

## *Fraud and Abuse*

### U.S. Gets \$50.5M Share in NYC Drug Clinic's Bankruptcy

A settlement of a Medicaid fraud case originally brought by whistle-blowers against a New York City substance-abuse treatment provider calls for the U.S. to pursue a \$50.5 million claim from the now-defunct provider's bankruptcy proceeding (*United States ex rel. Brumfield v. Narco Freedom*, S.D.N.Y., No. 1:12-cv-03674, settlements 7/13/17).

The settlement with Narco Freedom Inc. was one of three announced July 14 by the Justice Department that resolved a False Claims Act case charging the provider and its executives with siphoning off \$27 million in Medicaid payments for their own enrichment. The settlements were approved July 13 by Judge John G. Koeltl of the U.S. District Court for the Southern District of New York.

The multimillion-dollar case is unusual in that it's partially based on allegations that conditional offers of short-term housing to homeless Medicaid beneficiaries seeking outpatient chemical dependency treatment constituted an illegal kickback to induce enrollment in the provider's own treatment services.

Another settlement approved by the judge allowed the seven whistle-blowers in the case to collect 17.5 percent of the funds the U.S. can recoup under the bankruptcy claim.

The \$50.5 million claim, as the government's health-care fraud share in the bankruptcy proceeding, will be paid along with claims of other general unsecured creditors on a pro rata basis, the department said.

A third settlement required Joining Hands Management Inc., the housing provider involved in the kickback scheme, and its co-owner to pay \$300,000 to the U.S. and New York.

**Guilty Plea in State Case** The state, in June, announced a plea agreement resolving criminal charges against Narco Freedom, in addition to a civil settlement in its portion of the broad case against the provider.

Narco Freedom made monthly cash payments to Joining Hands in exchange for referring short-term housing residents to the outpatient programs and enforcing their attendance there, the government alleged. The beneficiaries were kicked out of the "Freedom Houses" lodgings, known as three-quarter houses, once the maximum Medicaid payments had been exhausted, according to the government's complaint-in-intervention, which was filed in May 2016.

The case also alleged that Narco Freedom and others directed and paid employees of its outpatient program, located in the Red Hook section of Brooklyn, to backdate records and create false treatment records for certain patients.

Acting U.S. Attorney Joon H. Kim, in a statement, said Narco Freedom "not only defrauded Medicaid, it also victimized vulnerable low-income patients who were attempting to recover from drug and alcohol addictions."

**50-Year Bar** Special Agent in Charge Scott J. Lampert, of the Health and Human Services Office of Inspector General, underscored in a statement that Narco Freedom has been excluded from all government health programs for 50 years as part of the resolution.

The relators were represented by Michael R. Minkoff, Michael J. Borrelli, and Alexander T. Coleman of Borrelli & Associates PLLC in New York.

They said in a July 17 email that their clients had taken "extraordinary risks when they came forward as qui tam relators over five years ago."

The whistle-blowers, who had to remain silent while their complaint was under seal, "suffered retaliation and job loss" and saw the state attorney general's office seize Narco Freedom's assets, the lawyers told Bloomberg BNA. "While, in light of the bankruptcy it remains unfortunate that the relators, as well as the government got short-changed, the relators are nevertheless pleased that their efforts have put an end to a multi-million dollar fraudulent scheme."

Defense attorneys for Narco Freedom and Joining Hands didn't respond July 17 to a request for comment.

Narco Freedom was represented by Antonio J. Casas and Howard L. Simon of Windels Marx Lane & Mitten-dorf LLP in New York. Joining Hands was represented by Gary S. Villanueva in New York.

The government's case was handled by Assistant U.S. Attorneys Kirti Vaidya Reddy and Christine Irvin Phillips.

BY JOHN HERZFELD

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*The Narco Freedom settlement on the bankruptcy share is at <http://src.bna.com/qPB>. The relator settlement is at <http://src.bna.com/qPz>. The Joining Hands settlement is at <http://src.bna.com/qPE>. The government's complaint-in-intervention is at <http://src.bna.com/qPH>. A searchable database of health-care FCA settlements is available on Bloomberg Law.*

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