

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (HHS), (collectively, the “United States”), the State of Missouri and its Department of Social Services, MO HealthNet Division, acting through the Missouri Attorney General’s Office (collectively “Missouri”) and Great Circle (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. Great Circle is a Missouri nonprofit corporation with several locations throughout Missouri and one location in Kansas. Great Circle’s principal place of business is 330 N. Gore, Webster Groves, Missouri. Great Circle is a behavioral health organization that primarily provides crisis programs, counseling, and both residential and non-residential care to children and teens.

B. The United States and Missouri contend that Great Circle submitted or caused to be submitted claims for payment to the Medicaid Program, 42 U.S.C. §§ 1396-1396w-5 (“Medicaid”). In Missouri, Medicaid is jointly funded by Missouri and the United States.

C. The United States and Missouri contend that they have certain civil claims against Great Circle arising from the following:

From January 1, 2017, through December 31, 2021, at its locations in St. James and Webster Groves, Missouri, Great Circle submitted claims for payment to Missouri that the United States and Missouri contend were false in that the claims certified that an enhanced level of staffing was provided for particular children, and as a result Great Circle received additional payments to which it was not entitled. Specifically, the United States and Missouri contend that

Great Circle submitted numerous false claims for payment certifying that it provided a generally enhanced level of staffing or supervision for a particular child, or specifically that a 2:1, 1:1, 1:2, 1:3, or 1:4 ratio of staff member to child was provided for a particular child during a particular time period, when, in fact, that enhanced level of staffing or supervision was not provided.

The United States and Missouri further contend that from January 1, 2016 through December 31, 2021, at its locations in St. James and Webster Groves, Missouri, Great Circle submitted false claims for payment to Missouri for Applied Behavioral Analysis (ABA) therapy and as a result received payments to which it was not entitled. ABA Therapy is based on science and learning behavior and is typically used to help people with autism and other developmental disorders. Great Circle's claims for payment for ABA therapy were false in that: (i) the claims were double-billed in that payments for ABA therapy were already specifically included in another payment Missouri made to Great Circle for enhanced staffing and related services; and (ii) in some instances, the ABA services were not provided.

This conduct is referred to below as the "Covered Conduct."

D. This Settlement Agreement is neither an admission of liability by Great Circle nor a concession by the United States or Missouri that their claims are not well founded.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

#### TERMS AND CONDITIONS

1. Great Circle shall pay to the United States one million, eight-hundred sixty-six thousand dollars (\$1,866,000) ("Settlement Amount"), of which nine-hundred thirty-three thousand dollars (\$933,000) is restitution, no later than five (5) days after the Effective Date of

this Agreement by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Eastern District of Missouri.

2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount, the United States releases Great Circle together with its direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; and the corporate successors and assigns of any of them from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; any statutory provision creating a cause of action for civil damages or civil penalties which the Civil Division of the Department of Justice has actual or present authority to assert or compromise under 28 C.F.R. Pt. 0, Subpart I, 0.45(d); or the common law theories of payment by mistake, unjust enrichment, and fraud.

Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount, Missouri releases Great Circle together with its direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; and the corporate successors and assigns of any of them from any civil or administrative monetary claim that Missouri has for the Covered Conduct under Missouri Revised Statutes § 191.905; or the common law theories of payment by mistake, unjust enrichment, fraudulent misrepresentation, negligent misrepresentation, breach of contract, and fraud.

3. Notwithstanding the release given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States and Missouri are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including mandatory or permissive exclusion from Federal health care programs;
- d. Any liability to the United States, Missouri, or their agencies for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals; and
- g. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

4. Great Circle waives and shall not assert any defenses it may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

5. Great Circle fully and finally releases the United States and Missouri, their agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Great Circle has asserted, could have asserted, or may assert in the future against the United States or Missouri, and their agencies, officers, agents, employees, and servants related to the Covered Conduct and the United States' and Missouri's investigation and prosecution thereof.

6. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by Missouri or any state or Medicaid payer

related to the Covered Conduct. Great Circle agrees not to resubmit to Missouri or any state or Medicaid payer any previously denied claims related to the Covered Conduct; and Great Circle agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

7. Great Circle agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Great Circle, its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement and any related Non-Prosecution Agreement;
- (2) the United States' and Missouri's audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;
- (3) Great Circle's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement and any Non-Prosecution Agreement; and
- (5) the payment Great Circle makes to the United States pursuant to this Agreement

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: If applicable, Unallowable Costs shall be separately determined and accounted for by Great Circle, and Great Circle shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Great Circle or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: If applicable, Great Circle further agrees that within 90 days of the Effective Date of this Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this Paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Great Circle or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Great Circle agrees that the United States and Missouri, at a minimum, shall be entitled to recoup from Great Circle any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The

United States and Missouri reserve their rights to disagree with any calculations submitted by Great Circle or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Great Circle's or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States or Missouri to audit, examine, or re-examine Great Circle's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

8. Great Circle agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, Great Circle shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Great Circle further agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by another on its behalf.

9. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 10, below.

10. Great Circle agrees that it waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents,

sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

11. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

13. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of Missouri. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

14. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

15. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

16. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

17. This Agreement is binding on Great Circle's successors, transferees, heirs, and assigns.

18. All Parties consent to the United States' and Missouri's disclosure of this Agreement, and information about this Agreement, to the public.

19. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 2-23-23

BY: Suzanne Moore  
TIFFANY BECKER  
Attorney for the United States Acting Under Authority  
Conferred by 28 U.S.C. § 515  
Suzanne J. Moore  
Assistant United States Attorney  
Eastern District of Missouri

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

**LISA RE**

Digitally signed by LISA  
RE  
Date: 2023.02.21  
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LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

STATE OF MISSOURI

DATED : 17 Feb 23

BY:

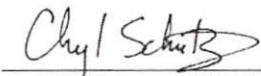


ANDREW BAILEY  
Missouri Attorney General  
Arvids V. Petersons  
Chief Counsel/Director  
Missouri Medicaid Fraud Control Unit  
Missouri Attorney General's Office

GREAT CIRCLE

DATED: 2/16/2023

BY:

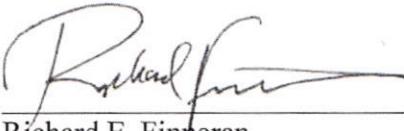


CHERYL A. SCHUETZE

Chief Legal Officer and Authorized Representative of  
Great Circle

DATED: 2/16/2023

BY:



Richard E. Finnegan

Reginald L. Harris

BRYAN CAVE LEIGHTON PAISNER LLP

Counsel for Great Circle