repeatedly and persistently presenting false claims to Medicaid for payment approval including those for inflated mileage resulting from misrepresenting the pickup and/or drop off addresses of recipients and including those for using an employee who was excluded from providing Medicaid covered services; and

b. Repeatedly and persistently making or using false records or statements material to a false or fraudulent claim, by misrepresenting the pickup and/or drop off addresses of recipients and the transportation provided.

4. By reason of the acts and practices alleged herein, Defendants have engaged in repeated and persistent fraud in violation of N.Y. Exec. Law § 63(12).

SIXTH CAUSE OF ACTION
PURSUANT TO SOCIAL SERVICES LAW § 145-b:
FALSE STATEMENTS

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. Defendants knowingly by means of false statements or representations, or by deliberate concealment of material facts or by other fraudulent schemes or devices, obtained payment for themselves and others for services purportedly furnished pursuant to the laws of the State of New York, including the rules and regulations of the Medicaid Program.

3. By reason of the foregoing, Defendants are liable to the State pursuant to Social Services Law § 145-b for actual damages and three times the amounts falsely submitted, plus interest at the highest legal rate.

SEVENTH CAUSE OF ACTION
PURSUANT TO N.Y. EXEC. LAW § 63(12):
VIOLATIONS OF SOCIAL SERVICES LAW § 145-b
REPEATED AND PERSISTENT ILLEGALITY

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. Defendants have also engaged in repeated and persistent illegal acts and/or illegality in the carrying on, conducting, or transaction of business in violation of N.Y. Exec. Law § 63(12) by:

a. Repeatedly and persistently, by means of false statements or representations, or by deliberate concealment of material facts or by other fraudulent schemes or devices, obtaining payment for themselves and others for services purportedly furnished pursuant to the laws of the State of New York, including the rules and regulations of

the Medicaid Program, in violation of Social Services Law § 145-b, as alleged in the foregoing paragraphs of this Complaint.

EIGHTH CAUSE OF ACTION
UNJUST ENRICHMENT

As Against All Defendants

1. The State repeats and realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

2. Defendants have been unjustly enriched to the detriment of Medicaid by diverting Medicaid payments intended to provide Medicaid recipients transportation to essential services to themselves, and it is against equity and good conscience to permit them to retain those payments.

PRAYER FOR RELIEF

WHEREFORE, as a result of the conduct described herein, the State respectfully requests that this Court grant the relief set forth below against each of the Defendants, pursuant to the FCA, N.Y. Exec. Law § 63(12), N.Y. Exec. Law § 63-c, Social Services Law § 145-b, and the theory of common law Unjust Enrichment, by issuing an order and judgment:

1. Declaring that:

   a. Defendants have engaged in repeated and persistent fraud in the carrying on, conducting, and transaction of business, in violation of Executive Law § 63(12); and

   b. Defendants have repeatedly and persistently engaged in illegal acts in the carrying on, conducting, and transaction of business, in violation of Executive Law § 63(12) by engaging in fraud in operating SMI by submitting claims for services not rendered; and

c. Defendants have by means of a false statement or representation, obtained payment from Medicaid funds for services or supplies purportedly furnished; and

d. Defendants have obtained, received, converted, and/or disposed of Medicaid funds, directly or indirectly, to which they were not entitled.

2. Permanently enjoining Defendants from:

a. Further violating healthcare regulations and Medicaid guidelines relating to transportation services in New York State; and

b. Further engaging in fraudulent and illegal acts and practices relating to reimbursement by the Medicaid Program.

3. Awarding, under Executive Law §§ 63(12) and 63-c, a money judgment in favor of the State against Defendants, jointly and severally, in an amount to be determined at trial but at least $96,827.10, said sum being the total amount of restitution owed to the Medicaid Program known at the time of the service of the Complaint, set forth in Exhibit 2.

4. Awarding, under the False Claims Act and Social Services Law § 145-b, a money judgment in favor of the State against Defendants, jointly and severally, in an amount to be determined at trial but at least $290,481.30, said sum representing treble damages, less the amount of any money judgment ordered pursuant to Paragraph 3, above.

5. Awarding interest from the date of each payment to Defendants at the maximum legal rate in effect on the date each payment was made.

6. Directing Defendants to pay civil penalties in the amount of $12,000.00 per violation pursuant to the FCA and Social Services Law § 145-b.

7. Awarding the State reasonable attorneys' fees.

8. Awarding Plaintiff statutory costs against each Defendant in the amount of $2,000.00 pursuant to CPLR § 8303(a)(6); and

9. Granting the State such other and further relief as this Court deems just and proper.

Dated: Buffalo, New York
June 25, 2025

LETITIA JAMES
Attorney General of the State of New York

BY: _____
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VERIFICATION

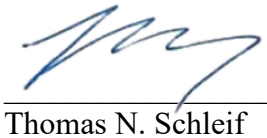
Index No.: _____

Thomas N. Schleif, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following under penalty of perjury:

I am a Special Assistant Attorney General in the New York State Attorney General's Medicaid Fraud Control Unit, of Counsel to Attorney General of the State of New York Letitia James, attorney for Plaintiff in this action. I am acquainted with the facts set forth in the foregoing Complaint, based on my review of the files of the Medicaid Fraud Control Unit and information provided by Special Assistant Attorneys General and auditors and investigators participating in the investigation of this matter, and said Complaint is true to my knowledge, except as to matters which were therein stated to be upon information and belief, as to those matters I believe them to be true. The reason I make this verification is that Plaintiff the People of the State of New York is a body politic.

Dated: Buffalo, NY
June 25, 2025

LETITIA JAMES
Attorney General of the State of New York



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