

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”), and American Health Foundation, Inc. (“AHF”); AHF Management Corporation; AHF Montgomery, Inc. d/b/a Cheltenham Nursing and Rehabilitation Center (“Cheltenham”); and AHF Ohio, Inc. d/b/a The Sanctuary at Wilmington Place (“Wilmington Place”) and Samaritan Care Center and Villa (“Samaritan”) (collectively, “the Defendants”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. AHF is an Ohio nonprofit corporation that, together with its affiliates, owns and/or operates skilled nursing facilities in different states. AHF Management Corporation is an Ohio nonprofit corporation that oversees and manages AHF’s skilled nursing facilities. Cheltenham is a skilled nursing facility that is owned and operated by AHF Montgomery, which is an AHF affiliate. Cheltenham is located in Philadelphia, Pennsylvania. Wilmington Place and Samaritan are skilled nursing facilities that are operated by AHF Ohio, which is another AHF affiliate. Wilmington Place is located in Dayton, Ohio; and Samaritan is located in Medina, Ohio. Each of these skilled nursing facilities bills federal health care programs for services provided to resident beneficiaries.

B. On June 14, 2022, the United States filed an action in the United States District Court of the Eastern District of Pennsylvania captioned *United States v. American Health Foundation, Inc.; AHF Management Corporation; AHF Montgomery d/b/a Cheltenham Nursing and Rehabilitation Center; and AHF Ohio, Inc. d/b/a the Sanctuary for Wilmington Place and*

d/b/a/ Samaritan Center and Villa (Case No. 2:22-cv-02344-RBS) (the “Civil Action”). The United States filed an amended complaint on June 17, 2022 (the “First Amended Complaint”).

C. The United States contends that the Defendants 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”); and the Medicaid Program, 42 U.S.C. §§ 1396-1396w-5 (“Medicaid”).

D. The United States contends that it has certain civil claims against the Defendants arising from their provision of certain skilled nursing facility services that were non-existent, grossly substandard, or in violation of the standards of set forth in the Nursing Home Reform Act and its implementing regulations, 42 U.S.C. §§ 1395i-3, 1396r et seq.; and 42 C.F.R. § 483. The United States contends that certain non-existent, grossly substandard, or non-compliant care was provided at Cheltenham from January 1, 2016, to December 31, 2018; at Wilmington Place from January 1, 2017, to December 31, 2017; and Samaritan from October 1, 2016, to December 31, 2018. The specific care deficiencies for each facility are set forth in the United States’ Complaint and First Amended Complaint. That conduct is referred to below as the “Covered Conduct.”

E. This Settlement Agreement is neither an admission of liability by the Defendants 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. The Defendants shall pay \$3,616,431 (“Settlement Amount”) to the United States, and interest on the Settlement Amount at a rate of 4.625% per annum from May 29, 2025, of

which \$2,893,145 is restitution, by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice.

a. The Defendants shall pay the Settlement Amount in three installments, with the first payment of \$1,205,477, plus interest at a rate of 4.625% per annum from May 29, 2025, due no later than 14 days after the Effective Date of this Agreement. The second payment of \$1,205,477, plus interest at a rate of 4.625% per annum from May 29, 2025, is due no later than 180 days after the Effective Date of this Agreement. The third payment of \$1,205,477, plus interest at a rate of 4.625% per annum from May 29, 2025, is due no later than 360 days after the Effective Date of this Agreement. This payment schedule is set forth in Exhibit A.

b. The Parties agree that Defendants shall not incur any penalty for prepayment of the second and third installments of the settlement amount and that interest shall cease to accrue with respect to any given installment once Defendants make prepayment of an installment in full.

c. If the Defendants fail to make any of the payments set forth in Paragraph 1.a. at the specified time, the Defendants shall have 30 days to cure the default. If the default is not cured within the 30-day period, the remaining unpaid principal portion of the Settlement Amount shall become accelerated and immediately due and payable, with interest at a simple rate of 4.625% per annum from the effective date of this Agreement to the date of default, and interest accruing at a simple rate of 12% per annum, compounded annually, from the date of default on the remaining unpaid total. The Defendants shall also agree to the filing of a Consent Judgment, in the form attached as Exhibit B.

d. In the event of a default that is not cured within 30 days, the United States, at its sole discretion, may pursue any and all actions for collection as it may choose, including, without limitation, (a) filing an action for specific performance of this Agreement; (b) offsetting

the remaining unpaid balance of the Settlement Amount (inclusive of interest) from any amounts due or owing to the Defendants by any department, agency, or agent of the United States; and (c) filing the Consent Judgment in the form attached as Exhibit A in the United States District Court for the Eastern District of Pennsylvania. The United States may exercise any of these options, either individually or in concert. The Defendants agree not to contest any collection undertaken by the United States pursuant to this paragraph, and to pay the United States all reasonable costs incurred in any such collection action, including reasonable attorney's fees and expenses.

e. Notwithstanding the forgoing, in the event of a default that is not cured within 30 days, OIG-HHS may exclude, at its discretion, the Defendants from participating in all Federal health care programs for a minimum period of 5 years or until the Defendants pay the full Settlement Amount and reasonable costs as set forth above. OIG-HHS will provide the Defendants with written notice of any such exclusion. The Defendants waive any further notice of the exclusion under 42 U.S.C. § 1320a-7(b)(7) and agree not to contest such exclusion either administratively or in any state or federal court. Reinstatement to program participation is not automatic. If the Defendants wish to apply for reinstatement at the end of the exclusion period, the Defendants must submit a written request to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-3005. The Defendants will not be reinstated unless and until OIG-HHS approves such request for reinstatement.

2. Subject to the exceptions in Paragraph 4 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount, plus the interest due under Paragraph 1, the United States releases the Defendants 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.

3. In consideration of the obligations of the Defendants in this Agreement and the Corporate Integrity Agreement (“CIA”), entered into between OIG-HHS and AHF, and upon the United States’ receipt of full payment of the Settlement Amount, plus the interest due under Paragraph 1, the OIG-HHS shall release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from Medicare, Medicaid, and other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) against the Defendants under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law) or 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct, except as reserved in this paragraph and in Paragraphs 1(d) and 7. The OIG-HHS expressly reserves all rights to comply with any statutory obligations to exclude the Defendants from Medicare, Medicaid, and other Federal health care programs under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) based upon the Covered Conduct. Nothing in this paragraph precludes the OIG-HHS from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph 4, below.

4. Notwithstanding the releases given in Paragraphs 2 and 3 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 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; and
- g. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

5. The Defendants waive and shall not assert any defenses the 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 Agreement bars a remedy sought in such criminal prosecution or administrative action.

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

7. 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 the Defendants agree not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agree not to appeal any such denials of claims, and agree to withdraw any such pending appeals.

8. The 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. §§ 1395-1395III and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of the Defendants, its and their present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit and civil investigation of the matters covered by this Agreement;
- (3) the Defendants' investigation, defense, and corrective actions undertaken in response to the United States' audit and civil investigation in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment the Defendants make to the United States pursuant to this Agreement; and
- (6) the negotiation of, and obligations undertaken pursuant to the CIA to: (i) retain an independent review organization to perform annual reviews as described in Section III of the CIA; and (ii) prepare and submit reports to the OIG-HHS,

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). However, nothing in paragraph 8.a.(6)

that may apply to the obligations undertaken pursuant to the CIA affects the status of costs that are not allowable based on any other authority applicable to the Defendants.

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by the Defendants, and the 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 the Defendants or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: The Defendants further agree that within 90 days of the Effective Date of this Agreement they 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 the Defendants or any other of AHF's 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. The Defendants agree that the United States, at a minimum, shall be entitled to recoup from the 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 reserves its rights to disagree with any calculations submitted by The Defendants

or any of AHF's subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on the Defendants or any of AHF's 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 the Defendants' books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

10. 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 11, below.

11. The Defendants agree that they waive 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.

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

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

14. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of Pennsylvania. 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.

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

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

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

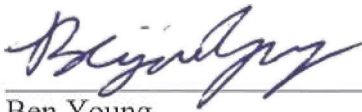
18. This Agreement is binding on the Defendants' successors, transferees, heirs, and assigns.

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

20. 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: 5/30/2025


BY: 
Ben Young
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 6/2/25


BY:  Digitally signed by SUSAN GILLIN
Date: 2025.06.02 17:17:21 -04'00'
SUSAN GILLIN
Susan 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

THE DEFENDANTS

DATED: 05/28/2025 BY:


J. Michael Haemme
Secretary
American Health Foundation, Inc.

DATED: 5/28/2025

BY: 
Michael Ferrara
Counsel to American Health Foundation, Inc.