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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA FLORIDA

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CLERK US DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

UNITED STATES OF AMERICA,  
ex rel. JENNIFER SILVA and  
JESSICA ROBERTSON

Plaintiffs,

CASE NO.

8:15 cv 444 T 33 TGW

v.

DIVISION

VICI MARKETING, LLC,  
VICI MARKETING GROUP, LLC  
Z STAT MEDICAL, LLC  
STAT DIRECT, LLC  
MEDVEST LLC  
SCOTT ROIX  
LARRY SMITH  
JUDE GERMAIN, M.D.  
MARJORIE LANTUM, M.D.,  
VINSON DI SANTO, D.O.,  
ANTHONY CROWE, M.D. and  
NAVEED NAEEM, M.D.

FILED IN CAMERA  
UNDER SEAL

Defendants.

COMPLAINT UNDER THE QUI TAM PROVISIONS  
OF THE FALSE CLAIMS ACT

INTRODUCTION

1. This is an action brought by Relators, Jennifer Silva and Jessica Robertson, on behalf of the United States of America, to recover damages and civil penalties against VICI MARKETING, LLC, VICI MARKETING GROUP, LLC, Z STAT MEDICAL, LLC, STAT DIRECT, LLC, MEDVEST, LLC, SCOTT ROIX, LARRY SMITH, JUDE GERMAIN, M.D., MARJORIE LANTUM, M.D., VINSON DI SANTO, D.O., ANTHONY CROWE, M.D. and NAVEED NAEEM, M.D. (collectively "Defendants") pursuant to the Federal Civil False Claims Act, Title 31 U.S.C. § 3729 et seq., ("FCA").

JRA. 28658

\$400

2. Relator's *qui tam* action alleges that Defendants, through the practice of seeking payment at greatly inflated rates for lidocain, have defrauded the government of money by submitting fraudulent claims for payment to government healthcare programs including Tricare, Medicare and Medicaid.

3. The FCA provides that any person who submits a false claim to the government is liable for a civil penalty of between \$5,500 and \$11,000 for each such claim, and three times the amount of the damages sustained by the government. The Act permits persons having information regarding a false or fraudulent claim against the government to bring an action on behalf of the government and to share in any recovery. Pursuant to 31 U.S.C. § 3730(b)(2), this complaint must be filed *in camera* and under seal, without service on the defendant. The complaint remains under seal while the government conducts an investigation of the allegations in the complaint and determines whether to join the action.

#### JURISDICTION AND VENUE

4. This action arises under the False Claims Act, 31 U.S.C. § 3729 et seq. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 31 U.S.C. § 3730, and 28 U.S.C. § 1345.

5. This Court has personal jurisdiction over Defendants pursuant to 31 U.S.C. § 3732(a), which authorizes nationwide service of process. Defendants can be found in, reside in, or have transacted business in the Middle District of Florida, Tampa Division.

6. Venue is proper in this District pursuant to 31 U.S.C. § 3732(a) because Defendants can be found in, reside in, or have transacted business in the Middle District of Florida, and many of the alleged acts occurred in this District.

7. No allegation set forth in this Complaint is based on a public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or General Accounting Office report, hearing audit, or investigation, or from the news media.

#### **THE PARTIES**

8. Relator Jennifer Silva was employed by Defendant Z Stat as a data entry/patient care position from December 2014 through February 2015.

9. Relator Jessica Roberson was employed by Defendant Medvest in credentialing from October 2014 through February 2015.

10. Defendant Vici Marketing, LLC is located at 11515 66<sup>th</sup> Street N, Largo Florida, 33773 and is owned and operated by Defendant Scott Roix.

11. Defendant Vici Marketing Group, LLC is located at 11515 66<sup>th</sup> Street N, Largo Florida, 33773 and is owned and operated by Defendant Scott Roix.

12. Defendant Z-Stat Medical, LLC is located 34911 US Highway 19 N, Suite 525A, Palm Harbor, FL 34684 and is managed by Stat Direct, LLC and owned by Larry Smith. Z-Stat also does business Oldsmar Pharmacy.

13. Defendant Stat Direct, LLC is located at 8222 118<sup>th</sup> Ave N, Suite 605, Largo, Florida 33773 and is owned and managed by Larry Smith.

14. Defendant MedVest, LLC is located at 7235 Bryan Dairy Road, Largo, Florida 33777 and is owned by Larry Smith.

15. Defendants Jude Germain, M.D. of Springfield Township, New Jersey, Marjorie Lantum, M.D. of Nashville, Tennessee, Vinson Di Santo, D.O., of West Long Branch, New

Jersey, Anthony Crowe, M.D. of Seneca, South Carolina and Naveed Naeem, M.D. of Grand Rapids, Michigan are some of the physicians who wrote prescriptions for the patients.

### **FACTUAL ALLEGATIONS**

16. Defendants Vici Marketing Group, LLC and Vici Marketing, LLC. (hereinafter collectively "Vici") purchased from unknown third parties information on patients who claim to have medical conditions that include chronic pain.

17. Vici employs telemarketers who contact these patients to market pain gels, pain patches and pain creams.

18. Vici's telemarketers ask the patients information about their Tricare, Medicare or Medicaid and other insurance and medical conditions which the telemarketers record.

19. Vici then has doctors, including but not limited to Defendants Jude Germain, M.D. of Springfield Township, New Jersey, Marjorie Lantum, M.D. of Nashville, Tennessee, Vinson Di Santo, D.O., of West Long Branch, New Jersey, Anthony Crowe, M.D. of Seneca, South Carolina and Naveed Naeem, M.D. of Grand Rapids, Michigan write prescriptions for lidocain.

20. The lidocain medications are a gel known as PMM0192-08, patches known as Synvexia or eLenza and a cream known as PMM0192-06; all of which are just over-the-counter strength (4%) of lidocain. Copies of the boxes for Synvexia and eLenza are attached as Exhibit A.

21. Lidocain has not been specifically found by the Food and Drug Administration (FDA) to be safe and effective, however the FDA does allow the use of 4% lidocain in over-the-counter medications.

22. The above physicians are referred to as teladocs and rarely or never communicate with the patients.

23. Vici then forwards the patients' information, including the name, insurance information and prescription to Z-Stat.

24. Z-Stat then submits the information to Tricare, Medicare and Medicaid seeking authorization for the lidocain.

25. Z-Stat would regularly seek and receive \$5500.00 to \$25,000.00 per prescription for the lidocain.

26. The actual appropriate retail costs of the medication was less than \$10.00.

27. Upon receipt of payment for the medication, Z-Stat would then send 60 percent of the profit to Vici.

28. When Z-Stat was unable to confirm the patient's address, Z-Stat would still submit to Tricare, Medicare or Medicaid seeking authorization for the medication. If the authorization was approved Z-Stat would keep the money from Tricare, Medicare or Medicaid and the medication.

29. Vici operated under the direction of Scott Roix.

30. Z-Stat operated under the direction of Larry Smith.

31. In addition to the above activities, Larry Smith established MedVest for the purpose of providing a mechanism for doctors in the Tampa Bay area to dispense the same pain medications (gel known as PM0192-08, patches known as Synvexia or Elenza and a cream known as PKK0192-06; all of which are just over-the-counter strength 4% of lidocain) in their offices and bill Tricare, Medicare and Medicaid and other insurance companies at the inflated rates.

32. The scope of Defendants' fraud was so vast that it overwhelmed Z Stat's ability to process the prescriptions. In an effort to process as many prescriptions as possible Z-Stat began paying their employees double time for overtime and an extra \$200 cash per shift to work longer hours.

### **DAMAGES**

33. The scope of the ongoing fraud is enormous. For example, in December 2014, Relator Silva processed well over 1000 prescriptions.

34. Consequently, the loss to government health care programs due to Defendants' fraudulent submissions of claims exceeds \$5 million, not including penalties and fees.

### **COUNT ONE**

#### **Violation of False Claims Act, 31 U.S.C. § 3729(a)**

35. Relators realleges and incorporates by reference the allegations of paragraphs 1-34 of this complaint.

36. This count sets forth claims for treble damages and forfeitures under the federal False Claims Act, 31 U.S.C. §§ 3729-3732, as amended.

37. As described above, Defendants have submitted fraudulent claims to government healthcare programs including but not limited to Medicare and Tricare through the practice of seeking outrageous reimbursements for lidocain.

38. Defendants have knowingly violated:

- (a) 31 U.S.C. § 3729(a)(1) by knowingly presenting, or causing to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval and/or

- (b) 31 U.S.C. § 3729(a)(2) by knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government.

39. By reason of Defendants' false claims, the United States has been damaged and continues to be damaged.

#### **PRAYER FOR RELIEF**

WHEREFORE, Relators requests that judgment be entered against Defendants, ordering that:

- a. Defendants pay an amount equal to three times the amount of damages the United States has sustained because of Defendants' actions, plus a civil penalty against Defendants of not less than \$5,500, and not more than \$11,000 for each violation of 31 U.S.C. § 3729;
- b. Relators be awarded the maximum amount allowed pursuant to 31 U.S.C. § 3730(d);
- c. Defendants cease and desist from violating the False Claims Act, 31 U.S.C. § 3729 et seq.;
- d. Relators be awarded all costs of this action, including attorneys' fees, expenses, and costs pursuant to 31 U.S.C. § 3730(d); and
- e. The United States and Relators be granted all such other relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

A jury trial is requested in this cause.