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Sutter Pays Over \$30 Million to Settle Claims in Whistleblower Suit Alleging Fraud and Kickbacks

Whistleblower Will Continue In Ongoing Fraud Case

Hirst Law Group, P.C., announced a settlement of over \$31 million today in a whistleblower case with the United States Department of Justice and the California Attorney General's Office. The settled claims, brought in a lawsuit filed by whistleblower Laurie Hanvey in 2014, resolve only some of the on-going allegations of fraud against Sutter Health and Sutter Medical Center, Sacramento ("Sutter"), Sacramento Cardiovascular Surgeons Medical Group, Inc. ("Sac Cardio"), and other defendants.

The False Claims Act ("FCA") complaint, filed under seal by the whistleblower and her counsel Hirst Law Group, P.C., Wilbanks and Gouinlock, LLP, and Withrow, McQuade & Olson, LLP, alleged that the Defendants knowingly paid and received kickbacks for referrals of patients to Sutter and violated the Stark law with illegal financial arrangements. Under the settlement, Sutter will pay \$30.5 million, and Sac Cardio, comprised of Dr. Michael T. Ingram, Dr. Robert Kincade, and Dr. James Longoria, will pay over \$500,000 without admitting the fraud allegations.

According to Michael A. Hirst, of Hirst Law Group, P.C.: "The Settlement Agreement provides that Sutter and Sac Cardio will receive a release from the whistleblower of her fraud allegations for limited claims and limited time periods in the case, while the remaining fraud allegations against Sutter and the other defendants will continue." Hirst stated, "We congratulate the whistleblower and look forward to presenting additional evidence in the case."

The released claims allege that Sutter and Sac Cardio engaged in an illegal course of conduct from September 2012 through September 2014, through which Sutter knowingly provided Sac Cardio kickbacks for referrals of Sac Cardio's patients to Sutter for inpatient and outpatient procedures. Specifically, the complaint alleges that Sutter provided paid physician assistants

to Sac Cardio, and paid Sac Cardio exorbitant rates for both “medical director” and “call coverage” agreements to induce referrals from Sac Cardio to Sutter, rather than to other hospitals.

Under the arrangements discussed in the complaint, which the whistleblower alleged violate the Anti-Kickback Statute and Stark law, for conduct beginning in 2006 and 2008: (1) Sac Cardio received free physician assistants paid by Sutter at over \$56,000 per month and \$680,000 annually, for which Sac Cardio billed Medicare and other payors for the services performed by these Sutter-provided physician assistants; (2) Sac Cardio surgeons received up to \$318,264 annually for services they allegedly performed as “medical directors” of various service lines at Sutter, including as medical directors for the Sutter Heart Institute, the Transplant Ventricular Assist Device Program, and the Surgical Ablation Program; and (3) the Sac Cardio doctors also received up to \$912,500 annually to supposedly assure the availability of surgeons on an emergency call basis, although the whistleblower alleged that other cardiovascular surgeons with fewer referrals to Sutter were not included in the call coverage contracts. As alleged, these “call coverage” contracts allowed Sac Cardio to bill for any services they performed, as well as to receive from Sutter \$2,500 per shift for 365 days each year. In total, the complaint alleges that Sac Cardio received \$1,910,764 in illegal annual payments from Sutter designed to induce referrals.

“When physicians receive exorbitant payments to induce referrals of their patients to a hospital, everyone but the physicians and the hospital loses,” Hirst stated. “Patients have a right to believe their doctor’s judgment is not affected by the doctor’s personal compensation. And health insurers like Medicare have a right to believe the medical services they pay for are reasonable and necessary, not medical services ordered as a “thank you” for a generous kickback.”

Whistleblower Laurie Hanvey worked with hospitals in California for over 25 years, including work at Sutter starting in 2012 as the compliance officer at Sutter Medical Center. When she saw the alleged kickbacks and Stark violations at Sutter, she consistently tried to get her supervisors and management at Sutter to discontinue its practices. But the practices continued.

For blowing the whistle and presenting her evidence to the government, Ms. Hanvey and her counsel will receive \$5,795,000 plus interest from settlement of this portion of her claims. Hirst stated: “Ms. Hanvey is exactly the kind of deserving whistleblower the False Claims Act envisions. Without her courage in coming forward, none of this would likely have come to light.”

Hirst praised the Government’s efforts in investigating the FCA complaint allegations and in working to ensure that the remaining allegations

were not released in the settlement. “We appreciate the Government’s support in allowing us to go forward, litigate the remainder of the case, and present our evidence,” Hirst said.

The case was investigated for the Government by Assistant U.S. Attorneys Sara Winslow and Kimberly Friday of the U.S. Attorney’s Office in San Francisco, Rohith Srinivas of the Department of Justice in Washington, D.C., and Deputy Attorney General Elizabeth Voorhies of the California Department of Justice.

Hirst Law Group P.C. represents whistleblowers in federal and state False Claims Act and employment cases around the country. Cases handled by the firm’s employees, both while working for the United States and since joining the firm, have recovered hundreds of millions of dollars and have been reported on television, radio, and newspapers nationally and abroad. A case involving the largest recovery against a single hospital in US history was the subject of a book “Coronary” (Simon and Schuster, 2007), and the firm has also been featured in the books “Whistleblower” and “Retaliation” (Bay Tree Publishing, 2010, 2013). The firm includes a former United States Attorney’s Office supervisor of False Claims Act cases for the Government and a former Government fraud auditor. See www.hirstlawgroup.com.