

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice (the “United States”); the State of Connecticut, acting through the Attorney General of the State of Connecticut (the “State of Connecticut”); APT Foundation, Inc. (“APT”); and Lynn Madden (“Madden”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. APT is a healthcare organization that provides behavioral health and substance use disorder services to patients at its clinics in New Haven, North Haven, and Bridgeport, Connecticut. Madden is the Chief Executive Officer of APT.

B. The United States and the State of Connecticut contend that APT and Madden submitted or caused to be submitted claims for payment to the Medicaid Program (“Medicaid”), Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396w-5.

C. The United States and the State of Connecticut contend that they have certain civil claims against APT and Madden arising from the following:

(1) APT and Madden entered into contracts with the State of Connecticut Department of Social Services (“DSS”) to provide behavioral health and substance use disorder services to Connecticut Medical Assistance Program (“CMAP”) recipients. DSS administers the CMAP.

(2) The CMAP reimburses methadone clinics, including APT, utilizing a weekly rate payment for each CMAP patient provided methadone treatment.

(3) On October 9, 2013, DSS promulgated a State Agency Regulation stating that the weekly rate payment includes reimbursement for any and all medically necessary services provided to a patient including (a) intake evaluation, (b) initial physical examination, (c) on-site drug abuse testing and monitoring, and (d) individual, group and family counseling services.

(4) On September 3, 2014, the CMAP issued a Provider Bulletin to all methadone clinics reminding them that the weekly rate payment included reimbursement for on-site drug abuse testing and monitoring.

(5) On February 1, 2015, DSS published on its official State website an Audit Protocol for methadone clinics ("Audit Protocols"). The Audit Protocols state that if a DSS audit found the CMAP paid another laboratory provider for drug testing within a week of the date a methadone clinic was paid for methadone treatment, the CMAP would reduce the methadone clinic's payment for the methadone treatment service by the cost of the laboratory service.

(6) DSS conducted an audit of APT for Medicaid claims paid for the period January 1, 2011 through December 31, 2013. On December 21, 2015, DSS issued a final audit report ("Audit Report") to APT that included a non-financial audit finding that drug tests were performed by an independent laboratory and billed by both the laboratory and APT

(through the weekly rate payment) contrary to DSS' weekly rate payment rule. The Audit Report warned APT that continued non-compliance with the weekly rate payment rule would result in financial disallowances in future audits.

(7) During the time-period January 1, 2016 through and including November 30, 2016, contrary to the DSS' weekly rate payment regulation and policies, APT and Madden referred drug testing services for APT patients to an independent laboratory, while at the same time, APT and Madden submitted claims for payment to DSS for the weekly rate payment, which includes drug testing, for the same APT patients; and that as a result, DSS paid for the claims twice, once to the independent laboratory and once to APT pursuant to the weekly rate payment.

That conduct is referred to below as the "Covered Conduct."

D. This Settlement Agreement is neither an admission of liability by APT and Madden nor a concession by the United States or the State of Connecticut that their 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. APT and Madden shall pay to the United States and the State of Connecticut the sum of Eight Hundred Eighty-Three Thousand Eight Hundred Fifty-Nine Dollars (\$883,859.00) ("Settlement Amount") by electronic funds transfer pursuant to written instructions to be provided by The Office of the United States Attorney for the District of

*Settlement Agreement, United States,
State of Connecticut, and APT and Madden*

Connecticut, no later than the Effective Date of this Settlement Agreement. APT and Madden are jointly and severally liable for the Settlement Amount.

2. Subject to the exceptions in Paragraph 4 (concerning excluded claims) below, and conditioned upon APT and Madden's full payment of the Settlement Amount, the United States releases APT and Madden from any civil monetary claim the United States has for the Covered Conduct under the common law theories of payment by mistake, unjust enrichment, and fraud.

3. Subject to the exceptions in Paragraph 4 (concerning excluded claims) below, and conditioned upon APT and Madden's full payment of the Settlement Amount, the State of Connecticut releases APT and Madden from any civil monetary claim the State of Connecticut has for the Covered Conduct under the common law theories of payment by mistake, unjust enrichment, and fraud.

4. Notwithstanding the releases given in Paragraphs 2 and 3 of this Agreement, or any other term of this Agreement, the following claims of the United States and the State of Connecticut are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code) or arising under the laws and regulations that are administered and enforced by the State of Connecticut Department of Revenue Services;
- b. Any criminal liability;
- c. Any Federal or State False Claims Act liability;
- d. Any administrative liability, including mandatory and permissive exclusion from Federal or State health care programs;

- e. Any liability to the United States or the State of Connecticut (or their agencies) for any conduct other than the Covered Conduct;
- f. Any liability based upon obligations created by this Agreement;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due; and
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

5. APT and Madden waive and shall not assert any defenses APT and Madden 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. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code. Nothing in this paragraph or any other provision of this Settlement Agreement constitutes an agreement by the State of Connecticut concerning the characterization of the Settlement Amount for the purposes

of the laws and regulations administered and enforced by the Connecticut Department of Revenue Services.

6. APT and Madden fully and finally release the United States, the State of Connecticut, and their respective agencies, employees, servants, and agents from any claims in their official and individual capacities (including attorney's fees, costs, and expenses of every kind and however denominated) that APT and Madden have asserted, could have asserted, or may assert in the future against the United States, the State of Connecticut, and their respective agencies, employees, servants, and agents, related to the Covered Conduct and the United States' and the State of Connecticut's investigation and prosecution thereof.

7. APT and Madden 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. §§ 1395-1395kkk-1 and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of APT and Madden, their present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Settlement Agreement;
- (2) the United States' and the State of Connecticut's audit(s) and civil investigation(s) of the matters covered by this Settlement Agreement;
- (3) APT and Madden's investigation, defense, and corrective actions undertaken in response to the United States' and the State of Connecticut's audit(s) and

civil investigation(s) in connection with the matters covered by this Settlement Agreement (including attorney's fees);

(4) the negotiation and performance of this Settlement Agreement; and

(5) the payment APT and Madden make to the United States and the

State of Connecticut pursuant to this Settlement Agreement,

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 APT and Madden, and APT and Madden shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or the State of Connecticut, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by APT and Madden or any of APT's subsidiaries or affiliates to the Medicare, Medicaid, ConnPACE, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: APT and Madden further agree that within 90 days of the Effective Date of this Settlement Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid, ConnPACE and FEHBP fiscal agents, any Unallowable Costs (as defined in this Paragraph) included in payments previously sought from the United States, or any State program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by APT and Madden or any of APT's 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. APT and Madden agree that the United States and the State of Connecticut, at a minimum, shall be entitled to recoup from APT and Madden 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 and/or the State of Connecticut pursuant to the direction of the Department of Justice or the Connecticut Attorney General's Office, respectively, and/or the affected agencies. The United States and the State of Connecticut reserve their rights to disagree with any calculations submitted by APT and Madden or any of APT's subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on APT and Madden or any of APT's subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Settlement Agreement shall constitute a waiver of the rights of the United States and/or the State of Connecticut to audit, examine, or re-examine APT and Madden's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

8. This Agreement 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 to the extent provided for in Paragraph 9, below.

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

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

11. Each Party and signatory to this Agreement represents that it freely and voluntarily entered in to this Agreement without any degree of duress or compulsion.

12. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Settlement Agreement is the United States District Court for the District of Connecticut, except that disputes only between the State of Connecticut and APT and Madden will be resolved in the Superior Court for the Judicial District of Hartford, Connecticut. 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.

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

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

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

16. This Agreement is binding on APT and Madden's successors, transferees, heirs, and assigns.

17. All parties consent to the United States' and the State of Connecticut's disclosure of this Agreement, and information about this Agreement, to the public.

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

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____

JOHN B. HUGHES
Assistant United States Attorney
Chief, Civil Division
District of Connecticut

DATED: _____

By: _____

RICHARD M. MOLOT
Assistant United States Attorney
District of Connecticut

THE STATE OF CONNECTICUT

GEORGE JEPSEN
ATTORNEY GENERAL

DATED: _____

BY: _____

MICHAEL E. COLE
Chief, Antitrust and Government Program Fraud Department
GREGORY O'CONNELL
Assistant Attorney General
State of Connecticut

APT FOUNDATION, INC.

DATED: _____

BY: _____

LYNN MADDEN
Chief Executive Officer
APT Foundation, Inc.

DATED: _____

BY: _____

SAMUEL L. BRAUNSTEIN, ESQ.
Braunstein & Todisco
Counsel for APT Foundation, Inc.

LYNN MADDEN

DATED: _____

BY: _____
LYNN MADDEN, in her individual capacity

DATED: _____

BY: _____
ROGER L. STAVIS, ESQ.
Gallet, Dreyer & Berky, LLP
Counsel for Lynn Madden