

CPM Garner \$28 Million Settlement in Major Whistleblower Suit Against Boston Heart Diagnostics

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Cotchett, Pitre & McCarthy (CPM) today announced the \$28 million settlement of whistleblower allegations against Boston Heart Diagnostics, a clinical medical laboratory that focuses on tests related to cardiovascular disease. The settlement resolves two separate lawsuits brought by Cotchett, Pitre & McCarthy on behalf of whistleblowers.

The first case, which was being actively litigated in the United States District Court for the District of Columbia, alleges that Boston Heart has systematically defrauded taxpayers by entering into multiple quid pro quo arrangements with doctors that order its tests.

The case resulted in a groundbreaking decision from the District Court, which found that a common laboratory scheme for recruiting doctors—promising that their patients would never have to pay a deductible or co-payment—“constitutes a kickback, and therefore sufficiently alleges the falsity element of a false presentment claim under the False Claims Act.” The case was brought by Christopher Riedel, a former Boston Heart board member who has dedicated the last decade of his life to fighting fraud in the medical laboratory industry.

The second case, which was filed in the United States District Court for the Eastern District of California, alleged that Boston Heart paid kickbacks to doctors and patients in the form of free dietician counseling services—and required those doctors to order an expensive panel of laboratory tests in order to receive the free counseling. Those expensive tests were ultimately paid for by taxpayers, through the Medicare program.

The settlement also resolves an independent investigation by the Department of Justice into alleged kickbacks paid by Boston Heart to doctors in the form of “management service organization distribution

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Practice Areas

False Claims / Whistleblower Law

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payments.”

CPM’s clients will receive over \$4.3 million as the “Relators’ Share” of the proceeds for bringing these schemes to light.

Niall P. McCarthy, partner at Cotchett, Pitre & McCarthy, said: “The lab industry continues to be a breeding ground for fraud. It is like watching the same movie over and over again. Fortunately, brave whistleblowers continue to expose the theft of tax dollars.”

Justin T. Berger, partner at Cotchett, Pitre & McCarthy, said: “This is another huge step forward in combatting fraud in the healthcare industry and recovering money for taxpayers. Without courageous whistleblowers, fraudsters would consistently remain one step ahead of the law.”

Eric J. Buescher, partner at Cotchett, Pitre & McCarthy, added: “Kickbacks have no place in patient care, and no amount of creativity about how to pay the kickback can change that. We’re proud to have been able to recover tens of millions of taxpayer dollars and contribute to stopping and deterring future violations of the kickback and false claims laws.”

The cases are *United States ex. Rel. Riedel v. Boston Heart Diagnostics Corp.*, Civil Action No. 12-1423 (RBW) (D.D.C.), and *United States ex rel. FBH1 LLC v. Boston Heart Diagnostics Corporation*, Civil Action No. 17-CV-2061 (E.D. Cal.).

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