

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA <i>ex rel.</i>	)	
JAVAR JONES, and OLIVIER LOUIS	)	
CURET,	)	
	)	
Plaintiffs,	)	
	)	No. 16 C 4957
v.	)	
	)	Judge Coleman
BRIAN WEINSTEIN, APOLLO HEALTH,	)	
INC., and APOLLO HEALTH,	)	
CONSULTING, INC.,	)	
	)	
Defendants.	)	

**CONSENT JUDGMENT AND SETTLEMENT AGREEMENT**

This Consent Judgment and Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf the Office of Inspector General (“OIG-HHS”) of the Department of Health and Human Services (“HHS”), (collectively, the “United States”), Brian Weinstein, Apollo Health, Inc., Javar Jones, and Louis Curet (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. Brian Weinstein owned and operated Apollo Health, Inc. (“Apollo”), an Illinois corporation with its principal place of business in Chicago. Weinstein and Apollo submitted claims for payment to the United States for care plan oversight (“CPO”) services. Apollo was dissolved on May 31, 2017.

B. On May 4, 2016, Javar Jones and Louis Curet filed a qui tam action in the United States District Court for the District of Northern District of Illinois captioned *United States ex rel. Javar Jones and Louis Curet v. Apollo Health, Inc., Apollo Health Consulting, Inc. and Brian*

*Weinstein*, No. 16 C 4957 (N.D. Ill.), pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). The United States intervened in the Civil Action on February 21, 2019.

C. Weinstein and Apollo 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 has certain civil claims against Weinstein and Apollo for causing the submission of false claims to Medicare by engaging in the following conduct (referred to as the “Covered Conduct”) from December 1, 2014, through March 31, 2017:

1. At Weinstein’s direction, Apollo fraudulently billed Medicare for CPO services, which involve a physician’s supervisions of a patient receiving complex and/or multidisciplinary care provided by a home health agency or hospice. Weinstein directed Apollo’s billers to submit to Medicare 12,592 claims for CPO services on behalf of 25 different providers purportedly employed by Apollo. At the time he directed others to submit these claims, Weinstein knew that the providers had not provided CPO services to Medicare patients, and that CPO services were not documented in the patients’ medical records.

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.

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. Weinstein and Apollo agree to the entry of a consent judgment as to the United States in the amount of \$1,000,000 (the Judgment Amount), of which \$757,318.88 is restitution.

2. Conditioned upon the United States receiving any portion of the Judgment Amount, the United States shall pay to Relators by electronic funds transfer 20 percent of each such payment received under the Consent Judgment and Settlement Agreement (“Relators’ Share”) as soon as feasible after receipt of the payment.

3. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and subject to Paragraph 8 (concerning disclosure of assets) and Paragraph 17 (concerning bankruptcy) below, and upon the United States’ receipt of the Judgment Amount, the United States releases Weinstein and Apollo 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.

4. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and subject to Paragraph 8 (concerning disclosure of assets) and Paragraph 17 (concerning bankruptcy) below, and upon the United States’ receipt of the Judgment Amount, Relators, for themselves and for their heirs, successors, attorneys, agents, and assigns, release Weinstein and Apollo 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.

5. Notwithstanding the releases given in Paragraph 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 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;
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

6. 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.

7. Relators, for themselves, and for their heirs, successors, attorneys, agents, and assigns, release Weinstein, Apollo, and Apollo's 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.

8. Weinstein has, on behalf of himself and Apollo, provided sworn financial disclosures and supporting documents (together "Financial Disclosures") to the United States and the United States has relied on the accuracy and completeness of those Financial Disclosures in reaching this Agreement. Weinstein warrants that the Financial Disclosures are complete, accurate, and current as of the Effective Date of this Agreement. If the United States learns of asset(s) in which Weinstein or Apollo had an interest of any kind as of the Effective Date of this Agreement (including, but not limited to, promises by insurers or other third parties to satisfy Weinstein's or Apollo's obligations under this Agreement) that were not disclosed in the Financial Disclosures, or if the United States learns of any false statement or misrepresentation by Weinstein on, or in connection with, the Financial Disclosures, and if such nondisclosure, false statement, or misrepresentation changes the estimated net worth set forth in the Financial Disclosures by \$50,000.00 or more, the United States may at its option: (a) rescind this Agreement and reinstate its suit or file suit based on the Covered Conduct or (b) collect the full Judgment Amount in accordance with the Agreement plus one hundred percent (100%) of the net value of Weinstein's or Apollo's previously undisclosed assets. Weinstein and Apollo agree not to contest any collection action undertaken by the United States pursuant to this provision, and agree that Weinstein and Apollo will immediately pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected in the collection action, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States, pursuant to this paragraph rescinds this Agreement, Weinstein and Apollo waive and agree not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that

(a) are filed by the United States within 120 calendar days of written notification to Weinstein that this Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on May 4, 2016.

9. Weinstein and Apollo waive and shall not assert any defenses Weinstein and Apollo 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. Weinstein and Apollo fully and finally release 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 Weinstein and Apollo have 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. Weinstein and Apollo fully and finally release the Relators from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Weinstein and Apollo have asserted, could have asserted, or may assert in the future against the Relators, related to the Covered Conduct and the Relators' investigation and prosecution thereof.

12. The Judgment 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 Weinstein and Apollo 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.

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

- (1) the matters covered by this Agreement and the plea agreement in *United States of America v. Brian Weinstein*, No. 19 CR 307 (N.D. Ill.);
- (2) the United States' audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;
- (3) Weinstein's and Apollo's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement and the plea agreement in *United States of America v. Brian Weinstein*, No. 19 CR 307 (N.D. Ill.);  
and
- (5) the payment Weinstein and Apollo make to the United States pursuant to this Agreement and any payments that Weinstein and Apollo may make to Relator, 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 Weinstein and Apollo, and Weinstein and Apollo 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 Weinstein or Apollo or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Weinstein and Apollo 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 Weinstein or Apollo 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. Weinstein and Apollo agree that the United States, at a minimum, shall be entitled to recoup from Weinstein and Apollo 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 Weinstein or Apollo or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Weinstein or Apollo 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 Weinstein's or Apollo's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

14. Weinstein and Apollo agree to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, Weinstein and Apollo shall encourage, and agree not to impair, the cooperation of its directors, officers, and employees, and shall use their best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Weinstein and Apollo further agree to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any investigation of the Covered Conduct that they have undertaken, or that have been performed by another on their behalf.

15. 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 16 (waiver for beneficiaries paragraph), below.

16. Weinstein and Apollo 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.

17. In exchange for valuable consideration provided in this Agreement, Weinstein and Relators acknowledge the following:

a. Weinstein has reviewed his financial situation and warrants that he 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 Judgment Amount.

b. In evaluating whether to execute this Agreement, the Parties intend that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to Weinstein, within the meaning of 11 U.S.C. § 547(c)(1), and the Parties conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange.

c. The mutual promises, covenants, and obligations set forth herein are intended by the Parties to, and do in fact, constitute a reasonably equivalent exchange of value.

d. The Parties do not intend to hinder, delay, or defraud any entity to which Weinstein was or became indebted to on or after the date of any transfer contemplated in this Agreement, within the meaning of 11 U.S.C. § 548(a)(1).

e. If any of Weinstein's payments or 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) or if, before the Judgment Amount is paid in full, Weinstein or a third party commences a case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors seeking any order for relief of Weinstein's debts, or to adjudicate Weinstein as bankrupt or insolvent; or seeking appointment of a receiver, trustee,

custodian, or other similar official for Weinstein or for all or any substantial part of Weinstein's assets:

(i) the United States may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Weinstein for the claims that would otherwise be covered by the releases provided in Paragraph 3 above;

(ii) the United States has an undisputed, noncontingent, and liquidated allowed claim against Weinstein in the amount of \$303,844,844.64, less any payments received pursuant to Paragraph 1 of this Agreement, provided, however, that such payments are not otherwise avoided and recovered from the United States by Weinstein, a receiver, trustee, custodian, or other similar official for Weinstein;

(iii) if any payments are avoided and recovered by a receiver, trustee, creditor, custodian, or similar official, the United States shall not be responsible for the return of any amounts already paid by the United States to the Relator; and

(iv) if, notwithstanding subparagraph (iii), any amounts already paid by the United States to the Relators pursuant to Paragraph 2 are recovered from the United States in an action or proceeding filed by a receiver, trustee, creditor, custodian, or similar official in or in connection with a bankruptcy case that is filed within two years of the Effective Date of this Agreement or of any payment made under Paragraph 1 of this Agreement, Relators shall, within thirty days of written notice from the United States to the undersigned Relators' counsel, return to the United States all amounts recovered from the United States.

f. Weinstein agrees that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 22.e is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the United States' police and regulatory power. Weinstein shall not argue or otherwise contend that the United States' claim, action, or

proceeding is subject to an automatic stay and, to the extent necessary, consents to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1). Weinstein waives and 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 claim, action, or proceeding brought by the United States within 120 days of written notification to Weinstein that the releases have been rescinded pursuant to this paragraph, except to the extent such defenses were available on May 4, 2016.

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

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

20. 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 Northern District of Illinois. 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.

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

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

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

24. This Agreement is binding on Weinstein's and Apollo's successors, transferees, heirs, and assigns.

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

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

27. 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**

MORRIS PASQUAL  
Acting United States Attorney

DATED: \_\_\_\_\_

BY: VIRGINIA HANCOCK  
Digitally signed by VIRGINIA HANCOCK  
Date: 2024.04.24 16:48:14 -05'00'

VIRGINIA O. HANCOCK  
Assistant U.S. Attorney  
219 S. Dearborn Street  
Chicago, Illinois 60604  
(312) 353-1998  
virginia.hancock@usdoj.gov

DATED: \_\_\_\_\_

BY: SUSAN GILLIN  
Digitally signed by SUSAN GILLIN  
Date: 2024.04.24 15:29:16 -04'00'

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

**BRIAN WEINSTEIN and APOLLO HEALTH, INC. - DEFENDANTS**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
BRIAN WEINSTEIN, Defendant, on behalf of himself and  
on behalf of Apollo Health, Inc.

DATED: 4-24-24

BY: *Dan Garbis*

DAN E. GARBIS  
The Garbis Law Firm, LLC  
7330 N. Cicero Avenue  
Lincolnwood, Illinois 60712  
(847) 982 9518  
dgarbis@garbislawfirm.com

Counsel for Brian Weinstein and Apollo Health, Inc.

**THE UNITED STATES OF AMERICA**

MORRIS PASQUAL  
Acting United States Attorney

DATED: \_\_\_\_\_

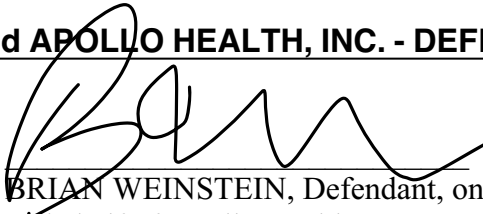
BY: \_\_\_\_\_  
VIRGINIA O. HANCOCK  
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(312) 353-1998  
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DATED: \_\_\_\_\_

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

**BRIAN WEINSTEIN and APOLLO HEALTH, INC. - DEFENDANTS**

DATED: 4/22/24

BY:   
BRIAN WEINSTEIN, Defendant, on behalf of himself and  
on behalf of Apollo Health, Inc.

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
DAN E. GARBIS  
The Garbis Law Firm, LLC  
7330 N. Cicero Avenue  
Lincolnwood, Illinois 60712  
(847) 982 9518  
dgarbis@garbislawfirm.com

Counsel for Brian Weinstein and Apollo Health, Inc.

**JAVAR JONES and LOUIS CURET - RELATORS**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
JAVAR JONES, Relator

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
LOUIS CURET, Relator



**JAVAR JONES and LOUIS CURET - RELATORS**

DATED: 4/26/2024

DATED: 4/26/2024

DATED: 4/26/2024

BY: JAVAR JONES, Relator  
DocuSigned by:  
Javar Jones  
2E5511C24DA8499

BY: LOUIS CURET, Relator  
DocuSigned by:  
Olivier Louis Curet  
39BB3BFD496F493...

BY: STEVEN JAY SEIDMAN  
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