Ophthalmology Distributer and Its Owner Found Liable for False Claims Act Violations



3/30/2023

On February 28, 2023, a Minnesota federal jury found an ophthalmology distributor, Precision Lens, and its owner, Paul Ehlen, liable for more than $43 million under the False Claims Act (FCA) for violating the Anti-Kickback Statute. The Anti-Kickback Statue prohibits offering, paying, soliciting, or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid, and other federally funded healthcare programs. Under the FCA, damages may be tripled. Precision Lens and Ehlen were found to have paid kickbacks to physicians to induce the use of their products in cataract surgeries reimbursed by Medicare. The lawsuit was brought by a whistleblower, under the qui tam provisions of the FCA. This provision permits private parties to bring suit on behalf of the government for false claims.

Kickbacks paid to physicians by Precision Lens and Ehlen were in the form of travel and entertainment, including high-end skiing, fishing, golfing, hunting, sporting, and entertainment vacations, often at exclusive destinations. Physicians were transported on private jets to New York City to see a Broadway musical, the College Football National Championship Game in Miami, Florida, and the Masters golf tournament in Augusta, Georgia. Precision Lens and Ehlen also sold frequent flyer miles to their physician customers at a significant discount, enabling the physicians to take personal and business trips at well below fair market value.

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