

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into between the United States of America, acting through the United States Department of Justice and on behalf of the United States Department of Veterans Affairs (“VA”) (collectively, the “United States”), and Young Sam Kim, L.Ac., Dipl. O.M., Ph.D., (“Kim”) (collectively referred to as “the Parties”) through their authorized representatives.

RECITALS

A. Kim is an acupuncturist practicing at the Acuworld Health Clinic, located at 1100 West Shaw Avenue, Suite 118, Fresno, California 93711.

B. As relevant to this Agreement, between 2016 and 2020, Kim submitted claims for payment to the Department of Veterans Affairs, Veterans Health Administration, 38 U.S.C. Chapter 17, to Veterans who visited Acuworld.

C. The United States contends that it has certain civil claims against Kim arising from Kim’s liability for false claims for acupuncture care of Veterans submitted to VA during the period from January 2016 through December 2020. Specifically, the United States contends that Kim submitted claims to VA for services that were not in fact provided. This conduct is referred to below as the “Covered Conduct.”

D. This Settlement Agreement is neither an admission of liability by Kim, nor a concession by the United States that its claims are not well-founded.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Kim shall pay to the United States a total of \$850,000 plus interest as detailed below (“Settlement Amount”), and according to the payment schedule set forth in **Exhibit A**, attached hereto. All payments shall be made by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the Eastern District of California.

a. On September 1, 2024, Kim shall pay \$350,000 of the Settlement Amount.

b. On October 1, 2024, Kim shall pay an additional \$350,000 of the Settlement Amount, plus interest at a rate of four percent (4%) per annum as set forth in Exhibit A.

c. On April 1, 2025, Kim shall pay an additional \$50,000 of the Settlement Amount, plus interest at a rate of four percent (4%) per annum as set forth in Exhibit A.

d. On October 1, 2025, Kim shall pay an additional \$50,000 of the Settlement Amount, plus interest at a rate of four percent (4%) per annum as set forth in Exhibit A.

e. On April 1, 2026, Kim shall pay the final \$50,000 of the Settlement Amount, plus interest at a rate of four percent (4%) per annum as set forth in Exhibit A.

2. In the event Kim fails to satisfy any of the payment obligations set forth in Paragraph 1, he shall be in Default of its payment obligations (“Default”). Upon Default, the United States will provide Kim, through his legal counsel or other representative

previously designated by him, by electronic mail a written Notice of Default, and Kim shall have an opportunity to cure such Default within three business days from the date the Notice of Default is sent by counsel for the United States. If Kim fails to cure the Default within three business days from the date the Notice of Default is sent by the United States, the total unpaid Settlement Amount shall become immediately due and payable, and interest on such amount shall accrue at the rate of 10 percent per annum, compounded daily from the date of Default.

3. Upon execution of this Settlement Agreement, Kim shall enter into a Consent Judgment with the United States in the form attached as **Exhibit B**. The United States shall not file the Consent Judgment unless Kim is in uncured Default as defined above. Kim agrees not to contest any Consent Judgment and/or collection action undertaken by the United States pursuant to this Paragraph, either administratively or in any state or federal court, except on the grounds of actual payment to the United States. At its sole option, in the event of uncured Default as defined above, the United States alternatively may rescind this Agreement and bring any civil and/or administrative claim, action, or proceeding against Kim for the claims that would otherwise be covered by the releases provided herein. If the United States opts to rescind this Agreement in the event of uncured Default as defined above, Kim agrees not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories to any civil or administrative claims that are (a) filed by the United States against Kim within 180 days of written notification that this Agreement has been rescinded, and (b) relate to the Covered Conduct.

4. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount as set forth in Paragraph 1, the United States releases Kim from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Notwithstanding the releases given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; and
- f. Any liability of any party other than Kim.

6. Kim waives and shall not assert any defenses he may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth

Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

7. Kim fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that he has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct or the United States' investigation or prosecution thereof. Kim hereby expressly waives all rights he may have by virtue of Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

8. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by VA or any fiscal intermediary, or any state payer, related to the Covered Conduct; and Kim agrees not to resubmit to VA or any contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

9. Kim agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Kim and his employers, employees, or agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Kim's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) any payments Kim makes to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by Kim, and Kim shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, Kim shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Kim or any of his employers, employees, or agents from the United States. Kim agrees that the United States, at a minimum, shall be entitled to

recoup from Kim any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Kim's books and records and to disagree with any calculations submitted by Kim or any of his employers, employees, or agents regarding any Unallowable Costs included in payments previously sought by Kim, or the effect of any such Unallowable Costs on the amount of such payments.

10. This Agreement is intended to be for the benefit of the Parties only.

11. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

13. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of California. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

14. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

15. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

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

17. This Agreement is binding on Kim's successors, transferees, heirs, and assigns.

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


19. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

[SIGNATURE PAGES FOLLOW]

THE UNITED STATES OF AMERICA

PHILLIP A. TALBERT
United States Attorney

Dated: this 22nd day of August, 2024

By: 
COLLEEN M. KENNEDY
Assistant United States Attorney
Eastern District of California

YOUNG SAM KIM, L.AC., DIPL. O.M., PH.D.

Dated: this ___ day of August, 2024

By: _____
DR. YOUNG SAM KIM, L.AC., DIPL.
O.M., PH.D.

APPROVED AS TO FORM

Dated: this ___ day of August, 2024

By: _____
JEHAN N. JAYAKUMAR
Carlson & Jayakumar, LLP
Counsel for Young Sam Kim, L.Ac., Dipl. O.M.,
Ph.D..

THE UNITED STATES OF AMERICA

PHILLIP A. TALBERT
United States Attorney

Dated: this ___ day of August, 2024

By: _____
COLLEEN M. KENNEDY
Assistant United States Attorney
Eastern District of California

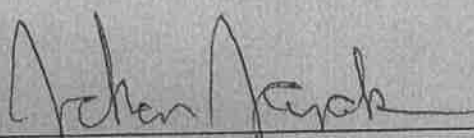
YOUNG SAM KIM, L.AC., DIPL. O.M., PH.D.

Dated: this 19th day of August, 2024

By: 
DR. YOUNG SAM KIM, L.AC., DIPL.
O.M., PH.D.

APPROVED AS TO FORM

Dated: this 30th day of August, 2024

By: 
JEHAN N. JAYAKUMAR
Carlson & Jayakumar, LLP
Counsel for Young Sam Kim, L.Ac., Dipl. O.M.,
Ph.D..

**EXHIBIT A
KIM SETTLEMENT PAYMENTS**

Payment #	Date	Payment	Interest*	Principal	Balance
Beginning Balance					\$850,000.00
1	9/1/2024	\$350,000.00	\$0.00	\$350,000.00	\$500,000.00
2	10/1/2024	\$351,643.84	\$1,643.84	\$350,000.00	\$150,000.00
3	4/1/2025	\$52,991.78	\$2,991.78	\$50,000.00	\$100,000.00
4	10/1/2025	\$52,005.48	\$2,005.48	\$50,000.00	\$50,000.00
5	4/1/2026	\$50,997.26	\$997.26	\$50,000.00	\$0.00
Total		\$857,638.36	\$7,638.36	\$850,000.00	

*Interest Rate: 4.00%

1 PHILLIP A. TALBERT
United States Attorney
2 COLLEEN M. KENNEDY
Assistant United States Attorney
3 Office of the United States Attorney
501 I Street, Suite 10-100
4 Sacramento, CA 95814
Telephone: (916) 554-2700
5 Facsimile: (916) 554-2900

6
7 Attorneys for United States of America

8
9 IN THE UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,
12 Plaintiff,

13 vs.

14 YOUNG SAM KIM, L.AC., DIPL. O.M., PH.D.,
15 Defendant.

CONSENT JUDGMENT

16
17 WHEREAS, on August 22, 2024, Plaintiff the United States of America (the “United States”) and Defendant Young Sam Kim, L.Ac., Dipl. O.M., Ph.D. (“Kim”), (together, the “Parties”), entered into
18 a Settlement Agreement to settle the United States’ civil claims against Kim for violating the False Claims
19 Act, 31 U.S.C. § 3729-3733 (attached hereto as Exhibit A);

20
21 WHEREAS, under the terms of the Settlement Agreement, Kim agreed to pay the United States a
22 total sum of \$850,000 plus interest as set forth in the Settlement Agreement (“Settlement Amount”);

23 WHEREAS, as part of that Settlement Agreement, the Parties agreed that, if Kim failed to cure a
24 default of his payment obligations under the Settlement Agreement, Kim would consent to the entry of
25 judgment against him in the amount of the Settlement Amount, \$850,000, and interest at the rate of 10%
26 per annum, compounded daily from the date of default;

27 WHEREAS, Kim has failed to make payment in accordance with the Settlement Agreement, and
28 therefore is in default under the terms of the Settlement Agreement;

1 WHEREAS, the United States has given Kim three (3) business days to cure the default, as
2 provided in the Settlement Agreement, but Kim has failed to cure the default of his payment obligation
3 under the Settlement Agreement;

4 Upon consent of plaintiff the United States of America and Kim, it is hereby ORDERED,
5 ADJUDGED, AND DECREED that: Plaintiff the United States of America is awarded judgment in the
6 sum of \$850,000.00 against Defendant Kim for violating the False Claims Act, 31 U.S.C. § 3729-3733
7 (“FCA”), plus interest at the post-judgment interest at the rate of 10% per annum, compounded daily from
8 the date this Consent Judgment is entered until it is satisfied. This Court retains jurisdiction over this
9 action.

10 **IT IS SO ORDERED.**

11 Dated:

12 _____
13 UNITED STATES DISTRICT JUDGE


14 Consented to by:

15 **THE UNITED STATES OF AMERICA**

16 DATED: 8/22/24

17 PHILLIP A. TALBERT
United States Attorney

18 BY:

19 
20 COLLEEN M. KENNEDY
Assistant United States Attorney
Eastern District of California

21 **YOUNG SAM KIM, L.AC., DIPL. O.M., PH.D.**

22 DATED: _____

23 _____
24
25
26
27
28

1 WHEREAS, the United States has given Kim three (3) business days to cure the default, as
2 provided in the Settlement Agreement, but Kim has failed to cure the default of his payment obligation
3 under the Settlement Agreement;

4 Upon consent of plaintiff the United States of America and Kim, it is hereby ORDERED,
5 ADJUDGED, AND DECREED that: Plaintiff the United States of America is awarded judgment in the
6 sum of \$850,000.00 against Defendant Kim for violating the False Claims Act, 31 U.S.C. § 3729-3733
7 ("FCA"), plus interest at the post-judgment interest at the rate of 10% per annum, compounded daily from
8 the date this Consent Judgment is entered until it is satisfied. This Court retains jurisdiction over this
9 action.

10 **IT IS SO ORDERED.**

11 Dated:

12 _____
13 UNITED STATES DISTRICT JUDGE

14 Consented to by:

15 **THE UNITED STATES OF AMERICA**

16 DATED: _____

17 PHILLIP A. TALBERT
United States Attorney

18 BY:

19 _____
COLLEEN M. KENNEDY
Assistant United States Attorney
Eastern District of California

20 **YOUNG SAM KIM, L.AC., DIPL. O.M., PH.D.**

21
22
23
24 DATED: 08/19/2024

25 _____
26
27
28

1 APPROVED AS TO FORM:

2 DATED: 8-20-24

BY: 

Jehan N. Jayakumar
Carlson & Jayakumar LLP

Attorneys for Young Sam Kim, L.Ac., Dipl. O.M., Ph.D.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28