

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA and the
STATE OF NEW YORK, *ex rel.* JANE DOE,

Plaintiff,

v.

EXTENDED NURSING PERSONNEL CHHA,
LLC, *et al.*

Defendants.
-----X

PROPOSED
ORDER TO BE
FILED UNDER SEAL

Civil Action No.
CV 07-4621

(Block, J.)
(Pohorelsky, M.J.)

WHEREAS, on or about November 5, 2007, Relator filed the above-referenced action, in which she asserted claims on behalf of the United States pursuant to the *qui tam* provisions of the federal False Claims Act, 31 U.S.C. § 3729 *et seq.* (the "FCA");

WHEREAS, in her complaint, Relator also asserted claims pursuant to the New York State False Claims Act, NYS Fin. Ch. 56, Art. XIII, §§187 *et seq.* (the "NYS FCA");

WHEREAS, in accordance with 31 U.S.C. § 3730(b), Relator's complaint was deemed sealed for a period of at least sixty days from the date of service of Relator's disclosure material on the United States, and the seal and intervention deadline were subsequently extended by Court order;

WHEREAS, none of the defendants in this case have been served with the complaint in this action, and thus none have filed an Answer;

WHEREAS, Relator, the United States and New York State entered into Settlement Agreements on December 17, 2009 ("2009 Settlement Agreements") with three of the defendants named in Relator's complaint, Extended Nursing Personnel CHHA, LLC d/b/a

Extended Home Care (“Extended”), Excellent Home Care Services, LLC (“Excellent”), and Nursing Personnel Home Care (“Nursing Personnel”);

WHEREAS, Relator and the United States entered into a settlement on November 19, 2012 (“2012 Settlement Agreement”) with a fourth defendant named in Relator’s complaint, Friendly Home Care, Inc. (“Friendly”);

WHEREAS, in the 2012 Settlement Agreement, the United States and Relator agreed that upon Friendly’s payment of the settlement amount and upon the resolution of Relator’s claims against Friendly for attorney’s fees, the United States and Relator would submit a Stipulation of Dismissal as to the claims against Friendly;

WHEREAS, Friendly has made payment pursuant to the Settlement Agreement and Relator has resolved her claims against Friendly for attorney’s fees;

WHEREAS, Friendly has also entered into a separate settlement agreement with New York State and has made payment pursuant to that agreement;

WHEREAS, Relator seeks to voluntarily dismiss all remaining claims in her complaint;

WHEREAS, the United States and New York State consent to Relator’s dismissal of all remaining claims in her complaint;

WHEREAS, the United States generally requests that a Relator’s complaint be unsealed at the conclusion of a case such as this, but that all other papers on file remain under seal because in discussing the content and extent of the United States’ investigation, such papers are provided by law to the Court alone for the purpose of evaluating whether the seal and time for making an election to intervene should be extended;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED between Relator's counsel, the undersigned counsel for the United States and New York State that:

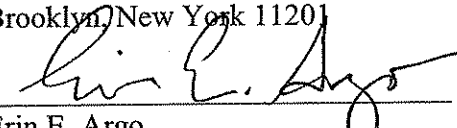
1. The Clerk of the Court shall unseal Relator's complaint. The Clerk of the Court shall maintain the seal on all other documents in this case except for the Government's Notice of Election to Intervene In Part and Decline in Part, filed on or about December 30, 2009.
2. The United States and New York State shall be deemed to have intervened in this case for the purpose of settlement.
3. Relator's complaint is dismissed with prejudice with respect to all claims brought on Relator's behalf.
4. Claims on behalf of the United States and New York State that are contained in Relator's Complaint and that are within the scope of the Covered Conduct paragraph of the 2012 Settlement Agreement are dismissed with prejudice. Any claims on behalf of the United States and New York State that are contained in Relator's Complaint but are not within the scope of the Covered Conduct paragraph are dismissed without prejudice.
5. The Clerk of the Court shall provide the United States Attorney's Office, Eastern District of New York, 271 Cadman Plaza East, Brooklyn, New York 11201, Attn:

AUSA Erin E. Argo with a copy of this fully executed order.

Dated: Brooklyn, New York
December 20, 2012

LORETTA E. LYNCH
United States Attorney
Eastern District of New York
271 Cadman Plaza
Brooklyn, New York 11201

By: _____


Erin E. Argo
Assistant U.S. Attorney
(718) 254-6049

Dated: New York, New York
December __, 2012

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Medicaid Fraud Control Unit
120 Broadway, 13th Floor
New York, New York 10271

By: _____

Jill Brenner
(212) 417-5377

Dated: New York, New York
December __, 2012

LAW OFFICE OF TIMOTHY J. McINNIS
Counsel for Relator
521 5th Avenue, Suite 1700
New York, New York 10175

By: _____

Timothy J. McInnis
(212) 292-4573

SO ORDERED:

Dated: Brooklyn, New York
December 20, 2012



HONORABLE FREDERIC BLOCK
UNITED STATES DISTRICT JUDGE, E.D.N.Y.

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