

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”) of the Department of Health and Human Services (“HHS”) (collectively, the “United States”) and Dr. Daniel Case (herein “Dr. Case”), through their authorized representatives. The United States and Dr. Case are hereafter collectively referred to as “the Parties.”

FACTUAL RECITALS

A. Dr. Case is a licensed physician in the State of Washington, who resides in Spokane, Washington. As a licensed physician, Dr. Case can prescribe durable medical equipment to patients, including braces and suspension sleeves.

B. Between October 2018 and April 2019 (hereafter “the relevant time period”), Dr. Case worked for RediDoc LLC (“RediDoc”). RediDoc employed telemarketing companies to call federal health care program beneficiaries, including Medicare beneficiaries, and speak with them about obtaining durable medical equipment at no cost. Portions of these calls were recorded and provided to physicians, like Dr. Case, along with pre-filled prescriptions for durable medical equipment. The physicians would review the recordings and sign orders for durable medical equipment, which were then billed to federal health care programs, including Medicare. The physicians, including Dr. Case, were paid for each order they signed prescribing durable medical equipment.

C. The owners of RediDoc were charged with various federal offenses in September 2020, including conspiracy to violate the federal anti-kickback statute, based upon the fact that the payments to physicians were remuneration intended to induce the physician to sign durable medical equipment orders, including orders that were not medically necessary. The owners of

RediDoc both pled guilty to this conspiracy, admitting that RediDoc provided kickbacks to physicians, such as Dr. Case, to induce them to sign durable medical equipment orders.

D. During the relevant time period and while employed with RediDoc, Dr. Case expressed in a November 14, 2018, email his “concern” regarding the “legitimacy of what I am doing.” Nevertheless Dr. Case continued to work with RediDoc and signed durable medical equipment orders for patients until April 2019.

E. During the relevant time period, Dr. Case signed orders that were not medically necessary. For example, Dr. Case signed an order on January 18, 2019, prescribing right and left knee braces to a woman who had an above-the-knee amputation of her right leg. As another example, Dr. Case signed three durable medical equipment orders on January 9, 2019, for a patient who had died on January 7, 2019.

F. The United States contends that Dr. Case 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”). In total, during the relevant time period, Dr. Case signed orders that resulted in Medicare payments of \$3,358,221.57. During the relevant time period, RediDoc paid Dr. Case \$66,727.00 for the orders he signed.

G. The United States contends that it has certain civil claims under the False Claims Act (31 U.S.C. §§ 3729–3733) against Dr. Case arising from allegedly false claims for payment caused to be submitted by Dr. Case to Medicare during the relevant time period for durable medical equipment orders that were medically unnecessary, that were induced by the acceptance of a kickback from RediDoc, and that were otherwise improper. The conduct described in this paragraph, together with the agreed-upon facts and conduct set forth above in Recitals A through F as they relate to the Federal Health Programs is hereinafter referred to as the “Covered Conduct.”

E. While Dr. Case agrees to and admits the factual recitations in Paragraphs A through F above, this Settlement Agreement is not an admission of liability or fault by Dr. Case, who disputes the merits of the Government's claims and allegations, nor is it an admission by the Government 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. Dr. Case shall pay to the United States \$95,000.00 ("Settlement Amount"), of which \$54,000.00 is restitution. Payment shall be made within sixty (60) days of the Effective Date of this Agreement by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney for the Eastern District of Washington.

2. Subject to the exceptions in Paragraph 3 (concerning excluded claims), and conditioned upon Dr. Case's full payment of the Settlement Amount under this agreement, the United States releases Dr. Case from any civil or administrative claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

3. Notwithstanding the release given in Paragraph 2 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; and
- f. Any liability of individuals not party to this Agreement.

4. Dr. Case waives and shall not assert any defenses Dr. Case 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.

5. Dr. Case fully and finally releases 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 Dr. Case has 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.

6. Dr. Case 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 Dr. Case in connection with:

- (1) the matters covered by this Agreement;

- (2) the United States' audit(s) and investigation(s) of the matters covered by this Agreement;
- (3) Dr. Case's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment Dr. Case makes to the United States pursuant to this Agreement.

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 Dr. Case, and Dr. Case 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 Dr. Case to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Dr. Case further agrees that within 90 days of the Effective Date of this Agreement he 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 Dr. Case, 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. Dr. Case agrees that the United States, at a minimum, shall be entitled to recoup from Dr. Case 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 Dr. Case on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Dr. Case's 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 Dr. Case's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

7. 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 8 (waiver for beneficiaries paragraph), below.

8. Dr. Case agrees that he 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.

9. Dr. Case warrants that he has reviewed his financial situation and that he currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the United States of the Settlement Amount. Further, the Parties

warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Dr. Case, within the meaning of 11 U.S.C. §§ 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, Dr. Case warrants that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which Dr. Case was or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

10. If, within 91 days of the effective date of this agreement or of any payment made under this Agreement, Dr. Case commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of Dr. Case's debts, or seeking to adjudicate Dr. Case as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for any substantial part of Dr. Case's assets, Dr. Case agrees as follows:

a. Dr. Case's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and Dr. Case shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Dr. Case's obligations under this Agreement may be avoided under 11 U.S.C. § 547; (ii) Dr. Case was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Dr. Case;

b. If Dr. Case's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement

and bring any civil and/or administrative claim, action, or proceeding against Dr. Case for the claims that would otherwise be covered by the release provided in Paragraph 2, above. Dr. Case agrees that: (i) any such claims, actions, or proceedings brought by the United States are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case or proceedings described in the first clause of this Paragraph, and Dr. Case shall not argue otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) Dr Case shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceeding brought by the United States within 90 calendar days of written notification to Dr. Case that the release has been rescinded pursuant to this Paragraph, except to the extent that such defenses were available on the effective date of this Agreement; and (iii) the United States has a valid claim against Dr. Case and the United States may pursue its claim in the case, action, or proceeding referenced in the first Clause of this Paragraph, as well as in any other case, action, or proceeding.

c. Dr. Case acknowledges that his agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

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

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

13. 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 Washington. 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.

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

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

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


17. This Agreement is binding on Dr. Case's successors, transferees, heirs, and assigns.

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

19. 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: 1/19/2024

BY: 

Jeremy J. Kelley
Assistant United States Attorney
Eastern District of Washington

DATED: _____

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

Digitally signed by SUSAN GILLIN
Date: 2024.01.17 15:42:02 -05'00'

DEFENDANT

DATED: 1/19/2024 BY: Daniel J. Case
Daniel Case

DATED: 1-19-2024 BY: David Partovi
David Partovi
Partovi Law PS
Counsel for Daniel Case