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**THREE FORMER NURSING HOME EXECUTIVES INDICTED ON
CONSPIRACY, FRAUD, FALSE STATEMENTS, AND TAX CHARGES**

Defendants Defrauded HHS and IRS of Approximately \$34 Million

Three former nursing home executives, one a lawyer, were charged yesterday in a federal indictment with various offenses related to their operation of nursing homes located in Texas and elsewhere, announced U.S. Attorney Richard B. Roper of the Northern District of Texas. A federal grand jury in Fort Worth returned the 29-count indictment charging Gary R. Trebert, Stephen Michael Ewing, a/k/a "Stephen Michaels," and Larry Gordon May each with one count of conspiracy to defraud the Internal Revenue Service (IRS) and the U.S. Department of Health and Human Services (HHS), nine counts of tax evasion, five counts of mail fraud, seven counts of false statements to a government agency and seven counts of false statements relating to health care matters.

U.S. Attorney Roper said, "This indictment reflects federal law enforcement's commitment to effectively address those who use nursing homes to defraud the federal government and enrich themselves. Nursing homes should be businesses of stability rather than vehicles to commit fraud."

"Fiscal predators make all of us pay for their illegal activity and it cannot be tolerated," said Erick Martinez, Special Agent in Charge of the Dallas Field Office of IRS Criminal Investigation. "When allegations arise that certain individuals and corporations are abusing the tax system to avoid paying their fair share of tax, the IRS will vigorously investigate them. It is a matter of maintaining public confidence in the fairness of the tax laws. Today's indictment is the result of such an investigation," Martinez said.

Robert E. Casey Jr., Special Agent in Charge, Dallas FBI stated "Health Care Fraud remains a top investigative priority for the FBI.. This indictment is an excellent example of how the FBI, partnering with other law enforcement agencies, will aggressively investigate and bring to justice those who abuse the system which is relied upon by every American, and in this case, those who are most at risk, our nation's elderly."

"This indictment sends a strong message to those who wish to defraud the Medicare and Medicaid programs," said Daniel R. Levinson, Inspector General for the Department of Health and Human Services. "Our nation's elderly and disadvantaged rely heavily on these programs for their physical and mental well-being. OIG, working closely with our law enforcement partners, will bring all available enforcement tools to bear in pursuit of providers who game the system at the expense of our most vulnerable citizens."

"The Mail Fraud Statute is the nation's oldest and most effective consumer protection law, and the U.S. Postal Inspection Service is the federal law enforcement agency that uses it to maximum effect," said Fort Worth Division Acting Inspector in Charge Barbara Meyer. "The American public should know that Postal Inspectors protect them through investigating fraudulent schemes targeted at consumers, businesses, and the government."

Gary R. Trebert, a licensed attorney, and Stephen Michael Ewing, both residents of Texas, concealed at times, their control and management of nursing homes and staffing/payroll companies in Texas, Oklahoma, Kansas, Iowa and/or Virginia. Ewing had previously operated a nursing home in Illinois. Larry Gordon May, a resident of Texas, became president and a controller of various nursing home entities and staffing/payroll companies without any previous experience or knowledge of licensed nursing home operations or responsibilities.

The indictment alleges that beginning in 1999 and continuing through May 2004, these three defendants knowingly and intentionally devised a scheme to defraud HHS and the IRS. As part of the scheme, the defendants, using false statements and false documents, obtained control of 70 nursing homes in the name of sham corporate entities. The false statements were used to conceal from HHS, state licensing and Medicaid agencies, and the IRS, the defendants' true control of, management of, and responsibility for the nursing home residents and responsibility for more than \$200 million in payments to nursing homes. They diverted to themselves, and their personal activities, substantial sums of money derived from their nursing home operations and from the non-payment of employees' withheld taxes.

The defendants created more than 150 sham staffing/payroll entities, many with foreign business addresses, at drop boxes in England and Austria, to appear to be the employers of more than 4500 nursing home employees so as to prevent the IRS from assessing and collecting payroll tax liabilities. The defendants did not file corporate tax returns for the sham corporate entities, as required by law. They made false employer withholding tax returns on forms to the IRS in the name and with the address of the sham staffing/payroll entities, declaring more than \$34 million in employees' income, social security and Medicare taxes due and payable. However, the defendants did not pay into the U.S. Treasury the taxes withheld from the nursing home employees' paychecks. In fact, a part of the conspiracy involved one of the defendants flying to London to mail to the IRS in the U.S. false withholding tax returns.

The defendants also hid the money from Medicare, Medicaid, and private payors derived from their operation of the nursing homes. As part of the scheme they used false and forged names and signatures on documents submitted to federal and state authorities and to private businesses and suppliers of nursing homes they controlled.

Part of their scheme, as outlined in the indictment, was to obtain more than \$200 million from Medicare, Medicaid and private pay patients based on fraudulently obtained certifications and licenses to operate nursing homes and based on non-disclosure of their control, management and responsibility for the nursing homes, nursing-home patients and payments received for patient care. They also filed false nursing home cost reports and staff enhancement reports with state and federal authorities to obtain and increase their money derived

from their fraudulent control of nursing homes.

An indictment is an accusation by a federal grand jury and a defendant is entitled to the presumption of innocence unless proven guilty. If convicted, however, the maximum statutory penalty applicable to the false statements, conspiracy and tax evasion counts are five years in prison and a \$250,000 fine, per count; the maximum statutory penalty applicable to the mail fraud count is 20 years in prison and a \$250,000 fine, per count. Restitution could be ordered.

U.S. Attorney Roper praised the investigative efforts by federal and state agencies including, Internal Revenue Service - Criminal Investigation (IRS-CI), U.S. Department of Health and Human Services (OIG-OI), Federal Bureau of Investigation, U.S. Postal Inspection Service, Texas Office of the Attorney General - Medicaid Fraud Control Unit, and state agencies from Kansas, Iowa, Oklahoma and Virginia. The case is being prosecuted by Assistant U.S. Attorneys Ron Eddins, Alan Buie and Special Assistant U.S. Attorney Amy Burch.

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