

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”), Saad Enterprises, Inc. (“Saad”), and Melissa Wolff and Whitney Sims (“Relators”) (hereafter, the United States, Saad, and Relators are collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. Saad is an Alabama corporation with its principal place of business in Mobile, Alabama. Saad provides, among other health care services, hospice services to patients in the Gulf Coast area of Alabama and Mississippi.

B. On January 31, 2019, Relators filed a *qui tam* action in the United States District Court for the Southern District of Alabama captioned *United States ex rel. Wolff and Sims v. Saad Enterprises, Inc. d/b/a Saad Healthcare* (Case No. 19-cv-40), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the Civil Action).

C. The United States contends that Saad submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”).

D. The United States contends that it has certain civil claims against Saad during the period from November 8, 2013 through September 30, 2020 arising from Saad submitting, or causing the submission of, false claims to Medicare for 21 patients (identified in Appendix A) who did not meet the eligibility requirements for the Medicare hospice benefit as defined by statute and regulation, despite Saad knowing the patients were ineligible for the Medicare hospice benefit. That conduct is referred to below as the “Covered Conduct.”

E. Relators claim entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relators' reasonable expenses, attorneys' fees and costs.

F. This Settlement Agreement is neither an admission of liability by Saad nor a concession by the United States that its 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. Saad shall pay to the United States Three Million Dollars (\$3,000,000) (Settlement Amount) and interest on the Settlement Amount at a rate of 3.875% per annum from November 11, 2024, of which \$1.5 million is restitution, no later than ten days after the Effective Date of this Agreement by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice.

2. Conditioned upon the United States receiving the Settlement Amount from Saad and as soon as feasible after receipt, the United States shall pay \$540,000, plus 18% of any interest paid to the United States under Paragraph 1, to Relators by electronic funds transfer (Relators' Share).

3. Saad agrees to pay, in accordance with a separate "fees and costs settlement agreement," an amount to Relators pursuant to 31 U.S.C. § 3730(d) in satisfaction of attorneys' fees, expenses, and costs incurred by the Relators in connection with the Civil Action, no later than ten (10) days after the Effective Dates of this Settlement Agreement and of the separate fees and costs settlement agreement if effective on the same date, or within ten (10) days after the execution of the fees and costs settlement agreement if later. Payment under this Paragraph shall

be governed by the separate fees and costs settlement agreement and made by electronic funds transfer pursuant to written instructions provided by Relators' counsel.

4. Subject to the exceptions in Paragraph 6 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount, plus any interest due under Paragraph 1, the United States releases Saad together with its current and former parent corporations; 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; or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Subject to the exceptions in Paragraph 6 below, and upon the United States' receipt of the Settlement Amount, plus any interest due under Paragraph 1, Relators, for themselves and for their heirs, successors, attorneys, agents, and assigns, release Saad from any civil monetary claim the Relators have on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Notwithstanding the releases given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States 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 (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due; and
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

7. Relators and their heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relators' receipt of the Relators' Share, Relators and their heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

8. Relators, for themselves, and for their heirs, successors, attorneys, agents, and assigns, release Saad, and its officers, agents, and employees, from any liability to Relators arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

9. Saad waives and shall not assert any defenses Saad 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.

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

11. Saad fully and finally releases the Relators from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Saad has asserted, could have asserted, or may assert in the future against the Relators, related to the allegations in the qui tam complaint and the Relators' investigation and prosecution thereof.

12. 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 Saad agrees 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.

13. Saad 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 Saad, its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Saad's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment Saad makes to the United States pursuant to this Agreement and any payments that Saad may make to Relators, including 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 Saad, and Saad 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 Saad or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Saad 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 Saad 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. Saad agrees that the United States, at a minimum, shall be entitled to recoup from Saad 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 reserves its rights to disagree with any calculations submitted by Saad or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Saad 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 to audit, examine, or re-examine Saad's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

14. 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 15 (waiver for beneficiaries paragraph), below.

15. Saad 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.

16. Upon receipt of the payment described in Paragraph 1 above, the United States and Relators shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal pursuant to Rule 41(a). The Joint Stipulation of Dismissal will be with prejudice to the United States' claims against Saad as to the Covered Conduct, without prejudice to the United States as to all other claims in the Civil Action against Saad, and with prejudice to all claims made in the Civil Action by Relators.

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

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

19. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Southern District of Alabama. 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.

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

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

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

23. This Agreement is binding on Saad's successors, transferees, heirs, and assigns.

24. This Agreement is binding on Relators' successors, transferees, heirs, and assigns.

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

26. 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: _____

BY: _____



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Date: 2025.02.14 07:43:58
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Nina Herring
Assistant United States Attorney
Southern District of Alabama

DATED: _____

BY: _____

Rory L. Skaggs
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: _____

BY: _____

SUSAN E. GILLIN
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

SAAD ENTERPRISES, INC. - DEFENDANT

DATED: _____

BY: _____

Henry Fulgham

DATED: _____

BY: _____

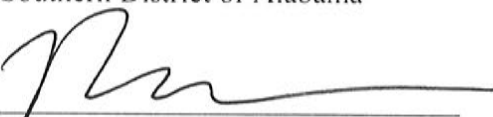
Warren Butler
Counsel for Saad Enterprises, Inc.

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
Nina Herring
Assistant United States Attorney
Southern District of Alabama

DATED: 2/13/25

BY: 
Rory L. Skaggs
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: _____

BY: _____
SUSAN E. GILLIN
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

SAAD ENTERPRISES, INC. - DEFENDANT

DATED: _____

BY: _____
Henry Fulgham

DATED: _____

BY: _____
Warren Butler
Counsel for Saad Enterprises, Inc.

THE UNITED STATES OF AMERICA

DATED: _____


BY: _____
Nina Herring
Assistant United States Attorney
Southern District of Alabama

DATED: _____

BY: _____
Rory L. Skaggs
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 2/14/25

BY: **SUSAN**
GILLIN
SUSAN E. GILLIN
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

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SAAD ENTERPRISES, INC. - DEFENDANT

DATED: _____

BY: _____
Henry Fulgham

DATED: _____

BY: _____
Warren Butler
Counsel for Saad Enterprises, Inc.

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____

Nina Herring
Assistant United States Attorney
Southern District of Alabama

DATED: _____

BY: _____

Rory L. Skaggs
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: _____

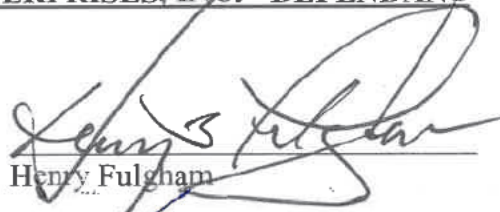
BY: _____

SUSAN E. GILLIN
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

SAAD ENTERPRISES, INC. - DEFENDANT

DATED: 2/13/2025

BY: _____



Henry Fulgham


DATED: 2/13/25


BY: _____


Warren Butler
Counsel for Saad Enterprises, Inc.

MELISSA WOLFF AND WHITNEY SIMS - RELATOR

DATED: 02 / 13 / 2025 BY: 
Melissa Wolff

DATED: 02 / 13 / 2025 BY: 
Whitney Sims

DATED: 02 / 13 / 2025 BY: 
James Barger
Counsel for Melissa Wolff and Whitney Sims

Appendix A

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