

Ventura County Medi-Cal Managed Care Commission (VCMMCC) dba Gold Coast Health Plan Special Commission Meeting

2240 E. Gonzales, Suite 200, Oxnard, CA 93036 Monday, March 17, 2014 3:00 p.m.

AMENDED AGENDA

CALL TO ORDER / ROLL CALL

SWEAR IN OF NEW AND RETURNING COMMISSIONERS

Antonio Alatorre, David Araujo, Michelle Laba, Gagan Pawar and Dee Pupa

PUBLIC COMMENT A Speaker Card must be completed and submitted to the Clerk of the Board by anyone wishing to comment:

• **Special Meeting Public Comment** - Comments at Special Meetings are only allowed on agendized items.

CLOSED SESSION

- 1. Closed Session Conference with Legal Counsel Existing Litigation Pursuant to Government Code Section 54956.9
 - United States of America et al. ex re Donald Gordon, v. Gold Coast Health Plan, et al, United States District Court, Central District, Case Number: CV 11-5500-IFW (AJWx)
 - b. Philip Fields v. Ventura County et al, Case 2:13-cv-07357-FMO-RZ Court of Appeal Ninth Circuit

Meeting Agenda available at http://www.goldcoasthealthplan.org

ADMINISTRATIVE REPORTS RELATING TO THIS AGENDA AND MATERIALS RELATED TO AN AGENDA ITEM SUBMITTED TO THE COMMISSION AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS AT THE OFFICE OF THE CLERK OF THE BOARD, 1701 LOMBARD STREET, SUITE 100, OXNARD, CA.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT TRACI AT 805/889-6900. REASONABLE ADVANCE NOTIFICATION OF THE NEED FOR ACCOMMODATION PRIOR TO THE MEETING (48 HOURS ADVANCE NOTICE IS PREFERABLE) WILL ENABLE US TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING



Ventura County Medi-Cal Managed Care Commission (VCMMCC) dba Gold Coast Health Plan March 17, 2014 Special Commission Meeting Agenda *(continued)*

PLACE: 2240 E. Gonzalez, Room 200, Oxnard, CA

TIME: 3:00 p.m.

RETURN TO OPEN SESSION

Announcement from Closed Session, if any.

Legal Counsel

In re Application to file Late Claim Don Gordon - Recommendation Deny Late Claim Application

2. APPROVAL ITEMS

 Ratification of Termination of Lease – 2220 E. Gonzales, Suite 200, Oxnard, California

COMMENTS FROM COMMISSIONERS

ADJOURNMENT

Unless otherwise determined by the Commission, the next regular meeting of the Commission will be held on March 24, 2014 at 3:00 p.m. at 2240 E. Gonzales Road, Suite 200, Oxnard CA 93036

Meeting Agenda available at http://www.goldcoasthealthplan.org

ADMINISTRATIVE REPORTS RELATING TO THIS AGENDA AND MATERIALS RELATED TO AN AGENDA ITEM SUBMITTED TO THE COMMISSION AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS AT THE OFFICE OF THE CLERK OF THE BOARD, 1701 LOMBARD STREET, SUITE 100, OXNARD, CA.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT TRACI AT 805/889-6900. REASONABLE ADVANCE NOTIFICATION OF THE NEED FOR ACCOMMODATION PRIOR TO THE MEETING (48 HOURS ADVANCE NOTICE IS PREFERABLE) WILL ENABLE US TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING

Received A PROFESSIONAL CORPORATION 21700 OXNARD STREET, SUITE 1150 WOODLAND HILLS, CA 91367-7572 (818) 716-8570 / (818) 716-8569 FAX BillHanagami@esquire.la Gold Coast Health Plan Abram J. Zinberg, SBN 143399 THE ZINBERG LAW FIRM A PROFESSIONAL CORPORATION 412 OLIVE AVENUE, SUITE 528 **HUNTINGTON BEACH 92648** (714) 374-9802 / (714) 969-0910 *FAX* 8 AbramZinberg@gmail.com Attorneys for Claimant, Donald Gordon 10 APPLICATION FOR PERMISSION In the matter of the Claim of 11 TO PRESENT LATE CLAIM [Gov.C. §911.4] DONALD GORDON, 12 VS. 13 VENTURA COUNTY MEDI-CAL 14 MANAGED CARE COMMISSION, dba Gold Coast Health Plan. 15 16 Ventura County Medi-Cal Managed Care Commission, dba Gold Coast Health Plan TO: 17 Application is hereby made for permission to present the Claim, attached as Exhibit 1, 18 after expiration of the time limit provided in Government Code § 911.2. 19 As stated in the Claim, attached as Exhibit 1, claimant's cause of action accrued 20 on or about July 14, 2011. 21 The time for presentation of such claim under Government Code § 911.2 expired 2. 22 on or about January 14, 2012. 23 The reason for the failure to present such claim within the time provided in 3. 24 Government Code § 911.2 was as follows: On July 1, 2011, Claimant Donald Gordon, as a 25 relator, filed a Complaint, a copy of which is attached as Exhibit 2, in camera and under seal 26 pursuant to 31 U.S.C. § 3730(b)(2) with the United States District Court for the Central 27 District of California for violations of the Federal False Claims Act, 31 U.S.C. §§ 3729, et 28

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APPLICATION FOR PERMISSION TO PRESENT LATE CLAIM

William K. Hanagami, SBN 119832 THE HANAGAMI LAW FIRM

seq., and California False Claims Act, California Government Code §§ 12650, et seq., against defendants Ventura County Medi-Cal Managed Care Commission, dba Gold Coast Health Plan (collectively, "Gold Coast") and Regional Government Services (RGS), among others. Subsequently, the Court ordered the seal extended pursuant to 31 U.S.C. § 3730(b)(3). On April 26, 2012, Gordon filed a First Amended Complaint (FAC), a copy of which attached as Exhibit 3, in camera and under seal pursuant to 31 U.S.C. § 3730(b)(2) adding third and fourth claims for relief against Gold Coast and RGS for employment retaliation in violation of 31 U.S.C. § 3730(h) and California Government Code § 12653. The lawsuit remained under seal from July 1, 2011 until the Court entered its order unsealing the Complaint and FAC on November 4, 2013. The Claim, attached as Exhibit 1, concerns a number of the retaliatory 10 acts, including constructive termination, directed against Gordon that occurred after July 1, 11 2011 and while the Complaint was under seal. Assuming that a governmental tort claim was 12 required, a governmental tort claim concerning Gordon's employment retaliation claims could 13 not be presented to Gold Coast and RGS in light of, among other things, the Complaint and/or 14 FAC for violations of the Federal and California False Claims Acts being under seal pursuant 15 to 31 U.S.C. § 3730(b)(2) between July 1, 2011 and November 4, 2013. (Wells v. One2One 16 Learning Found., (2006) 39 Cal.4th 1164, 1215; U.S. ex rel. Lujan v. Hughes Aircraft Co., 17 67 F.3d 242, 245-246 (9th Cir. 1995).) 18 19

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 5, 2014 at Woodland Hills, California.

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William K. Hanagami
Attorney for Claimant, Donald Gordon

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CLAIM Against the VENTURA COUNTY MEDI-CAL MANAGED CARE COMMISSION doing business as GOLD COAST HEALTH PLAN

To: Clerk of the Commission Gold Coast Health Plan 2220 E. Gonzales Road, Suite 200 Oxnard, CA 93036 (805) 889-6900

Pursuant to the provisions of Sections 905 and 920 of the Government Code of the State of California, demand is hereby made against Ventura County Medi-Cal Managed Care Commission dba Gold Coast Health Plan. In support of said claim, the following information is submitted.

1.	Name, Mailing Address, Telephone Number of Claimant(s): Donald Gordon					
	c/o The Hanagami Law Firm, A.P.C.					
	21700 Oxnard Street, Suite 1150					
	Woodland Hills, CA 91367-7572 (818) 716-8570					
2.	Dollar Amount of Claim: More than \$600,000					
3.	Address to Which Official Notices and Correspondence are to be Mailed:					
	The Hanagami Law Firm, A.P.C.					
	21700 Oxnard Street, Suite 1150					
	Woodland Hills, CA 91367-7572					
4.	Date and Time Alleged Damage / Injury Occurred: See Attachment No. 1					
5. Location of Where Alleged Damage / Injury Occurred:						
	Gold Coast Health Plan offices					
	Foots and House Allegard Devices and Control of Allegard Allegard (A)					
6.	Facts on How Alleged Damage / Injury Occurred (Include Name of GCHP Employee(s)					
	Who Caused Injury, if Known): See Attachment No. 1					
	Darlene Johnson, Earl Greenia, Amy Sziklai, among others.					
7.	Describe Damage / Injury and How Amount of Claim was Computed:					
	Lost earnings and benefits in excess of \$300,000; emotional					
	distress damaages in excess of \$300,000.					
8.	February 5, 2014					
0.	Date Signature of Claimant					
	(Person Acting on Claimant's Behalf)					
	William K. Hanagami, Attorney for Donal					
	Gordon					

NOTE: Provide all information you wish GCHP to consider and submit **original signed claim form** and back-up documentation if any, to address listed above. ANY CLAIM PRESENTED WITH INSUFFICIENT INFORMATION WILL BE RETURNED WITH NO ACTION TAKEN BY GCHP (GOVERNMENT CODE SECTIONS 910, 910.2, 910.4, AND 910.8).

ATTACHMENT NO. 1 Page 1 of 2

At all times relevant, Ventura County Medi-Cal Managed Care Commission, dba Gold Coast Health Plan (collectively, "Gold Coast") contracted with Regional Government Services (RGS) to supply employees to Gold Coast to perform various functions necessary to carry out Gold Coast's duties in administering the Medi-Cal Managed Care program in Ventura County.

During or about January 2011, Gold Coast wanted to employ Donald Gordon's (Gordon) services, and required Gordon to become a employee of RGS. During or about January 2011, Gordon became a general employee of RGS, and worked as a servant or special employee Gold Coast. Gordon believes that during the time of his employment with Gold Coast and RGS, most if not all employees working at Gold Coast had a similar employment relationship with RGS and Gold Coast.

About February or March 2011, Gordon complained to Gold Coast CFO Darlene Johnson that Gold Coast was committing a fraud on Medi-Cal by misrepresenting that Gold Coast's computerized systems handing Medi-Cal eligibility and capitation (including the algorithm used to assign members to physicians), and integration with financial systems (including general ledger and accounts payable), were ready to "go live" on July 1, 2011 and that various interim benchmarks had been achieved. Subsequently, Darlene Johnson verbally reprimanded Gordon, and instructed him to not raise such complaints again.

During or about mid-April 2011, Gordon complained to the upper management at Gold Coast, including but not limited to Gold Coast CEO Earl Greenia, Gold Coast CFO Darlene Johnson and Gold Coast HR manager Candice Limogen, that Gold Coast was committing Medi-Cal fraud by intentionally misrepresenting that Gold Coast's computerized systems handing Medi-Cal eligibility and capitation (including the algorithm used to assign members to physicians), utilization management, claims, information reporting, member services, and integration with financial systems (including general ledger and accounts payable) and external pharmacy systems, were ready to "go live" on July 1, 2011 and that various interim benchmarks had been achieved, and that all interested stakeholders (including but not limited to Medi-Cal) should be immediately notified that Gold Coast's systems were not and would not be ready by July 1, 2011.

During or about late April or early May 2011, Gold Coast CEO Earl Greenia received a written complaint from James Swoben advising that Gold Coast had and was defrauding Medi-Cal by misrepresenting to Medi-Cal that Gold Coast had performed all required testing of its computer systems and that Gold Coast's computer system would be ready to "go live" by July 1, 2011. When Greenia approached Gordon regarding Swoben's complaint, Gordon (a) advised Greenia that Gordon concurred with Swoben's complaint, and (b) complained that Gold Coast had and was defrauding Medi-Cal by misrepresenting to Medi-Cal that Gold Coast had performed all required testing of its computer systems and that Gold Coast's computer system would be ready to "go live" by July 1, 2011. Gordon responded to Greenia's inquiry and made such complaints in an effort to stop the violations of the federal and California False Claims Acts.

ATTACHMENT NO. 1 Page 2 of 2

As a result of Gordon responding to Greenia's inquiry regarding Swoben's complaint and complaining to Gold Coast, including but not limited to Greenia and Johnson, that Gold Coast had and was defrauding Medi-Cal, Gold Coast retaliated against Gordon by, among other things, discriminating against him in the terms and conditions of his employment and/or subjecting him to a hostile work environment that included, but was not limited to, taking away substantially all of Gordon's significant job duties, reducing Gordon's work hours and pay, having Gordon no longer report to Greenia but instead to one of his subordinates, subjecting Gordon to unwelcome and unwarranted yelling, criticism and humiliation, and constructively terminating Gordon's employment during mid-July 2011 by subjecting him to such a hostile work environment.

As a result of such retaliation and discrimination, Gordon suffered, among other things, loss of earnings and employment benefits, emotional distress, worry, anxiety and humiliation.

Exhibit 2

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(Swoben) file this action on behalf and in the name of the United States Government ("Government") seeking damages and civil penalties against the defendants for violations of 31 U.S.C. § 3729(a). Plaintiffs also file this action on behalf and in the name of the State of California ("California") seeking damages and civil penalties against the defendants for violations of California Government Code § 12651(a).

- This Court's jurisdiction over the claims for violations of 31 U.S.C. § 3729(a) 2. is based upon 31 U.S: C. § 3732(a). This Court's jurisdiction over the claims for violations of California Government Code § 12651(a) is based upon 31 U.S.C. § 3732(b).
- Venue is vested in this Court under 31 U.S.C. § 3732(a) because at least one of 3. the defendants transacts business in the Central District of California and many acts constituting violations of 31 U.S.C. § 3729(a) occurred in the Central District of California.

THE PARTIES

- Plaintiffs are residents and citizens of the United States, the State of California, 4. and of this District. Plaintiffs bring this action of behalf of the Government under 31 U.S.C. § 3730(b) and on behalf of California under California Government Code § 12652(c).
- At all time relevant, California administered and partially funded the Medi-Cal program in which eligible Medi-Cal beneficiaries could enroll with managed care organizations contracted with California for a capitated rate paid by California that would provide at least those services provided to standard Medi-Cal beneficiaries. The Government also partially funded the Medi-Cal program as part of the Government's Medicaid program.
- Defendant Gold Coast Health Plan is and was a public entity formed under the 6. laws of the State of California, and transacted business in, among other places, the Central District of California.
- Defendant Ventura County Medi-Cal Managed Care Commission is a public 7. entity formed under the laws of the State of California, and transacted business in, among other places, the Central District of California. Plaintiffs are informed and believe, and upon such information and belief allege, that said defendant also does business as Gold Coast

Health Plan.

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- 8. Defantiant County of Ventura is a public entity formed under the laws of the State of California, and transacted business in, among other places, the Central District of California.
- 9. Defendants Gold Coast Health Plan, Ventura County Medi-Cal Managed Care Commission, and County of Ventura are collectively referred herein as "Gold Coast."
- 10. Defendant Affiliated Computer Services, Inc. (ACS) is a Delaware corporation that transacted business in, among other places, the Central District of California.
- At all times relevant, Gold Coast was and is a managed care organization that 11. administers the Medi-Cal program in and about Ventura County. Gordon was a project manager for Gold Coast between February 2011 and the present. Swoben worked with Gold Coast and ACS personnel between November 4,2000 and May 4,2011.

COMMON ALLEGATIONS

- 12. During or about 2011, Gold Coast was awarded a contract by California to administer the Medi-Cal managed care program in and about Ventura County. Gold Coast advised California that Gold Coast's claims processing system, pharmacy benefits administration system, and member enrollment and services systems would be tested by May 1.2011 and fully functioning and in place by July 1, 2011. Gold Coast contracted with ACS to test and promitte the systems as represented by Gold Coast and/or required by the Gold Coast/Calfbornia contract. However, said systems were not tested nor functioning on May 1, 2011. Rather, Gold Coast and ACS advised California that Gold Coast was ready to perform all aspects of its contract with California even though said systems had not been tested and were not fully functional.
- As of July 1,2011, Medi-Cal enrollment, member services, claims processing, 13. and pharmacy benefits administration in and about Ventura County were and are handled by Gold Coast and its contractor, ACS. However, the required systems are not fully functional, and daily enrollment transaction information from California, member service inquires, claims

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(including but not limited to electronic claims from vendoss), and pharmacy benefits administration are not, and cannot be properly processed by Gold Coast and/or ACS as required by the Gold Coast/California contract and/or the Health Insurance Portability and Accountability Act (HIPAA) and regulations promulgated thereuniter.

14. Gold Coast's contract with California required Gold Coast to comply with state-mandated bidding procedures when purchasing products and materials needed to perform said contract. However, Gold Coast violated said bidding procedures by purchasing services, products and materials, including but not limited to member cards, member materials, and mailings, from ASC's affiliated company(ies), including but not limited to Xerox, without following the required bidding procedures.

FIRST CLAIM FOR RELIEF

(Violation of 31 U.S.C. § 3729(a) against all defendants)

- 15. Plaintiffs reallege and incomporate by reference all previous paragraphs of this complaint as though fully set forth at length.
- 16. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(A) by knowingly presenting and/or causing to present to agents, contractors or employees of the Government false and fraudulent billings for payment and approval.
- 17. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1))(B) by knowingly making, using, and/or causing to make or use false records and statements to get false and excessive billings paid or approved by Medi-Cal.
- 18. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(C) by knowingly making, using and/or causing to make or use false records and statements to concedl, avoid, or decrease its obligation to return to Medi-Cal excessive payments received.
- 19. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(C) by conspiring to commit a violation of 31 U.S.C. §§ 3729(a)(1)(A), 3729(a)(1)(B) and/or 3729(a)(1)(C), as alleged above.

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- 20. Plaintiffs are informed and believe, and upon such information and belief allege, that as a result of the concealments and use of false records and statements by Gold Coast and ACS, Medi-Cal paid and is paying more than \$20 million per month as a result of the frauds alleged herein.
- 21. As a result of their conduct, Gold Coast and ACS are liable to the Government for three times the amount of damages sustained by the Government as a result of the false and fraudulent billing, reporting and concealment practices alleged above.
- 22. As a result of the above-alleged conduct, 31 U.S.C. § 3729(a) provides that Gold Coast and ACS are liable to the Government for civil penalties between \$5,000 and \$10,000 for each such false and fraudulent billing, statement, reporting and concealment.
- 23. Plaintiffs are also entitled to recover their attorneys fees, costs and expenses from the Gold Coast and ACS pursuant to 31 U.S.C. § 3730(d).

SECOND CLAIM FOR RELIEF

(Violation of California Government Code § 12651(a) against defendants)

- 24. Plaintiffs reallege and incorporate by reference all previous paragraphs of this complaint as though fully set forth at length.
- 25. At all times mentioned, Gold Coast and ACS routinely and repeatedly violated California Government Code § 12651(a)(1) by knowingly presenting and/or causing to present to California employees, agents and/or contractors false and fraudulent billings and statements for payment and approval.
- 26. At all times mentioned, defendants routinely and repeatedly violated <u>California</u> Government Code § 12651(a)(2) by knowingly making, using, and/or causing to make or use false records and statements to get false billings paid or approved by Medi-Cal.
- 27. At all times mentioned, defendants routinely and repeatedly violated <u>California</u>

 <u>Government Code</u> § 12651(a)(7) by improperly retaining and concealing excessive payments received.
 - 28. At all times mentioned, defendants routinely and repeatedly violated California

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Government Code § 12651(a)(7) by knowingly making, using and/or causing to make or use false records and statements to conceal, avoid, or decrease its obligation to return to Medi-Cal excessive payments received.

- 29. At all times mentioned, defendants routinely and repeatedly violated <u>California</u> Government Code § 12651(a)(3) by conspiring to commit violations of <u>California Government</u> Code § 12651(a), as alleged above.
- 30. Plaintiffs are informed and believe, and upon such information and belief allege, that as a result of defendants' concealments and use of false records and statements, Medi-Cal paid and is paying more than \$20 million per month as a result of the frauds alleged herein.
- 31. As a result of defendants' conduct, defendants are liable to California for up to three times the amount of damages sustained by California as a result of the false and fraudulent billing, reporting and concealment practices alleged above.
- 32. As a result of defendants' conduct, <u>California Government Code</u> §12651(a) provides that defendants are liable to California for civil penalties of up to \$10,000 for each such false and fraudulent billing, reporting, statements and concealment.
- 33. Plaintiffs are also entitled to recover their attorneys fees, costs and expenses from defendants pursuant to <u>California Government Code</u> § 12652(g)(8).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and <u>Qui Tam</u> Relators Donald Gordon and James M. Swoben pray for relief as follows:

FOR THE FIRST CLAIM FOR RELIEF

- 1. Treble the Government's damages according to proof;
- 2. Civil penalties according to proof;
- A relator's award of up to 30% of the amounts recovered by or on behalf of the Government;

FOR THE SECOND CLAIM FOR RELIEF

Treble the State of California's damages according to proof;

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1 5. Civil penalties according to proof; 2 6. A relator's award of up to 50% of the amounts recovered by or on behalf of the 3 State of California; 4 FOR ALL CLAIMS FOR RELIEF Attorneys fees, expenses, and costs; and 5 7. Such other and further relief as the Court deems just and proper. 6 8. 7 8 ABRAM J. ZINBERG 9 THE HANAGAMI LAW FIRM A Professional Corporation 10 11 Dated: July 1, 2011 12 Attorneys for Plaintiffs and Qui Tam Relators, 13 Donald Gordon and James M. Swoben 14 REQUEST FOR JURY TRIAL Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben hereby request a trial by jury. ABRAM J. ZINBERG THE HANAGAMI LAW FIRM A Professional Corporation Dated: July 1, 2011 William K. Hanágami Attorneys for Plaintiffs and Oui Tam Relators, Donald Gordon and James M. Swoben Complaint P01 wpd

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William K. Hanagami, SBN 119832
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APR 26 2012

CUNTRAL DISTRICT OF CALIFORNIA BY DEPUTY

1 of 11 Page ID #:51

Abram J. Zinberg, SBN 143399 412 OLIVE AVENUE, SUITE 528 HUNTINGTON BEACH 92648 (714) 374-9802 / (714) 969-0910 FAX AbramZinberg@gmail.com

Attorneys for Plaintiffs and Qui Tam Relators

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, [UNDER SEAL],

Plaintiffs,

VS.

[UNDER SEAL],

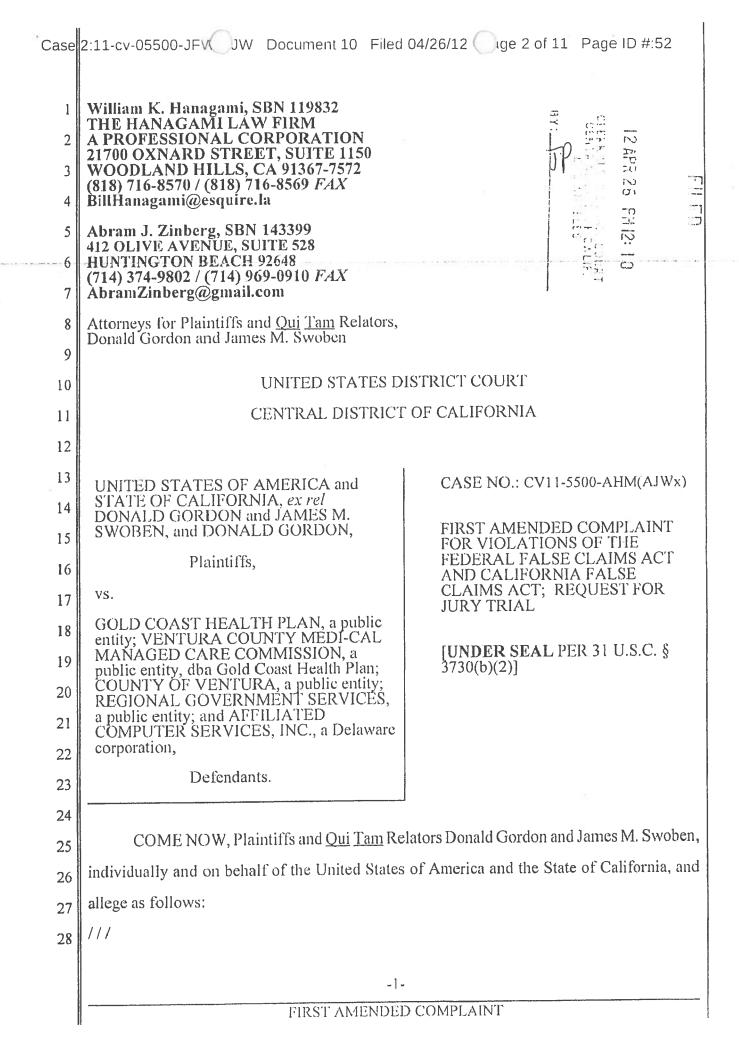
Defendants.

CASE NO.: CV11-5500-AHM(AJWx)

FIRST AMENDED COMPLAINT FOR VIOLATIONS OF THE FEDERAL FALSE CLAIMS ACT AND [UNDER SEAL]

[**UNDER SEAL** PER 31 U.S.C. § 3730(b)(2)]

[UNDER SEAL]



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JURISDICTION AND VENUE

- 1. Plaintiffs and Qui Tam Relators Donald Gordon (Gordon) and James M. Swoben (Swoben) file this action on behalf and in the name of the United States Government ("Government") seeking damages and civil penalties against the defendants for violations of 31 U.S.C. § 3729(a). Plaintiffs also file this action on behalf and in the name of the State of California ("California") seeking damages and civil penalties against the defendants for violations of California Government Code § 12651(a). Plaintiff Donald Gordon further files this action in his individual capacity for violations of 31 U.S.C. § 3730(h) and California Government Code § 12653.
- 2. This Court's jurisdiction over the claims for violations of 31 U.S.C. §§ 3729(a) and 3730(h) are based upon 31 U.S.C. § 3732(a). This Court's jurisdiction over the claims for violations of California Government Code §§ 12651(a) and 12653 are based upon 31 U.S.C. § 3732(b) and/or 28 U.S.C. § 1367(a).
- 3. Venue is vested in this Court under 31 U.S.C. § 3732(a) because at least one of the defendants transacts business in the Central District of California and many acts constituting violations of 31 U.S.C. §§ 3729(a) and 3730(h) occurred in the Central District of California.

THE PARTIES

- 4. Plaintiffs are residents and citizens of the United States, the State of California, and of this District. Plaintiffs bring this action of behalf of the Government under 31 U.S.C. § 3730(b) and on behalf of California under California Government Code § 12652(c). Plaintiff Donald Gordon also brings this action in his individual capacity for violations of 31 U.S.C. § 3730(h) and California Government Code § 12653.
- 5. At all time relevant, California administered and partially funded the Medi-Cal program in which eligible Medi-Cal beneficiaries could enroll with managed care organizations contracted with California for a capitated rate paid by California that would provide at least those services provided to standard Medi-Cal beneficiaries. The Government

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also partially funded the Medi-Cal program as part of the Government's Medicaid program.

- Defendants Gold Coast Health Plan and Regional Government Services are and were public entities formed under the laws of the State of California, and transacted business in, among other places, the Central District of California.
- Defendant Ventura County Medi-Cal Managed Care Commission is a public 7. entity formed under the laws of the State of California, and transacted business in, among other places, the Central District of California. Plaintiffs are informed and believe, and upon such information and belief allege, that said defendant also does business as Gold Coast Health Plan.
- 8. Defendant County of Ventura is a public entity formed under the laws of the State of California, and transacted business in, among other places, the Central District of California.
- 9. Defendants Gold Coast Health Plan, Ventura County Medi-Cal Managed Care Commission, and County of Ventura are collectively referred herein as "Gold Coast."
- During plaintiffs' performance of work and services for Gold Coast, plaintiffs 10. were employees of Gold Coast and Regional Government Services. Gold Coast and Regional Government Services are collectively referred herein as "Employer Defendants."
- Plaintiffs are informed and believe, and upon such information and belief allege, 11. that all of Gold Coast's officers and employees were actually employees of the Employer Defendants and acting within the course and scope of their duties as such for said defendants.
- 12. Defendant Affiliated Computer Services, Inc. (ACS) is a Delaware corporation that transacted business in, among other places, the Central District of California.
- At all times relevant, Gold Coast was and is a managed care organization that 13. administers the Medi-Cal program in and about Ventura County. Gordon was a project manager for Gold Coast from about February 2011 to about July 2011. Swoben worked with Gold Coast and ACS personnel from about November 4, 2010 to about May 4, 2011.

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- 14. During or about 2011, Gold Coast was awarded a contract by California to administer the Medi-Cal managed care program in and about Ventura County. Gold Coast advised California that Gold Coast's claims processing system, pharmacy benefits administration system, and member enrollment and services systems would be tested by May 1, 2011 and fully functioning and in place by July 1, 2011. Gold Coast contracted with ACS. to test and provide the systems as represented by Gold Coast and/or required by the Gold Coast/California contract. However, said systems were not tested nor functioning on May 1, 2011. Rather, Gold Coast and ACS advised California that Gold Coast was ready to perform all aspects of its contract with California even though said systems had not been tested and were not fully functional.
- 15. As of July 1, 2011, Medi-Cal enrollment, member services, claims processing, and pharmacy benefits administration in and about Ventura County were and are handled by Gold Coast and its contractor, ACS. However, the required systems are not fully functional. and daily enrollment transaction information from California, member service inquires, claims (including but not limited to electronic claims from vendors), and pharmacy benefits administration are not, and cannot be properly processed by Gold Coast and/or ACS as required by the Gold Coast/California contract and/or the Health Insurance Portability and Accountability Act (HIPAA) and regulations promulgated thereunder.
- Gold Coast's contract with California required Gold Coast to comply with state-16. mandated bidding procedures when purchasing products and materials needed to perform said contract. However, Gold Coast violated said bidding procedures by purchasing services, products and materials, including but not limited to member cards, member materials, and mailings, from ASC's affiliated company(ies), including but not limited to Xerox, without following the required bidding procedures.

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FIRST CLAIM FOR RELIEF

(Violation of 31 U.S.C. § 3729(a) against all defendants)

- Plaintiffs reallege and incorporate by reference all previous paragraphs of this 17. complaint as though fully set forth at length.
- At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. 18. § 3729(a)(1)(A) by knowingly presenting and/or causing to present to agents, contractors or employees of the Government false and fraudulent billings for payment and approval.
- 19. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using, and/or causing to make or use false records and statements to get false and excessive billings paid or approved by Medi-Cal.
- At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. 20. § 3729(a)(1)(G) by knowingly making, using and/or causing to make or use false records and statements to conceal, avoid, or decrease its obligation to return to Medi-Cal excessive payments received.
- At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. 21. § 3729(a)(1)(C) by conspiring to commit a violation of 31 U.S.C. §§ 3729(a)(1)(A), 3729(a)(1)(B) and/or 3729(a)(1)(G), as alleged above.
- Plaintiffs are informed and believe, and upon such information and belief allege, 22. that as a result of the concealments and use of false records and statements by Gold Coast and ACS, Medi-Cal paid and is paying more than \$20 million per month as a result of the frauds alleged herein.
- As a result of their conduct, Gold Coast and ACS are liable to the Government 23. for three times the amount of damages sustained by the Government as a result of the false and fraudulent billing, reporting and concealment practices alleged above.
- As a result of the above-alleged conduct, 31 U.S.C. § 3729(a) provides that Gold 24. Coast and ACS are liable to the Government for civil penalties between \$5,000 and \$10,000 for each such false and fraudulent billing, statement, reporting and concealment.

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Plaintiffs are also entitled to recover their attorneys fees, costs and expenses 25. from the Gold Coast and ACS pursuant to 31 U.S.C. § 3730(d).

SECOND CLAIM FOR RELIEF

(Violation of California Government Code § 12651(a) against all defendants)

- 26. Plaintiffs reallege and incorporate by reference all previous paragraphs of this complaint as though fully set forth at length.
- At all times mentioned, Gold Coast and ACS routinely and repeatedly violated 27. California Government Code § 12651(a)(1) by knowingly presenting and/or causing to present to California employees, agents and/or contractors false and fraudulent billings and statements for payment and approval.
- At all times mentioned, defendants routinely and repeatedly violated <u>California</u> 28. Government Code § 12651(a)(2) by knowingly making, using, and/or causing to make or use false records and statements to get false billings paid or approved by Medi-Cal.
- 29. At all times mentioned, defendants routinely and repeatedly violated <u>California</u> Government Code § 12651(a)(7) by improperly retaining and concealing excessive payments received.
- At all times mentioned, defendants routinely and repeatedly violated <u>California</u> 30. Government Code § 12651(a)(7) by knowingly making, using and/or causing to make or use false records and statements to conceal, avoid, or decrease its obligation to return to Medi-Cal excessive payments received.
- At all times mentioned, defendants routinely and repeatedly violated <u>California</u> 31. Government Code § 12651(a)(3) by conspiring to commit violations of California Government Code § 12651(a), as alleged above.
- Plaintiffs are informed and believe, and upon such information and belief allege, 32. that as a result of defendants' concealments and use of false records and statements, Medi-Cal paid and is paying more than \$20 million per month as a result of the frauds alleged herein.

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- As a result of defendants' conduct, defendants are liable to California for up to 33. three times the amount of damages sustained by California as a result of the false and fraudulent billing, reporting and concealment practices alleged above.
- As a result of defendants' conduct, California Government Code §12651(a) 34. provides that defendants are liable to California for civil penalties of up to \$10,000 for each such false and fraudulent billing, reporting, statements and concealment.
- Plaintiffs are also entitled to recover their attorneys fees, costs and expenses 35. from defendants pursuant to California Government Code § 12652(g)(8).

THIRD CLAIM FOR RELIEF

(Violation of 31 U.S.C. § 3730(h) by Donald Gordon against Employer Defendants)

- Plaintiff Gordon realleges and incorporates by reference all previous paragraphs 36. of this complaint as though fully set forth at length.
- Gordon was an employee of the Employer Defendants from or about January 37. 2011 until or about early July 2011. Initially, Gordon held the job title of Interim Implementation Consultant, and about eight weeks later was promoted to Project Manager.
- During or about May 2011, Gold Coast CEO Earl Greenia received a written 38. complaint from Swoben advising that Gold Coast had and was defrauding Medi-Cal by misrepresenting to Medi-Cal that Gold Coast had performed all required testing of its computer systems and that Gold Coast's computer system would be ready to "go live" by July 1, 2011. When Greenia approached Gordon regarding Swoben's complaint, Gordon (a) advised Greenia that Gordon concurred with Swoben's complaint, and (b) complained that Gold Coast had and was defrauding Medi-Cal by misrepresenting to Medi-Cal that Gold Coast had performed all required testing of its computer systems and that Gold Coast's computer system would be ready to "go live" by July 1, 2011. Gordon responded to Greenia's inquiry and made such complaints in an effort to stop the violations of the federal and California False Claims Acts.

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- As a result of Gordon responding to Greenia's inquiry regarding Swoben's 39. complaint and complaining to the Employer Defendants, including but not limited to Greenia, that Gold Coast had and was defrauding Medi-Cal, the Employer Defendants retaliated against Gordon in violation of 31 U.S.C. § 3730(h)(1) by, among other things, discriminating against him in the terms and conditions of his employment and/or subjecting him to a hostile work environment that included, but was not limited to, taking away substantially all of Gordon's significant job duties, reducing Gordon's work hours, having Gordon no longer report to Greenia but instead to one of his subordinates, subjecting Gordon to unwelcome and unwarranted yelling, criticism and humiliation, and constructively terminating Gordon's employment by subjecting him to such a hostile work environment.
- As a result of such retaliation and discrimination, Gordon has suffered, and will 40. continue to suffer, loss of earnings and employment benefits in an amount exceeding the minimum jurisdiction of this Court.
- As a result of such retaliation and discrimination, Gordon has suffered, and will 41. continue to suffer, emotional distress, worry, anxiety and humiliation in amount according to proof at trial.

FOURTH CLAIM FOR RELIEF

(Violation of Government Code § 12653 by Donald Gordon against Employer Defendants)

- 42. Plaintiff Gordon realleges and incorporates by reference all previous paragraphs of this complaint as though fully set forth at length.
- As a result of Gordon responding to Greenia's inquiry regarding Swoben's 43. complaint and complaining to the Employer Defendants, including but not limited to Greenia, that Gold Coast had and was defrauding Medi-Cal, the Employer Defendants retaliated against Gordon in violation of California Government Code § 12653(a) and/or (b) by, among other things, discriminating against him in the terms and conditions of his employment and/or subjecting him to a hostile work environment that included, but was not limited to, taking away substantially all of Gordon's significant job duties, reducing Gordon's work hours,

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1	10.	Interest on the back pay;					
2	11.	Loss of future earnings in an amount according to proof;					
3	FOR THE FOURTH CLAIM FOR RELIEF						
4	12.	General damages in amount according to proof;					
5	13.	Reinstatement with the same seniority status that Gordon would have had but					
6	for the discrimination and retaliation;						
7	14. Two times the amount of back pay;						
8	15. Interest on the back pay;						
9	16. Loss of future earnings in an amount according to proof;						
10	FOR ALL CLAIMS FOR RELIEF						
11	17. Attorneys fees, expenses, and costs; and						
12	18. Such other and further relief as the Court deems just and proper.						
13							
14	ABRAM J. ZINBERG						
15	THE HANAGAMI LAW FIRM A Professional Corporation						
16				A 1 10168810Hal C	Zorporation		
17	7 Dated: April 26, 2012 By: 41115						
18	Dated: April	<u>216</u> , 2012	Dy.	William K. Han	agami aintiffs and Oui Tam Relators,		
19				Donald Gordon	and James M. Swoben		
20	REQUEST FOR JURY TRIAL						
21	Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben hereby request						
22	a trial by jury.						
23				ABRAM J. ZIN	BERG		
24				THE HANAGA			
25				A Professional C	Corporation		
26	D-4 - 4 - A 11	N/ 2012	D.,,	201115	1/18		
27	Dated: April	<u>26</u> , 2012	By:	William K. Hans	agami		
28				Donald Gordon	aintiffs and <u>Oui Tam</u> Relators, and James M. Swoben		
	Complaint P02 wpd			1.0			
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