

## SETTLEMENT AGREEMENT

### Parties

This Agreement is entered by and between the United States of America, acting through the United States Department of Justice, and Danny Smart ("the Relator"). As a preamble to this Agreement, the United States and the Relator state:

### Preamble

WHEREAS, in June 2005, the Relator filed a *qui tam* action, U.S. ex rel. Smart v. Christus Health, et al., C-05-CV-287 (S.D. Tex.) ("The *Qui Tam* Action"), alleging that Christus Health System had entered into financial relationships with physicians that violated the False Claims Act, 31 U.S.C. §§ 3729, et seq., and the Stark Statute, 42 U.S.C. § 1395nn.;

WHEREAS, the United States declined to intervene in the *Qui Tam* Action in 2007;

WHEREAS, in April 2008 and August 2009, CHRISTUS Spohn Hospital Corpus Christi - Memorial (Memorial) disclosed to the Office of Inspector General for the Department of Health and Human Services (OIG-HHS) that certain financial relationships that it had entered into may have violated the Stark Statute;

WHEREAS, in June 2010, the *Qui Tam* Action was dismissed pursuant to a settlement agreement, and the government paid the Relator a share of the settlement proceeds pursuant to 31 U.S.C. § 3730(d);

WHEREAS, in June 2010, OIG-HHS entered into a settlement with Memorial ("the OIG-HHS Settlement") under which Memorial paid the United States \$4,130,535;

WHEREAS, in December 2010, the Relator filed a motion in the district court to reopen the *Qui Tam* Action to allow the Relator to seek a share of the OIG-HHS Settlement; and

WHEREAS, the parties wish to resolve this dispute without further litigation, and to make a full, complete, and final settlement of Relator's share of the OIG-HHS Settlement proceeds pursuant to 31 U.S.C. § 3730(d)(1).

ACCORDINGLY, in reliance upon the representations contained herein and in consideration of the mutual promises, covenants and obligations in this Agreement and the

resolution of the claims set forth below, and for good and valuable consideration, receipt of which is by each acknowledged, the United States and the Relator agree as follows:

### **Terms and Conditions**

1. The United States agrees that Relator shall be awarded \$897,000 of the \$4,130,535 OIG-HHS settlement amount. The United States will make this payment within a reasonable time after the Effective Date of this Agreement.

2. On receipt of this \$897,000 payment, Relator, for himself, his heirs, successors, and assigns, will release and will be deemed to have released and forever discharged the United States from any claims pursuant to 31 U.S.C. § 3730(d)(1) for a share of the proceeds of the OIG-HHS Settlement.

3. Within five days of receipt of the \$897,000 payment, the Relator will withdraw the motion that he filed which is now pending in the *Qui Tam* Action, and inform the Court that the parties have settled the Relator's claims to a share of the OIG-HHS Settlement.

4. This Agreement, together with all of the obligations and terms hereof, shall inure to the benefit of and shall bind assigns, successors-in-interest, or transferees of the United States and the Relator.

5. Each of the signatories to this Agreement represents that he or she has the full power and authority to enter into this Agreement.

6. This writing constitutes the entire agreement of the United States and the Relator with respect to the subject matter of this Agreement and may not be modified, amended or terminated except by a written agreement signed by the United States and Relator specifically referring to this Agreement.

7. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

8. The Effective Date of this Agreement is the date of signature of the last signatory to the Agreement.

9. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

In Witness Whereof, the parties, through their duly authorized representatives, hereunder set their hands.

**ON BEHALF OF THE UNITED STATES OF AMERICA**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jose Vela, Jr.  
Assistant U.S. Attorney  
United States Attorney's Office for the  
Southern District of Texas

Dated: \_\_\_\_\_

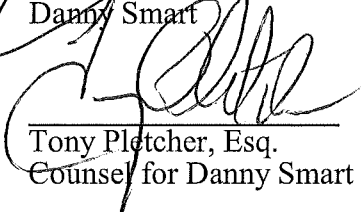
\_\_\_\_\_  
David T. Cohen  
Commercial Litigation Branch  
Civil Division  
U.S. Department of Justice

**ON BEHALF OF THE RELATOR**

Dated: 11/30/11

  
\_\_\_\_\_  
Danny Smart

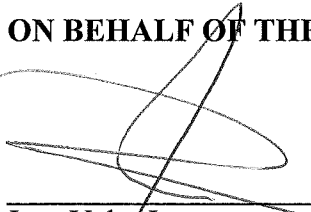
Dated: 11/29/2011

  
\_\_\_\_\_  
Tony Pletcher, Esq.  
Counsel for Danny Smart

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Assistant U.S. Attorney  
United States Attorney's Office for the  
Southern District of Texas

Dated: \_\_\_\_\_

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David T. Cohen  
Commercial Litigation Branch  
Civil Division  
U.S. Department of Justice

**ON BEHALF OF THE RELATOR**

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Danny Smart

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Counsel for Danny Smart

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Assistant U.S. Attorney  
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**ON BEHALF OF THE RELATOR**

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Danny Smart

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Tony Pletcher, Esq.  
Counsel for Danny Smart