

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. _____
	:	
JOHN M. HASTINGS,	:	
SARAH CINTRON HASTINGS, and	:	
DIABETIC CARE SOLUTIONS, INC.,	:	
	:	
Defendants.	:	

COMPLAINT

Plaintiff, the United States of America, brings this action to recover damages and penalties against defendants because they furnished items and services through an excluded provider and thus submitted fraudulent health care claims to the Medicare program for payment. Accordingly, the United States seeks triple damages and statutory penalties under the False Claims Act, 31 U.S.C. §§ 3729-3733. In the alternative, the United States seeks repayment under theories of payment under mistake of fact and unjust enrichment.

PARTIES

1. Plaintiff is the United States of America.
2. Defendants are John M. Hastings (“Hastings”); his wife, Sarah Cintron Hastings (“Cintron Hastings”); and a company that they created, Diabetic Care Solutions, Inc. (“Diabetic Care Solutions” or “the company”).
3. Diabetic Care Solutions is a Pennsylvania corporation that provided diabetic supplies, diabetic shoes, and durable medical equipment at locations at 2537 South Broad Street, Philadelphia, Pennsylvania and at 1246 Township Line Road, Drexel Hill, Pennsylvania.

4. At all relevant times, all three defendants transacted business within the Eastern District of Pennsylvania.

JURISDICTION AND VENUE

5. This Court possesses subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1345.

6. Venue is proper under 28 U.S.C. §§ 1391(b) and 1391(c), and under 31 U.S.C. § 3732(a).

ELIGIBILITY FOR PAYMENTS UNDER THE MEDICARE PROGRAM

7. Medicare is a federal program administered by the Centers for Medicare and Medicaid Services, a federal agency within the United States Department of Health and Human Services (“HHS”), to pay for the costs of certain health care services provided to eligible individuals. Individual entitlement to Medicare is largely based on age, disability, or affliction with end-stage renal disease. 42 U.S.C. §§ 426, 426-1.

8. Medicare is financed by federal funds, including funds from payroll taxes and premiums paid by beneficiaries.

9. Medicare can make payments directly to the provider of goods or services rather than to the beneficiary.

10. In order to be eligible to claim and receive payments from Medicare, a provider (such as a doctor, clinic, or durable medical equipment company) must submit an enrollment application to HHS.

11. As part of the application, the provider agrees to comply with all Medicare-related laws and regulations in order to participate in the Medicare program.

12. If HHS approves the application, the agency assigns the applicant a unique provider number.

13. After obtaining a provider number, the provider can begin to submit claims to the Medicare program for payment.

14. When a provider submits a claim under the unique provider number, the provider certifies that the contents of the claim are true, correct, and complete, and that the claim was prepared in compliance with the laws and regulations that govern the Medicare program.

**CONGRESS PROHIBITED MEDICARE FROM MAKING PAYMENTS FOR
ITEMS AND SERVICES FURNISHED BY EXCLUDED PERSONS**

15. The Office of Inspector General (“OIG”) for HHS was established to identify and eliminate fraud, waste, and abuse in HHS’s programs, including Medicare. In furtherance of that mission, OIG has the delegated authority to exclude individuals and entities who have engaged in certain types of misconduct from participation in Medicare and other federal health care programs. See 42 U.S.C. § 1320a-7.

16. One of the types of misconduct that can lead to exclusion is conviction of government health care program-related crimes. Specifically, Congress provided that OIG can exclude from Medicare and other federal health care programs any person who is convicted of a criminal offense in connection with the delivery of a health care item or service under Medicare or other federal or state health care programs. 42 U.S.C. § 1320a-7(a)(1).

17. The effect of an OIG exclusion is that no Medicare payment may be made for any items or services furnished by an excluded individual or entity. 42 U.S.C. § 1395y(e)(1)(A); 42 C.F.R. § 1001.1901. Any items and services furnished by an excluded individual or entity are not reimbursable under federal health care programs, including Medicare. 42 C.F.R.

§ 1001.1901(b)(1). This prohibition applies even when the federal payment is made to another provider, practitioner, or supplier that is not excluded.

18. The payment prohibition applies “[u]nless and until an individual or entity is reinstated” to the program. 42 C.F.R. § 1001.1901.

19. OIG issued a Special Advisory Bulletin to the public in September 1999 entitled, “The Effect of Exclusion From Participation in Federal Health Care Programs.” 64 Fed. Reg. 52791-02, *available at* http://oig.hhs.gov/exclusions/effects_of_exclusion.asp. This Bulletin describes exclusion and its impact on billing. Taken as a whole, “the practical effect of an OIG exclusion is to preclude employment of an excluded individual in any capacity by a health care provider that receives reimbursement, indirectly or directly, from any Federal health care program.” *Id.* at 52793.

20. OIG released an update to the 1999 Bulletin to the public on May 8, 2013, *available at* <http://oig.hhs.gov/exclusions/files/sab-05092013.pdf>. This Updated Bulletin reemphasized the guidance in the 1999 Bulletin and provided additional clarifications.

21. Since at least 1999, OIG has maintained a web site that allows the public, including providers, to check the exclusion status of any individual by name. *See* <http://exclusions.oig.hhs.gov/>.

HASTINGS IS AN EXCLUDED PERSON UNDER THE FEDERAL HEALTH CARE PROGRAMS

22. In 1999, Hastings was charged by information with committing mail fraud and tax evasion in United States v. John Hastings, No. 99-cr-583 (E.D. Pa.) (Kauffman, J.).

23. The criminal charges arose in connection with Hastings’ work for a health care company that provided supplies to Medicare patients.

24. Hastings pleaded guilty to the criminal charges.

25. On February 6, 2002, HHS notified Hastings by letter of its intent to exclude him from federal health care programs because of his criminal conviction. In the letter, HHS stated that Hastings could submit any additional information within thirty days before the agency makes its final determination.

26. In response to the letter, Hastings submitted additional information to the agency through his attorney, James C. Schwartzman, Esq.

27. By letter dated August 30, 2002, after considering the additional information that Hastings submitted through his attorney, the United States Department of Health and Human Services issued a final decision that excluded Hastings from participation in Medicare, Medicaid, and all Federal health care programs for a minimum period of ten years.

28. The agency stated in the final decision that reinstatement would not be automatic when the ten-year period expired and, instead, reinstatement would require Hastings to apply and receive approval from HHS.

29. The agency mailed Hastings its final decision. The agency also mailed the final decision to his attorney, Mr. Schwartzman.

30. In addition, in September 2002, the Commonwealth of Pennsylvania sent Hastings a letter stating that he had been excluded indefinitely from participation in Medicare, Medicaid, and all federal health care programs. The Commonwealth of Pennsylvania imposed a reciprocal exclusion.

31. Hastings thereafter took actions demonstrating that he knew his exclusion remained in effect until HHS reinstated him.

32. For example, Hastings attempted to apply for reinstatement in 2007 or 2008.

33. About a year or two later, in 2008 or 2009, Hastings consulted the OIG exclusion website and saw that his name was still listed in the excluded provider database. See <http://exclusions.oig.hhs.gov/>.

34. On April 1, 2013, Hastings submitted a written application to HHS requesting reinstatement to the federal health care programs.

35. HHS did not adjudicate the reinstatement application pending an investigation into Hastings' involvement with Diabetic Care Solutions. Thus, Hastings has not been reinstated, and his exclusion remains active.

**HASTINGS AND CINTRON HASTINGS CREATED A
CORPORATION TO BYPASS THE EXCLUSION**

36. Knowing that he was an excluded person, Hastings and Cintron Hastings sought to bypass the exclusion and conceal his identity by furnishing items and services to Medicare patients through a health care company.

37. Although Hastings previously created several health care companies — such as Hastings Home Health Care Services, Ltd., J. M. Hastings, Inc., Hastings Shoe Company, and Hastings Wound Care Services, Ltd. — his surname appeared in the company names, and he had registered himself as a corporate officer of those companies with the Commonwealth of Pennsylvania.

38. Thus, it was apparent from the companies' names and corporate structures that Hastings operated them.

39. To reduce the risk of detection, Hastings and Cintron Hastings incorporated a new company using a generic name — Diabetic Care Solutions — that omitted the Hastings surname.

40. At first, Hastings and Cintron Hastings established the company in Puerto Rico, where they enrolled the company in the Medicare program. They identified Cintron Hastings and

a third person, Yarnell Roman, as the only persons who had an ownership or management interest in Diabetic Care Solutions.

41. The Medicare enrollment application did not identify Hastings as a person who had an ownership or management interest in the company.

42. The Medicare enrollment application required the company to state whether any one of its owners or managers was an excluded person under federal health care programs and, if so, to provide copies of any exclusion letters or reinstatement notices.

43. Hastings and Cintron Hastings checked a box to indicate that there was no history of exclusion by any owner or manager.

44. HHS approved the application and issued a provider number to Diabetic Care Solutions, thus allowing the company to begin submitting claims to the Medicare program.

45. Several months after they established the business in Puerto Rico, Hastings and Cintron Hastings decided to move the company to Drexel Hill, Pennsylvania.

46. On June 6, 2007, Diabetic Care Solutions filed articles of incorporation with the Secretary of State of the Commonwealth of Pennsylvania.

47. Pursuant to the articles of incorporation, Cintron Hastings served as the president of Diabetic Care Solutions and as the company's sole shareholder. Nominally, Hastings held no corporate officer-level position.

48. Hastings nominally held no officer-level position at Diabetic Care Solutions because he and Cintron Hastings knew that he was an excluded person who could not furnish items or services for Medicare payments. Thus, they did not mention his name in the incorporation documents.

49. Diabetic Care Solutions thereafter filed documents with the Medicare program to change its location from Puerto Rico and to update its financial account information. Hastings and Cintron Hastings again checked a box to indicate that there was no history of exclusion by any owners or managers of Diabetic Care Solutions.

50. On September 4, 2007, a Medicare contractor conducted a site visit of Diabetic Care Solutions and interviewed Hastings. When the contractor asked Hastings to identify the company's managers and owners, Hastings identified Cintron Hastings as the sole owner.

51. The Medicare contractor conducted an additional site visit on August 24, 2011. During that visit, an officer manager, Maria Roberts, said that Hastings and Cintron Hastings both owned Diabetic Care Solutions. Hastings corrected her, stating that Cintron Hastings was the "100 percent owner solely."

52. To confirm the company's ownership and management, the Medicare contractor asked Diabetic Care Solutions to provide a list, printed on company letterhead, of all owners, officers, managers, and employees. On the list, Cintron Hastings identified herself as the sole owner, Maria Roberts as office manager, and Carmen Marini, Chelsea Hastings, and Sarah Hastings as employees. The list did not mention Hastings.

53. Cintron Hastings omitted Hastings' name from the list of company employees because she knew that Hastings was an excluded person.

HASTINGS CONTROLLED DIABETIC CARE SOLUTIONS

54. Hastings and Cintron Hastings told the Medicare program that Hastings was not an owner, officer, manager, or employee of Diabetic Care Solutions. Nevertheless, Hastings worked for Diabetic Care Solutions and controlled the company from its creation on or about March 22, 2007 until its closure on or about October 7, 2011.

55. To remove any doubt, Hastings distributed company business cards that displayed his name and Diabetic Care Solutions. An example of his business card appears below:



56. Underscoring Hastings' role, the company ordered more than twice as many business cards for Hastings as for Cintron Hastings, the company's supposed president.

57. Hastings had unfettered access to the company's facilities. He possessed a set of keys to the company's Drexel Hill location, and he used the keys to gain access and to secure the facility before and after business hours.

58. Hastings had his own desk at the company's Drexel Hill location.

59. Hastings made and implemented the company's personnel decisions as part of his job. He interviewed prospective job candidates, hired at least half a dozen employees, terminated at least one employee, and laid off at least one other employee.

60. Newly-hired employees at Diabetic Care Solutions generally did not meet Cintron Hastings, the nominal president, until after Hastings had hired them.

61. Hastings drove to work at the company's Drexel Hill facility in a 2008 Chevrolet HHR, and he usually parked in the rear of the store. The vehicle featured advertisements on the side doors for Diabetic Care Solutions.

62. Hastings delivered paychecks to at least one Diabetic Care Solutions employee.

63. Hastings entered into contracts on the company's behalf. For example, Hastings leased the company's retail location at 2537 South Broad Street in Philadelphia, Pennsylvania, and he was the named lessee.

64. Acting on behalf of Diabetic Care Solutions, Hastings sent correspondence to suppliers of durable medical equipment, diabetic shoes, and other items. Those suppliers sent correspondence to Hastings at the company's address and fax number.

65. Businesses and senior living facilities likewise addressed shoe-related communications to Hastings at the Diabetic Care Solutions address.

66. Hastings operated a booth at a convention during which he distributed supplies and brochures for the company.

67. Hastings also selected letterhead, business cards, and office supplies for Diabetic Care Solutions.

- a. Hastings purchased those items from Nuss Printing in Havertown, Pennsylvania, more than 20 times between March 2009 and July 2011.
- b. Hastings signed all of the checks and credit card receipts on the company's behalf. Cintron Hastings purchased none of the items and signed none of the checks and credit card receipts.

68. Hastings occasionally purchased items on the company's behalf that related directly to the Medicare program. For example, on July 7, 2011, Hastings ordered preprinted forms from Nuss Printing that listed Medicare supplier standards.

69. On March 3, 2011, Hastings ordered business cards for employees of Diabetic Care Solutions, including for himself. Hastings signed his name on the order forms.

**HASTINGS FURNISHED ITEMS AND SERVICES
DIRECTLY TO MEDICARE PATIENTS**

70. In addition to his general management duties at Diabetic Care Solutions, Hastings furnished items and services to Medicare patients on the company's behalf.

71. For example, Hastings visited Medicare patients at local nursing homes and senior living facilities to fit and measure them for specialty diabetic shoes.

72. Hastings wrote notes in Medicare patients' charts to indicate their shoe size, color and style preferences, and other information.

73. Specifically, from 2007 through 2011, Hastings fitted and measured Medicare patients for diabetic shoes as a Diabetic Care Solutions representative at the following senior living facilities (the following list is illustrative and not exhaustive):

- a. Fair Acres Geriatric Center in Lima, Pennsylvania;
- b. Blue Bell Place in Blue Bell, Pennsylvania;
- c. Sunrise of Abington, a senior living community in Abington, Pennsylvania;
- d. Sunrise of Paoli, a senior living community in Malvern, Pennsylvania;
- e. Sunrise of Lafayette Hill, a senior living community in Lafayette Hill, Pennsylvania;
- f. Five Stars Senior Living (New Seasons) in Chalfont, Pennsylvania;
- g. Ashbridge Manor Senior Living in Downingtown, Pennsylvania;
- h. Charter Arms Apartments in Warminster, Pennsylvania;
- i. Rose Tree Place in Media, Pennsylvania;
- j. Harlee Manor in Springfield, Pennsylvania;
- k. Philadelphia Protestant Home in Philadelphia, Pennsylvania;

- l. Saucon Valley Manor in Bethlehem, Pennsylvania;
- m. The Flag House in Spring City, Pennsylvania;
- n. Overmont House in Philadelphia, Pennsylvania;
- o. Brandywine Senior Living in Norristown, Pennsylvania;
- p. SarahCare of Great Valley in Malvern, Pennsylvania;
- q. Exton Senior Living in Exton, Pennsylvania; and
- r. Christ Home in Warminster, Pennsylvania, among others.

74. In addition, Hastings fitted and measured Medicare beneficiaries for diabetic shoes and shoe inserts. Hastings measured and fitted the following Medicare beneficiaries for diabetic shoes and shoe inserts (the following list is illustrative and not exhaustive)¹:

- a. On or about May 28, 2010, patient S.A. at Fair Acres;
- b. On or about February 5, 2010, patient M.B. at Fair Acres;
- c. On or about July 20, 2011, patient D.C. at Christ Home;
- d. On or about July 31, 2009, patient H.C. at Sunrise of Paoli;
- e. On or about July 20, 2009, patient M.C. at Fair Acres;
- f. On or about May 17, 2011, patient R.C. at his private home;
- g. On or about November 12, 2009, patient T.C. at Sunrise of Lafayette Hill;
- h. On or about January 20, 2010, patient S.C. at Fair Acres;
- i. On or about October 27, 2009, patient T.D. at Fair Acres;
- j. On or about November 30, 2007, patient M.D. at Harlee Manor;
- k. On or about August 6, 2009 and April 4, 2011, patient H.E. at Fair Acres;
- l. On or about December 31, 2010, patient R.F. at Brandywine Senior Living;

¹ To preserve confidentiality, all patient names are abbreviated using their initials.

- m. On or about November 22, 2010, patient M.G. at her private home in Philadelphia, Pennsylvania;
- n. On or about November 19, 2009, patient D.J. at her private home in Philadelphia, Pennsylvania;
- o. On or about June 18, 2009, patient E.K. at her private home in Philadelphia, Pennsylvania;
- p. On or about April 22, 2009, patient T.L. at SarahCare of Great Valley;
- q. On or about May 9, 2008, patient H.M. at New Seasons;
- r. On or about June 10, 2009 and October 15, 2009, patient A.M. at Sunrise of Newtown Square;
- s. On or about May 20, 2011, patient S.Q. at his private home in Philadelphia, Pennsylvania;
- t. On or about July 25, 2011, patient K.W. at Christ Home;
- u. On or about September 10, 2010, patient E.W. at Sunrise of Abington; and
- v. On or about November 19, 2009, patient J.W. at Charter Arms.

75. To maximize efficiency, Hastings often conducted large-scale shoe fittings at the senior living facilities — sometimes for 40 or 50 residents — in the same session.

76. Diabetic Care Solutions submitted claims to Medicare for the specialty diabetic shoes that Hastings fitted and measured.

77. In addition to fitting and measuring patients, Hastings delivered the specialty diabetic shoes to the Medicare patients on behalf of Diabetic Care Solutions.

78. Hastings knew that the majority of the residents at the nursing homes and senior living facilities were Medicare beneficiaries.

79. Hastings marketed the company's services to at least one senior living facility, Whitehall Manor, by stating that "everything is free and the company will just bill Medicare."

80. As a result of Hastings' overall efforts, Diabetic Care Solutions increased its patient base from approximately 500 patients in 2008 to over 2,000 in 2011.

HASTINGS CONTROLLED THE COMPANY'S FINANCES

81. Hastings did more for Diabetic Care Solutions than control the company's day-to-day operations and fit, measure, and deliver diabetic shoes to Medicare patients. He also controlled the company's finances.

82. Starting with the company's inception in 2007, Hastings established relationships with the financial institutions that processed and received the company's Medicare payments.

83. For example, on June 20, 2007, Hastings established a business checking account at Citizens Bank in the name of Diabetic Care Solutions.


84. Hastings authorized himself to make withdrawals and write checks from the account as the primary signatory, listed as "Name #1." Cintron Hastings, the company's nominal president, was a secondary signatory who was listed as "Name #2."

85. Cintron Hastings thereafter notified HHS that Diabetic Care Solutions would use the Citizens Bank account to receive payments from the Medicare program. Specifically, Cintron Hastings submitted a form that authorized the agency to transfer Medicare payments to the account.

86. The Medicare program deposited payments into the Citizens Bank account.

87. Because Hastings was the primary signatory, he controlled the flow of money to and from Diabetic Care Solutions. He wrote and signed checks to make withdrawals from the company's account, and he endorsed checks to make deposits.

88. On many occasions, Hastings wrote checks to himself for cash from the company's account. The bank paid him the money. An example of one of the checks appears below:

DIABETIC CARE SOLUTIONS 1246 TOWNSHIP LINE ROAD DREXEL HILL, PA 19026		<table border="1"> <thead> <tr> <th>EXPLANATION</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	EXPLANATION	AMOUNT									0125 <small>3-7515/350 524</small>
EXPLANATION	AMOUNT												
PAY AMOUNT OF	<i>Five hundred</i>		DOLLARS										
DATE	TO THE ORDER OF	DESCRIPTION	CHECK NUMBER										
<i>8/27</i>	<i>John H Hastings</i>		<i>14</i>										
			CHECK AMOUNT <i>\$ 500.00</i>										
CITIZENS BANK PENNSYLVANIA													
		⑈000005000⑈											

89. In addition, Hastings visited bank tellers and made numerous cash withdrawals from the company's account.

90. Even though Hastings controlled the Citizens Bank account, Cintron Hastings did not identify or mention him in the Medicare electronic funds transfer authorization, knowing that he was an excluded person.

91. On September 20, 2007, Hastings established an additional business checking account in the company's name at St. Edmond's Federal Savings Bank.

92. Hastings again served as the primary signatory on the Diabetic Care Solutions account.

93. To conceal his involvement at the company, Hastings and Cintron Hastings omitted Hastings from the company's payroll. Cintron Hastings then drew a salary from Diabetic Care Solutions and deposited the funds into a bank account that Hastings jointly owned. Hastings used money from the account to pay for his personal expenses.

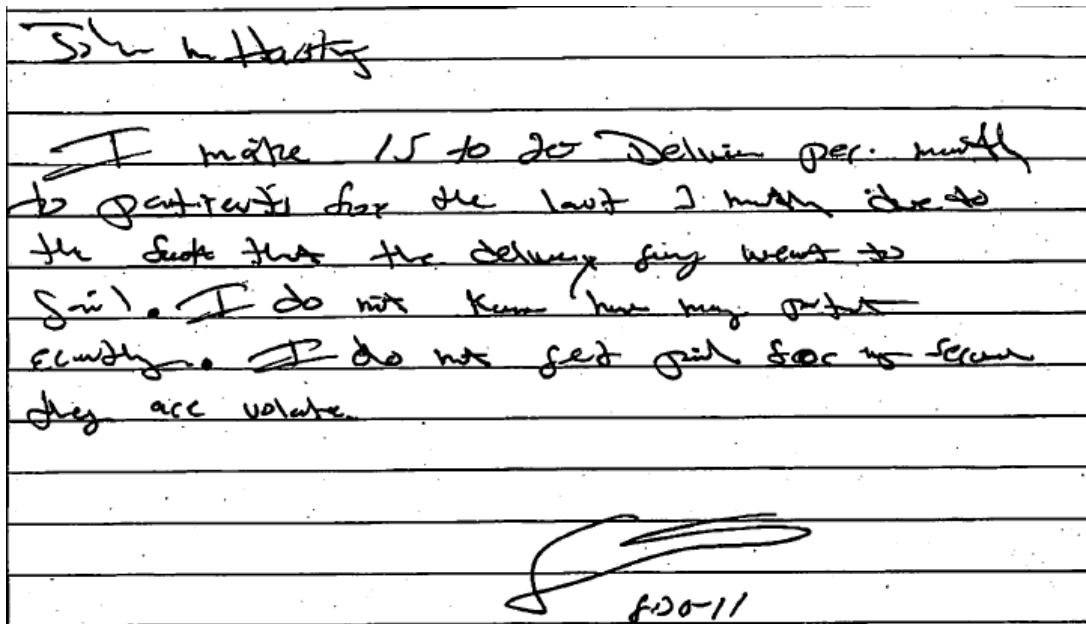
THE COMPANY CLOSES AFTER FEDERAL AGENTS ASK QUESTIONS

94. On August 30, 2011, HHS Special Agents interviewed Hastings and Cintron Hastings as part of an investigative activity.

95. During the investigative activity, the HHS Special Agents asked Hastings about his involvement with Diabetic Care Solutions.

96. Hastings told the federal agents that he “just makes deliveries” and the company cannot and does not pay him because he is an excluded person.

97. Hastings also gave the agents a handwritten statement about his involvement with the company. The handwritten statement appears below:



The handwritten statement is written on lined paper. At the top, the name "John Hastings" is written in cursive. The main body of the text reads: "I make 15 to 20 Deliveries per. month to patients for the last 3 months due to the fact that the delivery guy went to jail. I do not know how many patients exactly. I do not get paid for my services they are voluntary." At the bottom right, there is a large, stylized signature and the date "8-30-11" written below it.

98. In the signed statement dated August 30, 2011, Hastings attested:

I make 15 to 20 deliveries per month to patients for the last 3 months due to the fact that the delivery guy went to jail. I do not know how many patients exactly. I do not get paid for my services they are voluntary.

99. About a month after the federal agents arrived for the investigative activity, Diabetic Care Solutions announced that it was closing.

100. Diabetic Care Solutions officially closed for business on October 7, 2011.

101. Hastings then sold the company's patient list and inventory to a third party, John DiMarco, for \$185,000.00. He and Cintron Hastings jointly sold the company's stock and shared the proceeds from the sale.

102. All told, from the company's creation in 2007 to its closure in late 2011, Diabetic Care Solutions submitted 15,866 claims to Medicare amounting to more than \$2,000,000.00.

HASTINGS CONTINUES TO CONCEAL THE FRAUD SCHEME

103. Hastings continues to deny that he was ever an employee of Diabetic Care Solutions.

104. In the Medicare reinstatement application that Hastings submitted in 2013, Hastings was required to list his complete employment history from the effective date of the exclusion to the present.

105. Although Hastings worked for Diabetic Care Solutions and controlled the company's finances and operations from 2007 through 2011, he omitted the company from his employment history on his reinstatement application.

106. Hastings instead stated that he worked for Hastings Shoe Company in Puerto Rico from 2002 through 2011, and for Medco Wholesale in Puerto Rico from 2003 through 2005.

107. Hastings also stated on the reinstatement application that, instead of spending most of his time working for Diabetic Care Solutions, he served as a minister who "spent most of [his] time preaching." The statement appears below in Hastings' own words:

I've spent most of my time preaching, I am a minister
now. but I have to get back to work to support my
family

108. Hastings did not disclose Diabetic Care Solutions on his reinstatement application because he knew — and he has known since 2002 — that he cannot lawfully furnish items and services to Medicare beneficiaries.

109. In addition to concealing his work for the company, Hastings concealed the fact that he caused the company to submit claims to the Medicare program.

110. For example, the reinstatement application asked Hastings to certify that “all claims submitted or caused to be submitted to private or other Government insurers during my period of suspension/exclusion were appropriate and legal.” Hastings wrote his initials in a box to indicate that the statement did not apply. See Reinstatement Application at p. 6 ¶ 20, attached as Exhibit A.

111. The reinstatement application also asked Hastings to certify that he has “not submitted or caused to be submitted any claims for reimbursement from Medicare, Medicaid, or any other Federal or State health care program, for services furnished . . . by me during my period of suspension/exclusion.” Hastings again wrote his initials in a box to indicate that the statement did not apply. See Reinstatement Application at p. 7 ¶ 21, attached as Exhibit A.

COUNT I
Violation of the False Claims Act: Presentation of False Claims
(31 U.S.C. § 3729(a)(1))

112. The United States incorporates by reference paragraphs 1 through 110 as though fully set forth herein.

113. This is a claim against defendants John M. Hastings, Sarah Cintron Hastings, and Diabetic Care Solutions, Inc., for treble damages under the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended, for knowingly presenting or causing to be presented false or fraudulent claims to the United States.

114. The False Claims Act defines “knowingly” as meaning that a defendant “(1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.” 31 U.S.C. § 3729(b).

115. By virtue of the acts described above, defendants presented or caused to be presented claims for payment to the United States knowing that such claims were false, fictitious, or fraudulent, or with reckless disregard or deliberate ignorance of the truth or falsity of the claims.

116. The United States paid these false or fraudulent claims because of defendants’ acts.

117. By reason of the false or fraudulent claims that defendants presented or caused to be presented, the United States is entitled to three times the amount by which it was damaged, plus a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each false claim presented or caused to be presented.

COUNT II
Violation of the False Claims Act: Making or Using a False Record or Statement
(31 U.S.C. § 3729(a)(1)(B))

118. The United States incorporates by reference paragraphs 1 through 117 as though fully set forth herein.

119. This is a claim against defendants John M. Hastings, Sarah Cintron Hastings, and Diabetic Care Solutions, Inc., for treble damages under the False Claims Act, 31 U.S.C. § 3729(a)(1)(B), as amended, for knowingly making, using, or causing to be made or used, false records or statements material to false or fraudulent claims.

120. Defendants knowingly made, used, or caused to be made or used, false records or statements material to false or fraudulent claims to the United States.

121. By reason of the false records or false statements that defendants presented or caused to be presented, the United States is entitled to three times the amount by which it was damaged, plus a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each false record or statement.

COUNT III
Payment by Mistake of Fact

122. The United States incorporates by reference paragraphs 1 through 121 as though fully set forth herein.

123. This is a claim for the recovery of monies paid to defendants under mistake of fact.

124. The United States made payments on the claims that defendants submitted, or caused to be submitted, under the erroneous belief that the claims were proper and were for services and items furnished by eligible, non-excluded providers.

125. This erroneous belief was material to the payments that the United States made to defendants.

126. Because of these mistakes of fact, defendants received monies to which they are not entitled.

127. By reason of the payments described above, the United States is entitled to damages in an amount to be determined by a trier of fact.

COUNT IV
Unjust Enrichment

128. The United States incorporates by reference paragraphs 1 through 127 as though fully set forth herein.

129. This is a claim for the recovery of monies that defendants obtained through unjust enrichment.

130. Defendants' conduct described above unjustly enriched them with federal monies that in good conscience they should not be allowed to retain.

131. Defendants have been unjustly enriched to the detriment of the United States.

132. By reason of the payments described above, the United States is entitled to damages in an amount to be determined by a trier of fact.

CLAIM FOR RELIEF

WHEREFORE, the United States of America demands judgment against defendants as follows:

- a. On Count I (False Claims Act: Presentation of False Claims), judgment against defendants, jointly and severally, for treble the damages sustained by the United States, plus civil penalties assessed against defendants of between \$5,500.00 and \$11,000.00 per false claim as mandated by law, and post-judgment interest, costs, and other proper relief;
- b. On Count II (False Claims Act: Making or Using a False Record or Statement), judgment against defendants, jointly and severally, for treble the damages sustained by the United States, plus civil penalties assessed against defendants of between \$5,500.00 and \$11,000.00 as mandated by law, and post-judgment interest, costs, and other proper relief;

- c. On Count III (Payment by Mistake of Fact), judgment against defendants, jointly and severally, for the damages sustained by the United States, to be determined at trial, plus post-judgment interest, costs, and other proper relief;
- d. On Count IV (Unjust Enrichment), judgment against defendants, jointly and severally, for the damages sustained by the United States, to be determined at trial, plus pre-judgment and post-judgment interest, costs, and other proper relief; and
- e. For such other and further relief as the Court deems just and equitable.

Respectfully submitted,



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United States Attorney



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Attorneys for the United States of America

Dated: May 11, 2015

EXHIBIT A

AUTHORIZATION FOR INDIVIDUAL

I, John M. Hastings, [REDACTED]
[REDACTED] Address
[REDACTED] [REDACTED] [REDACTED]
City State Zip Code

hereby authorize representatives of the Department of Health and Human Services, Office of Inspector General, access to any and all information contained in your files pertaining to me. This authorization, which may be presented to any person or organization, public or private, absolves you and your employer of any liability for release of such information.

THIS APPLICATION CANNOT BE REPRODUCED, ALTERED OR MODIFIED IN ANY WAY.

[Signature]
Signature
4-1-13
Date (MM/DD/YYYY)

[Signature]
Witness Signature (Notary)
4/1/13
Date (MM/DD/YYYY)

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
ELLEN TAUB - NOTARY PUBLIC
HAVERFORD TWP., DELAWARE COUNTY
MY COMMISSION EXPIRES AUG. 22, 2013

SEAL

RECEIVED
APR 04 2013

STATEMENT

I, John Hartner,
 affirm that to the best of my knowledge, my responses to the following statements are true. All initials
 must be handwritten and not typed.

1. If the statement applies to me, I have handwritten my initials at the end of the statement in the specified area.
2. If the statement does not apply to me, I have checked the "N/A" block AND handwritten my initials at the end of the statement in the specified area.
3. If the statement requires additional clarification and/or I wish to provide information, I have done so in the space provided AND handwritten my initials at the end of the statement in the specified area. (Attach additional sheets if necessary for clarifications.)

ALL STATEMENTS MUST BE INITIALED

Failure to provide the required information will result in:

1. The application being returned;
2. Will necessitate the completion of a new application; and
3. Will delay the reinstatement process.

I affirm that:

1. I am not the subject of any investigation, either criminal or civil, being conducted by any authority of a local, State or Federal Government.

 Initials

John H
 N/A

Clarification: _____

2. I have not been convicted of any crime during the period of the suspension/exclusion.

 Initials

John H
 N/A

Clarification: _____

3. I have met or am meeting all the terms and conditions of any court ordered probation.

John H
 Initials

☐
 N/A

Clarification: _____

4. I have paid or am paying all court ordered fines and restitutions in accordance with the agreed upon terms and conditions.

John H
 Initials

☐
 N/A

Clarification: _____

5. I am not under any sanctions imposed by any licensing authority, nor am I under investigation by such authority. This does not include probation.

Initials

SMH
N/A

Clarification:

6. I am not under any sanctions imposed by any Federal or State agency nor am I under investigation by such authority. (This does not include exclusion by the Office of Inspector General or the Office of Personnel Management.)

Initials

SMH
N/A

Clarification:

7. All penalties, monetary or otherwise, or any other conditions imposed under any civil authorities, (e.g., Civil Monetary Penalty Law, Program Fraud Civil Remedies Act) or under any settlement agreement have been or are being met in accordance with the agreed upon terms and conditions.

Initials

SMH
N/A

Clarification:

8. All overpayments identified by any Federal or State agency have been repaid or are being repaid in accordance with the agreed upon terms and conditions.

Initials

SMH
N/A

Clarification:

9. All repayment of loans under the Health Education Assistance Loan (HEAL) Program or the terms of the contract entered into under the National Health Service Corps Scholarship Program or the Physician Shortage Area Scholarship Program have been or are being met in accordance with the agreed upon terms and conditions.

Initials

SMH
N/A

Clarification:

10. I certify that the circumstances which led to my suspension/exclusion from the Medicare, Medicaid, and any Federal or State health care program will not recur.

Initials

SMH
N/A

Clarification:

11. I have notified all my employers, partners, hospitals, HMOs, pharmacies, labs, clinics, nursing homes, DME companies, etc., of my suspension/exclusion and its effect at the time the action occurred or thereafter.

Initials

SMH
N/A

Clarification:

12. Listed below is my complete employment history from the effective date of my suspension/exclusion to the present. It includes all health care employment, non-health care employment, self-employment and any periods of unemployment. (Attach additional sheets if necessary.)

fr N/A
Initials

1-1-2002 Oct 2011 Hastings Shw Co
Employment Date (MM/YYYY - MM/YYYY) Place of Employment
Vega Byn PR Out of Business me
Employer's Address Employer's Area code and Telephone Contact Person

Your Job Title/Responsibilities

1-1-2003 12-1-2005 Vega Byn On
Employment Date (MM/YYYY - M M/YYYY) Place of Employment
Mecca Whoksal Out of Business me
Employer's Address Employer's Area Code and Telephone Contact Person

Your Job Title/Responsibilities

Employment Date (MM/YYYY - MM/YYYY) Place of Employment

Employer's Address Employer's Area Code and Telephone Contact Person

Your Job Title/Responsibilities

Employment Date (MM/YYYY - MM/YYYY) Place of Employment

Employer's Address Employer's Area Code and Telephone Contact Person

Your Job Title/Responsibilities

Employment Date (MM/YYYY - MM/YYYY) Place of Employment

Employer's Address Employer's Area Code and Telephone Contact Person

Your Job Title/Responsibilities

Employment Date (MM/YYYY - MM/YYYY) Place of Employment

Employer's Address Employer's Area Code and Telephone Contact Person

Your Job Title/Responsibilities

13. I have/had hospital privileges at the following facility/ies during the period of my suspension/exclusion: (Attach additional sheets if necessary.)

Initials

Sub
N/A

Name of Facility Address City, State, Zip

Your Position/Title From (MM/YYYY - MM/YYYY) Contact Person Area Code and Telephone

Name of Facility Address City, State, Zip

Your Position/Title From (MM/YYYY - MM/YYYY) Contact Person Area Code and Telephone

14. I have/had long-term care patients at, or I did/do business during the period of my suspension/exclusion with the following nursing homes or health care entities: (Attach additional sheets if necessary.)

Initials

Sub
N/A

Name of Facility Address City, State, Zip

Your Position/Title From (MM/YYYY to MM/YYYY) Contact Person Area Code and Telephone

Name of Facility Address City, State, Zip

Your Position/Title From (MM/YYYY to MM/YYYY) Contact Person Area Code and Telephone

15. I am/have been associated as a partner, member, employee, etc., with the following person, group, clinic, HMO(s), etc. during my suspension/exclusion period: (Attach additional sheets if necessary.)

Initials

Sub
N/A

Full Name of Person, Group, Clinic, HMOs, etc Address City, State, Zip

Contact Person Area Code and Telephone Dates of Association (MM/YYYY to MM/YYYY)

Full Name of Person, Group, Clinic, HMOs, etc Address City, State, Zip

Contact Person Area Code and Telephone Dates of Association (MM/YYYY to MM/YYYY)

16. I have used/am using the following UPIN(s) (CMS-assigned numbers): (Attach additional sheets if necessary.)

Initials

Sub
N/A

Name (First, Middle, Last) UPIN

Name (First, Middle, Last) UPIN

17. Listed below are my UPIN number(s) and all the UPIN number(s) of any group(s), clinic(s), HMO(s), etc., and individual(s) I have been employed by or associated with in any manner during the period of my suspension/exclusion: (Attach additional sheets if necessary.)

Initials

☒ N/A

Name (First, Middle, Last)

UPIN

Name (First, Middle, Last)

UPIN

18. Listed below are my Medicare and Medicaid provider numbers and all the Medicare and Medicaid provider numbers of any group(s), clinic(s), HMO(s), etc., and individuals I have been employed by or associated with in any manner during my period of suspension/exclusion: (Attach additional sheets if necessary.)

Initials

☒ N/A

MEDICARE
MEDICAID

Name (First, Middle, Last)

Medicare Provider Number

State

Date obtained (MM/YYYY)

Name (First, Middle, Last)

Medicare Provider Number

State

Date obtained (MM/YYYY)

Name (First, Middle, Last)

Medicaid Provider Number

State

Date obtained (MM/YYYY)

Name (First, Middle, Last)

Medicaid Provider Number

State

Date obtained (MM/YYYY)

19. I have claimed payment or claims were submitted for services provided by me from the following insurers during the period of my suspension/exclusion: (Attach additional sheets if necessary.)

Initials

☒ N/A

Name of Insurer

Address

City, State, Zip

Area Code and Telephone

Name of Insurer

Address

City, State, Zip

Area Code and Telephone

20. I certify that all claims submitted or caused to be submitted to private or other Government insurers during my period of suspension/exclusion were appropriate and legal.

Initials

☒ N/A

Clarification:

21. I certify that I have not submitted or caused to be submitted claims for reimbursement from the Medicare, Medicaid, or any other Federal or State health care program, for services furnished, ordered, or prescribed by me during my period of suspension/exclusion.

Initials

☒ *Sub*
N/A

Clarification:

22. I am taking or have taken the following continuing education courses:
(Attach additional sheets if necessary.)

Initials

☐
N/A

In 2008 I became one of Jehovah's witnesses. I've spent most of my time preaching, I am a minister now but I have to get back to work to support my family.

23. I currently hold the following health care licenses. If any licenses are/were under disciplinary action, including probation, I have provided the date in which said license was reinstated as well as a copy of the board order reinstating it: (Attach additional sheets if necessary.)

Initials

☒ *Sub*
N/A

State	Specialty and License Number	Date Reinstated, if Applicable (MM/YYYY)
State	Specialty and License Number	Date Reinstated, if Applicable (MM/YYYY)
State	Specialty and License Number	Date Reinstated, if Applicable (MM/YYYY)

24. There are no limitations/restrictions/conditions on my license. (If yes, please describe AND attach documentation.)

Initials

☒ *Sub*
N/A

Clarification:

25. I am enrolled in an impaired physician/nurse program. (Please describe and attach documentation.)

Initials

☒ *Sub*
N/A

Clarification:

26. My SOCIAL SECURITY NUMBER is:



Initials

☐
N/A

27. My DATE OF BIRTH is:



Initials

☐
N/A

28. Listed below are all other names I have used:

Initials

☐
N/A

John H. Hartinger

