

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 Office of Inspector General of the United States Department of Health and Human Services (OIG-HHS) (collectively the "United States"); Marc Osheroff ("Relator"); and Tenet Healthcare Corporation, Tenet Healthsystem GB, Inc. d/b/a Atlanta Medical Center, Tenet South Fulton, Inc. d/b/a South Fulton Medical Center, Tenet Hialeah HealthSystem, Inc. d/b/a Hialeah Hospital, Lifemark Hospitals of Florida, Inc. d/b/a Palmetto General Hospital; Tenet HealthSystem North Shore, Inc. d/b/a North Shore Medical Center; Tenet HealthSystem North Shore, Inc. d/b/a North Shore Medical Center – FMC Campus, Tenet Good Samaritan, Inc. d/b/a Good Samaritan Medical Center; Tenet St. Mary's Inc., a Florida Corporation d/b/a St. Mary's Medical Center, Brookwood Center Development Corporation, Eastern Professional Properties, Inc., AMISUB (SFH), Inc. d/b/a Saint Francis Hospital, Tenet Hospitals Limited, a Texas Limited Partnership d/b/a Doctors Hospital at White Rock Lake, San Ramon Regional Medical Center, Inc. d/b/a San Ramon Regional Medical Center, and Los Alamitos Medical Center (collectively "the Defendants") (hereafter referred to as "the Parties"), through their authorized representatives.

RECITALS

A. Tenet Healthcare Corporation ("Tenet") is a for-profit corporation organized and existing under the laws of Nevada that has owned and operated hospitals across the United States. The hospitals identified above are wholly owned subsidiaries of Tenet, located in Florida, California, Texas and Tennessee.

B. On July 30, 2009, Relator filed a *qui tam* suit against Defendants in the United States District Court for the Southern District of Florida captioned *United States ex rel. Marc*

Osheroff v. Tenet Healthcare Corporation, et al.; 09-CV-22253-PCH in the United States District Court, Southern District of Florida, under the *qui tam* provisions of the Federal False Claims Act, 31 U.S.C. § 3730(b) (the “False Claims Act”), and the False Claims Acts of Florida, California, Texas and Tennessee (“Civil Action”). The United States filed a Notice That It Is Declining to Intervene on December 19, 2011. The States of Florida, California, Texas and Tennessee subsequently filed Notices of Election to Decline Intervention. Relator filed a First Amended Complaint on February 6, 2012, and a Second Amended Complaint on August 13, 2012.

C. Relator alleged that Defendants engaged in unlawful financial relationships with particular physicians and submitted false claims to federal and state healthcare programs, in violation of 42 U.S.C. § 1395nn (also known as the Stark law), the Anti-kickback Statute, 42 U.S.C. § 1320a-7b(b), the Federal False Claims Act and the False Claims Acts of each of the identified states. The Parties have reached an agreement to settle this matter and dismiss the Civil Action.

D. The United States and Defendants agree that the following alleged conduct will constitute the Covered Conduct referred to below: during the period from October 12, 2005 through November 30, 2013, defendants entered into Medical Office Building leases with the physicians identified in Attachment A to this Settlement Agreement for rental rates that were below fair market value. These financial arrangements failed to meet the requirements of the Stark law. Defendants submitted claims to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395kkk-1, for inpatient and outpatient services referred by the physicians identified on Attachment A during the time periods identified on Attachment A.

E. This Agreement is neither an admission of liability by Defendants, nor a

concession by the United States and/or Relator that the allegations in the Second Amended Complaint and/or the claims within the Covered Conduct are not well founded.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator's reasonable expenses, attorneys' fees, and costs.

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. Defendants shall pay to the United States \$4,000,000 (Settlement Amount), plus interest at a rate of 2.125 percent per annum on the unpaid Settlement Amount from November 1, 2013, within ten (10) days of the Effective Date of this Agreement by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the Department of Justice.

2. Conditioned upon the United States receiving the Settlement Amount from Defendants and as soon as feasible after receipt, the United States agrees to pay \$1,000,000 to Relator by electronic funds transfer.

3. Defendants further agree to pay Relator \$1,000,000 for attorneys' fees, expenses, and other costs ("Relator's Costs"). Defendants agree to pay Relator's Costs by electronic funds transfer pursuant to written instructions to be provided by Relator.

4. Subject to the exceptions in Paragraph 7 (concerning excluded claims) below, and conditioned upon Defendants' full payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) releases Defendants, their parents, subsidiaries, affiliates and successors in interest, and the officers, directors, and employees

thereof, from any civil or administrative monetary claim 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; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a, or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Subject to the exceptions in Paragraph 7 below, and conditioned upon Defendants' full payment of the Settlement Amount, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, agrees to release Defendants, their parents, subsidiaries, affiliates and successors in interest, and the officers, directors, and employees thereof, from any civil monetary claim the Relator has on behalf of the United States under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Notwithstanding the releases given in Paragraph 4 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 this Agreement, any administrative liability, including mandatory and/or permissive exclusion from Federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon such obligations as are created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- g. Any liability for failure to deliver goods or services due;
- h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct; or

i. Any liability of individuals, except as provided in paragraph 4.

7. Relator and his heirs, successors, attorneys, agents, and assigns agree not to object to this Agreement and agree and confirm that this Agreement is fair, adequate, and reasonable under all circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of the payment described in Paragraph 2, Relator, for himself individually, and for his heirs, successors, agents and assigns, fully and finally releases, waives, and forever discharges the United States, its officers, agents, and employees, from any claims arising from or relating to 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or Civil Action.

8. Conditioned upon receipt of the payments described in Paragraphs 2 and 3, Relator, for himself, and his heirs, successors, attorneys, agents, and assigns, releases Defendants, their parents, subsidiaries, affiliates and successors in interest, and the officers, directors, and employees thereof, from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. §§ 3729-3733, for expenses or attorney's fees and costs.

9. Defendants waive and shall not assert any defense they 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. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

10. Defendants fully and finally release the United States and its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) which Defendants have asserted, could have asserted, or may assert in the future against the United States or its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

11. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor, or any state payer, related to the Covered Conduct; and Defendants agree not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims.

12. Defendants release Relator and his heirs, successors, employees, attorneys, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) which they have asserted, could have asserted, or may assert in the future against Relator or his heirs, successors, attorneys, or agents, related to this Civil Action and Relators' or his attorneys' or agents' investigation and prosecution thereof.

13. Defendants agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47, and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395kkk-1 and 1396-1396w-5, and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Defendants, their present or former officers, directors, partners, employees, shareholders, and agents in connection with:

(1) the matters covered by this Agreement,

(2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement,

(3) Defendants' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees),

(4) the negotiation and performance of this Agreement, and

(5) the payments Defendants make to the United States pursuant to this Agreement and any payments that Defendants may make to Relator, including costs and attorneys' fees,

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Defendants and Defendants shall not charge such unallowable costs directly or indirectly to any contracts with the United States or any state Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Defendants or any of their subsidiaries or affiliates to the Medicare, Medicaid, Tricare, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: If applicable, Defendants further agree that within 90 days of the Effective Date of this Agreement, Defendants shall identify to applicable Medicare and Tricare fiscal intermediaries, carriers, and/or contractors, and Medicaid, and FEHBP fiscal agents, any Unallowable Costs (as defined

in this Paragraph) included in payments previously sought from the United States or any state Medicaid Program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Defendants or any subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Defendants agree that the United States, at a minimum, shall be entitled to recoup from Defendants any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its right to disagree with any calculations submitted by Defendants or any of their subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on Defendants' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Defendants' books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

14. This Agreement is intended to be for the benefit of the Parties, only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 16 below.

15. Defendants agree that they waive and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents,

sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

16. Upon receipt of the payments described in Paragraphs 1 and 3, above, the Parties shall promptly sign and file a Joint Stipulation of Dismissal of all claims brought in the Civil Action subject to the terms of this Agreement. With respect to the United States, the action is being dismissed with prejudice only as to the claims released in paragraph 4, and without prejudice for any remaining claims. With respect to the Relator, the dismissal is with prejudice to all claims asserted in the Civil Action.

17. Defendants warrant that they have reviewed their financial situation and that they are currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following payment to the United States of the Settlement Amount. Further, Defendants warrant that, in evaluating whether to execute this Agreement, they: (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, Defendants warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which Defendants were or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

18. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

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

20. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement shall be the United States District Court for the Southern District of Florida. 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.

21. This Agreement constitutes the complete agreement between the Parties concerning the Civil Action. This Agreement may not be amended except by written consent of the Parties.

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

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

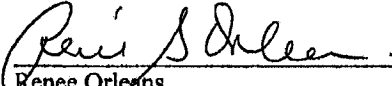
24. This Agreement is binding on Defendants' successors, transferees, heirs, and assigns.

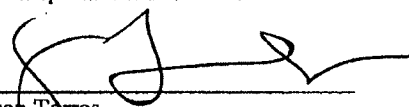
25. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

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

27. 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.

ON BEHALF OF THE UNITED STATES OF AMERICA

DATED: 12/17/13 BY: 
Renee Orleans
Trial Attorney
Commercial Litigation Branch
Civil Division
U.S. Department of Justice

DATED: 12/18/13 BY: 
Susan Torres
Assistant United States Attorney
Southern District of Florida

ON BEHALF OF TENET HEALTHCARE CORPORATION AND DEFENDANTS

DATED: _____

BY: _____

DATED: _____

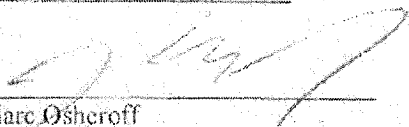
BY: _____

Stacy L. Brainin
George W. Morrison
Haynes and Boone, LLP
Counsel for Tenet Healthcare Corporation

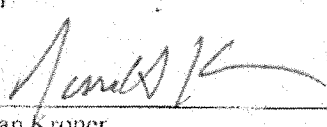
Katherine A. Lauer
Latham & Watkins LLP
Counsel for Tenet Healthcare Corporation

MARC OSHEROFF - RELATOR

DATED: 12/10/2013

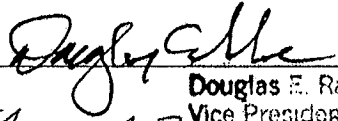
BY: 
Marc Osheroff
Relator

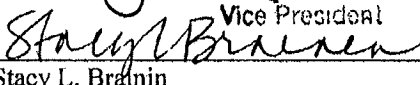
DATED: 12/17/13

BY: 
Jonathan Kroner
Counsel for Relator

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ON BEHALF OF TENET HEALTHCARE CORPORATION AND DEFENDANTS

DATED: 12/9/2013 BY: 
Douglas E. Rabe
Vice President

DATED: 12/17/2013 BY: 
Stacy L. Brannin
George W. Morrison
Haynes and Boone, LLP
Counsel for Tenet Healthcare Corporation

Katherine A. Lauer
Latham & Watkins LLP
Counsel for Tenet Healthcare Corporation

MARC OSHEROFF - RELATOR

DATED: _____ BY: _____
Marc Osheroff
Relator

DATED: _____ BY: _____
Jonathan Kroner
Counsel for Relator

D-2215534_2

Attachment A

1	Surgical Solutions, LLC	03/15/06 - 09/13/09
2	Prime Medical Group	06/01/06 - 02/26/13
3	Robert Buchalter, M.D., P.C.	01/01/07 - 04/05/10
4	Vartkes Kiledjian, M.D.	12/15/06 - 05/25/10
5	Andrew Nullman, M.D.	08/01/05 - 07/31/08
6	Jenelle Martin, M.D., P.C.	05/01/06 - 04/30/07
7	Antonio Yong, M.D.	03/01/03 - 04/30/06
8	Luis Diaz-Rangel, M.D.	01/01/03 - 12/31/05
9	Rossana Lopez, M.D.	04/01/04 - 07/30/07
10	Jose Teran, M.D.	09/01/03 - 08/31/07
11	Ronald Holness, M.D.	12/01/02 - 02/28/06