

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA *ex rel.* JANE DOE  
and THE STATE OF NEW YORK *ex rel.* JANE  
DOE,

Plaintiffs,

-v-

RIVERSPRING HEALTH HOLDING CORP.;  
ELDERSERVE HEALTH, INC., d/b/a RiverSpring at  
Home; RIVERSPRING HEALTH SENIOR LIVING,  
INC., d/b/a Hebrew Home at Riverdale; THE  
HEBREW HOME FOR THE AGED AT  
RIVERDALE; RIVERSPRING LICENSED HOME  
CARE SERVICES AGENCY, INC.; and  
RIVERSPRING SERVICES CORP.,

Defendants.

17 Civ. 636 (PKC)

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

-v-

RIVERSPRING LIVING HOLDING CORP. and  
ELDERSERVE HEALTH, INC., d/b/a  
RIVERSPRING AT HOME,

Defendants.

**STIPULATION AND ORDER  
OF SETTLEMENT AND DISMISSAL**

WHEREAS, this Stipulation and Order of Settlement and Dismissal (“Stipulation”) is entered into by and among plaintiff the United States of America (the “United States” or “Government”), by its attorney, Damian Williams, United States Attorney for the Southern District of New York; the relator Galina Sidanov (“Relator”), by her authorized representatives; and

defendants RiverSpring Living Holding Corp. and ElderServe Health, Inc., d/b/a RiverSpring at Home (“Defendants” or “RiverSpring,” and together with the Government and Relator, the “Parties”), by their authorized representatives;

WHEREAS, RiverSpring Living Holding Corp. is a New York not-for-profit corporation organized to provide administrative support to The Hebrew Home for the Aged at Riverdale and affiliated tax-exempt organizations pursuing related charitable missions;

WHEREAS, ElderServe Health, Inc., d/b/a RiverSpring at Home, is a New York not-for-profit corporation that administers a Managed Long Term Care Plan (the “RiverSpring MLTCP”) for Medicaid beneficiaries under which it arranges for health and long-term care services on a capitated basis pursuant to a Managed Long Term Care Partial Capitation Model Contract, as has been amended and restated from time to time (the “MLTC Contract”) with the New York State Department of Health (“DOH”);

WHEREAS, to be eligible for enrollment into a managed long-term care plan, a Medicaid beneficiary must, among other things, be assessed as needing at least one of the community-based long-term care services listed in the MLTC Contract, including those set forth at Article IV, section B, subsection 6 of the MLTC Contract in effect at the time (“Qualifying Services”), for more than 120 days from the effective date of enrollment;

WHEREAS, pursuant to the MLTC Contract, Qualifying Services include, but are not limited to, nursing services in the home, therapies in the home, home health aide services, personal care services in the home, and adult day health care;

WHEREAS, Defendants submitted or caused to be submitted to New York State’s Medicaid Program claims for payment of a monthly capitation amount for members enrolled in

the RiverSpring MLTCP (“Capitation Payment”) from January 1, 2012, through December 31, 2017 (the “Relevant Period”);

WHEREAS, on or about January 27, 2017, Relator filed a complaint under the *qui tam* provisions of the False Claims Act (“FCA”), 31 U.S.C. § 3729 *et seq.*, and the New York False Claims Act, New York State Finance Law § 190(2), against defendants RiverSpring Health Holding Corp.; ElderServe Health, Inc., d/b/a RiverSpring at Home; RiverSpring Health Senior Living, Inc., d/b/a Hebrew Home at Riverdale; the Hebrew Home For the Aged at Riverdale; RiverSpring Licensed Home Care Services Agency, Inc.; and RiverSpring Services Corp., alleging, *inter alia*, that Defendants violated the FCA by failing to disenroll patients from the RiverSpring MLTCP when they ceased to qualify for managed long-term care services, and failing to provide Qualifying Services to certain patients enrolled in the RiverSpring MLTCP, but continuing to collect Capitation Payments for those patients (the “Relator Complaint”);

WHEREAS, the Government alleges that during the Relevant Period, Defendants submitted or caused to be submitted claims for Capitation Payments for months during which Defendants did not provide Qualifying Services to RiverSpring MLTCP members as required by the MLTC Contract or did not adequately maintain documentation of the provision of Qualifying Services to RiverSpring MLTCP members. The conduct described in this Paragraph is the “Covered Conduct” for purposes of this Stipulation;

WHEREAS, contemporaneous with the filing of this Stipulation, the United States is filing a Notice of Election to Partially Intervene and Complaint-In-Intervention in the above-referenced *qui tam* action (the “Government Complaint”), in which it is asserting claims against Defendants under the FCA and common law for the Covered Conduct;

WHEREAS, the total amount to be paid in settlement of the claims of the United States and the State of New York related to the Covered Conduct is \$10,159,130.95;

WHEREAS, Defendants intend to enter into a separate settlement agreement with the State of New York and Relator (the “State Settlement”) to resolve claims asserted by the State of New York under the New York False Claims Act for the Covered Conduct, and have agreed to pay a total of \$6,095,478.57 to the State of New York pursuant to the State Settlement; and

WHEREAS, the Parties have, through this Stipulation, reached a mutually agreeable resolution addressing the claims asserted against Defendants in the Government Complaint and the Relator Complaint, for the Covered Conduct;

NOW, THEREFORE, upon the Parties’ agreement IT IS HEREBY ORDERED that:

**TERMS AND CONDITIONS**

1. The Parties agree that this Court has subject matter jurisdiction over this action and consent to this Court’s exercise of personal jurisdiction over each of them.
2. Defendants admit, acknowledge and accept responsibility for the following conduct during the Relevant Period (the “Admitted Conduct”):
  - a. In order to receive Capitation Payments for Medicaid beneficiaries enrolled in the RiverSpring MLTCP, Defendants were required to ensure that RiverSpring MLTCP members (i) received Qualifying Services during their enrollment or (ii) otherwise remained appropriately enrolled in the RiverSpring MLTCP consistent with the MLTC Contract and DOH disenrollment practices.
  - b. In many instances, RiverSpring either did not provide RiverSpring MLTCP members with Qualifying Services or did not adequately maintain documentation of the provision of such Qualifying Services during some or all of their enrollment

in the RiverSpring MLTCP. Nonetheless, RiverSpring received Capitation Payments to which it was not entitled for these RiverSpring MLTCP members for the months in question.

- c. In many of these instances, RiverSpring collected Capitation Payments for RiverSpring MLTCP members despite the fact that RiverSpring either did not provide, or did not maintain documentation reflecting the provision of, Qualifying Services to these members for three or more consecutive months during their enrollment in the RiverSpring MLTCP.
- d. In other instances, RiverSpring collected Capitation Payments for RiverSpring MLTCP members despite the fact that RiverSpring either did not provide, or did not maintain documentation reflecting the provision of, Qualifying Services to these members during the entirety of their enrollment in the RiverSpring MLTCP.

3. Defendants shall pay to the Government within fourteen (14) business days of the Effective Date (defined below in Paragraph 29) the sum of \$4,063,652.38 plus any applicable interest which shall be compounded annually at a rate of 4.5% accruing from the Effective Date to the date of payment, in accordance with instructions to be provided by the Financial Litigation Unit of the United States Attorney's Office for the Southern District of New York. Of the Settlement Amount, \$3,439,278.83 constitutes restitution to the United States.

4. Defendants agree to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Stipulation. Upon reasonable notice, Defendants shall encourage, and agree not to impair, the cooperation of their directors, officers, and employees, and shall use their best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the

rights and privileges of such individuals. Defendants further agree to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in their possession, custody, or control concerning any investigation of the Covered Conduct that they have undertaken, or that have been performed by another on their behalf.

5. Subject to the exceptions in Paragraph 9 (concerning reserved claims) below and subject to Paragraph 10 (concerning default) and Paragraph 15 (concerning bankruptcy proceedings) below, and conditioned on Defendants' full compliance with the terms of this Stipulation, including full payment of the Settlement Amount to the United States pursuant to Paragraph 3 above, the United States releases Defendants, including their for-profit and not-for-profit subsidiaries and corporate predecessors, successors, and assigns, from any civil or administrative monetary claim that the United States has for the Covered Conduct under the FCA, the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a, the Program Fraud Civil Remedies Act, 31 U.S.C. § 3801-3812, and the common law theories of fraud, payment by mistake, and unjust enrichment. For avoidance of doubt, this Stipulation does not release any current or former officer, director, employee, or agent of Defendants from liability of any kind.

6. Defendants fully and finally releases the United States, its agencies, officers, employees, servants, and agents from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Defendants have asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, employees, servants, or agents related to the Covered Conduct or the United States' investigation, prosecution and settlement thereof.

7. Subject to the exceptions in Paragraph 9 (concerning reserved claims) below and subject to Paragraph 10 (concerning default) and Paragraph 15 (concerning bankruptcy proceedings) below, and conditioned on Defendants' full compliance with the terms of this Stipulation, including full payment of the Settlement Amount to the United States pursuant to Paragraph 3 above, Relator, for herself and her heirs, successors, attorneys, agents, and assigns, as well as any other person or entity acting on her behalf or asserting her rights, fully and finally releases, waives, and forever releases Defendants, including their subsidiaries and divisions, corporate predecessors, successors, assigns and affiliates, as well as all of their current and former officers, directors, employees, attorneys, and other agents, from any claims or allegations that Relator has or may have on behalf of the United States under the FCA for the Covered Conduct, and from any liability and all manner of claims, demands, proceedings, liens, and causes of action of any kind or description, whether known or unknown, fixed or contingent, in law or in equity, in contract or tort, under any federal or state statute or regulation, or under common law, or that Relator otherwise would have standing to bring that Relator has or may have against Defendants arising from or relating to claims that Relator asserted or could have asserted against Defendants based on the Covered Conduct or the allegations in the Relator Complaint; provided, however, that nothing in this Stipulation shall preclude Relator from seeking to recover her reasonable expenses and attorneys' fees and costs pursuant to 31 U.S.C. § 3730(d).

8. In consideration of the execution of this Stipulation by Relator and the Relator's release as set forth in Paragraph 7 above, Defendants, including their subsidiaries, predecessors, and corporate successors and assigns, as well as all of their current and former officers, directors, employees, attorneys, and other agents, fully and finally release, waive, and forever release Relator and her heirs, successors, attorneys, agents, and assigns, as well as any other person or entity acting

on her behalf or asserting her rights, from any liability and all manner of claims, proceedings, liens, and causes of action of any kind or description, whether known or unknown, fixed or contingent, in law or in equity, in contract or tort, under any federal or state statute or regulation, or under common law, or that Defendants otherwise would have standing to bring or that Defendants have or may have against Relator arising from or relating to claims that Relator asserted or could have asserted against Defendants based on the allegations in the Relator Complaint.

9. Notwithstanding the releases given in Paragraph 5 above, or any other term of this Stipulation, the following claims of the United States are specifically reserved and are not released by this Stipulation:

- a. any liability arising under Title 26, United States Code (Internal Revenue Code);
- b. any criminal liability;
- c. except as explicitly stated in this Stipulation, any administrative liability or enforcement right, including but not limited to the mandatory or permissive exclusion from Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) or 42 U.S.C. § 1320a-7(b) (permissive exclusion);
- 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 Stipulation; and
- f. any liability of individuals.

10. Defendants shall be in default of this Stipulation if they fail to make the required payment set forth in Paragraph 3 above on or before the due date for such payment, or if they fail



to comply materially with any other term of this Stipulation that applies to them (“Default”). The Government will provide a written notice to Defendants of any Default in the manner set forth in Paragraph 28 below (“Notice of Default”). Defendants shall then have an opportunity to cure the Default within seven (7) calendar days from the date of receipt of the Notice of Default by making the payment due and paying any additional interest accruing under the Stipulation up to the date of payment. If Defendants fail to cure the Default within seven (7) calendar days of receiving the Notice of Default (“Uncured Default”), interest on the remaining unpaid balance shall thereafter accrue at the rate of 12% per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance). In the event of an Uncured Default, Defendants shall agree to the entry of a consent judgment in favor of the United States against Defendants in the amount of the Settlement Amount as attached hereto as Exhibit A. Defendants also agree that the United States, at its sole discretion, may (i) retain any payments previously made, rescind this Stipulation, and reinstate the claims asserted against Defendants in the Government Complaint, or bring any civil and/or administrative claim, action, or proceeding against Defendants for the claims that would otherwise be covered by the releases provided in Paragraph 5 above, with any recovery reduced by the amount of any payments previously made by Defendants to the United States under this Stipulation; (ii) take any action to enforce this Stipulation in a new action or by reinstating the Government Complaint; (iii) offset the remaining unpaid balance from any amounts due and owing to Defendants and/or affiliated companies by any department, agency, or agent of the United States at the time of Default or subsequently; and/or (iv) exercise any other right granted by law, or under the terms of this Stipulation, or recognizable at common law or in equity. The United States shall be entitled to any other rights granted by law or in equity by reason of Default, including referral of this matter for private collection. In the event the United States pursues a collection action,

Defendants agree immediately to pay the United States the greater of (i) a ten percent (10%) surcharge of the amount collected, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States opts to rescind this Stipulation pursuant to this paragraph, Defendants waive and agree 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 (i) are filed by the United States against Defendants within 120 days of written notification that this Stipulation has been rescinded, and (ii) relate to the Covered Conduct, except to the extent these defenses were available on January 27, 2017. Defendants agree not to contest any offset, recoupment, 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.

11. Defendants, having truthfully admitted to the Admitted Conduct set forth in Paragraph 2 hereof, agree they shall not, through their attorneys, agents, officers, or employees, make any public statement, including but not limited to, any statement in a press release, social media forum, or website, that contradicts or is inconsistent with the Admitted Conduct or suggests that the Admitted Conduct is not wrongful (a "Contradictory Statement"). Any Contradictory Statement by Defendants, their attorneys, agents, officers, or employees, shall constitute a violation of this Stipulation, thereby authorizing the Government to pursue any of the remedies set forth in Paragraph 10 hereof, or seek other appropriate relief from the Court. Before pursuing any remedy, the Government shall notify Defendants that it has determined that Defendants have made a Contradictory Statement. Upon receiving notice from the Government, Defendants may cure the violation by repudiating the Contradictory Statement in a press release or other public statement within four business days. If Defendants learn of a potential Contradictory Statement

by their attorneys, agents, officers, or employees, Defendants must notify the Government of the statement within 24 hours. The decision as to whether any statement constitutes a Contradictory Statement or will be imputed to Defendants for the purpose of this Stipulation, or whether Defendants adequately repudiated a Contradictory Statement to cure a violation of this Stipulation, shall be within the sole discretion of the Government. Consistent with this provision, Defendants may raise defenses and/or assert affirmative claims or defenses in any proceeding brought by private and/or public parties, so long as doing so would not contradict or be inconsistent with the Admitted Conduct.

12. Relator and her heirs, successors, attorneys, agents, and assigns shall not object to this Stipulation. Relator agrees and confirms that the terms of this Stipulation are fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B).

13. Defendants agree that they waive and shall not seek payment for any of the health care billings covered by this Stipulation from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third-party payors based upon the claims defined as Covered Conduct.

14. Defendants waive and shall not assert any defenses Defendants 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 Stipulation bars a remedy sought in such criminal prosecution or administrative action.

15. In exchange for valuable consideration provided in this Stipulation, Defendants acknowledge the following:

- a. Defendants have reviewed their financial situation and warrant that they are solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) and shall remain solvent following payment to the United States of the Settlement Amount.
- b. In evaluating whether to execute this Agreement, the Parties intend that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to Defendants, within the meaning of 11 U.S.C. § 547(c)(1), and the Parties conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange.
- c. The mutual promises, covenants, and obligations set forth herein are intended by the Parties to, and do in fact, constitute a reasonably equivalent exchange of value.
- d. The Parties do not intend to hinder, delay, or defraud any entity to which Defendants were or became indebted on or after the date of any transfer contemplated in this Stipulation, within the meaning of 11 U.S.C. § 548(a)(1).
- e. If Defendants' obligations under this Stipulation are avoided for any reason (including but not limited to through the exercise of a trustee's avoidance powers under the Bankruptcy Code) or if, before the Settlement Amount is paid in full, Defendants or a third party commences a case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors seeking any order for relief of Defendants' debts, or to adjudicate Defendants as bankrupt or insolvent, or seeking appointment of a

receiver, trustee, custodian, or other similar official for Defendants or for all or any substantial part of Defendants' assets:

- (1) the United States may rescind the releases in this Stipulation and bring any civil and/or administrative claim, action, or proceeding against Defendants for the claims that would otherwise be covered by the releases provided in Paragraph 5 above;
  - (2) the United States has an undisputed, noncontingent, and liquidated allowed claim against Defendants in the amount of \$4,063,652.38, less any payments received pursuant to the Stipulation, provided, however, that such payments are not otherwise avoided and recovered from the United States by Defendants, a receiver, trustee, custodian, or other similar official for Defendants; and
  - (3) if any payments are avoided and recovered by Defendants, a receiver, trustee, custodian, or similar official for Defendants, Relator shall, within thirty days of written notice from the United States to the undersigned Relator's counsel, return any portions of such payments already paid by the United States to Relator.
- f. Defendants agree that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 15(e) above is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the United States' police and regulatory power. Defendants shall not argue or otherwise contend that the United States' claim, action, or proceeding is subject to an automatic stay and, to the extent necessary, consent

to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1). Defendants waive and shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claim, action, or proceeding brought by the United States within 120 days of written notification to Defendants that the releases have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on January 27, 2017.

16. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and Defendants agree not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agree not to appeal any such denials of claims, and agree to withdraw any such pending appeals.

17. Defendants agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395lll and 1396-1396w-6; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Defendants, including their present or former officers, directors, employees, shareholders, and agents in connection with:

(1) the matters covered by this Stipulation;

(2) the United States' audit(s) and civil investigation(s) of matters covered by this Stipulation;

(3) Defendants' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with matters covered by this Stipulation (including attorneys' fees);

(4) the negotiation and performance of this Stipulation; and

(5) any payment Defendants make to the United States pursuant to this Stipulation and any payment Defendants may make to Relator, including expenses, costs and attorneys' fees;

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Defendants, and Defendants shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Defendants or any of their subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Stipulation, Defendants shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as

defined in this Paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Defendants or any of their subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Defendants agree that the United States, at a minimum, shall be entitled to recoup from Defendants any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment. Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to disagree with any calculations submitted by Defendants or any of their subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on Defendants or any of their subsidiaries' or affiliates' cost reports, cost statements, or information reports.

- d. Nothing in this Stipulation shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Defendants' books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.



18. This Stipulation is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity except as otherwise provided herein.

19. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Stipulation; provided, however, nothing in this Stipulation shall preclude Relator from seeking to recover her expenses or attorneys' fees and costs from Defendants, pursuant to 31 U.S.C. § 3730(d).

20. Any failure by the Government to insist upon the full or material performance of any of the provisions of this Stipulation shall not be deemed a waiver of any of the provisions hereof, and the Government, notwithstanding that failure, shall have the right thereafter to insist upon the full or material performance of any and all of the provisions of this Stipulation.

21. This Stipulation is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Stipulation is the United States District Court for the Southern District of New York.

22. For purposes of construing this Stipulation, this Stipulation shall be deemed to have been drafted by all Parties to this Stipulation and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

23. This Stipulation constitutes the complete agreement between the Parties with respect to the subject matter hereof. This Stipulation may not be amended except by written consent of the Parties. No prior agreements, oral representations, or statements shall be considered part of this Stipulation.

24. The undersigned counsel and other signatories represent and warrant that they are fully authorized to execute this Stipulation on behalf of the persons and the entities indicated below.

25. This Stipulation is binding on Defendants' successors, transferees, heirs, and assigns.

26. This Stipulation is binding on Relator's successors, transferees, heirs, and assigns.

27. This Stipulation may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Stipulation. Signatures in PDF form or facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Stipulation.

28. Any notice pursuant to this Stipulation shall be in writing and shall, unless expressly provided otherwise herein, be delivered by hand, express courier, or e-mail transmission followed by postage-prepaid mail, and shall be addressed as follows:

TO THE UNITED STATES:

Samuel Dolinger  
Jacob M. Bergman  
Assistant United States Attorneys  
United States Attorney's Office  
Southern District of New York  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
samuel.dolinger@usdoj.gov  
jacob.bergman@usdoj.gov

TO DEFENDANTS:

Stephen A. Warnke  
Drew M. Clary  
1211 Avenue of the Americas  
New York, New York 10036  
Tel.: (212) 596-9000  
stephen.warnke@ropesgray.com  
drew.clary@ropesgray.com

TO RELATOR:

Joseph M. Callow, Jr.  
Callow & Utter LLC  
8044 Montgomery Road, Suite 170  
Cincinnati, Ohio 45236  
Tel.: (513) 378-0141  
jcallow@callowandutter.com

29. The effective date of this Stipulation is the date upon which the Stipulation is approved by the Court (the “Effective Date”).

30. Upon receipt of the payment described in Paragraph 3 above and the payment Defendants are required to make pursuant to the State Settlement, the Parties shall promptly sign and file a joint stipulation to dismiss the Government Complaint and the Relator Complaint. As to the United States, the dismissal shall be with prejudice only as to claims related to the Covered Conduct that are being released pursuant to this Stipulation, and shall be without prejudice as to all other claims and conduct. As to the Relator, the dismissal shall be with prejudice as to all claims in the Relator Complaint, except for Relator’s claims for expenses, costs, and attorney’s fees pursuant to 31 U.S.C. § 3730(d) and N.Y. State Fin. Law § 190(6)(a). However, the Court shall retain jurisdiction to enforce the terms and conditions of this Stipulation.

Agreed to by:

**THE UNITED STATES OF AMERICA**

Dated: May 20, 2024

DAMIAN WILLIAMS  
United States Attorney  
Southern District of New York  
*Attorney for the United States of America*

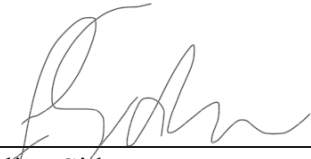
By:



SAMUEL DOLINGER  
JACOB M. BERGMAN  
Assistant United States Attorneys  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel.: (212) 637-2677/2776  
samuel.dolinger@usdoj.gov  
jacob.bergman@usdoj.gov

**RELATOR GALINA SIDANOV**

Dated: May 16, 2024

By:   
\_\_\_\_\_  
Galina Sidanov  
*Relator*

Dated: May \_\_\_\_, 2024

CALLOW & UTTER LLC

By: \_\_\_\_\_  
Joseph M. Callow, Jr.  
8044 Montgomery Road, Suite 170  
Cincinnati, Ohio 45236  
Tel.: (513) 378-0141  
jcallow@callowandutter.com  
  
*Attorneys for Relator*

**RELATOR GALINA SIDANOV**

Dated: May \_\_, 2024

By: \_\_\_\_\_  
Galina Sidanov  
*Relator*

Dated: May 16<sup>th</sup>, 2024


CALLOW & UTTER LLC

By: \_\_\_\_\_  
Joseph M. Callow, Jr.  
8044 Montgomery Road, Suite 170  
Cincinnati, Ohio 45236  
Tel.: (513) 378-0141  
jcallow@callowandutter.com

*Attorneys for Relator*

**DEFENDANTS**

Dated: May 14, 2024

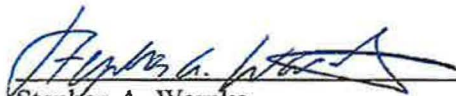
By:   
David Pomeranz  
President and Chief Executive Officer  
RiverSpring Living Holding Corp.

Dated: May 16, 2024

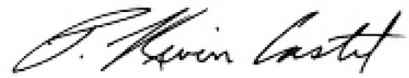
By:   
Susan Aldrich  
Executive Vice President  
ElderServe Health, Inc.,  
d/b/a RiverSpring at Home

Dated: May 16, 2024

ROPES & GRAY LLP  
*Attorneys for Defendants*

By:   
Stephen A. Warnke  
Drew M. Clary  
1211 Avenue of the Americas  
New York, New York 10036  
Tel.: (212) 596-9000  
stephen.warnke@ropesgray.com  
drew.clary@ropesgray.com

SO ORDERED:

  
HONORABLE P. KEVIN CASTEL  
UNITED STATES DISTRICT JUDGE

Dated: May 23, 2024

# **Exhibit A**



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA *ex rel.* JANE DOE  
and THE STATE OF NEW YORK *ex rel.* JANE  
DOE,

Plaintiffs,

-v-

RIVERSPRING HEALTH HOLDING CORP.;  
ELDERSERVE HEALTH, INC., d/b/a RiverSpring at  
Home; RIVERSPRING HEALTH SENIOR LIVING,  
INC., d/b/a Hebrew Home at Riverdale; THE  
HEBREW HOME FOR THE AGED AT  
RIVERDALE; RIVERSPRING LICENSED HOME  
CARE SERVICES AGENCY, INC.; and  
RIVERSPRING SERVICES CORP.,

Defendants.

17 Civ. 636 (PKC)  
**CONSENT JUDGMENT**

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

-v-

RIVERSPRING LIVING HOLDING CORP. and  
ELDERSERVE HEALTH, INC., d/b/a  
RIVERSPRING AT HOME;

Defendants.

Upon the consent of plaintiff the United States of America and defendants RiverSpring Living Holding Corp. and ElderServe Health, Inc., d/b/a RiverSpring at Home (collectively, “Defendants”), it is hereby:

ORDERED, ADJUDGED and DECREED: that plaintiff the United States of America is awarded judgment in the amount of \$4,063,652.38 against Defendants, as well as post-judgment interest at the rate of 12% per annum, compounded daily.

SO STIPULATED AND AGREED TO BY:

FOR THE UNITED STATES OF AMERICA:

Dated: May \_\_\_\_, 2024

DAMIAN WILLIAMS  
United States Attorney  
Southern District of New York  
*Attorney for the United States of America*

By:

\_\_\_\_\_  
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FOR DEFENDANTS:

Dated: May \_\_\_, 2024

By: \_\_\_\_\_  
David Pomeranz  
President and Chief Executive Officer  
RiverSpring Living Holding Corp.

Dated: May \_\_\_, 2024

By: \_\_\_\_\_  
Susan Aldrich  
Executive Vice President  
ElderServe Health, Inc.,  
d/b/a RiverSpring at Home

Dated: May \_\_\_, 2024

ROPES & GRAY LLP  
*Attorneys for Defendants*

By: \_\_\_\_\_  
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SO ORDERED:

\_\_\_\_\_  
HONORABLE P. KEVIN CASTEL  
UNITED STATES DISTRICT JUDGE

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