

NICHOLAS A. TRUTANICH
United States Attorney
District of Nevada
Nevada Bar. No. 13644
ALLISON C. REPPOND
Assistant United States Attorney
U.S. Attorney's Office
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101
Ph: 702-388-6336
Email: allison.reppond@usdoj.gov

Attorneys for the United States

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,

Plaintiff,

v.

Case No.: 2:21-cv-00184

Complaint

PCPLV LLC d/b/a Pinnacle
Compounding Pharmacy, Ofir Ventura,
Cecilia Ventura, Brandon Jimenez, Robert
Gomez, Gomez & Associates, Inc., Rock'n
Rob Enterprises, Amir Shalev, D.P.M., AS
Enterprises, Inc., and Ivan Lee Goldsmith,
M.D.;

Defendants.

The United States of America ("the United States" or the Government"), on behalf of the United States Department of Defense ("DOD") and the United States Department of Veterans Affairs ("VA"), brings this action against defendants PCPLV LLC d/b/a Pinnacle Compounding Pharmacy, Ofir Ventura, Cecilia Ventura, Brandon Jimenez, Robert Gomez, Gomez & Associates, Inc., Rock'n Rob Enterprises, Amir Shalev, D.P.M., AS Enterprises, Inc., and Ivan Lee Goldsmith, M.D. (collectively referred to herein as "Defendants"), and alleges as follows:

I. Introduction

1. This is a civil action brought by the United States against the defendants under the False Claims Act (“FCA”), 31 U.S.C. §§ 3729-3733, and the common law, to recover treble damages sustained by, and civil penalties and restitution owed to, the United States for Defendants’ illegal conduct.

2. Between February 2015 and November 2015, Defendants Ofir Ventura and Cecilia Ventura (collectively referred to herein as “the Venturas”) and Brandon Jimenez (“Jimenez”), were all co-owners and members of PCPLV LLC d/b/a Pinnacle Compounding Pharmacy (“Pinnacle”). The owners and members of Pinnacle knowingly and willfully engaged in illegal kickback schemes pursuant to which they caused Pinnacle to pay substantial kickbacks to various third-party marketers in exchange for those marketers arranging for the referral of prescriptions for compounded drugs¹ to Pinnacle. The kickbacks paid to these marketers consisted of a substantial share of the revenue that the marketers’ referrals generated for Pinnacle. These arrangements violated the Anti-Kickback Statute (“AKS”), 42 U.S.C. § 1320a-7b(b).

3. Defendant Robert Gomez, in his individual capacity and as owner of Gomez & Associates, Inc., and Rock’n Rob Enterprises (collectively referred to herein as “Gomez”), was among the third-party marketers that knowingly and willfully received illegal kickbacks from Pinnacle through his corporate entities. Pursuant to those agreements, Gomez carried out campaigns to directly solicit patients, including TRICARE beneficiaries and beneficiaries of the Civilian Health and Medical Program of the Department of Veterans Affairs (“CHAMPVA”), to accept prescriptions for compounded medications, and

¹ Compounding is a practice in which a licensed pharmacist combines, mixes, or alters ingredients of a drug in response to a prescription to create a medication tailored to the medical needs of an individual patient. See U.S. Food & Drug Administration, *Compounding and the FDA: Questions and Answers*, <https://www.fda.gov/drugs/human-drug-compounding/compounding-and-fda-questions-and-answers> (last visited Jan. 28, 2021). For example, a patient with an allergy to a particular ingredient in a commercially-available medication may benefit from a compounded medication in certain circumstances. *Id.* Compounded medications often come in the form of topical creams or sprays. Compounded medications are typically much more expensive than commercially-available medications.

1 arranged for those prescriptions to be referred to Pinnacle, which agreed to pay substantial
2 kickbacks in return. Some patients were even offered financial compensation by third-party
3 marketers, including Gomez, for agreeing to accept prescriptions for compounded medicine.
4 Gomez, through his corporate entities, paid illegal kickbacks to patients in exchange for
5 their agreement to try compounded medications from Pinnacle. Gomez also knowingly and
6 willfully paid illegal kickbacks to physicians directly in exchange for the physicians' writing
7 prescriptions for compounded medications to be referred to Pinnacle, including Ivan Lee
8 Goldsmith, M.D. ("Goldsmith"), Amir Shalev, D.P.M. ("Shalev"), some of which were
9 paid to AS Enterprises, Inc. ("AS Enterprises"), a corporation in which Shalev served as a
10 director at all relevant times herein.

11 4. Upon information and belief, the Venturas and Jimenez likewise knowingly
12 and willfully engaged in illegal kickback schemes pursuant to which they caused Pinnacle to
13 pay physicians directly for the referral of prescriptions for compounded drugs to Pinnacle.
14 For example, Ofir Ventura and Brandon Jimenez hosted dinners with physicians who
15 prescribed a large number of compounded drugs to Pinnacle, including Goldsmith and
16 Shalev. Upon information and belief, the Venturas and Jimenez knowingly and willfully
17 caused Pinnacle to directly pay illegal kickbacks to AS Enterprises to induce Shalev to
18 continue writing numerous prescriptions for expensive and unnecessary compounded
19 medications from Pinnacle. Pinnacle's third-party marketer, Gomez, also knowingly and
20 willfully engaged in illegal kickback schemes with physicians and, through his corporations,
21 made payments directly to physicians, including Goldsmith and Shalev, in exchange for
22 these physicians writing numerous prescriptions for Pinnacle's compounded medications.
23 The kickbacks paid to these physicians likewise consisted of a substantial share of the
24 revenue that the physicians' prescriptions generated for Pinnacle. These arrangements also
25 violated the Anti-Kickback Statute ("AKS"), 42 U.S.C. § 1320a-7b(b).

26 5. Through these schemes, Defendants knowingly presented and/or caused to
27 be presented claims to the TRICARE and CHAMPVA programs that were false or
28 fraudulent because they were tainted by kickbacks to marketers, physicians, and patients,

1 and did not arise from a valid prescriber-patient relationship and were otherwise
2 unnecessary. As a result of this conduct, Defendants are liable under the False Claims Act,
3 31 U.S.C. § 3729, *et seq.* (the FCA), and the federal common law.

4 II. Jurisdiction and Venue

5 6. This Court has subject-matter jurisdiction over this action pursuant to 28
6 U.S.C. §§ 1331 and 1345 and 31 U.S.C. § 3732(a) and (b).

7 7. This Court has personal jurisdiction over defendants under 31 U.S.C. §
8 3732(a), because they have adequate minimum contacts with the United States of America
9 and the State of Nevada to make the assertion of personal jurisdiction sufficient to satisfy
10 due process.

11 8. Venue is proper in this action in the District of Nevada under 28 U.S.C. §
12 1391(b) – (c) and 31 U.S.C. § 3732(a), because Defendants can all be found in, reside in, or
13 have transacted business within this Court's jurisdiction, and acts that they committed in
14 violation of the FCA, AKS and federal common law occurred within this district.

15 III. The Parties

16 9. Plaintiff in this action is the United States of America, suing on behalf of its
17 agencies the DOD, including DOD component the Defense Health Agency ("DHA"),
18 which administers the TRICARE program, and the VA, including VA component the
19 Veterans Health Administration Office of Community Care ("VHAOCC"), which
20 administers the CHAMPVA program.

21 10. At all times relevant herein, Defendant PCPLV LLC, d/b/a Pinnacle
22 Compounding Pharmacy was a Nevada limited liability company with its operations based
23 in Las Vegas, Nevada. At all times relevant to this Complaint, Pinnacle was engaged in the
24 business of providing medical care to, among others, individuals who were TRICARE and
25 CHAMPVA beneficiaries. At all times relevant to this Complaint, Pinnacle acted by and
26 through its vice principals, Ofir Ventura, Cecelia Ventura, and Brandon Jimenez.

27 11. Defendant Ofir Ventura, who resides in Las Vegas, Nevada, was, at all times
28 relevant herein, a co-owner, member, and/or officer of Pinnacle. Ofir Ventura was actively

involved in managing and directing the daily operations at Pinnacle. At all times relevant herein, Ofir Ventura acted in his capacity as a vice principal of Pinnacle. Ofir Ventura is also liable in his individual capacity for the conduct alleged herein, as he knowingly and willfully made or caused to be made false claims for payment to the United States through and on behalf of Pinnacle in violation of the AKS

12. Defendant Cecilia Ventura, who resides in Las Vegas, Nevada, was, at all times relevant herein, the Manager of Pinnacle, as well as a co-owner, member, and/or officer of Pinnacle. Cecilia Ventura was actively involved in managing and directing the daily operations at Pinnacle, including in submitting claims for payment. At all times relevant herein, Cecelia Ventura acted in her capacity as a vice principal of Pinnacle. Cecelia Ventura is also liable in her individual capacity for the conduct alleged herein, as she knowingly and willfully made or caused to be made false claims for payment to the United States through and on behalf of Pinnacle in violation of the AKS.

13. Defendant Brandon Jimenez, who resides in Las Vegas, Nevada, was, at all times relevant herein, a co-owner, member, and/or officer of Pinnacle. Jimenez was actively involved in managing and directing the daily operations at Pinnacle. At all times relevant herein, Brandon Jimenez acted in his capacity as a vice principal of Pinnacle. Jimenez is also liable in his individual capacity for the conduct alleged herein, as he knowingly and willfully made or caused to be made false claims for payment to the United States through and on behalf of Pinnacle in violation of the AKS.

14. Defendant Robert Gomez, who resides in Las Vegas, Nevada, was, at all times relevant herein, the President, Secretary, Treasurer, and/or a Director, as well as a co-owner, of Gomez & Associates, Inc. and Rock'n Rob Enterprises. Gomez was actively involved in managing and directing the daily operations at Gomez & Associates, Inc., and Rock'n Rob Enterprises. At all times relevant herein, Robert Gomez acted in his capacity as a vice principal for Rock'n Rob Enterprises and Gomez & Associates, Inc. to cause these corporations to pay and receive illegal kickbacks. Gomez is also liable in his individual

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