

Breaking Legal NEWS

Pharmacy Whistleblower Medicaid Fraud Settlement

Immediate Release

Tuesday, September 6, 2011

Settlement Websites:

www.PharmacyFraudSettlement.com

www.WhistleblowerAction.com

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United States Joins Whistleblower Case Accusing Par Pharmaceuticals of Perpetrating Nationwide Drug Switching Scheme to Cheat the Government

CHICAGO – A leading generic drug distributor, Par Pharmaceuticals, and two foreign companies defrauded government healthcare systems through a nationwide drug switching scheme, alleges a whistleblower lawsuit that became public today when it was unsealed by the federal court in Chicago. According to the complaint, filed by the Behn & Wyetzner law firm of Chicago, Par conspired with Walgreens and other pharmacies to illegally switch prescriptions of generic Prozac® (fluoxetine) and generic Zantac® (ranitidine) to Par's products for the purpose of charging Medicaid significantly higher prices. The United States and certain individual states have joined the case against Par. (USDC ND IL 06 C 6131)

Walgreens is not named as a defendant in the complaint. However, in June 2008, Walgreens paid \$35 million to the United States and 42 states to settle allegations that the pharmacy defrauded Medicaid by illegally switching ranitidine and fluoxetine drugs. Walgreens denied liability. (USDC ND IL 03 C 743)

The foreign defendants were named in the complaint, Alphapharm PTY Ltd. of Canada and Genpharm ULC of Australia, as being involved in the distribution of generic fluoxetine with Par. Alphapharm and Genpharm are alleged to have controlled the marketing of Par's switching schemes, to have known of and participated in these illegal schemes, and to have benefitted from them. Alphapharm and Genpharm are currently subsidiaries of Mylan Inc.

The complaint against Par, Alphapharm and Genpharm has been pursued by whistleblower attorneys Michael I. Behn and Linda Wyetzner on behalf of Chicago pharmacist Bernard Lisitza. Lisitza, with the law firm Behn & Wyetzner, has helped recover over \$120 million on behalf of federal and state governments, for Medicaid fraud pursued under *qui tam* provisions of state and federal False Claims Acts.

Prior generic drug switching cases brought by Lisitza with Behn & Wyetzner resulted in a \$50 million settlement in late 2006 with Omnicare, Inc., the nation's largest pharmacy for nursing homes (Northern District of Illinois, 01 C 7433); a \$37 million settlement in 2008 with CVS Caremark Corp. (03 C 744), the national pharmacy; and a \$35 million settlement in 2008 with Walgreens, the nationwide pharmacy chain (03 C 742). All of these cases have been settled with state and federal governments under False Claims Acts, based on the same scheme as this case. For further information about these cases, please visit www.PharmacyFraudSettlement.com or www.WhistleblowerAction.com.

"Bernie wanted the government to get to the heart of the drug switching schemes – drug manufacturers who were marketing dosage forms touting increased pharmacy profits at taxpayers' expense," Behn said. "As a professional who has filled prescriptions for decades, Bernie saw no benefit to the switch except earning higher profits from programs like Medicaid."

"After the \$120 million in recoveries from Walgreens, CVS and Omnicare, the Par case shows how an alert, dedicated pharmacist whistleblower can help the government clean up an entire industry where profits are put ahead of the public trust," Behn said.

Wyetzner praised the "effective and efficient coordination of state and federal prosecutors" in the Par investigation. All of Lisitza's cases were investigated and prosecuted through the combined efforts of federal and state prosecutors and investigators, including the U.S. Attorney's Office in Chicago, state Attorneys General in Michigan, Florida, Indiana, Tennessee, Texas, Virginia, the Federal Bureau of Investigation, the Food and Drug Administration, and the U.S. Office of Personnel Management. The investigation was accomplished through the efforts of Assistant U.S. Attorney Linda A. Wawzenski, Deputy Chief of the Civil Division of the U.S. Attorney's Office for the Northern District of Illinois; Assistant Attorney General Thomas Marks of Michigan; Allen Pope, Director of the Indiana Medicaid Fraud Control Unit; and other state prosecutors working with the National Association of Medicaid Fraud Control Units ("NAMFCU").

Today's case is yet another successful whistleblower action brought by Behn & Wyetzner, Chartered (www.WhistleblowerAction.com). In addition to the Omnicare and CVS cases, Behn represented the plaintiffs in the largest whistleblower settlement in Chicago, which resulted in Northrop Grumman paying \$134 million to resolve claims involving the B-2 "Stealth" bomber. Behn also represented the American Association of Retired Persons ("AARP") in a case upholding the constitutionality of Illinois' False Claims Act before the state's Supreme Court. (ND IL 89 C 8911)

Federal and state False Claims Acts allow private citizens with knowledge of fraud to help the government recover ill-gotten gains and additional civil penalties. These statutes allow the government to collect up to three times the

amount defrauded, in addition to civil penalties of \$5,500 to \$11,000 per false claim. Behn noted that whistleblowers, known as “*qui tam* relators,” can receive between 15 and 30 percent of the governments’ recovery.

Par, Alphapharm and Genpharm have denied liability, wrongdoing and improper conduct.

UNITED STATES OF AMERICA *ex rel.* BERNARD LISITZA, States *ex rel.* BERNARD LISITZA, and BERNARD LISITZA, individually v. PAR PHARMACEUTICALS, et al Northern District of Illinois, 06 C 6131.

Visit <http://www.pharmacyfraudsettlement.com>, a reference Web site for pharmacy fraud and pharmacist whistleblowers just updated with material and filed documents relating to the Par, Walgreens, CVS and Omnicare *qui tam* whistleblower settlements. Included are filed documents, fraud allegations, applicable federal laws, and information about the experienced *qui tam* whistleblower attorneys from Behn & Wyetzner, Chartered who handled the Walgreens and other whistleblower cases.

About Pharmacists: As front line professionals responsible for dispensing medications to Medicaid beneficiaries, pharmacists are particularly well suited to discover and report Medicaid fraud, which is clear from the Par, Walgreens, CVS and Omnicare cases as reported on the PharmacyFraudSettlement.com Web site.

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