

## Eli's Hospice Insider

### Fraud & Abuse: Hospice Settles Whistleblower Suit For \$3 Million

#### Hospice CEO excluded from Medicare for 3 years.

Whistleblowers may be able to place a target on your agency for a False Claims Act investigation, but apparently they don't hold much sway over settlement details with the government.

**Hospice of the Comforter Inc. in the Orlando, Fla.**, area has agreed to pay \$3 million to resolve allegations it billed for hospice services provided to patients who were not eligible for the Medicare hospice benefit, the **Justice Department** says in a release. Former Hospice of the Comforter VP of finance **Douglas Stone** filed a whistleblower suit against the hospice in 2011, claiming execs kept ineligible patients on service for long periods of time for financial gain (see Eli's Hospice Insider, Vol. 5, No. 10).

Stone filed a legal brief in court to oppose the \$3 million settlement amount between the hospice and the government. The settlement figure was a "travesty," he claimed in a legal brief in court opposing the settlement amount.

Stone claimed in his brief that the hospice's profitability had been understated so the government would lower its fine. And, he claims, **Adventist Health** — the parent company of Florida Hospital and the current manager of the hospice — supplied the "tainted" financial information, according to the Orlando Sentinel. The motive, according to the brief, was that Adventist "will likely buy HOTC (valued at \$30 to \$50 million) for next to nothing the moment the ink is dry on the settlement agreement."

Hospice of the Comforter's attorney told the newspaper that hospice officials provided the government with full "financial disclosure" and that the settlement was fair, the Sentinel reported.

Stone's suit brought additional scrutiny to the case. Sentinel columnist Scott Maxwell ran a column saying he felt "betrayed" by Hospice of the Comforter. The then-proposed \$3 million settlement is "what's wrong with America. With health care. And with our justice system," Maxwell said in the newspaper editorial.

CEO **Bob Wilson's** bonuses of as much as \$50,000 every three months (on top of his annual base salary of \$120,000), tied partly to patient counts, is "just not what I expect from a faith-based nonprofit," Maxwell adds.

"Nobody's ever made whole in a fraud case," said Hospice of the Comforter attorney Latour "LT" Lafferty, according to the Sentinel. "But that doesn't mean the settlement's not fair."

Despite Stone's filing and the press attention, the DOJ stuck with the \$3 million amount, according to the Department's release. The hospice "allegedly directed its staff to admit all referred patients without regard to whether they were eligible for the Medicare hospice benefit, falsified medical records to make it appear that certain patients were eligible for the benefit when they were not, employed field nurses without hospice training, established procedures to limit physicians' roles in assessing patients' terminal status and delayed discharging patients when they became ineligible for the benefit," the DOJ says.

**Plus:** The hospice will enter into a corporate integrity agreement with the HHS Office of Inspector General, which is standard. And former CEO Wilson agreed to a three-year, voluntary exclusion from Medicare, Medicaid and other federal health care programs.

"This settlement represents a fair and appropriate resolution of this troubling matter," Acting U.S. Attorney for the Middle District of Florida A. Lee Bentley III says in the release. However, "Stone's share of the recovery has not been determined," the DOJ notes.

