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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA, Plaintiff, v. RYAN HEE; and VDA OC, LLC, formerly ADVANTAGE ON CALL, LLC, Defendants.	**CRIMINAL INDICTMENT** Case No. 98 **VIOLATION:** Conspiracy in Restraint of Trade (15 U.S.C. § 1)

The Grand Jury charges that at all times relevant to this Indictment:

COUNT ONE
Conspiracy in Restraint of Trade
(15 U.S.C. § 1)

BACKGROUND

1. The Clark County School District ("CCSD") was the nation's fifth-largest school district and educated over 300,000 students annually in Clark County, Nevada. CCSD provided specialized services and nursing care for medically fragile students, that is, students with medically complex needs. CCSD contracted with private healthcare staffing companies to provide its students with the necessary specialized nursing care.

2. In 2013, CCSD announced a Request for Proposal ("RFP") inviting companies to submit proposals to provide nurse staffing services to support students with complex medical needs at schools throughout the district. The RFP was titled "Contract Nursing Services for Medically Fragile Students: RFP 13086 RMH" ("RFP 13086 RMH"). Under RFP 13086 RMH, the nurses that the selected staffing companies would assign to work at CCSD were to provide care and perform specialized health procedures for medically fragile students. The nurses would provide constant care to medically fragile students, including during classroom time, traveling the hallways, bus rides, meals, field trips, and other school-based activities.

DEFENDANTS AND CO-CONSPIRATORS

3. From as early as 2011 until in or around July 2017, ADVANTAGE ON CALL, LLC ("AOC") was a limited liability company incorporated in the State of Ohio that provided contract healthcare staffing services in several states, including from its branch office in Las Vegas, Nevada. AOC employed healthcare personnel, including nurses, and assigned them to facilities with which the company had contracted to provide staffing services. In or around July 2017, AOC changed its name on file with the State of Ohio to VDA OC, LLC.

4. Defendant Ryan HEE was a United States citizen, residing in Las Vegas, Nevada. HEE was employed as a Regional Manager by AOC in its Las Vegas office, and was responsible for managing the office's hiring of nurses and developing new customers that needed nurse staffing services in Nevada, Arizona, and Utah.

5. Company A was a corporation that provided contract healthcare staffing services in several states, including from its branch office in Las Vegas, Nevada. Company A employed healthcare personnel, including nurses, and assigned them to facilities with which Company A had contracted to provide staffing services.

6. Company A employed as an Account Manager Individual 1, who was responsible for managing the company's Las Vegas office's recruitment and staffing of nurses at the company's clients, including hospitals, schools, and other facilities, in Southern Nevada.

7. AOC competed with Company A in the Southern Nevada area to provide contract healthcare staffing services. AOC also competed with Company A to attract, hire, and retain healthcare personnel, including nurses.

8. On August 19, 2013, AOC entered into an agreement with CCSD to provide contract nursing services under RFP 13086 RMH. On August 29, 2013, Company A also entered into an agreement with CCSD to supply contract nursing services under RFP 13086 RMH.

9. AOC and Company A were the two primary providers of contract nurses to CCSD through their respective contracts awarded under RFP 13086 RMH and periodic amendments extending the contractual agreements.

10. Another corporation and individuals, not made defendants in this Indictment, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

11. Whenever in this Indictment reference is made to any act, deed, or transaction of any corporation or limited liability company, the allegation means that the corporation or limited liability company engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

DESCRIPTION OF THE OFFENSE

12. Beginning in or around October 2016 and continuing until at least in or around July 2017, the exact dates being unknown to the Grand Jury, in the District of Nevada and elsewhere, AOC, HEE, and others known and unknown to the Grand Jury, knowingly entered into and engaged in a conspiracy to suppress and eliminate competition for the services of nurses by agreeing to allocate nurses and to fix the wages of those nurses. The combination and conspiracy engaged in by the defendants and their co-conspirators was a *per se* unlawful, and thus unreasonable, restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

13. The charged conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants and their co-conspirators, the substantial terms of which were that AOC and Company A would allocate nurse employees by not recruiting or hiring each other's nurses assigned to CCSD and would refrain from raising the wages of those nurses.

MEANS AND METHODS OF THE CONSPIRACY

14. For the purpose of forming and carrying out the charged combination and conspiracy, AOC, HEE, and their co-conspirators, among other things, did the following:

a. participated in conversations and communications to discuss allocating nurses between AOC and Company A—for example, on or about October 21, 2016, HEE

emailed Individual 1, stating "Per our conversation, we will not recruit any of your active CCSD nurses.";

b. agreed during those conversations and communications to allocate nurses between AOC and Company A by agreeing not to recruit or hire each other's nurses assigned to CCSD—for example, on or about October 21, 2016, in response to HEE's email described above, Individual 1 wrote, "Agreed on our end as well. I am glad we can work together through this, and assure that we will not let the field employees run our businesses moving forward.";

c. agreed during those conversations and communications that, if an AOC or Company A nurse assigned to CCSD sought employment with the other company, the other company would notify the employing company immediately and would not discuss employment with that nurse;

d. agreed during those conversations and communications to refuse to negotiate any further wage increase with their nurses assigned to CCSD—for example, in the email described above, HEE stated, "If anyone threatens us for more money, we will tell them to kick rocks!";

e. instructed certain Company A employees not to recruit or hire a co-conspirator company's nurses assigned to CCSD;

f. refrained from recruiting or hiring each other's nurses assigned to CCSD; and

g. refused to negotiate a pay-rate increase with at least one nurse assigned to CCSD with the knowledge that the nurse would not be able to negotiate a higher rate from the other company—specifically, on or about March 24, 2017, in response to a nurse's request for a pay increase, Individual 1 instructed his subordinate, "tell [the nurse] no" and "plus Advantage On-Call and us have a deal not to poach nurses."

TRADE AND COMMERCE

15. The business activities of AOC and Company A that are the subject of this Indictment were within the flow of, and substantially affected, interstate trade and commerce. For example,

a. the payments that CCSD made to AOC and to Company A for the services rendered by their respective nurses traveled in interstate trade and commerce;

b. the payments that AOC and Company A made to their respective nurses traveled in interstate trade and commerce;

c. the payments that CCSD made to AOC and to Company A for the services rendered by their respective nurses were funded in substantial part by the State of Nevada. The State of Nevada funding included a substantial portion of federal funding from Medicaid, managed through the federal Centers for Medicare and Medicaid Services, a federal agency based in Baltimore County, Maryland and part of the United States Department of Health and Human Services; and

d. both AOC and Company A employed healthcare workers, including nurses, in multiple states.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

DATED this 30th day of March, 2021.

A TRUE BILL:

/S/
FOREPERSON OF THE GRAND JURY

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