

Breaking Legal NEWS

Drug Fraud Settlement

Immediate Release

Monday, November 4 2013

Settlement Website:

www.BehnWyetzner.com

Linda Wyetzner, Esq.
Michael Behn, Esq.
Behn & Wyetzner, Chartered
828 Davis Street, Suite 303
Evanston, Illinois 60201
847-636-8345
312-629-0000
LWyetzner@BehnWyetzner.com
MBehn@BehnWyetzner.com

Johnson & Johnson Pays \$149 Million to Settle Drug Fraud Charges

CHICAGO, November 4, 2013 - **Johnson & Johnson**, the self-proclaimed "family company," agreed to pay \$149 million to the federal government, the states of California, Kentucky, Indiana, and Massachusetts, and the Commonwealth of Virginia, to settle Medicaid fraud claims that alleged that pharmaceutical manufacturer Johnson & Johnson paid Omnicare pharmacies kickbacks for switching nursing home patients from their anti-psychotic to the Johnson & Johnson product Risperdal® to significantly increase sales and profits. Omnicare is the largest pharmacy supplying drugs to nursing homes in the United States. The kickback law suit was brought by Chicago lawyers Linda Wyetzner, Michael Behn, and William W. Thomas of Behn & Wyetzner, Chartered under the False Claims Act on behalf of Chicago pharmacist whistleblower Bernard Lisitza who was fired by Omnicare after reporting this and other fraudulent schemes. The False Claims Act allows

private citizens with knowledge of fraud to help the government recover illegally obtained government money.

According to the government and Lisitza, Johnson & Johnson paid huge amounts of money to Omnicare under "market share rebate" agreements, which paid Omnicare according to its success in blanket switching of Risperdal and other drugs to Johnson & Johnson products. Johnson & Johnson also conditioned payment of the rebates upon Omnicare's attempts to convince physicians to prescribe [Risperdal®](#) instead of other anti-psychotic drugs. Omnicare allegedly failed to disclose to physicians that its pharmacists' recommendations were tied to Johnson & Johnson's payments. According to the government and Lisitza, Johnson & Johnson's kickbacks drove Omnicare's sales of Johnson & Johnson drugs from \$100 million in 1999 to \$280 million in 2004.

Plaintiffs alleged that Johnson & Johnson and Omnicare internal documents illustrate that Omnicare's recommendations were for sale. For example, a Johnson & Johnson presentation reported Omnicare pharmacists in nursing homes were "highly motivated based on economics," which depended "less on net costs [to payers], and more on quality of product" and profitability. Confirming that perception, a letter from Omnicare Senior Vice President of Professional Services and Purchasing to Johnson & Johnson brags that "WE ARE SELLING MORE HIGH PRICED DRUGS (read Risperdal here) FOR THE PHARMACEUTICAL INDUSTRY!!"

Lisitza has been represented by nationally recognized whistleblower lawyers, [Linda Wyetzner, Michael Behn, and William W. Thomas](#) of Behn & Wyetzner, Chartered in Chicago, Illinois. **"The government's complaint depicts the despicable scheme Johnson & Johnson implemented using kickbacks to drive sales of atypical anti-psychotic drugs to seniors on Medicaid," said Wyetzner. "Pharmacists are true professionals who should not be used. There can be zero tolerance for kickbacks."**

The United States is represented in this case by Senior Trial Attorney Laurie A. Oberembt of the U.S. Department of Justice, U.S. Attorney for the District of Massachusetts Carmen Ortiz, and Assistant U.S. Attorneys Gregg Shapiro, George Henderson and Christine Wichers of the U.S. Attorney's office in Boston. The Plaintiff States are represented by Assistant Attorneys General: California, Siobhan Franklin; Indiana, Lawrence Carcare; Kentucky, Lee Anne Applegate; Massachusetts, Robert P. Patton; Texas, Margaret M. Moore; and the Commonwealth of Virginia, Candace Deisher. Wyetzner praised the "unique and unparalleled" coordination of federal and state prosecutors in this case.

The Johnson & Johnson case is another successful Medicaid fraud whistleblower case handled by Behn & Wyetzner, Chartered. On November 3, 2009, Omnicare paid \$98 million to settle Lisitza's allegations concerning Johnson & Johnson's Risperdal® payments and other alleged kickbacks. ([District of Massachusetts, Case No. 07-10026-RGS](#))

In 2006, Omnicare settled another qui tam by the Chicago pharmacist relator Lisitza that recovered nearly \$50 million for the United States and 43 states. ([Northern District of Illinois, Case No. 01-C-7433](#)) In 2008, Behn & Wyetzner represented the pharmacist whistleblower in a \$37 million Medicaid fraud settlement with CVS pharmacies ([Northern District of Illinois, Case No. 03-C-744](#)), and the pharmacist whistleblower in a \$35 million Medicaid fraud settlement with Walgreens pharmacies ([Northern District of Illinois, Case No. 03-C-742](#)).

The complaints filed by Lisitza, as well as other court documents, can be found at the reference website <http://www.behnwyetzner.com>.

Behn & Wyetzner have also handled significant defense procurement fraud cases. In 2009, the firm represented Chicago whistleblowers in a \$15.5 qui tam settlement with advertising agency Leo Burnett for alleged fraud in Army procurement contracts (Northern District of Illinois, Case No. 04-C-3897). In 2004, Behn represented the qui tam relators in a defense procurement fraud case that resulted in Northrop Grumman paying \$134 million to resolve claims involving the B-2 "Stealth" bomber - one of the largest False Claims Act qui tam settlements in the Northern District of Illinois (Case No. 89-C 6111).

The firm's web site, <http://www.behnwyetzner.com>, is a reference for pharmacy fraud and pharmacist whistleblowers just updated with material

and filed documents relating to the Johnson & Johnson, Omnicare, CVS and Walgreens qui tam whistleblower cases. 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 Johnson & Johnson case 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 as qui tam relators, which is clear from the Johnson & Johnson, Omnicare, Walgreens, CVS cases as reported on the behnwyetzner.com Web site.

In executing the Settlement Agreement, Johnson & Johnson denied liability, wrongdoing or improper conduct.

#

Reporters: Visit and bookmark the original-content web site developed for this case at <http://www.behnwyetzner.com>. Contents include filed documents, the fraud allegations, applicable federal laws, and information about the experienced qui tam whistleblower attorneys who handled this case.

