

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA and
THE STATE OF NEW YORK *ex rel.*
MICHELE MARTINHO,

Plaintiffs,

v.

GRAMERCY CARDIAC DIAGNOSTIC
SERVICES P.C. and KLAUS PETER
RENTROP,

Defendants.

18 Civ. 7400 (JMF)

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

GRAMERCY CARDIAC DIAGNOSTIC
SERVICES P.C. and KLAUS PETER
RENTROP,

Defendants.

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

WHEREAS, this Stipulation and Order of Settlement and Dismissal (“Stipulation”) is entered into by and among plaintiff the United States of America (the “United States” or “Government”), by its attorney, Damian Williams, United States Attorney for the Southern District of New York, and on behalf of the Department of Health and Human Services Office of Inspector General (“HHS-OIG”); the relator Michele Martinho (“Relator”), by her authorized representatives; and defendants Gramercy Cardiac Diagnostic Services P.C. (“Gramercy Cardiac”) and Dr. Klaus Peter Rentrop (“Rentrop”, or, together with Gramercy Cardiac, “Defendants”), by their authorized representatives;

WHEREAS, Gramercy Cardiac is a New York-based company founded, owned, and controlled by Rentrop, who serves as its President;

WHEREAS, Gramercy Cardiac offers cardiac diagnostic services, including echocardiograms, positron emission tomography (“PET”) scans, and single-photon emission computerized tomography (“SPECT”) scans, and for many years operated four offices in New York City;

WHEREAS, on or about August 15, 2018, Relator filed a complaint under the *qui tam* provisions of the False Claims Act (“FCA”), 31 U.S.C. § 3729 *et seq.*, and the New York False Claims Act, N.Y. State Fin. Law § 187, *et seq.*, against Rentrop and Gramercy Cardiac (the “Relator Complaint”);

WHEREAS, the Government alleges that from January 1, 2010 through December 31, 2021 (the “Covered Period”), Rentrop and Gramercy Cardiac offered and paid physicians and their practices millions of dollars of remuneration in the form of rent payments and referral fees to induce them to refer patients to Gramercy-contracted cardiologists and to Gramercy Cardiac for diagnostic tests and procedures, in violation of the Anti-Kickback Statute (the “AKS”), 42 U.S.C. § 1320a-7b(b). The Government further alleges that such violations of the AKS render the claims submitted to Medicare and Medicaid for these tests and procedures false under the FCA. In particular, the Government alleges that: (a) Rentrop and Gramercy Cardiac entered into office space rental agreements, often in excess of fair market value, with primary care and other physicians (or their medical practices) in order to induce these physicians to refer patients to Gramercy-contracted cardiologists who used the rented office space; (b) these cardiologists regularly ordered diagnostic tests and procedures that were performed at Gramercy Cardiac; and (c) Rentrop and Gramercy Cardiac paid many of these cardiologists a flat fee for each diagnostic

test or procedure the referred patients underwent at Gramercy Cardiac, with larger fees for tests or procedures for which Gramercy Cardiac received larger reimbursements. The conduct described in this paragraph is the “Covered Conduct” for purposes of this Stipulation;

WHEREAS, contemporaneous with the filing of this Stipulation, the Government is filing a Notice of Election to Intervene and Complaint-In-Intervention (the “Government Complaint”) in the above-referenced *qui tam* action, in which it is asserting claims against Rentrop and Gramercy Cardiac under the FCA, the Stark Law, and the common law for the Covered Conduct;

WHEREAS, Defendants intend to enter into a separate settlement agreement with the State of New York (the “State Settlement”) to resolve claims asserted by the State of New York under New York law for the Covered Conduct, and has agreed to pay a total of \$1,989,362 to New York pursuant to the State Settlement;

WHEREAS, simultaneously with this Stipulation, Rentrop is entering into a Voluntary Exclusion Agreement with the Office of Inspector General of the Department of Health and Human Services under which he agrees to be excluded from participation in Medicare, Medicaid, and other federal health care programs for a period of 5 years from the date of that agreement, which is attached hereto as Exhibit A;

WHEREAS, the Government, Relator, and Defendants (together, the “Parties”) have, through this Stipulation, reached a mutually agreeable resolution addressing the claims asserted against Defendants in the Government Complaint and the Relator Complaint, for the Covered Conduct;

NOW, THEREFORE, upon the Parties’ agreement IT IS HEREBY ORDERED that:

TERMS AND CONDITIONS

1. The Parties agree that this Court has subject matter jurisdiction over this action and consent to this Court's exercise of personal jurisdiction over each of them.

2. Defendants each admit, acknowledge, and accept responsibility for the following conduct (the "Admitted Conduct"):

- a. From 2010 through 2021, Gramercy Cardiac, at Rentrop's direction, entered into rental agreements (the "Rental Agreements") with more than 130 physicians and medical practices (the "Rental Practices") under which Gramercy Cardiac leased a portion of the practice's office space, usually one or two exam rooms for certain days or hours each month. Rentrop took part in the negotiation of the Rental Agreements and signed them on behalf of Gramercy Cardiac. Gramercy Cardiac paid a total of more than \$11 million to the Rental Practices pursuant to the Rental Agreements.
- b. From 2010 through 2021, Gramercy Cardiac, at Rentrop's direction, entered into independent contractor agreements (the "Independent Contractor Agreements") with more than 50 cardiologists (the "Gramercy-Contracted Cardiologists") or their medical practices. Rentrop took part in the negotiation of the Independent Contractor Agreements and signed them on behalf of Gramercy Cardiac.
- c. Gramercy Cardiac sent the Gramercy-Contracted Cardiologists to the rented office space one or more times each month to see patients who were referred for an assessment by the healthcare providers at the Rental Practice. The Gramercy-Contracted Cardiologists in turn referred these patients to

Gramercy Cardiac to undergo diagnostic tests and procedures, such as PET and SPECT scans. Some of the referred patients were Medicare and Medicaid beneficiaries, and Gramercy Cardiac submitted claims for payment for the care provided to these referred patients.

- d. Gramercy Cardiac paid many of the Gramercy-Contracted Cardiologists a flat fee for each diagnostic test or procedure which the cardiologist referred to Gramercy Cardiac provided that the patient received the test or procedure at a Gramercy Cardiac location. These “per procedure” fees were the only compensation Gramercy Cardiac provided to the Gramercy-Contracted Cardiologists.
- e. Certain versions of Independent Contractor Agreements stated that the Gramercy-Contracted Cardiologist was to be paid not for the referrals to Gramercy Cardiac, but rather for the “[a]dministration and supervision” of the PET and SPECT scans to be performed at Gramercy Cardiac. However, in many cases the Gramercy-Contracted Cardiologists did not, in fact, administer and supervise the PET and SPECT scans and were nonetheless paid by Gramercy Cardiac based solely on the number of tests and procedures referred.
- f. At the time the Rental Agreements were executed, it was understood that the Rental Practices would refer their patients to the Gramercy-Contracted Cardiologists. Indeed, Gramercy Cardiac calculated the number of hours per month that Gramercy Cardiac leased the office space for based on the volume of expected patient referrals.

- g. Gramercy Cardiac calculated its return on investment from its Rental Agreements—which it internally referred to as the “efficiency” of the Rental Agreements—by comparing the revenue Gramercy Cardiac generated from the patient referrals to the payments it made to the Rental Practice.
- h. According to an internal Gramercy Cardiac document, one of the “[p]rimary responsibilities” of its sales representatives (called “Physician Liaisons”) was “obtain[ing] efficiency minimums to ensure continuous profit,” and the sales representatives were expected to “[c]onsistently evaluate all contracts to ensure efficiency and profitability.” Rental Agreements were supposed to meet an “efficiency minimum” threshold.
- i. When a Rental Agreement’s return on investment fell below the minimum threshold, Gramercy Cardiac, at Rentrop’s direction, would often refuse to pay the Rental Practice the amounts due under the Rental Agreement. In addition, at Rentrop’s direction, Gramercy Cardiac Physician Liaisons advised Rental Practice physicians that if the volume of referrals to Gramercy-Contracted Cardiologists did not increase, rent would be decreased or the Rental Agreement would be terminated. Gramercy Cardiac terminated a number of Rental Agreements because the return on investment through patient referrals was too low.
- j. When negotiating or re-negotiating the monthly rental payment to be made under a Rental Agreement, Gramercy Cardiac took into account the

expected or historic return on investment based on the volume of patient referrals generated from the Rental Practice.

- k. The rental fees paid by Gramercy Cardiac under the Rental Agreements were in excess of fair market value for at least some Rental Agreements.

3. Defendants shall execute and agree to the entry of a consent judgment in favor of the Government and against that Defendant in the amount of \$64,417,515, copies of which are attached hereto as Exhibit B (the “Consent Judgment”). The Government may use the Consent Judgment to obtain a security interest in any asset or property of the Defendants, but shall not perfect or execute upon such security interest or engage in any other collection activity with respect to the Consent Judgment so long as Defendants fully comply with the terms of this Stipulation. Pursuant to this Stipulation, Defendants agrees to pay and the Government agrees to accept the payment of \$4,510,678 in full satisfaction of the Consent Judgment (the “Settlement Amount”). Defendants shall pay the Settlement Amount to the Government in three installments as follows:

- a. Within fourteen (14) business days of the Effective Date, Defendants shall pay the Government the sum of \$2,428,805.
- b. On or before July 15, 2024, Defendants shall pay the Government the sum of \$1,387,889.
- c. On or before July 15, 2025, Defendants shall pay the Government the sum of \$693,944.

Defendants are jointly and severally liable to the Government for the Settlement Amount. Payments pursuant to this paragraph shall be made in accordance with instructions to be provided by the Financial Litigation Unit of the United States Attorney’s Office for the Southern District of New York. The full Settlement Amount constitutes restitution to the United States.

4. By December 31, 2023, Rentrop shall no longer have any ownership interest in or any control over the operations of Gramercy Cardiac. This date may be extended upon the written consent of the United States. In the event that Gramercy Cardiac or any of its assets are sold, Defendants shall pay to the United States 62% of the proceeds of the sale, after the other liabilities (excluding any liabilities to Rentrop or any entity owned or operated by Rentrop) have been paid. This payment shall be made within 30 business days of the sale.

5. Rentrop agrees that he shall not seek indemnification from any source with respect to any portion of the Settlement Amount.

6. Should Defendants comply fully with the payment schedule set forth in Paragraph 3 above as well as the other terms of this Stipulation, the Consent Judgment shall be deemed to be satisfied in full and, upon Defendants' request, the Government shall file with the Clerk of the Court and deliver to Defendants a Full Satisfaction of Judgment. In the event that Defendants fully pay the Settlement Amount faster than as provided in the payment schedule set forth in Paragraph 3 above, and fully comply with all other terms of the Stipulation, the Consent Judgments shall be deemed to be satisfied in full and, upon Defendants' request, the Government shall file with the Clerk of the Court and deliver to Defendants a Full Satisfaction of Judgment. Should Defendants fail to comply fully with the payment schedule set forth in Paragraph 3 above or any other term of this Stipulation, Defendants shall be in default of this Stipulation, in which case the Government may take any of the actions set forth in Paragraph 14 below.

7. Following the Effective Date, Rentrop shall neither work for, as a salaried employee, as a consultant, as a volunteer, or otherwise, nor accept any payments, direct or indirect, from: (a) Gramercy Cardiac, any successors, transferees, or assigns of Gramercy Cardiac, or any entity operating out of Gramercy Cardiac's current or former office space at 131 West 35th Street

(the “Premises”) (a “Gramercy-Related Entity”); or (b) any entity that receives funds from a federal health care program. Notwithstanding the forgoing, nothing in this provision shall be deemed to prevent Rentrop from:

- a. selling Gramercy Cardiac;
- b. renting the Premises to any entity, provided the monthly rent paid by the entity does not exceed the lesser of (i) the monthly amount paid by Rentrop (A) under the mortgage and construction loans secured by the Premises as of the Effective Date and (B) for the reasonable costs of maintaining the imaging equipment at the Premises, and (ii) \$70,000 per month; or
- c. provided that the services are rendered on a voluntary and unpaid basis and are performed for an entity that is not a Gramercy-Related Entity, from (i) conducting medical research, (ii) teaching medical students, or (iii) reading cardiac-related tests and writing related reports, provided that the entity that administered the test or requested the report does not seek reimbursement or payment for the test or report.

8. Defendants agree to cooperate fully and truthfully with the United States’ investigation of individuals and entities not released in this Stipulation. Upon reasonable notice, Defendants shall encourage, and agrees not to impair, the cooperation of Gramercy Cardiac’s directors, officers, and employees, and shall use their 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. Defendants further agree to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in their possession, custody, or control

concerning any investigation of the Covered Conduct that they have undertaken, or that has been performed by another on their behalf.

9. Subject to the exceptions in Paragraph 13 (concerning reserved claims) below and subject to Paragraph 14 (concerning default) and Paragraph 19 (concerning bankruptcy proceedings) below, and Paragraph 20 (concerning disclosure of financial information) below, and conditioned on Defendants' full compliance with the terms of this Stipulation, including full payment of the Settlement Amount to the United States pursuant to Paragraph 3 above, the United States releases Defendants from any civil or administrative monetary claim that the United States has for the Covered Conduct under the FCA, the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a, the Program Fraud Civil Remedies Act, 31 U.S.C. § 3801-3812, and the common law theories of fraud, payment by mistake, and unjust enrichment. For avoidance of doubt, this Stipulation does not release any current or former officer, director, employee, or agent of Gramercy Cardiac (other than Rentrop) from liability of any kind.

10. Defendants fully and finally release the United States, its agencies, officers, employees, servants, and agents from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Defendants have asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, employees, servants, or agents related to the Covered Conduct or the United States' investigation, prosecution and settlement thereof.

11. Subject to the exceptions in Paragraph 13 (concerning reserved claims) below and subject to Paragraph 14 (concerning default) and Paragraph 19 (concerning bankruptcy proceedings) below, and Paragraph 20 (concerning disclosure of financial information) below, and conditioned on Defendants' full compliance with the terms of this Stipulation, including full

payment of the Settlement Amount to the United States pursuant to Paragraph 3 above, Relator, for herself and her successors, heirs, attorneys, agents, and assigns, releases Defendants from any and all manner of claims, proceedings, liens, and causes of action of any kind or description that Relator has against Defendants related to or arising from the Relator Complaint; provided, however, that nothing in this Stipulation shall preclude Relator from seeking to recover her reasonable expenses and attorneys' fees and costs pursuant to 31 U.S.C. § 3730(d).

12. In consideration of the execution of this Stipulation by Relator and the Relator's release as set forth in Paragraph 11 above, Defendants release Relator and her successors, heirs, attorneys, agents, and assigns, from any and all manner of claims, proceedings, liens, and causes of action of any kind or description that Defendants have against Relator related to or arising from the Relator Complaint.

13. Notwithstanding the releases given in Paragraph 9 above, or any other term of this Stipulation, the following claims of the Government are specifically reserved and are not released by this Stipulation:

- a. any liability arising under Title 26, United States Code (Internal Revenue Code);
- b. any criminal liability;
- c. except as explicitly stated in this Stipulation or in the Voluntary Exclusion Agreement, any administrative liability or enforcement right, including but not limited to the mandatory or permissive exclusion from Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) or 42 U.S.C. § 1320a-7(b) (permissive exclusion);

- d. any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. any liability based upon obligations created by this Stipulation; and
- f. any liability of individuals (other than Rentrop).

14. The Settlement Amount represents the amount the United States is willing to accept in compromise of its civil claims arising from the Covered Conduct, due solely to Defendants' financial condition as reflected in the Financial Disclosures referenced in Paragraph 20 below. Defendants shall be in default of this Stipulation if Defendants fail to pay the Settlement Amount as provided in the payment schedule set forth in Paragraph 3 above or if they fail to comply materially with any other term of this Stipulation that applies to them ("Default"). The Government will provide a written Notice of Default to Defendants of any Default in the manner set forth in Paragraph 32 below. Defendants shall then have an opportunity to cure the Default within seven (7) calendar days from the date of receipt of the Notice of Default. Where the Default is the result of Defendants' failure to comply with the payment schedule set forth in Paragraph 3 or the failure to make the payment required in Paragraph 4, Defendants may cure the Default within seven (7) calendar days from the date of receipt of the Notice of Default by making the payment due. If Defendants fail to cure the Default within seven (7) calendar days of receiving the Notice of Default and in the absence of an agreement with the United States to a modified payment schedule ("Uncured Default"), the remaining unpaid balance of the Settlement Amount shall become immediately due and payable, and interest on the remaining unpaid balance shall thereafter accrue at the rate of 12% per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance). In the event of an Uncured Default, the United States may initiate a collection action or take any other action with respect to the unpaid portion of the

amount specified in the Consent Judgment attached hereto as Exhibit B. Defendants also agrees that the United States, at its sole discretion, may (i) retain any payments previously made, rescind this Stipulation, and reinstate the claims asserted against Defendants in the Government Complaint or bring any civil and/or administrative claim, action, or proceeding against Defendants for the claims that would otherwise be covered by the releases provided in Paragraph 9 above, with any recovery reduced by the amount of any payments previously made by Defendants to the United States under this Stipulation; (ii) take any action to enforce this Stipulation in a new action or by reinstating the Government Complaint; (iii) offset the remaining unpaid balance from any amounts due and owing to Defendants and/or affiliated companies by any department, agency, or agent of the United States at the time of Default or subsequently; and/or (iv) exercise any other right granted by law, or under the terms of this Stipulation, or recognizable at common law or in equity. The United States shall be entitled to any other rights granted by law or in equity by reason of Default, including referral of this matter for private collection. In the event the United States pursues a collection action, Defendants agree immediately to pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States opts to rescind this Stipulation pursuant to this paragraph, Defendants waive and agree not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims that (i) are filed by the United States against Defendants within 120 days of written notification that this Stipulation has been rescinded, and (ii) relate to the Covered Conduct, except to the extent these defenses were available on August 15, 2018. Defendants agree not to contest any offset, recoupment, and/or collection

action undertaken by the United States pursuant to this paragraph, either administratively or in any state or federal court, except on the grounds of actual payment to the United States.

15. Defendants, having truthfully admitted to the Admitted Conduct set forth in Paragraph 2 hereof, agree that they and their attorneys, agents, or employees shall not make any public statement, including but not limited to, any statement in a press release, social media forum, or website, that contradicts or is inconsistent with the Admitted Conduct or suggests that the Admitted Conduct is not wrongful (a “Contradictory Statement”). Any Contradictory Statement by Defendants themselves or by their attorneys, agents, or employees shall constitute a violation of this Stipulation, thereby authorizing the Government to pursue any of the remedies set forth in Paragraph 14 hereof, or seek other appropriate relief from the Court. Before pursuing any remedy, the Government shall notify Defendants that it has determined that Defendants have made a Contradictory Statement. Upon receiving notice from the Government, Defendants may cure the violation by repudiating the Contradictory Statement in a press release or other public statement within four business days. If Defendants learn of a potential Contradictory Statement by their attorneys, agents, or employees, Defendants must notify the Government of the statement within 24 hours. The decision as to whether any statement constitutes a Contradictory Statement or will be imputed to Defendants for the purpose of this Stipulation, or whether Defendants adequately repudiated a Contradictory Statement to cure a violation of this Stipulation, shall be within the sole discretion of the Government. Consistent with this provision, Defendants may raise defenses and/or assert affirmative claims or defenses in any proceeding brought by private and/or public parties, so long as doing so would not contradict or be inconsistent with the Admitted Conduct.

16. Relator and her heirs, successors, attorneys, agents, and assigns shall not object to this Stipulation; Relator agrees and confirms that the terms of this Stipulation are fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B).

17. Defendants agree that they waive and shall not seek payment for any of the health care billings covered by this Stipulation from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third-party payors based upon the claims defined as Covered Conduct.

18. Defendants waive and shall not assert any defenses Defendants 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 Stipulation bars a remedy sought in such criminal prosecution or administrative action.

19. In exchange for valuable consideration provided in this Stipulation, Defendants acknowledge the following:

- a. Defendants have reviewed their financial situation and warrant that they are solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) and, absent unforeseen circumstances, expect to remain solvent following payment to the United States of the Settlement Amount.
- b. In evaluating whether to execute this Stipulation, the Parties intend that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to Defendants, within the meaning of 11 U.S.C. § 547(c)(1), and the Parties conclude that these mutual

promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange.

- c. The mutual promises, covenants, and obligations set forth herein are intended by the Parties to, and do in fact, constitute a reasonably equivalent exchange of value.
- d. The Parties do not intend to hinder, delay, or defraud any entity to which Defendants was or became indebted on or after the date of any transfer contemplated in this Stipulation, within the meaning of 11 U.S.C. § 548(a)(1).
- e. If Defendants' obligations under this Stipulation are avoided for any reason (including but not limited to through the exercise of a trustee's avoidance powers under the Bankruptcy Code) or if, before the Settlement Amount is paid in full, Defendants or a third party commences a case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors seeking any order for relief of Defendants' debts, or to adjudicate Defendants as bankrupt or insolvent, or seeking appointment of a receiver, trustee, custodian, or other similar official for Defendants or for all or any substantial part of Defendants' assets:
 - (1) the United States may rescind the releases in this Stipulation and bring any civil and/or administrative claim, action, or proceeding against Defendants for the claims that would otherwise be covered by the releases provided in Paragraph 9 above;
 - (2) the United States has an undisputed, noncontingent, and liquidated allowed claim against each Defendant in the amount of \$64,417,515, less any

payments received pursuant to the Stipulation, provided, however, that such payments are not otherwise avoided and recovered from the United States by Defendants, a receiver, trustee, custodian, or other similar official for Defendants; and

- (3) if any payments are avoided and recovered by Defendants, a receiver, trustee, custodian, or similar official for Defendants, Relator shall, within thirty days of written notice from the United States to the undersigned Relator's counsel, return any portions of such payments already paid by the United States to Relator.

- f. Defendants agree that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 19(e) above or Paragraph 14 above is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the United States' police and regulatory power. Defendants shall not argue or otherwise contend that the United States' claim, action, or proceeding is subject to an automatic stay and, to the extent necessary, consents to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1). Defendants waive and shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claim, action, or proceeding brought by the United States within 120 days of written notification to Defendants that the releases have been rescinded pursuant to this paragraph, except to the extent such defenses were available on August 15, 2018.

20. Defendants have each provided sworn financial disclosures and supporting documents (“Financial Disclosures”) to the United States and the United States has relied on the accuracy and completeness of those Financial Disclosures in reaching this Stipulation. Defendants warrant that the Financial Disclosures are complete, accurate, and current. If the United States learns of asset(s) in which either Defendant had an interest at the time of the execution of this Stipulation that were not disclosed in the Financial Disclosures, or if the United States learns of any false statement or misrepresentation by either Defendant on, or in connection with, the Financial Disclosures, and if such nondisclosure, false statement, or misrepresentation changes the estimated net worth of either Defendant as reflected in the Financial Disclosures by \$100,000 or more, the United States may at its option: (a) rescind this Stipulation and reinstate its lawsuit based on the Covered Conduct, or (b) let the Stipulation stand and collect the full Settlement Amount plus one hundred percent (100%) of the net value of that Defendant’s previously undisclosed assets. Defendants agree not to contest any collection action undertaken by the United States pursuant to this provision, and agree that they will immediately pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected in the collection action, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States’ reasonable attorneys’ fees and expenses incurred in such an action. In the event that the United States pursuant to this paragraph rescinds this Stipulation, Defendants waive and agree not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that (a) are filed by the United States within 120 calendar days of written notification to Defendants that this Stipulation has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on August 15, 2018.

21. The Settlement Amount shall not be decreased as a result of the denial of claims

for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and Defendants agree not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

22. Defendants agree 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-6; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Defendants, including their present or former officers, directors, employees, shareholders, and agents in connection with:
 - (1) the matters covered by this Stipulation;
 - (2) the United States' audit(s) and civil investigation of matters covered by this Stipulation;
 - (3) Defendants' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation in connection with matters covered by this Stipulation (including attorneys' fees);
 - (4) the negotiation and performance of this Stipulation; and
 - (5) any payment Defendants make to the United States pursuant to this Stipulation and any payment Defendants may make to Relator, including expenses, costs and attorneys' fees;

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: Unallowable Costs shall be separately determined and accounted for by Defendants, and Defendants 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 Defendants or any of their subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.
- c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Stipulation, Defendants 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 Defendants or any of their 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. Defendants agree that the United States, at a minimum, shall be entitled to recoup from

Defendants 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, including the Department of Justice and/or the affected agencies, reserves its rights to disagree with any calculation submitted by Defendants or any of their subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Defendants; or any of its subsidiaries' or affiliates' cost reports, cost statements, or information reports.

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

23. This Stipulation 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 as otherwise provided herein.

24. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Stipulation; provided, however, nothing in this Stipulation shall preclude Relator from seeking to recover her expenses or attorneys' fees and costs from Defendants, pursuant to 31 U.S.C. § 3730(d).

25. Any failure by the Government to insist upon the full or material performance of any of the provisions of this Stipulation shall not be deemed a waiver of any of the provisions

hereof, and the Government, notwithstanding that failure, shall have the right thereafter to insist upon the full or material performance of any and all of the provisions of this Stipulation.

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

27. This Stipulation constitutes the complete agreement between the Parties with respect to the subject matter hereof. This Stipulation may not be amended except by written consent of the Parties. No prior agreements, oral representations or statements shall be considered part of this Stipulation.

28. The undersigned counsel and other signatories represent and warrant that they are fully authorized to execute this Stipulation on behalf of the persons and the entities indicated below.

29. This Stipulation is binding on Defendants' successors, transferees, heirs, and assigns.

30. This Stipulation is binding on Relator's successors, transferees, heirs, and assigns.

31. This Stipulation may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Stipulation. Emails that attach signatures in PDF form or facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Stipulation.

32. Any notice pursuant to this Stipulation shall be in writing and shall, unless expressly provided otherwise herein, be delivered both by (a) hand, express courier, or postage-prepaid mail and (b) by email, and shall be addressed as follows:

TO THE UNITED STATES:

Jacob Lillywhite
Assistant United States Attorney
United States Attorney's Office
Southern District of New York
86 Chambers Street, Third Floor
New York, New York 10007
jacob.lillywhite@usdoj.gov

TO DEFENDANT RENTROP AND DEFENDANT GRAMERCY CARDIAC:

Jeffrey C. Hoffman
Gabriel Altman
Windels Marx Lane & Mittendorf, LLP
156 West 56th Street
New York, New York 10019
jhoffman@windelsmarx.com
galtman@windelsmarx.com

TO RELATOR:

Randall M. Fox
Kirby McInerney LLP
250 Park Avenue, Suite 820
New York, New York 10177
rfox@kmlp.com


33. The effective date of this Stipulation is the date upon which the Stipulation is approved by the Court (the "Effective Date").

Agreed to by:

THE UNITED STATES OF AMERICA

Dated: New York, New York
September 15, 2023

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: 

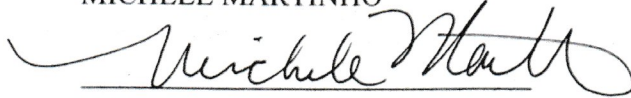
Jacob Lillywhite
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10005
212-637-2639
jacob.lillywhite@usdoj.gov
Attorney for the United States of America

RELATOR

Dated: New York, New York

August 8, 2023

MICHELE MARTINHO



Michele Martinho

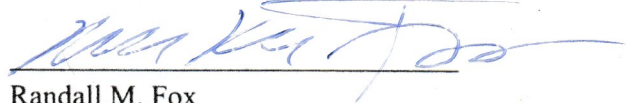
Relator

Dated: New York, New York

8/8, 2023

KIRBY MCINERNEY LLP

By:



Randall M. Fox

250 Park Avenue, Suite 820

New York, New York 10177

212-371-6600

rfox@kmlp.com

Attorney for Relator

DEFENDANTS

Dated: 7/25/23
_____, 2023

DEFENDANT DR. KLAUS PETER RENTROP

[Signature]

Klaus Peter Rentrop

Dated: 7/25/
_____, 2023

DEFENDANT GRAMERCY CARDIAC
DIAGNOSTIC SERVICES P.C.

By: [Signature]

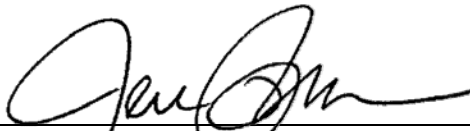
Klaus Peter Rentrop
President and Sole Owner

WINDELS MARX LANE & MITTENDORF, LLP

By: [Signature]

Jeffrey C. Hoffman
156 West 56th Street
New York, New York 10019
212-237-1018
jhoffman@windelsmarx.com
Attorney for Defendants

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Jesse M. Furman', is written over a horizontal line.

HON. JESSE M. FURMAN
UNITED STATES DISTRICT JUDGE

Dated: September 18, 2023

The Clerk of Court is directed to close this case. All conferences are cancelled. All motions are moot.

EXHIBIT A

EXCLUSION AGREEMENT

I hereby agree to be excluded from participation in Medicare, Medicaid, and all Federal health care programs as defined in 42 U.S.C. § 1320a-7b(f), for a period of 5 years, based on the conduct alleged in the Covered Conduct in the Stipulation and Order of Settlement and Dismissal entered into by United States of America through the United States Attorney Office for the Southern District of New York and Henry A. Coley in *U.S. ex rel. Martinho v. Gramercy Cardiac Diagnostic Services, P.C. and Klaus Peter Rentrop*, No. 18-cv-7400 (S.D.N.Y.)

I understand that this exclusion shall have national effect. Federal health care programs shall not pay anyone for items or services, including administrative and management services, furnished, ordered, or prescribed by me in any capacity while I am excluded. This payment prohibition applies to me and all other individuals and entities (including, for example, anyone who employs or contracts with me, and any hospital or other provider where I provide services). The exclusion applies regardless of who submits the claim or other request for payment. I shall not submit or cause to be submitted to any Federal health care program any claim or request for payment for items or services, including administrative and management services, furnished, ordered, or prescribed by me during the exclusion. I consent to OIG's disclosure of this Agreement, and information about this Agreement, to the public.

Violation of the conditions of the exclusion may result in criminal prosecution, the imposition of civil monetary penalties and assessments, and an additional period of exclusion. I further agree to hold the Federal health care programs, and all federal beneficiaries and/or sponsors, harmless from any financial responsibility for items or services furnished, ordered, or prescribed to such beneficiaries or sponsors after the effective date of the exclusion. I understand and acknowledge that this exclusion is authorized under 42 U.S.C. § 1320a-7(a) and 42 U.S.C. § 1320a-7(b)(7). I waive any further notice of the exclusion and agree not to contest such exclusion either administratively or in any state or federal court. This Agreement is freely and voluntarily entered into without any duress or compulsion whatsoever and with the assistance and advice of legal counsel.

I understand that reinstatement to program participation is not automatic. If I wish to be reinstated, I must submit a written request for reinstatement to the OIG in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. Such request may be made to the OIG no earlier than 90 days prior to the expiration of the period of exclusion set forth above. Reinstatement becomes effective only upon notice of reinstatement by the OIG after OIG approval of my application. Obtaining another license, moving to another state, or obtaining a provider number from a Medicare contractor, a state agency, or a

Federal health care program does not reinstate my eligibility to participate in these programs.

The exclusion is effective on the date of the last signature on this agreement.



Klaus Peter Rentrop
860 UN Plaza, Apt. 37E
New York, NY 10017

7/25/23
Date

LISA RE

Digitally signed by
LISA RE
Date: 2023.09.15
09:28:25 -04'00'

Lisa M. Re
Assistant I.G. for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health & Human Services

Date

EXHIBIT B

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA and
THE STATE OF NEW YORK *ex rel.*
MICHELE MARTINHO,

Plaintiffs,

v.

GRAMERCY CARDIAC DIAGNOSTIC
SERVICES P.C. and KLAUS PETER
RENTROP,

Defendants.

18 Civ. 7400 (JMF)

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

GRAMERCY CARDIAC DIAGNOSTIC
SERVICES P.C. and KLAUS PETER
RENTROP,

Defendants.

CONSENT JUDGMENT

Upon the consent of Plaintiff the United States of America and Defendants Gramercy Cardiac Diagnostic Services P.C. and Klaus Peter Rentrop (“Defendants”), it is hereby:

ORDERED, ADJUDGED and DECREED: that plaintiff the United States of America is awarded judgment in the amount of \$64,417,515 against Defendants, for which each Defendant is jointly and severally liable.

SO STIPULATED AND AGREED TO BY:

Dated: New York, New York
September 15, 2023

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: Jacob Lillywhite
JACOB LILLYWHITE
Assistant United States Attorney
86 Chambers Street, Third Floor
New York, New York 10007
(212) 637-2639
jacob.lillywhite@usdoj.gov
Counsel for the Government

Dated: 7/20,
 , 2023

WINDELS MARX LANE &
MITTENDORF, LLP

Jeffrey C. Hoffman
Jeffrey C. Hoffman
156 West 56th Street
New York, New York 10019
212-237-1018
jhoffman@windelsmarx.com
Counsel for Defendants

DEFENDANT DR. KLAUS PETER
RENTROP

Klaus Peter Rentrop
Klaus Peter Rentrop

DEFENDANT GRAMERCY CARDIAC
DIAGNOSTIC SERVICES P.C.

By: Klaus Peter Rentrop
Klaus Peter Rentrop
President and Sole Owner

SO ORDERED:

Dated: September 18, 2023

Jesse M. Furman
HON. JESSE M. FURMAN
UNITED STATES DISTRICT JUDGE