



Department of Justice

United States Attorney Brian J. Stretch
Northern District of California

FOR IMMEDIATE RELEASE
December 28, 2016

BAY SLEEP CLINIC AND RELATED ENTITIES AGREE TO PAY THE UNITED STATES \$2.6 MILLION TO SETTLE FALSE CLAIMS ACT ALLEGATIONS

SAN JOSE – Bay Sleep Clinic, its related businesses— Qualium Corporation and Amerimed Corporation—and their owners and operators, Anooshiravan Mostowfipour and Tara Nader (collectively, the Defendants) have agreed to pay \$2.6 million to settle allegations that they fraudulently billed the Medicare program, announced United States Attorney Brian J. Stretch and U.S. Department of Health and Human Services-Office of the Inspector General (HHS-OIG) Special Agent in Charge, Steven Ryan. The settlement resolves allegations that the Defendants fraudulently charged the Medicare program for diagnostic sleep tests and medical devices in violation of Medicare payment rules.

The allegations against the Defendants were set out in an amended False Claims Act complaint filed by the United States on August 8, 2016. According to the complaint, Saratoga, Calif., residents Mostowfipour, 58, and Nader, 58, own Amerimed Corporation (that was doing business as Amerimed Sleep Diagnostics and Amerimed CPAP Specialists) and Qualium Corporation, which operated twenty sleep clinics doing business as Bay Sleep Clinic. The government alleged that as early as April 2002, Mostowfipour, Nader, and their businesses fraudulently billed Medicare for sleep tests performed by technicians lacking the licenses or certifications required by Medicare payment rules. In addition, the Defendants billed Medicare for sleep tests that allegedly were conducted at unenrolled and unapproved locations. Specifically, the government alleged that defendants regularly falsified documents to

make it appear that a sleep test had been given at one of the defendants' two locations which had been approved by Medicare, when, in fact, the test had been conducted at another, unapproved facility. Additionally, the government alleged the Defendants fraudulently billed Medicare for medical devices in violation of Medicare rules and regulations that prohibit providers of diagnostic sleep tests from supplying medical devices and from sharing a sleep laboratory location with a durable medical equipment supplier.

"Medicare patients expect to be treated by properly credentialed health care professionals in approved locations," said U.S. Attorney Stretch. "When companies treating Medicare beneficiaries violate the rules, they will be held accountable."

"Medicare beneficiaries need full confidence their medical professionals are properly licensed and services are provided in fully approved facilities," said Special Agent in Charge Steven Ryan. "Patients and taxpayers deserve no less."

The whistleblower action, captioned *United States ex rel. Dresser v. Qualium Corp., et al.*, Civil Action No. 12-1745 (N.D. Cal.), was filed under the *qui tam* provisions of the False Claims Act. The False Claims Act allows for private persons, such as Elma F. Dresser in this case, to file actions to provide the government information about wrongdoing and then obtain a portion of the government's recovery. Dresser will receive approximately \$545,000.

As is permitted by the statute, the United States intervened in the action in May 2015 and filed its initial complaint in intervention in September 2015.

As part of today's agreement, the defendants have voluntarily terminated their two existing Medicare enrollments and agreed not to re-enroll as providers or suppliers in the Medicare program for a period of three years.

The claims resolved by this settlement are allegations only and there has been no determination of liability.

Assistant U.S. Attorneys Erica Blachman Hitchings, Robin Wall, Kimberly Friday, and Tom Green handled the case with assistance from Jacqueline Hollar, Tina Louie, Bonny Wong, and Stefania Chin. The investigation was conducted by the U.S. Attorney's Office for the Northern District of California and HHS-OIG.

Further Information:

Case #: 5:12-CV-01745 (BLF)

A copy of this press release will be placed on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Abraham Simmons at (415) 436-7264 or by e-mail at Abraham.Simmons@usdoj.gov.