

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 Corporation for National and Community Service (“CNCS”) (collectively the “United States”), Our Lady of Lourdes Health Care Services Inc., Our Lady of Lourdes Medical Center, Inc., and Our Lady of Lourdes Health Foundation (collectively, “Lourdes”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

The Parties

- A. Our Lady of Lourdes Health Care Services Inc. (“OLL Health Care Svcs.”) is the parent of Our Lady of Lourdes Medical Center, Inc. (“OLL MC”) and Our Lady of Lourdes Health Foundation (“OLL HF”). Each is a non-profit corporation.
- B. OLL MC operates a hospital (Our Lady of Lourdes Medical Center) at 1600 Haddon Ave., Camden, NJ 08103.
- C. OLL HF is a charitable foundation organized pursuant to the Internal Revenue Code, § 501(c)(3), to provide financial and material support for OLL Health Care Svcs. and its subsidiaries and affiliates, including but not limited to OLL MC.
- D. In addition to raising funds for OLL Health Care Svcs., OLL HF engages in a number of more direct charitable enterprises in the Southern New Jersey community.
- E. OLL MC shares some staff with OLL HF.

The Programs

F. Among the programs in which OLL HF engaged directly are CNCS' Foster Grandparent Program ("FGP") and Senior Companion Program ("SCP"). OLL HF participated in these programs from 1998 until June 30, 2017, when it voluntarily relinquished these grants following the discovery of improprieties in their administration.

G. Between 2012 and 2017, OLL HF received over \$5 million in grants from CNCS to support its community work.

H. In accordance with the National Community Service Act of 1990, as amended by the Serve America Act, and 45 C.F.R. § 2540, recipients of CNCS FGP and SCP grants, whose programs serve children or the elderly, must conduct: (1) National Sex Offender Public Website ("NSOPW") checks, (2) State criminal history checks ("CHCs"), and (3) FBI CHCs on all volunteers and employees who receive a stipend or salary funded from these CNCS grants. State and FBI CHCs must be initiated on or before the first day of service or work for each volunteer or employee. NSOPW checks must be completed prior to the start of service or work, and copies of all NSOPW checks and state and FBI CHCs must be maintained by the grantee. The purpose of these NSOPW checks and CHCs is to exclude convicted murderers and sex offenders from serving in national service programs and gaining access to at-risk persons.

I. In 2014, CNCS announced a nationwide program requiring grantee institutions to audit their programs to ensure NSOPW checks and CHCs had been done, and if missing, to perform them and to so certify, even if they were not in compliance prior to 2014.

J. On November 24, 2014, a supervisory employee at OLL HF certified that the required checks had been performed.

K. CNCS funds many different kinds of community service programs. The SCP and FGP Senior Corps programs provide stipends (\$2.65 per hour) to low-income seniors who serve as volunteers by providing valuable community services to underserved seniors and children. These stipends are awarded on an hourly basis, and CNCS grantees receive funds to pay for some or all the grantee's administrative costs to operate the program.

L. Because the stipend payments depend on the number of hours of service performed by volunteers, CNCS grant recipients must keep accurate records of the hours served and must provide stipend hours only for approved activities. Grant recipients must also accurately record the hours worked by grant-funded staff.

The Covered Conduct

M. In Spring 2017, CNCS' New Jersey state office conducted a monitoring visit at OLL HF and discovered that multiple NSOPW checks and CHCs appeared altered.

N. Soon thereafter, the Office of Inspector General for CNCS ("CNCS-OIG") initiated an investigation and performed a site visit.

O. CNCS-OIG determined that, in advance of the CNCS state office monitoring visit, OLL HF employees altered numerous state and NSOPW checks of FGP volunteers in order to make it appear the checks had been timely conducted when, in fact, OLL HF had no record of them having been done. In some cases, the records manipulated by the OLL HF staffers contained different fonts than original CHC

documents, and in others, the governor of New Jersey identified on state CHC paperwork was not in office at the time that the paperwork was supposedly generated.

P. In all, the United States contends that 31 documented State of New Jersey CHCs were fraudulent and 29 NSOPW checks were fraudulent. As a result, 46 individuals were permitted to work on an FGP or SCP project without any documentation that they received at least one of the required criminal history checks. A subsequent review showed none of these 46 individuals had a disqualifying criminal history.

Q. CNCS-OIG also noted irregularities in the recording of stipend hours, particularly during summer months for FGP volunteers. Specifically, there appeared to be numerous dates on which stipend hours were billed even though the service site at which the volunteer was purportedly working was not open. There also were numerous volunteer timesheets that appeared to have been altered to reflect a change in hours served.

R. The foregoing failure to accurately record hours and to perform and/or retain background check information for the period 2013-2017, as described in the foregoing paragraphs, is referred to as the "Covered Conduct."

Lourdes' Cooperation

S. When it was made aware of the potential issues at OLL HF, Lourdes immediately retained counsel and began an internal investigation.

T. From June 2017 until the present, Lourdes has cooperated fully in the United States' investigation and has contributed materially to that investigation by providing its own investigative results to the United States.

U. As part of its internal investigation and corrective action, Lourdes performed all required background checks on all of the SCP and FGP volunteers. None had a disqualifying criminal history, and thus all would have been permitted to participate in the programs had background checks been performed in a timely fashion and records thereof maintained properly.

V. The parties ultimately determined that more than 10% of all FGP hours were billed during times that the service sites were not open.

W. Lourdes voluntarily relinquished its SCP and FGP grants on June 30, 2017.

The Claims and Responses

X. The United States contends that it has certain civil claims against Lourdes arising from Lourdes's administration of the FGP and SCP programs, including claims pursuant to the federal False Claims Act, 31 U.S.C. § 3729 *et seq.*, based on Lourdes seeking payments for hours that were not actually served by volunteers and hours served by volunteers who had not undergone the required NSOPW checks or CHCs or for whom the background check information was not retained during the period from 2011 through 2017. *See* 42 U.S.C. § 12645g; 45 C.F.R. 2540.201.

Y. This Agreement is neither an admission of liability by Lourdes 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. Lourdes shall pay to the United States One Million, One Hundred Forty-Three Thousand, Eight Hundred Eighty-One Dollars and Nineteen Cents (\$1,143,881.19) (“Settlement Amount”) by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the Eastern District of Pennsylvania no later than thirty (30) days after the Effective Date of this Agreement.

2. Subject to the exceptions in Paragraph 4 (concerning excluded claims) below, and conditioned upon Lourdes’ full payment of the Settlement Amount, the United States releases OLL Health Care Svcs., OLL MC, and OLL HF from any civil or administrative monetary claims the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Further, in consideration of the obligations of Lourdes in this Agreement, including Lourdes’ full payment of the Settlement Amount, CNCS releases and agrees to refrain from instituting, directing, or maintaining any administrative action related to the Covered Conduct against Lourdes or its current or former officers, including but not limited to suspension or debarment.

4. Notwithstanding the releases given in paragraphs 2 and 3 of this Agreement, or any other term of this Agreement, the following claims 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 paragraphs 2 and 3 of this

Agreement, any administrative liability, including the suspension and debarment rights of any federal agency with respect to former employees, supervisors, and agents –other than current and former officers – of Lourdes;

- 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 expressly identified in paragraphs 2 and 3, above.

5. Lourdes waives and shall not assert any defenses Lourdes 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. Lourdes 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 Lourdes has 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 and the United States' investigation and prosecution thereof.

7. Unallowable Costs

a. Unallowable Costs Defined: All costs (as defined in the OMB Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. §§ 200.31,) incurred by or on behalf of Lourdes, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;
- (3) Lourdes's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment Lourdes makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting or federal financial assistance purposes (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by Lourdes, and Lourdes shall not charge such Unallowable Costs directly or indirectly to any contract or federal financial assistance agreement with the United States.

c. Treatment of Unallowable Costs Previously Submitted for

Payment: Within 90 days of the Effective Date of this Agreement, Lourdes shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Lourdes or any of its subsidiaries or affiliates from the United States. Lourdes agrees that the United States, at a minimum, shall be entitled to recoup from Lourdes any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Lourdes's books and records and to disagree with any calculations submitted by Lourdes or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Lourdes, or the effect of any such Unallowable Costs on the amount of such payments.

8. This Agreement is intended to be for the benefit of the Parties only.

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

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

11. 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 Eastern District of Pennsylvania.

12. 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.

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

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

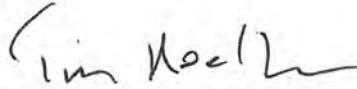
15. This Agreement may be executed in counterparts, including electronic counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

16. This Agreement is binding on Lourdes's successors, transferees, heirs, and assigns.

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

18. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

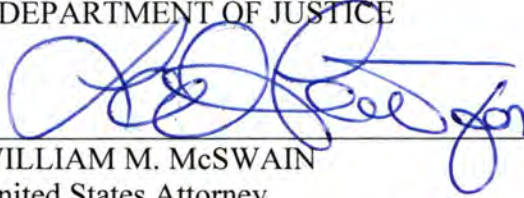
THE UNITED STATES OF AMERICA
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE



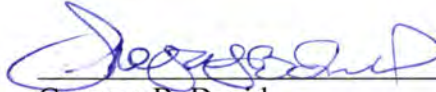
TIMOTHY NOELKER
General Counsel
Corporation for National and Community Service

Date: 6.27.2019

UNITED STATES DEPARTMENT OF JUSTICE



WILLIAM M. McSWAIN
United States Attorney
Eastern District of Pennsylvania



Gregory B. David
Assistant United States Attorney
Chief, Civil Division



Paul W. Kaufman
Veronica Finkelstein
Assistant United States Attorneys

Date: 9/27/2019

CRAIG CARPENITO
United States Attorney
District of New Jersey

J. Andrew Ruymann
Assistant United States Attorney
Chief, Civil Division

Jessica O'Neill
Assistant United States Attorney

Date: _____

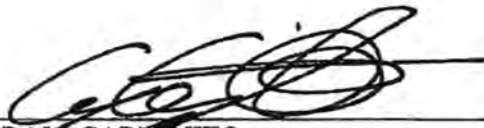
UNITED STATES DEPARTMENT OF JUSTICE

WILLIAM M. McSWAIN
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Eastern District of Pennsylvania

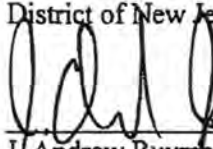
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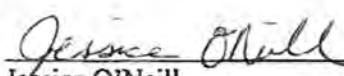
Date: _____



CRAIG CARPENITO
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District of New Jersey



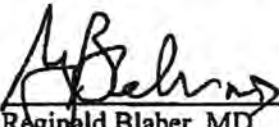
J. Andrew Ruymann
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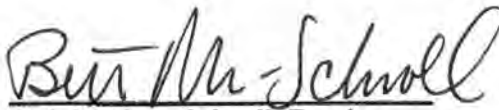
Jessica O'Neill
Assistant United States Attorney

Date: _____

**OUR LADY OF LOURDES HEALTH CARE SERVICES INC.
OUR LADY OF LOURDES MEDICAL CENTER, INC.
OUR LADY OF LOURDES HEALTH FOUNDATION**

By: 
Reginald Blaber, MD
President, Our Lady of Lourdes Health Care Services Inc.

Date: 6/27/19

By: 
Beth Moskow-Schnoll, Esquire
Jessica C. Watt, Esquire
Ballard Spahr LLP
Counsel for Lourdes

Date: 6/27/19