

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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ANDREW M. CUOMO, ATTORNEY GENERAL
OF THE STATE OF NEW YORK,

Plaintiff-Claiming Authority,

Index No. 13253/2008

and

STATE OF NEW YORK,

Plaintiffs,

COMPLAINT

– against –

B&H HEALTHCARE SERVICES, INC. D/B/A NURSING
PERSONNEL HOME CARE, WALTER GREENFELD,
ISAAC SCHWARTZ, ZELDY WEINSTOCK, LIEB
GOLDSTEIN, JACOB GOLDSTEIN, ISRAEL
GOLDSTEIN, RACHEL GOLDSTEIN, RIFKY
GOLDSTEIN, BLIMIE GOLDSTEIN, JOEL
GOLDSTEIN, RAIZY GOLDSTEIN, YOSEF
SCHREIBER, SARAH GOLDSTEIN, CHAVIE
HILLMAN, TOBY SCHREIBER, ELI SCHREIBER,
AND JOSEPH NEWMAN,

Defendants.

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Plaintiff Andrew M. Cuomo, Attorney General of the State of New York, as Plaintiff-
Claiming Authority under CPLR Art. 13-A and Plaintiff State of New York, by Andrew M.
Cuomo, Attorney General of the State of New York, complaining of the above-named defen-
dants, allege upon information and belief, that:

PRELIMINARY STATEMENT

1. This action seeks to recover approximately \$30 million lost by the New York
State Medicaid program through fraud and deceit, together with treble damages, penalties, costs
and interest.

2. Defendants have sought to exploit the Medicaid program by causing Medicaid to pay for services that are not covered or have received the proceeds of such exploitation. Specifically, defendants B & H Healthcare Services, Inc. d/b/a Nursing Personnel Home Care (“Nursing Personnel”) and Walter Greenfeld caused Medicaid to pay for the services of purported home health aides for whom these defendants acquired false training certificates and who had not, in fact, received the required training nor valid training certificates: Medicaid does not cover the services of unqualified home health aides. The remaining defendants are shareholders of Nursing Personnel who have received the proceeds or substituted proceeds of this scheme.

3. Defendants Nursing Personnel and Greenfeld have been or, within sixty days of the filing of this Complaint, will be charged with the felony crimes of Grand Larceny in the First Degree (theft of property valued in excess of one million dollars) and Offering a False Instrument for Filing in the First Degree.

THE PARTIES

4. Plaintiff-Claiming Authority Andrew M. Cuomo, Attorney General of the State of New York (“Claiming Authority”), was at all times relevant to this action a person authorized by CPLR §1310(11) to commence a forfeiture action under CPLR Article 13-A.

5. Plaintiff State of New York (the “State”) was at all times relevant to this action a sovereign state of the United States of America. Through the New York State Medicaid program, the State provides medical services for the needy and certain other persons with healthcare needs. The New York State Medicaid Fraud Control Unit (“MFCU”), under the supervision of the Attorney General and under the authority of Federal and State law, investigates, prosecutes and recovers funds from persons who commit fraud against the Medicaid program.

6. Defendant Nursing Personnel is a corporation organized under the laws of the State of New York, with its principal place of business at 175 South Ninth Street, Brooklyn, New York.

7. Defendant Walter Greenfeld is an individual residing at 315 Division Avenue, Brooklyn, New York. Greenfeld is the president of defendant Nursing Personnel.

8. Defendant Isaac Schwartz, also known as Yitzchok Schwartz, is an individual residing at 191 Rodney Street, Brooklyn, New York. Schwartz is a shareholder of Nursing Personnel and owns 40% of the company.

9. Defendant Zeldy Weinstock is an individual residing at 8 Nesher Court, Monsey, New York. Zeldy Weinstock is a shareholder of Nursing Personnel and owns 2.88% of the company.

10. Defendant Lieb Goldstein is an individual residing at 23 Heyward Street, Apt. 3B, Brooklyn, New York. Lieb Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

11. Defendant Jacob Goldstein is an individual residing at 1527 49th Street, Brooklyn, New York. Jacob Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

12. Defendant Israel Goldstein is an individual residing at 6 Vincent Road, Spring Valley, New York. Israel Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

13. Defendant Rachel Goldstein is an individual residing at 6 Vincent Road, Spring Valley, New York. Rachel Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

14. Defendant Rifky Goldstein, also known as Rifky Abromowitz, is an individual residing at 6 Vincent Road, Spring Valley, New York. Rifky Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

15. Defendant Blimie Goldstein is an individual residing at 6 Vincent Road, Spring Valley, New York. Blimie Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

16. Defendant Joel Goldstein is an individual residing at 6 Vincent Road, Spring Valley, New York. Joel Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

17. Defendant Raizy Goldstein is an individual residing at 6 Vincent Road, Spring Valley, New York. Raizy Goldstein is a shareholder of Nursing Personnel and owns 2.88% of the company.

18. Defendant Yosef Schreiber, also known as Joseph Schreiber, is an individual residing at 1249 42nd Street, Brooklyn, New York. Yosef Schreiber is a shareholder of Nursing Personnel and owns 5.185% of the company.

19. Defendant Sarah Goldstein is an individual residing at 1418 54th Avenue, Brooklyn, New York. Sarah Goldstein is a shareholder of Nursing Personnel and owns 5.185% of the company.

20. Defendant Chavie Hillman is an individual residing at 1463 57th Street, Brooklyn, New York. Chavie Hillman is a shareholder of Nursing Personnel and owns 5.185% of the company.

21. Defendant Toby Schreiber is an individual residing at 1418 54th Avenue, Brooklyn, New York. Toby Schreiber is a shareholder of Nursing Personnel and owns 5.185% of the

company.

22. Defendant Eli Schreiber is an individual residing at 1418 54th Avenue, Brooklyn, New York. Eli Schreiber is a shareholder of Nursing Personnel and owns 5.185% of the company.

23. Defendant Joseph Newman is an individual residing at 3 Holly Circle, Monsey, New York. Joseph Newman is a shareholder of Nursing Personnel and owns 5.655% of the company.

24. Venue is proper in this County pursuant to CPLR §1311(10)(b), in that criminal prosecutions of Nursing Personnel and Greenfeld have been, or will be, commenced in Kings County within 60 days for the felony crimes of Grand Larceny and Offering a False Instrument for Filing.

**FIRST CAUSE OF ACTION
ON BEHALF OF THE CLAIMING AUTHORITY:
FORFEITURE OF THE PROCEEDS OF A
CRIME PURSUANT TO CPLR ARTICLE 13-A**

**Nursing Personnel and Greenfeld
Will Be Charged in Kings County**

25. The Claiming Authority repeats and realleges paragraphs 1-24 of this Complaint with the same force and effect as if fully set forth herein.

26. Defendants Nursing Personnel and Greenfeld have been, or within sixty days of the filing of this Complaint will be, charged by an accusatory instrument in Kings County with the felony crimes of Grand Larceny in the First Degree, in violation of Penal Law § 155.42 and Offering a False Instrument for Filing in the First Degree, in violation of Penal Law § 175.01.

27. By reason of the foregoing, Nursing Personnel and Greenfeld are “Criminal Defendants” as defined by CPLR §1310(9).

28. The accusatory instrument against Nursing Personnel and Greenfeld will allege, in material part, that

The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, from on or about March 1, 2004 to December 31, 2007, in the County of Kings and elsewhere, with intent to deprive another of property and to appropriate the same to himself and others, wrongfully took, obtained and withheld property valued in excess of one million dollars, from an owner thereof, in that:

The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, knowingly submitted and caused a Certified Home Health Agency to submit to Computer Sciences Corporation, a fiscal agent of the State of New York, false claims with the New York State Medical Assistance Program (Medicaid) for home health care services provided to certain Medicaid recipients. These claims falsely certified that amounts listed for home health services provided to Medicaid recipients were due, that the persons providing the services had the necessary certification, training and experience to perform the claimed services and that the services were provided in accordance with applicable state laws and regulations.

The State of New York, in reliance upon these false representations, paid Certified Home Health Agencies, over \$1,000,000 to which neither the agencies nor the defendants were entitled, and in which proceeds the defendants shared.

...

The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, from on or about July 29, 2006 to on or about September 7, 2006, in the County of Kings, State of New York, knowing that a written instrument contained a false statement and false information, and with intent to defraud the State of New York, caused the instrument to be offered and presented to a public office and public servant with the knowledge and belief that it would be filed with, registered and recorded in, and otherwise become a part of the records of such public office and public servant, in the following manner:

The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, knowingly submitted and caused to be submitted to Computer Sciences Corporation, a fiscal agent of the State of New York under the Medical Assistance (Title XIX) Program, commonly known as Medicaid, an electronic claim submission that sought reimbursement under claim reference number 0625000029505520, knowing that the claim falsely stated that on July 29, 2006, a Certified Home Health Agency had provided home care services to a Medicaid patient, CIN No: WN56369G, in accordance with all state laws and regulations.

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The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, from on or about January 29, 2006 to on or about February 27, 2006, in the County of Kings, State of New York, knowing that a written instrument contained a false statement and false information, and with intent to defraud the State of New York, caused the instrument to be offered and presented to a public office and public servant with the knowledge and belief that it would be filed with, registered and recorded in, and otherwise become a part of the records of such public office and public servant, in the following manner:

The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, knowingly submitted and caused to be submitted to Computer Sciences Corporation, a fiscal agent of the State of New York under the Medical Assistance (Title XIX) Program, commonly known as Medicaid, an electronic claim submission that sought reimbursement under claim reference number 0605800058051320, knowing that the claim falsely stated that on January 29, 2006, a Certified Home Health Agency had provided home care services to a Medicaid patient, CIN No: XC33898M, in accordance with all state laws and regulations

...

The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, acting in concert, from on or about August 2, 2006 to on or about October 5, 2006, in the County of Kings, State of New York, knowing that a written instrument contained a false statement and false information, and with intent to defraud the State of New York, caused the instrument to be offered and presented to a public office and public ser-

vant with the knowledge and belief that it would be filed with, registered and recorded in, and otherwise become a part of the records of such public office and public servant, in the following manner:

The defendants, NURSING PERSONNEL HOME CARE, and WALTER GREENFELD, HIGH MANAGERIAL AGENT OF NURSING PERSONNEL HOME CARE, knowingly submitted and caused to be submitted to Computer Sciences Corporation, a fiscal agent of the State of New York under the Medical Assistance (Title XIX) Program, commonly known as Medicaid, an electronic claim submission that sought reimbursement under claim reference number 0627800123454820, knowing that the claim falsely stated that on August 2, 2006, a Certified Home Health Agency had provided home care services to a Medicaid patient, CIN No: WN56369G, in accordance with all state laws and regulations.

29. Nursing Personnel and Greenfeld obtained at least \$30,000,000.00 to which they were not entitled from the false and fraudulent claims submitted to the Medicaid Program.

30. Upon a conviction for the crimes specified above, each of Nursing Personnel and Greenfeld would be liable to forfeit to the Claiming Authority the proceeds or substituted proceeds or instrumentalities of their crimes, in an amount yet to be determined, but at least the amounts set forth herein.

31. In the alternative, pursuant to CPLR Article 13-A, Claiming Authority is entitled to recover a money judgment against Nursing Personnel and Greenfeld, jointly and severally, in an amount to be determined, but at least the amounts set forth herein.

CAUSES OF ACTION ON BEHALF OF THE STATE:

Background on Medicaid Coverage of Home Healthcare Services

32. Under the Medicaid program, certain individuals are eligible to receive “home health aide services” in their homes. The services provided by home health aides may include bathing, grooming, dressing, feeding, catheter and colostomy care, wound care, and the administration of certain medication to facilitate treatment or to maintain the Medicaid recipient’s

health.

33. In order for a home health aide's services to be covered by the Medicaid program, he or she must be trained and certified by a licensed home health aide training program.

34. To become certified, a home health aide trainee must receive a minimum of seventy-five hours of training, including sixteen hours of supervised practical training conducted by a registered nurse. If the person has previously been certified as a personal care assistant, he or she may "upgrade" the certification to become a home health aide by receiving additional training.

35. Nursing Personnel is a licensed home care services agency ("LHCSA"). It employs home health aides and assigns them to provide services to patients through entities known as certified home health agencies ("CHHAs"). Among the CHHAs through which Nursing Personnel has provided home health aide services are Americare Certified Special Services, Inc., Empire State Home Care Services, Excellent Home Care, Extended Home Care, Family Care Certified Services, Girling Health Care, Inc., and the Visiting Nurse Association of Brooklyn, Inc.

36. The CHHAs are enrolled Medicaid providers and are entitled to bill the Medicaid program for covered home health care services provided to Medicaid recipients.

37. Nursing Personnel, as a LHCSA, has not been entitled to bill the Medicaid program directly, but rather, it has acted as a subcontractor to the CHHAs with which it contracted.

38. Nursing Personnel thus paid the home health aides it employed and submitted invoices for their services to the Medicaid recipient's CHHA. The CHHA, in turn, billed the Medicaid program for these services and paid Nursing Personnel as provided in the contracts between the CHHAs and Nursing Personnel.

Nursing Personnel and Greenfeld's Criminal Conduct and the Proceeds Thereof

39. The New York Medicaid Fraud Control Unit of the Office of the Attorney General has been investigating individuals and business entities involved in schemes to provide bogus home health aide certificates to persons without the requisite training. Since 2006, as part of the investigations, the Attorney General has obtained the felony convictions of home health aide training schools along with felony convictions of a large number of operators, coordinators, marketers and others associated with these schools. Two other LHCSAs have been convicted or pled guilty to felony counts.

40. Nursing Personnel and Greenfeld have caused the Medicaid program to be billed for the services of unqualified home health aides for whom they acquired false training certificates or whom they caused to obtain false training certificates.

41. Greenfeld is the president of Nursing Personnel and has controlled Nursing Personnel's day-to-day operations.

42. Defendant Isaac Schwartz is the chief executive officer of Nursing Personnel. He maintains an office at Nursing Personnel's headquarters and has knowledge of the day-to-day operations of the company.

43. Nursing Personnel entered into contracts with several CHHAs to provide home health aides to the CHHAs' patients, when requested. The CHHAs requested home health aides when they received a new patient or when an existing patient was in need of a new home health aide. If Nursing Personnel could not promptly designate an available home health aide when a request was made by a CHHA, then Nursing Personnel would usually not receive the assignment.

44. Nursing Personnel and Greenfeld sought, in particular, to provide home health aides who would service the Russian-speaking Medicaid-eligible population in Brooklyn.

45. Over the last several years, there has existed a shortage of Russian-speaking qualified home health aides in Brooklyn.

46. Nursing Personnel and Greenfeld actively recruited Russian-speaking individuals to serve as home health aides, even where those persons did not have the required training and certification. Among other things, Nursing Personnel and Greenfeld paid persons described as “marketers” to identify such candidates and bring them to Nursing Personnel’s “orientation center” in a Brooklyn neighborhood with a large Russian-speaking population. Nursing Personnel and Greenfeld have paid millions of dollars to such marketers for providing the candidates. The payments were often made in cash.

47. Nursing Personnel and Greenfeld caused the uncertified candidates to obtain home health aide certificates from certain training schools that issued certificates without actually providing the training required by regulations. Such schools included schools known as Smalls, On-Time, Bronx Institute, DCIC and Royal.

48. While a *bona fide* training program would last for approximately two weeks, candidates that Nursing Personnel and Greenfeld sent for training obtained their certificates within a single day.

49. The Smalls school, for example, would issue certificates on the same day that candidates first showed up for training. To the extent the Smalls schools administered tests to the home health aide candidates, it provided the candidates with the answers to the test questions prior to administering the tests.

50. The Smalls school entered into agreements with Nursing Personnel and Greenfeld to provide certificates to Nursing Personnel’s candidates without providing the training required by regulations.

51. For some candidates, Nursing Personnel and Greenfeld obtained these certificates directly. For other candidates, Nursing Personnel and Greenfeld instructed the candidates on how to obtain these certificates in only one day. These defendants thus purchased false certificates or caused them to be purchased.

52. As soon as the untrained and unqualified aides received their false certificates, and before they could have completed the full training course required by regulations, Nursing Personnel and Greenfeld assigned the aides to provide home health services to patients, including Medicaid recipients.

53. Some of the home health aides employed by Nursing Personnel would, with the knowledge of defendants Nursing Personnel and Greenfeld, enter into an arrangement with Medicaid patients known as a "50/50." In a "50/50" the home health aide agreed with the patient to split the money received for providing the home health care services, while the home health aide would not actually provide the services. The Medicaid program was thus billed despite the absence of any services rendered.

54. Nursing Personnel billed CHHAs -- including Americare Certified Home Health, Excellent Home Care Services, LLC, Extended Nursing Personnel CHHA, Girling Healthcare, and others -- for the services or purported services of Nursing Personnel's untrained and unqualified aides. The CHHAs submitted claims to the Medicaid program for tens of millions of dollars for these services. The CHHAs received payment from the Medicaid program and paid Nursing Personnel for the aides.

55. At all times relevant herein, including at the times that Nursing Personnel and Greenfeld recruited unqualified and uncertified home health aides, when they caused unqualified and uncertified home health aides to provide services, and when they billed CHHAs for such ser-

vices, Nursing Personnel and Greenfeld knew that claims for the services of the unqualified and uncertified home health aides would be submitted to the Medicaid program for payment.

56. According to Nursing Personnel's records, in 2005 and 2006 alone, Nursing Personnel paid in excess of \$22.9 million to home health aides it employed who received their home health training certificates from training school that sold bogus certificates, namely Smalls, On Time, Bronx Institute, DCIC and Royal.

57. From 2004 through at least September 2007, the New York Medicaid program paid well in excess of \$30 million for the services of Nursing Personnel home health aides certified by training schools that sold bogus training certificates, namely Smalls, On Time, Bronx Institute, DCIC and Royal.

58. Nursing Personnel paid a substantial portion of the funds obtained through its and Greenfeld's criminal conduct to the shareholders of Nursing Personnel.

59. Since June 2005, Nursing Personnel made payments in excess of \$7 million to defendants Greenfeld, Isaac Schwartz, Zeldy Weinstock, Lieb Goldstein, Jacob Goldstein, Israel Goldstein, Rachel Goldstein, Rifky Goldstein, Blimie Goldstein, Joel Goldstein, Raizy Goldstein, Yosef Schreiber, Sarah Goldstein, Chavie Hillman, Toby Schreiber, Eli Schreiber, and Joseph Newman.

60. Some of the payments by Nursing Personnel to its shareholders have been made directly to them, including payments to Greenfeld, Isaac, Zeldy Weinstock, Lieb Goldstein, Jacob Goldstein, Israel Goldstein, Rachel Goldstein, Rifky Goldstein, Blimie Goldstein, Joel Goldstein, Raizy Goldstein, Yosef Schreiber, Sarah Goldstein, Chavie Hillman, Toby Schreiber, and Eli Schreiber.

61. In addition, Nursing Personnel made payments to its shareholders indirectly

through other persons or entities. At least one payment for the benefit of Chavie Hillman was made in the name of Joel Hillman. At least four payments for the benefit of Joseph Newman was made in the name of Joseph Newman Real Estate, which is a company owned and controlled by Joseph Newman. At least one payment was made for the benefit of the Walter Greenfeld Charitable Foundation, which purports to be a foundation controlled by Walter Greenfeld.

62. Nursing Personnel has also paid more than two million dollars to B&H Photo. B&H Photo is not a shareholder of Nursing Personnel.

**AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF THE STATE:
RECOVERY OF STATUTORY DAMAGES:
PURSUANT TO SOCIAL SERVICES LAW § 145-b
(against Nursing Personnel and Greenfeld)**

63. The State repeats and realleges paragraphs 1-62 of this Complaint with the same force and effect as if fully set forth herein.

64. Nursing Personnel and Greenfeld knowingly by means of false statements or representations, or by deliberate concealment of material facts or by other fraudulent schemes or devices, obtained payment for themselves or others in an amount yet to be determined, but at least \$30,000,000.00 for services purportedly furnished pursuant to the laws of the State of New York, including the Medicaid program regulations.

65. By reason of the foregoing, Nursing Personnel and Greenfeld are liable, jointly and severally, to the State pursuant to Social Services Law § 145-b for actual damages of at least \$30,000,000.00, and for three times the amounts falsely submitted, to wit, of at least an additional \$90,000,000.00, plus interest at the highest legal rate.

**AS AND FOR A THIRD CAUSE OF ACTION:
RECOVERY OF STATUTORY DAMAGES:
PURSUANT TO THE NEW YORK FALSE CLAIMS ACT
(against Nursing Personnel and Greenfeld)**

66. The State repeats and realleges paragraphs 1-65 of this Complaint with the same force and effect as if fully set forth herein.

67. As set forth above, Nursing Personnel and Greenfeld knowingly, or acting in deliberate ignorance or reckless disregard for the truth, caused to be presented to agents of the State of New York false or fraudulent claims for payment for home health care services.

68. The New York State Medicaid program paid such false or fraudulent claims because of the acts or conduct of Nursing Personnel and Greenfeld.

69. By reason of Nursing Personnel and Greenfeld's conduct, the State of New York has been damaged in an amount to be determined at trial.

70. By reason of the foregoing, Nursing Personnel and Greenfeld are liable, pursuant to N.Y. Finance Law § 189(1), to the State for treble damages, penalties and costs.

**AS AND FOR A FOURTH CAUSE OF ACTION:
RECOVERY OF STATUTORY DAMAGES:
PURSUANT TO THE NEW YORK FALSE CLAIMS ACT
(against Nursing Personnel and Greenfeld)**

71. The State repeats and realleges paragraphs 1-70 of this Complaint with the same force and effect as if fully set forth herein.

72. As set forth above, Nursing Personnel and Greenfeld knowingly, or acting in deliberate ignorance or reckless disregard for the truth, made, used, or caused to be made or used, false records and/or statements to get false or fraudulent claims paid or approved by the New York State Medicaid program.

73. The New York State Medicaid program paid such false or fraudulent claims be-

cause of the acts or conduct of Nursing Personnel and Greenfeld.

74. By reason of Nursing Personnel and Greenfeld's conduct, the State of New York has been damaged in an amount to be determined at trial.

75. By reason of the foregoing, Nursing Personnel and Greenfeld are liable, pursuant to N.Y. Finance Law § 189(1), to the State for treble damages, penalties and costs.

**AS AND FOR A FIFTH CAUSE OF ACTION:
FRAUD AND INTENTIONAL MISREPRESENTATION
(against Nursing Personnel and Greenfeld)**

76. The State repeats and realleges paragraphs 1-75 of this Complaint with the same force and effect as if fully set forth herein.

77. In reliance upon the false information submitted by Nursing Personnel and Greenfeld to the CHHAs and then conveyed by the CHHAs to the New York Medicaid program, Medicaid paid unauthorized reimbursements in an amount yet to be determined. Nursing Personnel and Greenfeld benefited directly or indirectly from the Medicaid payments made to the CHHAs.

78. By reason of the foregoing, the State is entitled to recover from Nursing Personnel and Greenfeld, jointly and severally, in an amount yet to be determined, but at least \$30,000,000.00 in compensatory damages and is also entitled to recover exemplary damages, plus interest at the highest legal rate.

**AS AND FOR A SIXTH CAUSE OF ACTION:
UNJUST ENRICHMENT
(against all Defendants)**

79. The State repeats and realleges paragraphs 1-78 of this Complaint with the same force and effect as if fully set forth herein.

80. Defendants were not entitled to submit or cause to be submitted claims to Medi-

caid or to receive or cause to be received payment for unauthorized services in violation of Medicaid program regulations.

81. By reason of the foregoing, defendants have been unjustly enriched or caused others to be unjustly enriched to the detriment of the State and are liable, jointly and severally, to the State in an amount yet to be determined, but at least \$30,000,000.00.

**AS AND FOR A SEVENTH CAUSE OF ACTION:
OVERPAYMENT OF PUBLIC FUNDS
(against all Defendants)**

82. The State repeats and realleges paragraphs 1-81 of this Complaint with the same force and effect as if fully set forth herein.

83. The acts and practices of defendants complained of herein constitute a misappropriation of public property by defendants, in violation of Executive Law § 63-C. By reason of the foregoing, the State is entitled to restitution from defendants, jointly and severally, in an amount yet to be determined, but at least \$30,000,000.00.

**AS AND FOR AN EIGHTH CAUSE OF ACTION:
MONIES HAD AND RECEIVED
(against all Defendants)**

84. The State repeats and realleges paragraphs 1-83 of this Complaint with the same force and effect as if fully set forth herein.

85. Defendants were not entitled to submit or cause to be submitted claims to Medicaid or to receive or cause to be received payments made for unauthorized services in violation of Medicaid program regulations.

86. By reason of the foregoing, defendants have damaged the State in the amount yet to be determined, but at least \$30,000,000.00 and are liable to the State, jointly and severally, therefor.

WHEREFORE, the State demands judgment.

I. Under the First Cause of Action, the Claiming Authority demands judgment against Nursing Personnel and Greenfeld, jointly and severally:

A. For the forfeiture of the proceeds, substituted proceeds, and instrumentalities of their crimes, in an amount to be determined at trial, but at least \$30,000,000.00; or

B. For a money judgment in an amount to be determined at trial, but at least \$30,000,000.00;

II. Under the Second Cause of Action, the State demands judgment, jointly and severally, against Nursing Personnel and Greenfeld in an amount to be determined, including actual damages, of at least \$30,000,000.00, and statutory treble damages;

III. Under the Third and Fourth Causes of Action, the State demands judgment, jointly and severally, against Nursing Personnel and Greenfeld in an amount to be determined, consisting of a civil penalty of not less than six thousand dollars and not more than twelve thousand dollars for each violation, plus three times the amount of damages sustained by the State;

IV. Under the Fifth Cause of Action, the State demands judgment, jointly and severally, against Nursing Personnel and Greenfeld in an amount yet to be determined but at least \$30,000,000.00;

V. Under the Sixth, Seventh and Eighth Causes of Action, the State demands judgment, jointly and severally, against all Defendants in an amount yet to be determined but at least \$30,000,000.00; and

VI. Under all Causes of Action, plaintiffs also demand:

A. Interest from the date of the receipt by the Defendants or others of the State's funds;

B. The costs and disbursements of this action;

C. Attorney's fees; and

D. Such other and further relief as this Court deems just and reasonable.

Dated: New York, New York
April 30, 2008

ANDREW M. CUOMO

Attorney General

A handwritten signature in black ink, appearing to read "Paul J. Mahoney", written over a horizontal line.

PAUL J. MAHONEY

Special Assistant Attorney General

RANDALL M. FOX

Special Assistant Attorney General

Medicaid Fraud Control Unit

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