STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

IN THE MATTER OF:

ADDICTION REHABILITATION INDUSTRY IN NEW JERSEY

PUBLIC HEARING

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(Exhibits retained by Counsel.)

MR. LACKEY: I call this public hearing to order. I'm the executive director of the State Commission of Investigation. We will now here from your Chair.

CHAIR WILLIAMS BREWER: Good morning. I'm Tiffany Williams Brewer, Chair of the New Jersey State Commission of Investigation. Thank you for coming to our public hearing. Before we get started, I'd like to introduce my fellow members of the Commission. To my right is Commissioner Robert Burzichelli and to my left is Commissioner Kevin Reina. Our fourth Commissioner, John Lacey – out of an abundance of caution and to avoid any appearance of a potential conflict of interest – recused himself from this inquiry and is not here today. Also joining us up here is our Executive Director Chadd Lackey, our Chief Counsel Marian Galietta and Counsel Lisa Cialino, who led the investigative team in this matter.

Today you're going to hear about an issue that is likely familiar – and may have even personally touched some of you in this room – the crisis of drug and alcohol addiction. It’s no secret that alcohol and substance abuse is rampant in our state and country, with more people losing

their lives to addiction each year as opioids, and most recently Fentanyl, drive overdose deaths. In the U.S., more than 100,000 people died from drug-related deaths in 2021, with just over 3,100 deaths in New Jersey alone.

Many more remain trapped in the cycle of addiction, desperate for help in breaking their dependence on pills, alcohol and other illegal substances. But all too often, addicted individuals and their families are victimized by the very system that's supposed to help them recover and rebuild their lives.

The addiction recovery industry is a massive business, worth an estimated $42 billion, and growing. Yet, it's largely unregulated by most states or the federal government, making it easy for unethical operators to exploit people – frequently with little consequence – at a time when they are at their most vulnerable and may be overwhelmed or unclear about how to navigate the addiction rehabilitation process.

The recovery industry theoretically exists to help people overcome their addictions and get them back to healthy and productive lives. But the reality is that the business model for some

treatment centers and rehabs is not about getting patients clean and sober. It's about keeping them trapped in a cycle of addiction, treatment and relapse. Why? To ensure that profits – especially those in the form of often hefty health insurance payments – continue to flow.

Fueling this vicious cycle is the immoral and illegal practice known as patient brokering, where corrupt players in the addiction recovery industry steer patients to specific treatment centers in exchange for a financial payoff. The system of cash for bodies has grown increasingly sophisticated as brokers find ways to circumvent laws banning the practice or operate within the gray areas of the law.

You'll hear how the type of care patients receive for addiction treatment may not be based on the services the individual actually needs to recover from their dependence on alcohol, prescription pills or other illicit substances but more on the quality of their private insurance coverage and how much it will pay out.

That's not all. We found some treatment center operators and recovery industry employees in New Jersey engage in appalling and, in

certain instances, potentially unlawful practices to ensure patients have extended insurance-paid stays at their facilities. Some manipulate drug tests or keep patients in the most intensive level of treatment – even if no longer necessary – for prolonged periods. Double-billing insurance firms for services, charging for treatments never provided and other forms of fraud.

Meanwhile, we found some corrupt treatment center operators have taken these ill-gotten gains, obtained on the backs of patients struggling with addiction, to fund lavish lifestyles.

The result here is that despite advertised claims that they're in business to help people trying to overcome addiction issues, numerous recovery facilities and professionals in this state are not looking out for patients' best interests. Instead, they're looking to enrich themselves and their corporate interests.

As always, our goal is to not only identify systemic problems and voids in the law – a duty the SCI is legally empowered to fulfill and has ably done for more than 50 years – but to work together to find creative and meaningful solutions.

Given the alarming number of lives that have been disrupted and ended far too early in our state and nation due to the scourge of addiction – with no signs of it ending soon – the stakes could not be higher.

I'll now turn it over to Counsel Cialino, who will call the first witness who will share her family's tragic struggle with addiction. She'll speak about her sister, Georgi, a former Miss New Jersey who, from outside appearances, seemingly had it all but was nonetheless unable to overcome her addiction.

So I'll turn it over to counsel. Thank you.

MS. CIALINO: At this time, the SCI would like to call up Ms. Nicole DiMaria. And if she could be sworn in.

NICOLE DiMARIA, after having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. CIALINO:

Q. Good morning. If you can state your name for the record.

A. Good morning, Nicole DiMaria.

Q. And, as you're aware, we are here today to talk about the addiction treatment industry in New Jersey.

Do you have any experience trying to help a loved one struggling with addiction.

A. Yes, my sister, Georgine DiMaria, we called her Georgi, had a decade plus long struggle with addiction, and she passed was Miss New Jersey in 2006, and she passed away, unfortunately, last August at the age of 37.

Q. Now, if you could just tell me a little bit about Georgi before she struggled with addiction?

A. Sure. She -- if you look at those pictures she was a bright light, you know, she had everything going for her. She -- excuse me -- she was talented, smart, witty. We came from a very close family, so we were always together. We were always -- we were very musical, all of us played instruments together. So, really, nothing but fond memories of before -- before addiction and, really, I mean, after she won, the whole world was ahead of her, and she had so many doors that were open to her because of that, and, you know, doors started to close.

Q. Tell me a little bit about what you saw happen as she began to struggle with addiction?

A. Yeah, so it was a long process, you know and I think that's very much associated with the stigma that comes with this disease, both on the family member side and the patient side, you know you're not really willing to face the truth a lot of times, and it's also you know the patient is hiding a lot, you know they are not necessarily open, they start lying, so there is little signs over the course of I would say two years. And it just got to the point where at some point everybody knew that there was a problem, and then it was you know what do we do about it. So I just I want to emphasize it is a very long process and in that process it's very tort toured because you have different family members disagree ing some are in denial some are not. And so once you know there is a problem then there is a whole process in deciding Okay. What are we going to do about it.

Q. If you could tell me a little bit about, the process in deciding what you were going to do about it in terms of you know how you're family felt how you felt and how Georgi felt?

A. So, yeah, again it -- once the whole

family was on board -- again, very tortured, fractured process -- we -- I actually headed it up. I mean, I looked at the back of the insurance card, because she was still on my mom's insurance at the time, and I called the mental health counseling number, and I got a referral to an outpatient clinic, and, you know, we confronted Georgi. And, at first, she was resistant, and we were just able, over the course of several hours, you know, she, sort of, gave in. So it was an intervention, but I wouldn't say it was a pretty intervention, and it wasn't well organized. It was more chaotic, it wasn't the type of thing you would picture in a movie, it was very difficult. But she did get to a point where she, sort of, gave into us, and agreed to go to the outpatient clinic.

Q. How were you feeling at the time?

A. We were just devastated and couldn't -- we felt -- just didn't know where to turn, so, you know, going to the outpatient clinic and starting down that road, it was helpful, you know, it was, like, okay, now we have some path forward.

When they -- when we did see the person at the outpatient clinic, my sister had very

severe asthma, and -- so the person at the outpatient clinic recommended that she do inpatient treatment so she'd have a supervised detox. And, also, I didn't make clear, she was a prescription opiate addict at the time. This was when opiates were, sort of -- I think the epidemic was upon us, but we didn't even realize it, this was about 2009. And -- so that's what she was going in for, a detox from opiates.

Then that person at the outpatient clinic referred us to an inpatient clinic, because, again, you don't know where to turn, you don't know the best place -- where the best place would be, but from that conversation, we seemed convinced that it -- that it was inpatient that was best for her. And we then went to the inpatient clinic, and she started her treatment there.

Q. All right. And, at this point, you said Georgi was still on your parents' insurance or your mom's insurance, was that private health insurance at that time?

A. Right, yes.

Q. Okay. Now, what happened once she arrived at the inpatient treatment center?

A. So we had the impression that she was

going to be in there for 30 days, not because we were paying out-of-pocket, though, we got a distinct impression from the clinic that, you know, that she -- it was going to be covered because of her medical situation. I do recall them saying that, you know, there was a periodic medical necessity check, but I just to have say, my impression leaving my sister there, knowing there was going to be this blackout period for a week that where we wouldn't be talking to her, was, that she was going to be in there for 30 days, that's what she thought, and out-of-pocket expense was not discussed. Although, I actually gave my credit card on the form, there was an incidental expense thing that I had to fill out, but I didn't think that this was about any, you know, noncovered amount. I -- we were distinctly given that impression, that she's going to be covered for the 30 days.

Q. And then what happened?

A. So, about, two and a half weeks in they called us -- and, so, at this point we had already had a family visit with her, you know, we had contacted her, she had written us some letters, and, about, two and a half weeks they called us and told us, oh, sorry, insurance isn't covering

anymore. And, in fact, they had been notified more than a week earlier, and hadn't notified us, so insurance, basically, covered the detox portion, that was about it. And we were very upset and, at the time, she had actually -- we had just got -- we just received a letter from her that was very concerning, you know, she was, you know, describing all sorts of things that were happening at the facility that family members were not pleasing to hear.

In retrospect, she did say that she was just having a bad day, but our mindset at the time, here we get this horrible letter and then we get this call from the insurance company, feeling, like, what, what are you talking about, it was very, very disheartening. And we took her out, and, you know, obviously, in retrospect, I don't think that was the best thing for her. It was disruptive. Here, she's thinking she was going to be in there, at least, a full 30 days. For her to be taken out at that point, I think was just awful, you know, for everybody.

Q. At the time, I mean, you know, you say looking back maybe that wasn't best, but, at the time, did you know what was best?

A. No. No. And that's the thing, you're faced with that distrust because of what had just happened, and, here, they weren't transparent with us, you know, that letter that she sent, you know, we did not trust this industry at this point, you know, we didn't know what was right for her. Perhaps, she'd be better in outpatient, perhaps, she'd be better going to AA meetings, you know, we really didn't know. And we thought we could handle it as a family, I suppose, you know, at that point, I think that's what we felt.

Q. And what happened after you guys took Georgi out of treatment?

A. So for a while she was going to AA meetings and for a while she seemed to really embrace sobriety. She was even speaking at the AA meetings, you know, because of her history as a public speaker, you know, that's what she was good at. And she sort of settled into that role. I think she was comfortable in that. And I would say, you know, she started to get her life back together. She got a job. She bought a car for the first time. I mean, certainly, she wasn't doing what she had aspired to do after winning Miss New Jersey, because she didn't go back to school, she didn't finish her

bachelors, she was trying to cope. And she got a new boyfriend, you know, things seemed to be doing all right for, I would say, you know, until 2013, that's when things really started to fall apart for her again. You know, it became clear to us that she had substituted, at the very least, and that alcohol seemed to be the main issue.

So we, again, another long process of coming to terms with whether something is actually wrong, discussing with family members. And, again, you have family members that run the gamut from the real tough love ones that absolutely refused to speak to her until she got her life together to the enablers, so -- and everything in between.

Q. So as a family, you know, what did you guys decide to do next?

A. We -- again, very tortured relationships at this time in the family. No one was really on the same page in terms of what to do, but I was sort of trying to rally -- trying to rally my family around getting her back into treatment, and she resisted wholeheartedly, refused -- especially inpatient, which is what I thought she really needed, because her issues really surrounded more of a toxic environment being with people that

she really shouldn't be with, and, sort of, you know, plucking her -- trying to pluck her out of that to get her to reset and to have some -- get her brain to normalize outside of that toxicity, and she was absolutely resistant to inpatient again. And I don't really know what the reasoning for that is. She said, "I'm not going back there, I'm not going back there". So she said, "I'll do outpatient. I'll do outpatient."

So I was researching, and, at this point, she was no longer on my mom's health insurance and, so, that, you know, I was trying to find places for her to go without health insurance. And that was a big struggle, that was -- I found it very difficult to research. I'm a Healthcare attorney, and I research this space for a living, and I found it so difficult to find information, particularly, for Medicaid covered -- I think it has changed, I noticed that, like, I've just -- I've done recent searches to see, and I think you get some better information online, but, for me, it was physically calling a bunch of places and trying to find out who took Medicaid, who can help her to get onto Medicaid, if there was grant funding available, because money was an issue. My parents were

struggling financially, and that was a huge concern for us.

Q. Did you, ultimately, end up, you know, able to get her into treatment at that time?

A. The most I could do was get her to an outpatient center that took walk-ins, and she did meet with them and they were going to help her get back on Medicaid and do some outpatient counseling, at the very least, and she didn't follow up. And it was a struggle to get her to even go, so that was, really, my last shot, you know, because then after that she moved out of state, shortly before the pandemic started she moved out of state, and that was where I had absolutely -- I had no influence, basically, on what she did.

Q. What ended up -- ultimately ended up happening?

A. So she -- shortly before the pandemic she went out of state, and we were in contact with her, enough to know that things probably weren't great, although, she said everything was fine. She had gotten a job down there and she was staying with a family member. And, so, when we got the call basically, when it was about too late to help her.

She, ultimately, died of severe liver

disease that led to other organ failure, and when I -- but I did try at the -- pretty much it was too late at this point, but I did get her approved, she was in the hospital, and I did get her -- I did help her to get into an inpatient treatment program because, at that point, she was -- had insurance under the Federal Insurance Exchange, and I was able to try to get her in there.

And, interestingly, I experienced, you know, this was a different state, but I experienced the same, sort of, issue, with having a lot of trouble getting information on coverage, how much could we expect to be covered, what was our, you know, worst case scenario, what is out-pocket expense -- out-of-pocket expense, and now I knew which questions to ask, and it was still a struggle to get that information. So I just thought it was interesting that I was getting the same, sort of, issue, and it turned out that she was just not medically able to stay there. She went there the day she probably should not have been approved to be there at all, and it was really bad, she was transferred back to the hospital. And my mom and I went down there, and she died a few days later. So -- and I know then, in speaking with the doctors,

I mean, she was told that she needed to stop drinking. It was a course of a while that she was being told that she needed to stop drinking and she didn't, and the drinking does -- the alcohol seemed to be the main culprit.

Q. Well, I'm sorry for your loss and your family's loss.

In terms of, you know, looking back at this whole, you know, horrible process, do you feel that, you know, your family, your sister, were at all taken advantage of at all during this whole process?

A. Yes, I do. I feel that the coverage issue was a big deal for us. I mean, again, we -- there should be more transparency on that, you should know what you are facing financially. They sort of rope you in saying, "oh, we take your insurance", and then, you know -- they are just not up front about what is likely to be covered, and, you know, to be faced with that financial expense, you know, when it was unexpected and, you know, it certainly can't help your treatment.

Q. And, you know, did you feel that it was harder to find treatment for your sister when she did not have insurance versus when she did have

that private insurance?

A. Yes, absolutely. Absolutely. Again, I found it difficult to find information to state what facilities were able to take Medicaid, I think that was the biggest issue.

MS. CIALINO: Well, I appreciate you coming in here. Thank you for your testimony.

At this point, I believe the commissioners, if they have any questions for the witness.

COMMISSIONER BURZICHELLI: I'm very sorry for your loss, it's a tragic story, it's heartbreaking to hear. It's very I believe testimony anyone to this tragic circumstance is just horrific.

I'm curious, your first involvement was going from outpatient into inpatient, was there any -- were there any options given to the family in terms of which facility to go to? Or did they just direct you to one facility? Or did they say, here are four facilities, research them, see what the best match is? Or did they just tell you, you are going there.

THE WITNESS: The person we spoke to at the outpatient clinic said, if I were to take my

kids somewhere, this is where I would take them, and that was obviously a very powerful thing to say.

COMMISSIONER BURZICHELLI: Now especially when you're on the ropes like, you have to endure something like that, but did that person also say, but, anyway, here are the options to you under this policy, these are the preferred providers, for a lack of another term? You know, I would imagine addiction rehabilitation is tailored to the type of addiction, so alcohol treatment centers are different than opioid treatment centers, so I'm curious to see if they really gave you a full menu of what was available to you as a group or your sister could decide which was the best facility for her, I suppose, or they are just pushing you through the system?

THE WITNESS: I wouldn't say in that encounter, but I was aware that, look, I could go to another participating provider, I mean, so I was aware that I had more options, but, again, hearing that from someone in the industry was powerful, and, yes, we ended up going with that facility.

COMMISSIONER BURZICHELLI: Thank you.

CHAIR WILLIAMS BREWER: Any questions? I also want to personally thank you and your family

for your courage and continuing to advocate. I'm familiar with some of your advocacy work, as well, which is why you ended up here testifying for us. So we just want to thank you on behalf of the State of New Jersey for continuing to keep the legacy of your sister alive through your advocacy.

Thank you.

THE WITNESS: Thank you so much.

MS. CIALINO: Thank you. You can step down.

MR. LACKEY: Thank you very much, Ms. DiMaria. Thank you so much for providing testimony for the Commission.

And, at this point, we are going to hear an overview of the Commission's findings. We will talk a little bit about how patients are exploited through rehabilitation process.

So, Counsel Cialino, can you call your next panel of witnesses.

MS. CIALINO: Yes. Thank you. The SCI would like to call Agent Rennert, Agent Kitts, and Investigator Mercandetti to come testify.

And, at this time, while they are being seated, I would like to introduce for the record Exhibit AR-85, which encompasses a 26-page

slide show which is labeled AR-85A through AR-85Z respectively.

(At which time, AR-85 through AR-85Z was marked for identification.)

AGENT RENNERT, AGENT KITTS, AND INVESTIGATOR MERCANDETTI, having been first duly sworn, were examined and testified as follows:

EXAMINATION

BY MS. CIALINO:

Q. Okay. Agent Rennert, if you can state your name?

A. Good morning, Eric Rennert.

Q. Now, where are you currently employed?

A. I'm currently employed with the New Jersey State Commission of Investigation.

Q. And how long have you been with the SCI?

A. I've been with the Commission a little over three years.

Q. Now, what's your role there?

A. I'm a special agent investigative accountant. I conduct investigations pursuant to the Commission's resolutions through financial analysis and evaluation of evidence and information developed through accounting techniques.

Basically, I develop investigations, analyze financial records, prepare written memoranda

of interview and assist with making of recommendations to the legislation.

Q. Now, prior to working at the SCI, can you tell me a little bit about where you worked and what you did there?

A. I was a special agent with IRS criminal investigation for over 20 years.

Q. And what did you do there?

A. While at the IRS, I conducted numerous large-scale criminal tax, money laundering and Bank Secrecy Act investigations. I also involved public corruption, corporate fraud and structuring and embezzlement.

MS. CIALINO: Okay.

EXAMINATION

BY MS. CIALINO:

Q. Now, Forensic Accountant Mercandetti, if you can state your name for the record?

A. Laura Mercandetti.

Q. Where are you currently employed?

A. I'm currently employed with the New Jersey State Commission of Investigation.

Q. How long have you been with the State Commission of Investigation?

A. I've been with the SCI for two and a

half years.

Q. And what's your role there?

A. I'm a forensic accountant. I conduct complex financial investigations through the analysis and evaluation of evidence and other information developed through investigative accounting and auditing techniques.

Q. Now, prior to the SCI, if you can tell me a little bit about what you did and where you worked?

A. I was a special agent with IRS criminal investigation for over 20 years. I also conducted complex financial investigations that involved allegations of money laundering, income tax evasion, and other related financial crimes.

EXAMINATION

BY MS. CIALINO:

Q. Now, Special Agent Kitts, if you can state your name.

A. Edward Kitts.

Q. Where are you currently employed?

A. I'm employed as a special agent with the New Jersey State Commission of Investigation.

Q. How long have you been with the SCI?

A. Approximately, one year.

Q. What's your role there?
A. As a special agent, I conduct investigations into the intrusion of organized crime into society, to identify and expose corruption, governmental laxity, to shed light on waste, fraud, abuse of taxpayer dollars, and to protect the integrity of the governmental process on behalf of the citizens of the State of New Jersey.
Q. Now, prior to the SCI, if you can tell me where you worked and what you did there?
A. Yes, I was employed as a New Jersey State Trooper with 25 years of services. Prior to retirement, I was assigned to the intelligence and criminal enterprise section where I served on various units, street gang units, weapons trafficking units, and also on the opioid enforcement task force. Our mission within these units was to disrupt and dismantle multi jurisdictional and criminal organizations.
Q. All right. Now, we heard the chair talk about the number of people nationally in the State of New Jersey dying from addiction-related issues, in addition to that number, there are countless people suffering from addiction or dealing with friends and family suffering from addiction

issues. When we talk about the addiction rehabilitation industry in terms of this investigation that the SCI has conducted, can you explain to me why this investigation is important?

A. Yes, as you heard the chair state, there were over thirty-one hundred suspected drug-related deaths in the State of New Jersey in 2021. And, according to the New Jersey Office of Chief State Medical Examiner, there have been, approximately, 2,100 drug-related deaths this year to date.

In addition to those numbers, according to the New Jersey Department of Health, there were over 13,000 Narcan incidents in New Jersey in 2021, and, as of August of this year, there have been, approximately, 9,200 Narcan incidents. Furthermore, there are over 500 licensed treatment centers in the State of New Jersey, and it's an industry that continues to grow.

So with this information in mind throughout this investigation, our goal has been to ensure the State of New Jersey is adequately serving an industry that services vulnerable people who are struggling with addiction.

Q. Now, generally speaking, what did the

SCI focus our investigation on?

A. The SCI focused our investigation in three areas; one, patient brokering, specifically, the progression of patient brokering from simply the exchanges of cash for patients through its evolution and its other various forms of financial benefits in return for patients; two, addiction treatment centers with a focus on outpatient treatment centers that only accept private insurance; and, three, sober homes.

Today you'll here about patient brokering and addiction treatment centers. We will cover our findings regarding the sober homes portion of our investigation in a written report that will be released at a later date.

Q. Now, during the course of this investigation, in which we looked into the points you just stated, did we look at the path that some people suffering from addiction take once they begin to look for treatment through their recovery?

A. Yes, we did.

Q. All right. Now, one of the things we will talk about today is different forms of addiction treatment, when someone decided to go into treatment, what's the first step?

A. Well, everyone's path to recovery is different. However, commonly we found that the initial point of contact for someone seeking treatment is with an individual who's in recovery themselves often working as a recovery coach. Other points of contact would be with a marketer at a treatment center and interventionist or with community-based programs or nonprofits.

When actually beginning their treatment, the person is currently or has recently been utilizing drugs or alcohol, they may first require treatment at a detoxification center. From there they would seek either inpatient treatment or move directly to outpatient treatment. And it's important to note that there are different levels of outpatient treatment, which will be discussed in detail later this hearing. And, lastly, sober homes which are living facilities for individuals who are in outpatient treatment programs or who have completed their treatment.

Q. And, now, if someone relapses during this treatment process that you just explained, what happens?

A. Well, relapsing can make the path to recovery turn into a cycle. A person suffering from

addiction who relapses may need to return to a detox center, or they may need to progress to a higher level of care. And if the person has private insurance it will often trigger a new period of treatment. And this is significant, because it generates the initial payments for private insurance companies to the treatment centers once a new period of treatment is authorized.

And, lastly, in a worst case scenario, a relapse can result in overdose or death.

Q. Now, throughout the SCI investigation into the addiction treatment industry in the State of New Jersey, what's been a common finding?

A. Well, as we heard in the beginning of the hearing, people and families suffering from addiction are extremely vulnerable. What we found is at each point in the treatment addiction path, described previously, those who suffer from addiction can be exploited by people and/or institutions within the addiction rehabilitation industry that are motivated more by making money and receiving other financial benefits rather than by actually trying to help a person suffering from addiction.

FURTHER EXAMINATION

BY MS. CIALINO:

Q. Now, Agent Rennert, Agent Kitts stated that the SCI's investigation looked into the evolution of patient brokering, can you describe for me what patient brokering is?

A. So, traditionally, patient brokering was envelopes of cash for clients. For example, getting cash for each person someone referred to in a treatment center which amounted to putting a body in a bed for cash.

Q. All right. Now, during this investigation here, have you seen patient brokering in that traditional form of cash for patients?

A. No, during the course of this investigation, we have seen it take other forms other than envelopes of cash.

Q. All right. Now, what other forms of patient brokering did the SCI find occurring in the State of New Jersey?

A. The type of activity we saw occur in a nonprofit organization accepting donations in return for a referral of patients with private insurance. We also saw that this nonprofit organization purchased airline tickets for those with private insurance on behalf of the treatment centers that

donated to them. And, in addition, we saw recovery coaches all working for independent companies nonprofits or governmental entities while also working as salaried employees for private centers and funneling those patients they came across with private insurance to the treatment centers they worked at.

Q. Now, can you explain how these forms of patient brokering, which you just identified, are similar to the traditional patient brokering of cash in return for patients?

A. It's similar because there is a monetary benefit received for referring patients with private insurance. This is known in the industry as body brokering.

Q. So, essentially, in both scenarios there's a monetary benefit conferred for the referral of a patient?

A. Yes, that's correct.

Q. Why is the referral patients so lucrative?

A. It's lucrative, because money can be made from patients with private insurance which pays the most.

Q. Are you aware that New Jersey signed a

patient brokering statute into law in 2021?

A. Yes, it's New Jersey statute 2C:48-6.

Q. And what does the statute says?

A. The statute states, a person will be guilty of a crime if they make or receive a payment or, otherwise, provide or receive any fee, commission, or rebate to any person in connection with a referral of patients to a treatment facility.

Q. Now, in addition to that statute, are there any federal statutes relating to patient brokering in the addiction treatment industry?

A. Yes, the federal statute is known as the Eliminating Kickbacks and Recovery Act of 2018, which is 18 U.S.C. 220. In short, the statute makes it a federal crime to accept or pay kickbacks for referrals to a recovery home, clinical treatment facility or laboratory.

Q. Agent Rennert, can you tell me a little bit about what we will hear relating to patient brokering?

A. You'll hear that despite the current laws on the books, which makes patient brokering illegal, people, organizations, and treatment centers are circumventing the law in order to receive a financial benefit on patient referrals,

which, in essence, is patient brokering. And, as I mentioned earlier, this is known in the industry as body brokering.

FURTHER EXAMINATION

BY MS. CIALINO:

Q. Now, Investigator Mercandetti, I want to switch gears and talk to you about the second item that Agent Kitts discussed that the SCI focused its investigation on, which was certain outpatient addiction treatment centers, specifically, what type of patient -- excuse me, which type of private outpatient treatment centers did we focus on?

A. We focused on outpatient treatment centers that accept private health insurance.

Q. And why did we focus on those outpatient treatment centers that accepted private health insurance?

A. We focused on outpatient treatment centers because they are very lucrative businesses. The owners can make a lot of money within a relatively short period of time while providing limited patient care. This can be disastrous for some clients who can relapse, have to go back into detox, or a high level of care such as inpatient or outpatient treatment.

Typically, if a client has insurance, the insurance company is likely to approve additional time and the insurance payouts, and the client begins a new cycle of treatment.

Q. Now, what issues did we find with some of these facilities?

A. Well, some of the issues that we found were they focused on getting clients that have private health insurance who pay out the most for billable services. They also provide enticements such as food, beverages, living accommodations at sober living homes at little to no cost, and transportation from sober living homes to the treatment centers. They also engaged in questionable billing and business practices in order for the owners to maximize their profits at the expense of a client's treatment.

Q. Now, why is it more profitable to keep a client in treatment?

A. Well, keeping a client in treatment is important because if a client's treatment stops, then insurance payments stop. If the client's insurance company is still providing benefits, the owners want to capitalize on this, and they make every effort to keep the client in treatment for as

long as they can, typically, until the insurance runs out.

Q. And how do these treatment centers keep clients in treatment?

A. Well, as I mentioned, they provide food, beverages, living accommodations at a nominal cost and transportation between the sober living homes. And we have to keep in mind, many of these clients are in need of these necessities. They also do not set up an environment to help the client succeed. We will here in panel three such things as cutting therapy sessions short and downplaying their progress to insurance companies to keep them at the treatment facility.

Q. You also said SCI found evidence of questionable billing practices at certain outpatient treatment centers, what will we hear about?

A. Well, in panel three we are going to hear about overbilling for services, billing for services that were never rendered, and billing for overlapping services. And all of these questionable billing practices enable the owners to make millions of dollars.

Q. Now, you also stated -- you talked about questionable business practices at some

outpatient centers, how do these questionable billing practices relate to the financial activity that you reviewed?

A. Well, in tracing the flow of funds from the insurance monies through the various business and personal bank accounts, I found that some of the transfers were disguised as business loan repayments for income tax purposes. There was also a pattern of suspicious banking activity that was designed to circumvent federal banking regulations by structuring amounts just under the $10,000 reporting requirement.

Additionally, there was a rapid movement of funds such that as soon as insurance monies came into bank accounts, it went out to fund the owner's lavish lifestyle and to continue their business operations. And all of these questionable business practices will be discussed further in panel three.

MS. CIALINO: Thank you for your testimony.

Commissioners, do you have any questions for this panel?

COMMISSIONER BURZICHELLI: Thank you for your testimony today.

In terms of the relationship between sober homes and the treatment facilities, you talked about they provide food, drinks, free transportation, could that be construed as helpful to the rehabilitation process, or is there something else going on that suggests a more nefarious connection between the two?

MS. MERCANDETTI: Well, these are enticements that help to persuade the clients to choose the treatment facility, even if it's not the best place for them. So it's not really helping them, it's just to draw them in, in order to get them to choose, you know, my treatment facility.

COMMISSIONER BURZICHELLI: And do we, in any way, on a state level rate treatment facilities in terms of the quality of care given to patients? Is that something we do so that the families and the persons seeking treatment would have an idea of the quality of services they can select from?

MS. CIALINO: If I can jump in here, you know, in terms of what the state does in rating facilities, that's something we are still looking into. It's done by outside independent agencies.

COMMISSIONER BURZICHELLI: Thank you,

Counsel.

CHAIR WILLIAMS BREWER: So I just have two questions. With respect to the questionable financial practices, I know you're going to talk about further. Just curious, under the law currently, is there any sort of reporting or regulatory authority that the State Commission of Banking and Insurance really has in monitoring those? Is this kind of an area of, maybe, a gap.

MS. CIALINO: Chair, I'm going to jump in, in terms of, you know, what the state does, and the states oversight over these different, you know, these treatment centers specifically, as you are asking, that's something, you know, that we are still looking into and we are going to be discussing later in our report, but, today, you know, we are just focusing on the conduct and not specifically the state's oversight.

CHAIR WILLIAMS BREWER: Okay. Maybe my question is more directed to, are you -- there were some statutory authority and federal legislation that was quoted in the beginning that governs the industry under those laws, do any of those govern some of the financial patterns that you were seeing?

MS. MERCANDETTI: I'm not sure if -- I haven't come across anything, but from what I'm seeing with respect to the financials and, again, it is something we will discuss further in panel three, but it has resulted in us making a recommendation to the federal authority, state, local, federal authorities, that will take a look at this further.

CHAIR WILLIAMS BREWER: Okay. Thank you.

And just a question for either Agent Rennert or Agent Kitts, have you also spoken with individuals who have been in recovery about their experience in treatment in the course of your investigation?

MR. RENNERT: Well, we spoke with a number of former addicts who spoke about their experiences at treatment centers. At first it was hard to get them to open up, but one where we had some success was making them a confidential source. Later on in this hearing, you'll hear from three confidential sources we did speak with; one who dealt with a nonprofit, one who dealt with -- who was a patient as -- with an outpatient addiction treatment center, and one who held various positions in the addiction treatment center.

CHAIR WILLIAMS BREWER: Okay. Thank you. No further questions by the commissioners.

MS. CIALINO: All right. Thank you for your testimony, Investigators Mercandetti and Kitts, you both can step down. And, Agent Rennert, you can remain for the next panel.

MR. LACKEY: Thank you very much. In our next panel, we will talk about the evolution of patient brokering and its transition from, as Agent Rennert stated, traditional cash for bodies to a more sophisticated scheme, involving recovery coaches and, in some instances, nonprofits.

Counsel Cialino, call you next witnesses.

MS. CIALINO: The SCI calls Agent Miguel Cartagena and Agent Rennert if you can remain.

(AGENT MIGUEL CARTAGENA and AGENT ERIC RENNERT, after having been first duly sworn, were examined and testified as follows:

EXAMINATION

BY MS. CIALINO:

Q. Agent Cartagena, if you can state your name for the record?

A. Miguel Cartagena.

Q. All right. Now, where are you currently employed?

A. I'm employed as a special agent with the New Jersey State Commission of Investigation.

Q. How long have you been with the State Commission of Investigation?

A. Close to six years now.

Q. What's your role at the SCI?

A. As a special agent to investigative organized crime, corruption, and waste, fraud, and tax abuse of dollars.

Q. Now, prior to the SCI, can you tell me a little bit about what you did and where you were employed?

A. Sure. Prior to the SCI working with the New Jersey Department of Human services. Through my tenure with DHS, I supervised investigations pertaining to allegations of abuse, neglect, and exploitation against clients at developmental centers and private group homes. Prior to that, I served 25 years with the New Jersey State Police. During my time there, I supervised investigations related to corruption and organized crime, conducted and/or supervised.

Q. We have heard in the last panel that

the SCI looked into various aspects of the addiction rehabilitation industry, including patient brokering and the activities going on in certain outpatient treatment centers in addition to sober homes.

I want to talk to you about the first one, patient brokering. One thing we discussed is that New Jersey made patient brokering illegal in 2021. Can you tell me what patient brokering is again?

A. Sure. It's money, or other compensation for the patient broker and/or marketer in return for a referral of a patient to a treatment facility or associated entity.

Q. Now, going back to the statute that was passed, are you aware if anyone has been charged in the State of New Jersey under this specific criminal statute?

A. No, we are not aware that anyone has been charged.

Q. What has SCI found in terms of patient broker type activity in the State of New Jersey that we are going to discuss in more detail here in this panel today?

A. Sure. First, we found that nonprofits are receiving donations in return for client

referrals and airline tickets and, also, individual recovery coaches receiving a salary from treatment centers and funding the people with private health insurance, especially, those who have superior private insurance policies to these treatment centers.

EXAMINATION

BY MS. CIALINO:

Q. Agent Rennert, Agent Cartagena talked about two types of patient brokering through nonprofits and through individual recovery coaches. Let's talk about nonprofits first, what is a nonprofit in this type of situation?

A. Basically, a nonprofit is a business form for purposes other than generating profit. In this situation, an entity that is classified as nonprofit works to help people to get into addiction treatment and helps them through the recovery process.

Q. Did the SCI investigate any nonprofits similar to what you just described?

A. Yes. We looked at Recovery Advocates of America which is a nonprofit organization.

Q. And what did we find related to Recovery Advocates of America?

A. We mainly found that Recovery Advocates was receiving funding from treatment centers in return for client referrals and other benefits which, ultimately, resulted in a financial benefit to Recovery Advocates.

Q. If you can give me a little bit of background as to what type of company Recovery Advocates of America are?

A. Recovery Advocates is listed as 501c3 organization, which is a nonprofit located in Hamilton, New Jersey, and, according to their website, provides substance use interventions and navigation to resources for the treatment of substance use disorders. Recovery Advocates is comprised of three paid employees with various titles but are recovery coaches, and there is also six board members all who are volunteers.

Q. Now, approximately, how many clients does Recovery Advocates have a year?

A. According to sworn testimony from a Recovery Advocates former executive director, he indicated that, approximately, seven to eight hundred clients, however, according to documents received from Recovery Advocates, there were about 1,200 client referrals from 2017 through 2020 which

amounts to about an average of 300 per year.

Q. Where did Recovery Advocates get their clients from?

A. As I previously mentioned, Recovery Advocates has a website where individuals can find them on the internet. They also get their clients by word of mouth and through law enforcement programs.

Q. Now, we talked earlier about the value of people with private health insurance, in terms of Recovery Advocates clients did they all have insurance?

A. They had a range of clients, those that were on Medicaid, those that had no insurance, and those who had private insurance.

Q. Which clients did SCI focus on as it relates to this investigation we are talking about here?

A. We focused on those individuals with private insurance, because we found that those patients with private insurance were primarily the patients that were being brokered because of the anticipated insurance revenue.

Q. Now, what did the SCI find was the main service that Recovery Advocates provided for

these clients?

A. They provided referrals and transportation which were mainly to Florida.

Q. All right. Now, to be able to provide these referrals and transportation, how was Recovery Advocates funded?

A. According to Recovery Advocates books and records, they were funded by individual donations, grant money and, by far, the largest amount of funding was provided by private treatment centers.

Q. Now, you said that most of these funds come from private treatment centers, how does Recovery Advocates receive these funds from these treatment centers?

A. The funding came in the form of donations, sponsorship agreements and rent payments.

Q. You said sponsorship agreements, what are those?

A. Sponsorship agreement is an agreement with the treatment center that would pay a monthly or quarterly dollar amount, however, what we found in Recovery Advocates, it was actually a service agreement which amounted to an implied arrangement to provide client referrals to a specific treatment

center in return for a monthly or quarterly dollar amount.

Q. Now, I'm going to direct your attention to Exhibit AR-85F on the screen, what is this?

A. It shows Recovery Advocates entering into what is referred to as a sponsorship agreement with Banyan Treatment Center which has locations in Philadelphia and Florida. Banyan paid Recovery Advocates $25,000 each quarter for four quarters and, according to the agreement, Banyan would receive Recovery Advocates website promotion and marketing and newsletter promotions which is advertising for the alumni and hospitals.

Recovery Advocates would also distribute Banyan promotional materials at school programs and community events, and Recovery Advocates staff would be available for interventions and transportation on behalf of Banyan.

Q. So based on this sponsorship agreement, what did the SCI find that Banyan actually received?

A. Based on this sponsorship agreement, Banyan was, basically, having their logo placed on promotional materials distributed by Recovery

Advocates but, in actuality, we found that Banyan received client referrals from Recovery Advocates.

Q. Now, according to the information Recovery Advocates supplied to us, how many clients were referred to Banyan treatment centers?

A. We found there were 28 referrals to Banyan. Now, while that number may not seem like a lot, Banyan accepts private insurance, so, as you'll learn later in this hearing, since private insurance pays out so much money, 28 clients can make a treatment center like Banyan a lot of money.

Q. Now, did SCI find that there is a correlation between the amount of funding that a private treatment center gave to Recovery Advocates and the amount of client referrals with private health insurance that the funding treatment center received in return?

A. Yes, we did.

Q. Now, earlier we discussed that most of the money coming in the form of donations and funding to Recovery Advocates is for private treatment centers, how much money did Recovery Advocates bring in from these treatment centers?

A. Well, based on information provided by Recovery Advocates, over 35 treatment centers

donated over $600,000 between 2017 and 2020.

Q. Now, which treatment centers were the biggest donors to Recovery Advocates?

A. The largest contributor was Banyan treatment centers and its related companies which are located in Florida and various other states. They contributed over $300,000 from 2017 through 2019. Another large contributor was Recreate Behavioral Health Network and its related companies, also located in Florida and in New Jersey, and they contributed over $175,000 from 2017 through 2020.

Q. Now, in your review of Recovery Advocates' bank records and financials, did you see what the funding from private treatment centers was used for?

A. Yes, we were able to determine that the donations were used for salaries and other benefits such as telephone, car lease payments, gas, repairs, payroll taxes. The donations were also used to pay patient airline tickets, which were mainly to Florida, and as well as Ubers and taxis.

So if you were to break it down by percentage showing employee payroll and benefits versus the amount of revenue they took in over the year, then Recovery Advocates spent, approximately,

71 percent of their revenue on salaries and benefits in 2020.

Q. Now, did the Commission find that the private treatment centers received a benefit in return for their donation and funding?

A. Yes, we found out that the large majority of Recovery Advocates clients with private insurance were referred to the treatment centers which funded them. And we also saw that Recovery Advocates used this money to purchase airline tickets in order to get the clients to those treatment centers.

Q. Earlier you spoke about referrals, to make sure we are clear, when you say referrals, what do we mean?

A. A patient referral is simply when an individual sends someone in need of treatment to a specific facility. The person connecting the patient with the treatment center would be making the referral.

Q. And why are referrals of patients with private health insurance so lucrative?

A. The bottom line is that's because private insurance pays the most, and that we will be discussing a little more later in this hearing.

Q. How did the SCI find that each of the referrals worked? If Recovery Advocates had a client with private health insurance, where would they be referred?

A. Typically, the client would be referred to one of the treatment centers providing the funding to them.

Q. Do you know if Recovery Advocates board of directors was aware that Recovery Advocates was referring clients to treatment centers funding them?

A. A board member testified they did not receive information as to where the referrals went but just that Recovery Advocates made a certain number of referrals that month.

Q. Who at Recovery Advocates would make the determination as to where a client would be referred?

A. The recovery coaches. Keep in mind, the recovery coaches are not clinicians and, therefore, are untrained in determining what a person's addiction and, maybe, mental health issues are, and what treatment centers are best for them.

Q. Now, why is it significant that recovery coaches are making this type of

determination?

A. In the case of Recovery Advocates, recovery coaches are sending clients with private insurance to treatment centers which may not adequately provide the necessary care they need, but, instead, are encouraging them to go there because that's where the money comes from.

Q. Why is this practice of providing referrals in turn for donations and funding an issue?

A. It's a big issue, because it incentivizes people of organizations who are supposed to be helping vulnerable patients into treatment centers that may not be best suited for them.

Q. Now, does this raise questions as to the motivation behind the placements?

A. Yes, since it creates an opportunity to exploit patients.

Q. Now, are certain treatment centers better suited to treat specific types of addiction for mental health issues?

A. Based on medical professionals, who are in the field, they say yes, that's why it's important that referrals are made by a clinician or

a doctor, not a recovery coach.

Q. Now, you stayed earlier that donations from private treatment centers are also used for airline tickets, can you explain how that works?

A. So, for example, Recovery Advocates will allow airline tickets to be paid on their debit card by treatment centers who provided funding to Recovery Advocates. Treatment centers did this in order to fly patients to their facilities which, for the most part, were not even Recovery Advocates' clients.

Q. Why is this an issue?

A. As I spoke about in the previous example, it's an issue because, under the law, a treatment center is prohibited from buying an airline ticket to fly a patient to their facility, because it's considered enticement. And in the case of Recovery Advocates, they are enabling the treatment centers to circumvent the law. And in terms of money spent, Recovery Advocates spent over $106,000 in airline tickets from 2018 through February of 2020 which is far less than what the treatment centers were donating to Recovery Advocates.

Q. What were the origins and destinations

of these flights?

A. Patients were flown all over the country but predominantly to Florida. So regarding flights into Florida, what would happen is that Recovery Advocates would provide the treatment center in Florida with their debit card, although, the patient had no connection to Recovery Advocates, this was done in order for the treatment center to get them into their facility. This is how private centers, private treatment centers, are circumventing the law.

Q. Now, were the people taking these flights clients of Recovery Advocates?

A. According to sworn testimony from a board member for Recovery Advocates, Recovery Advocates only purchased airline tickets on behalf of their clients, never for non-clients, however, according to the list of clients that Recovery Advocates provided to us, and sworn testimony from the former executive director, this is not true.

So, for example, from a list of, approximately, 180 people Recovery Advocates purchased tickets for, only ten of them appear to be Recovery Advocates' clients.

Q. Since these people were not Recovery

Advocates' clients, why did Recovery Advocates pay for them?

A. Well, it appears they tried to help treatment centers circumvent the law.

So here's another example of what we saw. Recovery Advocates received donations from Allure Detox which is related company of Recreate Life. Allure Detox used Recovery Advocates debit card to purchase airline tickets for Allure Detox's patients. Now, since Allure Detox under the law would be prohibited from purchasing tickets, Recovery Advocates facilitated the transportation of Allure clients in order to circumvent the law.

Q. So the SCI investigation showed that the donations received were used, in part, to purchase plane tickets for Allure Detox and its related treatment center clients?

A. Yes, in part. However, Recovery Advocates received much, much more than the actual cost of the tickets which amount to a significant financial benefit to Recovery Advocates from this arrangement.

Q. Now, in the course of your investigation, did you find Recovery Advocates was always working in the best interest of their

clients?

A. Okay. So those with private insurance, the motives for the referral may not have been with the best interest of the client involved, but, rather, to provide a body to the donating treatment center. For those with no insurance, we found, again, no, not always. Recovery Advocates was supposed to help all their clients, but clients without private insurance were not always treated the same and, in fact, we spoke with a person who told us about their dealing with Recovery Advocates as a client without insurance.

Q. Now, what did this person tell us?

A. The person told us about how they were treated as a person without private insurance by Recovery Advocates and those who worked with them. They explained the steps that Recovery Advocates made them go through, despite being promised help to get them into a treatment center and did not. This particular client was not referred to one of the donating treatment centers but, instead, Recovery Advocates instructed them to perform reckless behavior, specifically directing this client to consume alcohol and take illegal drugs.

MS. CIALINO: We will now play for you

a recording of this individual describing their experience with Recovery Advocates of America and how they were treated as a person without private health insurance.

This person's identity and voice have been disguised to protect them.

(At this time, the Prerecorded Statement of a Non-Profit Client was played as follows:

"I was living out of a hotel. Me and my girlfriend we had a room there a couple of nights or whatever and so obviously money ran out. So she was being helpful at first, and putting us up for a room and stuff like that, without paying and everything like that. So I was not using, you know what I mean. I was trying to stay straight, things were going good. I was trying to get into rehab and I couldn't get into a rehab. They obviously wouldn't take me. My friend was going on methadone. It wasn't a methadone type of facility and I was just addicted to cocaine. They were making me wait for a bed, probably at least a good 20 days. Still they had no bed. So they‘re like, “You're going to go to rehab. We have to get you go through a hospital.” Well, I was already straight

or whatever or I wasn't using. I was having a really rough time with it. So they said. "The only thing is you're going to have to drink." I said drink? I'm not even a drinker. Honestly, I'm just cocaine. I never even had an alcohol problem, ever. So they're like, "Yeah, you have to drink." Within five minutes, this girl comes out. Big glass like this of straight up vodka. "You've got let them see that you have alcohol in your system and you need help." I was like, "I just can't tell them?" They were like no. So I'm on the stairway of the hotel, hiding, drinking. So then they were even saying about this guy tells me on the phone. He was referring for us to go get high and then come back and then we were gonna go. They more or less told us this is the last time that we were gonna be able to do something. In other words, they wanted me to go out and smoke crack and come back. And so, I drank and they got us an Uber car, thinking we're going right to rehab. He totally ignored the whole situation and had the Uber driver just drop us off at ——. And we had to sit in that hospital from 7 o'clock at night until 6:30 the next morning. She came and told me because of the little amount of

alcohol that I had in me that maybe I would be allowed to do a 1 to 3 day detox. And that's all they were doing for me.")

BY MS. CIALINO:

Q. So this person in recovery was asked by Recovery Advocates employees to consume drugs and alcohol in order to get into treatment?

A. Yes, that's correct.

Q. Did this individual have private health insurance?

A. No, they did not have private health insurance.

Q. Agent Rennert, this particular individual was not referred to a treatment center that was funding Recovery Advocates; is that correct?

A. No, they were not, since this client did not have private insurance. May I add, this is done to so many individuals in this industry just like the one you just heard from -- for the people that do not have private insurance, and the motivation behind this is simple, there is no financial incentive for a treatment center to admit them. And, in turn, this wouldn't warrant a donation to an organization like Recovery Advocates

to send them there as a referral.

MS. CIALINO: Thank you, Agent Rennert.

FURTHER EXAMINATION

BY MS. CIALINO:

Q. Agent Cartagena, we just heard about a nonprofit referring patients to treatment centers and buying airlines tickets for treatment centers that donate to them.

I want to talk to you about another way you stated at the beginning of this panel that SCI saw patient brokering activity which was through recovery coaches.

A. Yes, what we saw was recovery coaches working for a community-based company, or nonprofit, and, also, working for a private treatment center at the same time. They then sent people with private insurance policies to that treatment center that is paying them. However, we found that these recovery coaches are not disclosing to anyone that they are actually employed by the treatment center they are referring people to. The recovery coaches, in essence -- are, in essence, financially compensated on a commission spelled concept, this all creates a conflict of interest for the recovery coach.

Q. Can you explain to us when an individual struggling with addiction typically comes into contact with the recovery coach?

A. Yes. A recovery coach is someone who offers non-clinical support to someone else going through addiction issues. Often, they are in recovery themselves and can help relate to the people and family members struggling with addiction. They go to emergency rooms to meet with patients struggling with addiction issues. They also come to patient's bedrooms, or people's houses or work community-based programs. And they are often one of the people that someone needing help would come into contact with.

Q. Now, are these recovery coaches licensed with the State of New Jersey?

A. No, they are not overseen by any state agency.

Q. Are recovery coaches required to have a clinical background?

A. No, they are not.

Q. Can you explain some examples that the SCI has found regarding recovery coaches receiving salaries in return for referrals?

A. Sure. You'll hear about one recovery

coach, John Brogan, who has since passed away from an overdose, set up his own company in Toms River, and used his law enforcement and government contacts to get him access to clients. He used these clients with private health insurance to get large salaries from treatment centers he sent them to.

You will also hear about a recovery coach working for a nonprofit in Morris County who used his access to nonprofit clients to refer individuals with private insurance to a treatment center in Pennsylvania. This treatment center was paying him a salary plus bonuses for additional referrals.

Lastly, you will hear about a recovery coach working in a senior management position in a New Jersey hospital system that provided addiction support services, but, at the same time, he was getting paid by numerous treatment centers at the hospital he referred patients to.

Q. Agent Cartagena, these examples you just described, will we hear how much money these recovery coaches received per client referred?

A. No, it's much more sophisticated than that. As mentioned earlier, patient brokering has evolved. The traditional cash for patient now comes

in other forms for these recovery coaches by way of salaries consulting fees, and other monetary benefits. They do this without directly linking them to the number of patients and that is strategic, however, the intent is evident when they get fired for not delivering.

Q. Let's talk about John Brogan first. How did he get access to so many clients?

A. He, basically, created a network including public entities and law enforcement organizations that established and air of legitimacy and gave him access to countless clients. He set up his own company Lifeline Recovery, and contracted with a county sheriff's department to meet people who had addiction issues in the prisons, the county prosecutor's office, and numerous police departments through the Blue Hart Program. He hired additional recovery coaches to work for his company, and he created a network with public entities which gave him access to cash through funding and access to clients.

Q. Now, if someone needed help getting the treatment, what would John Brogan do?

A. If they have Medicaid or no insurance, he work to find them a bed at a Medicaid facility;

however, if they had private insurance, Brogan would sent them to the treatment center that employed him at the time.

For example, during the early stages of our investigation, SCI sent a documented confidential source and an SCI agent into Brogan's Lifeline Recovery Services to get a better understanding on how Lifeline recruited patients to one of Brogan's treatment centers.

Once inside Lifeline, the undercover and the confidential source acted as a client, met with a receptionist who asked a series of questions related to the type of drug use and insurance coverage patient had, the client was soon introduced to an administrative manager, who had already prepared documents for signatures. The same administrative manager told the SCI agent and the confidential source that the CEO of Lifeline, John Brogan, maintained a good relationship with the Discovery Institute and another treatment facility located in Pflugerville, Texas called Any Length Retreat. She went on to say that the Texas facility was -- only accepted cash. During the meeting she was asked what would happen if the CS posing as a client was arrested. She claimed that Lifeline

Recovery Support Services had an extremely tight relationships with law enforcement officials.

Q. Now, did the SCI find that Brogan was being paid by the Discovery Institute and Any Length Retreat?

A. Yes, SCI found over 20 facilities across the country, including treatment centers in Florida, California, Pennsylvania, and New Jersey. As you can see on the screen, these are a few of the many we found.

Q. Why did he work for so many different facilities?

A. Well, if he did not deliver as many patients as he promised, he would get fired and move on to the next treatment center that would hire him.

Q. And how much --

A. Mr. Brogan -- excuse me, Mr. Brogan referred to this practice as the hustle. Sorry about that.

Q. How much money did John Brogan make from these treatment centers?

A. In a little over a two years, Brogan brought in over $600,000 from these treatment centers, this includes the contract he signed with Behavioral Wellness & Recovery in Pennsylvania, that

would pay him $360,000 a year. He was terminated after six months.

Q. Now, was John Brogan a clinician?

A. No, he was a recovery coach.

Q. Was a clinician employed by his company Lifeline Recovery?

A. At times, they had a clinician to help out, but only for a little while, but the SCI found that the clinician was not involved in referrals, they would just help meet with Lifeline patients, usually after receiving addiction treatment.

Q. So who was making the decision as to where Lifeline clients would be referred to?

A. Brogan and his recovery coaches.

Q. Agent Cartagena is this problematic for Brogan and his fellow recovery coaches to be making decisions regarding referrals?

A. Yes, similar to the concerns mentioned by Agent Rennert, neither Brogan or any recovery coach utilized were clinicians and unable to properly determine the best treatment or placement for patients who may have specific needs.

Q. Did John Brogan let his client know he was actually an employee of the specific treatment center?

A. No, he would not tell them that he was an employee of a specific treatment center.

Q. How is this behavior by John Brogan and his company, Lifeline, similar to traditional cash for patients by the broker?

A. Well, Brogan was receiving payments for referrals of private insurance clients that he came across through his government contracts or through his company Lifeline. Once he did not refer enough clients, his employment was terminated. SCI found that Brogan's payments from these treatment centers were disguised as salaries, consulting fees, and rent, however, they were actually for clients with private insurances.

Q. Now, in addition to John Brogan, you also talked about another recovery coach who was working for a Morris County community-based nonprofit that he was referring people with private insurance to a treatment center that was paying him. Can you explain how this worked?

A. Yes, the nonprofit he worked for had grants provided, they had grants that provided recovery support services throughout Morris County. This individuals is a recovery coach who met people through different county programs or a walk-in

through the facility. When he had someone with private insurance, he would he refer them to the treatment center he was working for called Avenues with a location in Pennsylvania. He received bonuses per head in this contract.

Q. Now, I'm going to direct your attention to Exhibit AR-85N on the screen. What is this?

A. This is part of the employment contract that the recovery coach received from Avenues.

Q. Now, I want to direct your attention to the highlighted part of the document, what does it say?

A. Well, as you can see in the highlighted portion, the recovery coach was paid $60,000 a year. In addition to the base salary, the contract says, and I quote, "the employee shall be paid a performance base incentive. In consideration for every paying referral that the employee brings to the Avenues for treatment the employe will receive $300." If you look in the parentheses part of it, it says, "a referral must remain in treatment at least five days and does not include a scholarship client."

Q. So according to the employment contract, the Morris County recovery coach received an extra $300 for each client he referred to Avenues?

A. Yes, that's correct.

Q. Was his employer, the nonprofit, aware that the recovery coach was employed by an outside treatment center?

A. No, not at first. Once they became aware, they asked him to resign, because they believed that his outside employment was a conflict of interest.

Q. Who was the recovery coach referring to this treatment center Avenues?

A. Patients with private insurance that he came across through his position as a recovery coach at the nonprofit.

Q. Was this recovery coach a clinician?

A. No, he was not.

Q. How was this conduct that you just described as a Morris County recovery coach similar to the traditional cash for patient brokering -- body brokering?

A. That's because a recovery coach was receiving a monetary benefit for referring a patient

to the facility paying him. The payments were disguised as a salary with bonuses, but, actually, they were just payments for clients with private insurance.

Q. What about the third example you stated, a recovery coach working for a New Jersey hospital system, can you tell me how he was engaging in behavior that the patient brokering laws are designed to prohibit?

A. The hospital had recovery support programs where an individual with an addiction issue or came in as an overdose victim is visited bedside by a recovery coach. The recovery coach talks to the patients and see if they will accept help. If the patient accepts help, the patient is given options as to where they should go for treatment. This recovery coach had a senior management position at the program. Overseeing patient navigators and other recovery coaches. At the same time, he was employed by treatment centers in the state, sometimes more than one at a time, working to get people into treatment.

Q. Now, which treatment centers was this recovery coach employed by?

A. Well, as early as 2022, this recovery

coach was employed at Enlightened Solutions, a treatment center group in Atlantic County, that accepts private health insurance. He was also previously employed by Discovery Institute, Tranquil and Quest and other treatment facilities. All of these facilities received referrals from the hospital system that the recovery coach works for.

Q. Now, how much was this recovery coach making from these treatment centers?

A. Since 2016, the recovery coach made close to $400,000 from treatment centers on top of what he earned from the hospital system. Also, as of mid 2022, he was making $50,000 a year for Enlightened Solutions.

Q. Now, did individuals go from the hospital system programs to these treatment centers that were paying the recovery coach?

A. We found individuals from the hospital system being referred to all the treatment centers that this recovery coach was getting paid by. Specifically, the treatment center most recently employing this recovery coach, Enlightened Solutions, received, approximately, 50 referrals from the hospital system between 2019 and mid 2022. And Enlightened Solutions is a treatment center that

accepts only private health insurance and, as you will hear more in panel three, 50 referrals is a lot since private insurance policies are worth a lot of money.

Q. Now, was this recovery coach -- excuse me, what was this recovery coach's role at the treatment centers that he was employed by?

A. Outreach or marketing. Basically, working to get people into the facilities he was employed by. The recovery coach testified under oath before the SCI and says that at Enlightened Solutions he goes to events to advocate to people. He also said he had no other job duties with Enlightened Solutions.

Q. Was his employer, the hospital system, aware of his additional employment, that outside treatment centers?

A. No. The recovery coach said that he had not told anyone that he was employed by outside treatment centers.

Q. Now, did individual have a clinical background?

A. No, he said he referred people to facilities that he thought were a good fit, despite not having any clinical background making him able

to medically make that determination.

Q. And how is this conduct similar to the cash for patients body brokering?

A. Well, the recovery coach was employed by hospital systems that had access to a lot of patients. This recovery coach was getting paid additional salaries on the side by referring patients to the treatment centers that his employer, the hospital system, also happened to be referring patients to.

Q. All right. Thank you, Agent Cartagena.

MS. CIALINO: At this time we want to play a video of an SCI source who has experience, or vast experience, working in the industry who can explain what he or she has seen related to patient brokering in the industry and its negative impacts.

Since this is a source and they work in the industry, we have prerecorded this sworn testimony, altered the source's voice, and hid their face.

Before we play that, I guess, at this time, Commissioner questions?

COMMISSIONER BURZICHELLI: I wanted to jump in at this point, especially Agent Cartagena.

Did the hospital do anything to vet these recovery coaches and this employment situation, did they ask in advance if they had a relationship with anyone else? When they were employed, did they continually monitor these people to make sure that they were only working for the hospital, no one else? Was there any type of oversight of these people and their conduct in their role with the hospital?

MR. CARTAGENA: At the time, they had no idea this recovery coach was doing what he was doing. As of now, I believe that they are aware. We have spoken to the hospital system recently, and they are in the process of putting in place a policy that would either -- we don't know where they are going to land, whether it's going to be allowed or not allowed.

COMMISSIONER BURZICHELLI: Thank you.

COMMISSIONER REINA: Agent Cartagena, you had testified at the outset about the 2021 patient brokering law, and if I recollect your testimony, you said, as far as you know, nobody has been charged under that law; is that correct?

MR. CARTAGENA: That's correct, Commissioner.

COMMISSIONER REINA: Are the

activities that Brogan and his ilk, and the people you investigated from the Morris County situation, were their activities, the activities that are the law covered, as far as you know.

MR. CARTAGENA: I'm sorry, I didn't get the last part.

COMMISSIONER REINA: Are the activities that Brogan and the investigation in Morris County, are they activities that they engaged in the type of activities that would be covered by the patient brokering law, if you know?

MR. CARTAGENA: I believe so.

COMMISSIONER REINA: So, as far as you know, the law would cover those activities but they just were not enforced, to the best of your knowledge.

MS. CIALINO: If I can jump in, Commissioner, the law went into effect 2021, some of those activities are prior to 2021, and, you know, there would be questions as to whether the law would actually cover the conduct as it states today. But, you know, that's something that we will work to make recommendations on in our final report.

COMMISSIONER REINA: Okay. Thank you.

CHAIR WILLIAMS BREWER: No further

questions.

MS. CIALINO: Now, if we could play the video of the source. Again, the voice has been altered and the face has been blurred to protect this individual's identity.

(At this time, a video of a prerecorded statement of Treatment Center Client is played as follows:

"EXAMINATION BY MS. CIALINO:

Q. How long have you worked in the addiction treatment industry?

A. I have worked in the addiction treatment industry for probably over 15 years.

Q. Now, what type of places have you worked at within the addiction treatment industry?

A. I've worked in detoxes, I've worked in inpatient programs, I've worked in PHP programs, I've worked in IOPS and outpatients, and also, non-profits. And also, a few treatment centers, also.

Q. Now, in terms of your experience, have you worked in the addiction treatment industry in New Jersey?

A. Yes.

Q. And what types of jobs have you

held at these addiction treatment centers?

A. Many jobs. Transportation, clinician, interventionist, director of interventions, director of marketing, owner. I've done just about every job there is to do in the addiction industry.

Q. What about non-profits? You mentioned them, too. What type of jobs have you held at non-profits?

A. I volunteered at many non-profits, as a transport, interventions, fundraising. Multiple titles.

Q. Now, are you familiar with patient brokering or body brokering?

A. Yes.

Q. Have you seen patient brokering occur in the addiction treatment industry?

A. Yes.

Q. In what forms?

A. In many forms.

You have a salary that you're getting and there is a commitment that you will get in three to four patients each month, and that will cover your salary.

Anything above that, you can be paid

anywhere from 1,000 to $2,000 per client, as long as -- most treatment centers, as long as they stay for two weeks. You have to make sure that they stay for a little while in order for us to pay for it.

Q. What other forms of patient brokering have you seen in the industry?

A. Let's say I own a detox, or I'm the director of a detox, and I'm a standalone detox, meaning we just detox people and that's it. Now, if someone sends me a patient, or a client, to be detoxed, they want that client coming back to their treatment center. It's very important.

Q. Now, in -- in terms of owing a client back, you know, how does that work?

A. If I'm sending 12, 15 detox patients to a standalone detox, I expect 12 to 15 patients coming back to my treatment center. And if they're not, we're going to have a problem. Okay? I sent you ten this month, you got me back seven. You owe me three patients, three clients. That's what you owe me. Three. And you better get them to me as soon as possible or I'm not sending you any more people. I've been in many of these meetings.

The addict and the alcoholic, you know, becomes a commodity. It's a trade. And a lot

of times, whether they're appropriate for that level of care or that treatment center doesn't matter. You're sending them. And there are places that do not do that. But there's more than -- than there are not.

Q. Now, the people we're talking about here getting, you know, traded or brokered, are they typically people with private insurance plans or are they typically no insurance or Medicaid type people?

A. Yeah, no one's swapping for Medicaid clients. It's sad to say, but, you know, in the State of New Jersey, the reimbursement rates for Medicaid and Medicare are well below what you would
get for a -- specifically an out-of-network policy. Out-of-network pays the most.

Q. Now, when you're talking out-of-network private insurance, how much can a treatment center bring in from those treatment centers per patient?

A. The numbers vary with each different insurance company. Could be $800 a day, could be $1,800 a day.

Q. And when we're talking, you know,

those -- those numbers, 800, $1,800 a day, approximately, obviously, how many days typically can these treatment centers bill the insurance for at that rate?

Well, let's say on average you got -- let's just say 20. Okay. And you're getting 800 a day.

Do you have a calculator? That's a lot. That's a lot of money per month.

Q. Going back to patient brokering, in terms of non-profits, have you seen patient brokering occurring in a -- in relation to non-profits?

A. Yes. There are certain non-profits in many states, including New Jersey, who the people that volunteer at those non-profits don't get paid anything.

But there's also non-profits in other states and in the State of New Jersey where people who work there are paid salaries and have benefits.

So these non-profits need -- need to generate donations.

Certain non-profits will accept donations from treatment centers. I approached this nonprofit, You've been sending us a lot of clients,

we're very grateful, we're going to make a donation of $10,000 a month to you. Keep the clients coming. Or maybe you'll let us open up a little outpatient program in your building. Keep the clients coming.

Q. Now, are any of these agreements, you know, in your experience, we're talking, hey, there's -- you know, we'll give you a donation, keep the referrals coming, is that ever put in writing?

A. No.

Q. How is it conveyed?

A. Verbal.

Q. And based on what you've seen, if the referrals stop, do the donations stop?

A. They can. They definitely can. I've been in many meetings, You only sent me five clients this month; we're giving you $10,000 a month to help you keep this place open; we're one of the reasons why you're doing well; we need more clients.

And then behind closed doors, it's like, We got to get these people some -- we've got to get them some addicts, we've got to get -- got to get them some referrals. Okay. We can't lose this $10,000 a month. This is really important, we need to keep this place open.

Q. Now, how can patient brokering

affect a person who's trying to get clean and sober?

A. I think it -- it has -- in the -- the whole system of getting a client to a treatment center using marketers or outreach specialists or community liaison, whatever bullshit name they give it, your job is to get clients. As many as you can. And not only can it harm the client, because the client can be sent somewhere that they shouldn't go. We have a client with an under -- underlying psychiatric issue that was diagnosed at a young age going to an addiction treatment center that doesn't belong there. Let them figure it out. I've been in that -- those --

This is the only industry where you can go from, mop floors, nothing wrong with that, now I'm --one year later, I'm the director of marketing of a treatment center that -- that has a hundred patients, and I've only been working here for -- for a year. I've only worked in the industry for a year, now I'm making $150,000 a year and I haven't directed shit. Ever.

And these people are not licensed. They have no clinical training whatsoever. They have no ethical training whatsoever. They're only as good as the person who's training them, and that

person is most likely, 90 percent of the time, the guy who went from janitor to chief marketing officer in a freaking year. Like, what?

You know, get them in, let's figure it out, if we need to -- need to send them somewhere else, we will. That's the philosophy of those places.

Q. And those, again, are people with private insurance plans, correct?

A. Yes. Yes. No one is fighting over Medicare -- Medicaid clients, sorry to say.

Q. Now, what about when we're talking about, you know, non-profits making referrals specifically, or recovery coaches making referrals, people who aren't affiliated with a specific treatment center, are they qualified to make referrals?

A. I don't believe so.

Q. Why not?

A. Just because I -- you know, I don't think those people should be referring anyone anywhere. I think what they should be doing is getting the information and passing it along to the appropriate clinician, not calling a treatment center and saying, Hey, I got somebody for you,

'cause the treatment center, first thing they think is cha-ching.

Q. And then, you know, based on your experience, if -- if that person does have these psychiatric issues that maybe the treatment center isn't -- isn't set up to treat, yet that patient has a good private insurance policy?

A. If someone has a primary psychiatric issue, most of the treatment centers that I worked at, they would say we can -- we can treat this.

Q. And could they?

A. No. You need to refer that -- that person out to a place that -- that is psychiatric primary. That's what they do. And the addiction being secondary.

Q. Or is that what they do or is that what should be done?

A. I'm sure there's places that do it, but I've never seen any. But that's what should be done.")

MS. CIALINO: Do you have any additional questions, I know we had questions before we wrap this panel up.

CHAIR WILLIAMS BREWER: No additional

questions at this time. I do understand there are some technical difficulties online. So for those of you live streaming, we are getting ready to take a break to fix those, and we do apologize. Thanks for hanging in with us, and please continue to.

There is one thing I did want to ask, if we could clarify for the record, just for the public's purposes, we have seen videos or heard audio of two confidential sources, were those confidential sources' testimony that we are viewing that was previously recorded, where did that occur and was that under oath? Or can you just give us a little context for the public as to what they were hearing and seeing.

MS. CIALINO: Well, in terms of the last witness that we just saw -- that we heard and saw on the video, that was done under oath in our office. In terms of the shorter clips of the sources that we heard that were audio only, those were from interviews and, obviously, were recorded and were done where it was convenient for the source.

CHAIR WILLIAMS BREWER: Under our statutory authority, correct?

MS. CIALINO: Correct.

COMMISSIONER BURZICHELLI: One last question, in the course of you investigating these various entities, specifically Recovery Advocates, did you find that these entities provided any training whatsoever to these recovery coaches in terms of how to assess a patient's need and match them to the facility, was there any type of training at all given to these people?

MR. CARTAGENA: Well, these recovery coaches that are working for these agencies are in recovery themselves. As far as training, I'm not aware that there are formal type trainings other than that you are working at this facility, you have this person who needs help go speak to them and see where you can situate them. However, there is some training, I believe it's called CCAR, that they go to and there is a certification for them.

COMMISSIONER BURZICHELLI: Thank you.

MS. CIALINO: And just to be clear, Agent, the CCAR training, that's ethical training and some hands-on training, but is that clinical training?

MR. CARTAGENA: No, it's not.

MS. CIALINO: Okay. Do you know if they have any clinical training?

MR. CARTAGENA: None whatsoever.

CHAIR WILLIAMS BREWER: Are we done with this panel?

MS. CIALINO: If there no other questions from you guys, then we are done, and Agent Cartagena and Agent Rennert, you two can step back. Thank you.

CHAIR WILLIAMS BREWER: We will take a brief break for our technical staff to fix the issues, but we will resume momentarily.

Thank you.

(At which time, a recess was taken.)

MR. LACKEY: Are we ready to proceed?

CHAIR WILLIAMS BREWER: We are ready. Thank you to those online, online streaming, for being patient with us, and we will resume.

MR. LACKEY: Counsel Cialino, thank you very much for the last panel, thank you very much witnesses.

We have another panel coming up where we're going to talk in detail about the private outpatient facilities. In particular, we will be focused on those that take private insurance as we've been discussing, so please pay close attention to the questionable conduct occurring within the

private outpatient facility that we are going to highlight and the flow of money through that.

At this time, Counsel Cialino, please call your next witnesses.

MS. CIALINO: At this time the SCI would like to call Forensic Accountant Laura Mercandetti and Investigative Agent Karen Guhl to testify.

FORENSIC ACCOUNTANT LAURA MERCANDETTI and INVESTIGATIVE AGENT KAREN GUHL having been first duly sworn, were examined and testified as follows:

EXAMINATION

BY MS. CIALINO:

Q. Thank you. Agent Guhl, if you can state your name for the record.

A. Karen Guhl.

Q. Where are you currently employed?

A. With the New Jersey State Commission of Investigation.

Q. And how long have you been with the State Commission of Investigation?

A. I began with the Commission in July of 1999.

Q. Now, what's your role there?

A. I'm an investigative agent. We take a

look into investigations related to organized crime, official corruption, and the waste, fraud, and abuse of taxpayer money.

Q. All right. Now, prior to SCI, where were you employed and tell me a little bit about what you did there?

A. I was with the New Jersey Division of Criminal Justice previously for a period of 12 years. I worked on investigations relating to anti-trust and program integrity issues, did financial investigations in the Economic Crime Bureau and the Medicaid Fraud Unit.

Q. Now, we just heard about patient brokering, certain people in the state are using patients with private insurance to get monetary benefits in return; is this correct?

A. Yes. We identified that financial benefits accrue to individuals in nonprofit organizations and to recovery coaches.

Q. Now, did we investigate where the majority of these referrals from nonprofits and recovery coaches were going?

A. Yes, most of them were being referred to private outpatient treatment facilities.

Q. Now, what is private outpatient

treatment facilities?

A. As the name implies, it is an outpatient facility where a client comes during the day, they do not stay over night. While on the premises during day, the patients will receive their treatment for whatever issues they are in treatment for.

Q. What type of -- these facilities, what type of insurance do they accept?

A. These facilities, by the owner's choice, only choose to accept private insurance patients, they do not accept the uninsured nor do they accept Medicaid or Medicare.

Q. Are these the only types of addiction treatment centers in the state?

A. No, there are nonprofit treatment centers and there are also treatment centers that accept Medicaid and the uninsured. Also, there are residential facilities where the patients stay overnight. These would be, like, inpatient hospital or detoxes.

Q. Now, why did the Commission focus our investigation on private outpatient treatment facilities?

A. That's where we saw the majority of

the patient brokering occurring. It's also a very attractive business proposition. It has a relatively low overhead insofar as they don't need food service or residential overnight sleeping facilities. They really only need a conference room and some offices. Additionally, it has a very high potential for revenue insofar as there's a steady stream of patients needing the services offered.

Q. Now, what type of treatments are offered at these type of outpatient addiction treatment facilities?

A. There are three types of treatment facilities. The services offered include partial hospitalization program, or PHP, that is a very intensive type of treatment, it's five or six days a week for, approximately, six hours a day. The next step down from that is intensive outpatient, also known as IOP. That is, approximately, three hours a day for three days a week. And then as the patient progresses through their treatment, they arrive at outpatient. And that could be anywhere from one day a week for an hour, maybe one hour a month as the patient progresses to sobriety.

Q. Now, what type of conduct did the Commission find occurring at some of these

outpatient addiction facilities?

A. We found out they were making an awful lot of money at the patient's expense. We noted that they were billing for services that were not rendered, sometimes they were billing for services that were excessive or overlapping with other services. Lastly, based on information we received from employees of these treatment facilities, they were instructed to tamper with the urine specimens of the clients to provide false positive results. This will be indicative of a relapse, and would then set the patient up for additional days of treatment at a higher level of care.

EXAMINATION

BY MS. CIALINO:

Q. Now, Investigator Mercandetti, as a reminder, you are still sworn in.

Earlier we heard about one of the cycles of treatment that we found in our investigation, why is this cycle so important to these outpatient addiction treatment centers?

A. Well, as previously mentioned, if a client stops treatment, then the insurance payments stop. And the key thing is if the client's private health insurance company is still providing

benefits, then the owners want to take advantage of that and make every effort to keep that client in treatment so they can continue to bill for services.

Q. How can a treatment center influence a patient to come to their treatment center and then to stay there?

A. As I said before, they provided incentives such as food, beverages, gifts, living accommodations at sober living homes at little to no cost, and transportation to their treatment center. And, again, keeping in mind, all of these necessities are needed by many of the clients.

Additionally, we found that the owners of the treatment centers either have their own detox facility or they have agreements with other detox facilities. So if the client relapses, they go back to that treatment center.

Q. Now, did the Commission find an example of this occurring in the State of New Jersey?

A. Yes. At Kingsway Recovery Center in Mullica Hill.

Q. Who owns Kingsway Recovery Center?

A. Nicholas DeSimone.

Q. And is Kingsway affiliated with any

other entities?

A. Yes, Graceway Sober Living.

Q. How are they affiliated?

A. Graceway is owned by Nicholas DeSimone's wife, Michelle DeSimone. Kingsway and Graceway share employees. All of the people that reside at Graceway go to Kingsway. And you will see that the insurance proceeds from Kingsway funnels down to Graceway to fund its operations.

Q. And what was Kingsway doing to entice their patients to attend their treatment center and then to stay there?

A. Well, again, as, you know, our investigation has seen, is that they provide the food and the beverages and living accommodations at their sober living homes at a nominal cost and transportation. They also keep a list of clients whose insurance is running out, and they overlap services by cutting their individual and group therapy session short.

Q. You said that Kingsway kept a list of clients whose insurance was about to run out, why was that done?

A. Well, a list was generated every week that had the names of clients who's insurance was

running out. And as the time got closer, utilization reviews, also known as concurrent reviews, were prepared and submitted to the insurance companies. As we heard from former employees, the information contained in these reviews downplayed a client's progress in order to persuade the insurance companies to approve additional time and, of course, additional insurance payouts. And they were often successful in persuading the insurance companies to approve the additional time, and this kept the client at a higher level of care when the client could have progressed to a lower level of care.

Q. Investigator, you also stated that Kingsway would downplay clients' progress, can you explain this?

A. Yes, they downgraded the client's progress, by indicating that their symptoms of addiction were reoccurring, such as cravings. They also said that they were not being responsive in their group therapy sessions.

Q. You stated that Kingsway overlapped services, how did that work?

A. Well, in addition to the therapy sessions, they also offered case management services

and medical services. So if a client needed a case management service, the case manager would come into a therapy session, pull the client out, and then help the client with what was needed, such as, making outside doctor appointments or resume building or job searches. The case manager would then document the time of the services as having occurred either before or after the therapy session. And this was done so the insurance companies would be billed for an independent service in addition to the therapy session. This was also done if medical services were needed and the client had to go see the nurse.

Q. You said Kingsway provided food as an enticement to patients, why is that important?

A. Well, again, as I've been saying before, food was needed by many of the clients, they needed a hot meal, and Kingsway used this as an enticement to get the clients to choose Kingsway as their treatment facility and also to keep them there.

Q. Now, I want to talk to you about the free or nominal cost of living, was this through Kingsway's sober homes, Graceway?

A. Yes, it was.

Q. Now, how was Graceway set up?
A. Well, Graceway started out as a having one sober living home and, currently, they have five sober living homes and working on a sixth.
Q. Now, what services are provided through Graceway?
A. As we saw with Kingsway, Graceway, too, provided the food and they provided rent at the nominal cost and provided transportation.
Q. Why was Graceway so important to Kingsway?
A. Based upon our investigation, it appears that Nicholas DeSimone's main motivation was to make money from the insurance companies. And in order for him to do that, Kingsway needed a steady stream of clients. Graceway provided that for Kingsway by offering the enticements we've been, you know, talking about to persuade the clients to choose as their facility even if it wasn't the best place for them, and it, also, kept them there, because, as I've said before, many of these clients needed the necessities provided.
Q. Investigator Mercandetti, you stated that Kingsway kept a running list of these patients when their insurance was ready to expire, do we have

an example of someone that negatively impacted by this practice?

A. Yes, we have one confidential source who will discuss his or her experience at Kingsway, specifically that the motivation to help the confidential source ended when their insurance ran out.

MS. CIALINO: All right. Now, we are going to play a short clip from another Commission source. Again, this voice has been augmented and the name and face not revealed to protect the identity of this individual who is in recovery.

(At this time, a prerecorded statement of Treatment Center Client is played as follows:

"WITNESS: It seemed to me, as if like the people who had better insurance were getting favored a little more. Like you could go overnight, and do this and do that and I wasn't getting that. And I didn't really enjoy my time there because of that. This girl had federal insurance. Her mom was an attorney and worked for the government. Somehow she had like great insurance. So she was like the star pupil of that house. So, basically, yeah, just like the more your insurance will pay the more they like you.

"SCI COUNSEL LISA CIALINO: So did you have to pay rent at Graceway then? Or did your parents? I don't know if you would know.

"WITNESS: When you go in you signed a thing saying you're gonna pay $100 a week but when you're going to their outpatient five days a week they don't really bother you. It's when you start to go to like one and two days and they see you're kinda making a descent. Then they tell you "OK we'll let you slide for the first month. Now you're going to be a little behind if you can put a little." But it's not... Like they mention it, but they don't kick you out for not paying rent. If your insurance is active.

"SCI COUNSEL LISA CIALINO: Right.")

FURTHER EXAMINATION

BY MS. CIALINO:

Q. Agent Guhl, we heard from a patient who told us about their experience at Kingsway and Graceway, in addition to the actual services that Kingsway offered, did the Commission look into their billing practices?

A. Yes, we did. We issued subpoenas to various insurance companies utilized by Kingsway, my review of records that were produced indicated some

rather glaring irregularities.

Q. What did the Commission find?

A. In order to understand, I have to explain how medical billing is done.

There are two types of coding utilized in medical billing, there is the current procedural code, also known as CPT, that's a five digit numeric code, and it identifies the type of services that were provided to the patient. This code was designed by the American Medical Association.

There's also something called the Healthcare Common Procedural Coding System, also known as HCPCS. This is an Alphanumeric code that identifies, again, the type of services and products that were used. This language was designed by the federal government, CMS, the Centers For Medicaid and Medicare, both systems are recognized nationally and utilized across the board. It is the language that medical billers speak.

Within the Healthcare community, there is also something called bundled codes. Simply, bundled code is a single item that includes the numerous related services, it is a combined code. When a treatment center unbundles the code and bills for individual services on the same day that they

are also billing the bundled code, it's overbilling.

The analogy I use is that the bundled code is an all-you-can-eat menu and the unbundled code is ala carte.

Q. Now, I'm going to direct your attention to AR-85S on the screen, what is this showing?

A. This is copy of a portion of a bill that was sent to an insurance company for services provided to a patient of Kingsway on a given day. In that example, the H0015 item represents one unit of IOP, that's three hours of group therapy for one day. The 80305 charges for presumptive drug screening with direct visual observation, that's your standard urine sample in a cup. And the 90834 is an individual psychotherapy session that lasts 45 minutes for an established patient in an outpatient setting.

Q. So, to clarify, what you're indicating occurred with this particular Kingsway Recovery patient as shown in Exhibit AR-85S, was that Kingsway first billed with the bundled code that billed for all services for that client on that day, and, then, separately billed for the same services rendered which would be double billing?

A. Yes, that's correct.
Q. Now, if this billing was done properly, using the example in AR-85S, how would it be done?
A. In this example, the H0015 IOP is the standard one unit of IOP, it's a bundled code and it's billed appropriately. The drug screening and the individual psychotherapy sessions are including in the H0015 charge and are, therefore, duplicative.
Q. So the line items in red should not have been billed as they are duplicates and encompassed within that bundled code H0015?
A. Yes, that's correct.
Q. Now, in this example, did the insurance company pay Kingsway for both the bundled code and then the individual codes below it?
A. Yes, they did.
Q. How often did you see this occurring in the SCI's review of Kingsway's billing records?
A. As a result of my review of these records, it was done virtually every day on a daily basis.
MS. CIALINO: Thank you, Agent Guhl.
FURTHER EXAMINATION
BY MS. CIALINO:

Q. Investigator Mercandetti, Agent Guhl just discussed Kingsway's billing practices which included double billing, how much money did Kingsway receive from insurance companies?

A. Approximately, 15 million from 2019 through 2021.

Q. And, approximately, how many clients did Kingsway have during this time period?

A. They had, approximately, 30 to 40 clients at any given time.

Q. Now, did you examine the bank records of Kingsway and its owner Nicholas DeSimone?

A. Yes, I did.

Q. What about the bank records of Graceway, Kingsway's sober homes, and their owner Michelle DeSimone?

A. Yes, I did, as well.

Q. And what did you find?

A. Well, as a result of Kingsway's questionable billing practices, Kingsway made millions of dollars within a three-year period, and these monies were funneled down from Kingsway's bank account into the DeSimone's joint and personal bank account. They were also funneled down to Graceway's account, and they were used to fund their lavish

lifestyle and to grow their business operations.

Q. So in the 30 to 40 person outpatient treatment facility, Kingsway was able to make $15 million from insurance companies in three years?

A. Yes, that's correct.

Q. Now, I'm going to direct your attention to AR-85U on the screen. Let's first talk about the money coming into Kingsway, how did it work?

A. Well, if we take a look at the exhibit, from 2019 through 2021, Kingsway took in, approximately, 15 million in insurance proceeds from medical claims submitted to various private health insurance companies. As you can see, Horizon and Aetna were the top two providers which comprised, approximately, 10.7 million of the total 15 million. And this is consistent with the information gathered during this investigation that Nicholas DeSimone liked to have clients that had Horizon and Aetna health insurance because they paid out the most for billable services.

Q. All right. Now, looking at the money coming into Kingsway from the insurance companies, did some of that money relate to questionable billing practices that we discussed earlier?

A. Yes, it did.

Q. All right. Now, if I direct your attention back to Exhibit AR-85U, what did you see happening once the money came into Kingsway's bank account?

A. If we take a look at the exhibit, we see a significant amount of money was transferred into the DeSimone's joint and personal accounts which totalled a little over 4.2 million. Additionally, 2.1 million was used to pay Capital One credit card purchases. 1.25 million was invested. 288,000 was spent on luxury vehicles and jewelry. 88,000 was used to pay off their student loans. And they made cash purchases of two commercial properties totalling $764,000.

Q. A majority of the money goes into the individual and joint accounts of the DeSimones, did you follow the money any further?

A. Yes, I continued to trace the flow of funds.

Q. And what did you see?

A. Well, some of the transfers from Kingsway's business account into their joint and personal accounts were disguised as business loan repayments.

Q. What is the significance of identifying the transfer of money as a business loan repayment?

A. Well, disguising the transfers as business loan repayments has income tax implications, such that the payments are considered nontaxable income to Nicholas and Michelle DeSimone.

Q. Now, was there any evidence that these transactions were actually business loan repayments?

A. No. There was no evidence in the bank records to indicate that the DeSimones made loans to Kingsway. We also subpoenaed Kingsway's business records, which included any and all loans, and we were told that none existed.

Q. Now, besides transferred money being disguised as business loan repayments, did you see anything else suspicious with the way the money was transferred out of the Kingsway account into the DeSimone's personal accounts?

A. Yes. Many of the transfers from Kingsway's bank account into their accounts were structured in the amounts of $9,000.

Q. Now, what is structuring?

A. A structured transaction is a series of related transactions that could have been

conducted as one transaction, but the person intentionally broke it into several transactions for the purpose of circumventing the federal reporting requirement of under the Bank Secrecy Act such as the filing of a Currency Transaction Report, also known as a CTR.

Additionally, under federal law, financial institutions are required to report currency transactions over 10,000 as well as multiple currency transactions that aggregate over 10,000 in a single day. CTRs must be filed with the Financial Crimes Enforcement Network, also known as FinCEN. CTRs are typically an integral part of the banking's anti-money laundering responsibilities.

And, furthermore, deliberately evading the 10,000 reporting threshold is prohibited under law and it has strict penalties for the customers and the bank. The IRS and other federal, state and local authorities have access to CTRs. Because of its usage, structuring is typically a red flag for money laundering or income tax evasion.

Q. Now, I want to direct your attention to exhibit AR-85V on the screen, specifically relating to Kingsway's accounts, can you explain how the structuring occurred?

A. Well, as shown in the exhibit, many of the transfers from Kingsway's account into their bank accounts were structured in amounts of 9,000, just under the 10,000 reporting threshold, or the transfers aggregated to over 10,000 in a single day. And if you will notice, the transfers happened on the same consecutive and near consecutive days where many of them could have been conducted as one transaction. Although, the transactions were transfers between Kingsway's account and their personal accounts, the banking pattern is suspicious in nature such that it appears they were trying to circumvent the CTR filing requirement that they believed they were subject to.

Q. Now, in addition to structuring, were there any other types of transactions that caught your attention?

A. Yes, there were.

Q. Now, I want to direct your attention to exhibit AR-85W on the screen, what is this showing?

A. Well, this exhibit shows that many of the transfers were also conducted in large round dollar amounts, and if you notice on the same consecutive and near consecutive days, and this

banking activity is also suspicious in nature. Many of these transfers could have happened on the same day. It appears that as soon as the insurance monies came into the bank accounts, it went out and was transferred into their joint and personal accounts, and these funds were used to, again, fund their lavish lifestyle and to continue their business operations.

Q. Now, earlier you discussed that the majority of the money that came out of Kingsway's bank account from the insurance proceeds went into the DeSimone's various accounts, one in the name of Nicholas DeSimone, one in the name of Michelle DeSimone, and a joint account.

Now, let's take a closer look at the joint account first. If you could look at what has been marked as exhibit AR-85X on the screen, what did you see here.

A. If we take a look at this exhibit from 2019 through 2021, Kingsway transfers 1.6 million into their joint account. They then transfer 410,000 into Nicholas DeSimone's personal account and 1.8 million gets transferred into Michelle DeSimone's personal account. They also use the money to make cash purchases of four vehicles

totalling 89,000 and they made cash purchases of their former primary residence for $342,000 and their first sober living home at $232,000.

CHAIR WILLIAMS BREWER: I have a question before we move too far from the structuring. Did any of the -- first of all, where were the banks that the DeSimones banked at? Were they New Jersey.

MS. MERCANDETTI: They were.

CHAIR WILLIAMS BREWER: Were they federally insured banks.

MS. MERCANDETTI: Yes, they were.

CHAIR WILLIAMS BREWER: Did they report -- did your investigation reveal that they reported what you had found to be suspicious activity, as they are trained in as well, had they reported to any federal authorities themselves?

MS. CIALINO: If I could just jump in, in terms of the answer to that question, I don't think that's something that we can answer, you know, at this time. We can discuss it after.

CHAIR WILLIAMS BREWER: Okay. Sounds good.

BY MS. CIALINO:

Q. Now, I want to take a closer look at

Nicholas DeSimone's personal account. If I can direct your attention to what has been marked as exhibit AR-85Y, what did you see here from Kingsway's insurance proceeds?

A. If we take a look at this exhibit, from 2019 through 2021 we see that Kingsway transfers 2.6 million into Nicholas DeSimone's personal account. He then transfers 1.2 million into their joint account and then 116,000 into Michelle DeSimone's personal account. These transfers are considered circular in nature.

The money was also used to make investments as well as cash purchases of their current residence at $883,000, and four sober living homes totalling $970,000.

Q. All right. Now, Investigator, you stated that some of the transfers were circular in nature, what do you mean by that?

A. Well, the transfers are circular in nature such that the money flows from Kingsway and back and forth between these accounts. This makes it difficult to identify the originating source of funds which are the insurance proceeds that were earned by Kingsway.

Q. Next, if we can take a look at the

third account that received the most money from Kingsway's insurance proceeds, Michelle DeSimone's account. If I can direct your attention to what has been marked as exhibit AR-85Z on the screen, what did you see here?

A. Again, if we take a look at the exhibit, Kingsway transfers $15,000 to Michelle DeSimone's personal account from the period of 2019 through 2021. However, as I previously discussed, approximately, 1.9 million was transferred into her account from their joint accounts and Nicholas DeSimone's personal account. She then transfers 1.5 million into Graceway's bank account.

Q. Now, you said that, approximately, 1.5 million went from Michelle DeSimone's account into Graceway's sober living account which funded Kingsway's sober living homes. Where did most of that money originate from?

A. The majority of the money comes from Kingsway's insurance proceeds which were gained, in part, by the questionable billing practices. This is difficult to see, because the money is funneled down from the joint account and Nicholas DeSimone's personal account. The money is then used to fund Graceway's operations since Graceway took in little

to no rent from the residents.

Q. Can sober living homes bill insurance companies for the stay of their clients?

A. No, they cannot. And this is why Graceway is so important to Kingsway and why Kingsway funds Graceway. Graceway provides the necessities needed by these clients, and it helps to persuade these clients to choose Kingsway as their treatment center, and, as I've been saying before, it also helps to keep the clients there.

Q. Investigator Mercandetti, based on all your years of experience, looking at all these financial transactions, what do you believe is the significance of all the transfers between accounts and the structuring of transaction?

A. Well, in discussing their banking activity today, and the flow of funds, we see how convoluted the banking transactions were between Kingsway and their personal bank accounts. Many of the transfers were structured in amounts of 9,000, just under the 10,000 CTR reporting requirement. There was a rapid movement of funds such that as soon as insurance money comes into the bank accounts, it flows out. And they also disguised payments as business loan reimbursements when, in

fact, there were no business loans. And these type of banking activities are red flags of money laundering and income tax invasion.

Additionally, these ill-gotten gains helped the DeSimones purchase their former and current residences, two commercial properties, and five sober living homes. It also allowed them to make investments, to buy luxury goods, and to make significant payments of credit card purchases. And, in fact, as a result of our investigation, we have referred Kingsway and the DeSimone's actions to prosecuting agencies for potential money laundering, Healthcare fraud, and income tax evasion.

MS. CIALINO: At this time, the Commission would like to call Nicholas DeSimone.

Commissioners, the next witness scheduled to appear, as I just stated, is Nicholas DeSimone who is expected to be called to answer our questions as a result of the finding that you just heard from our investigation. He does not appear to be present today, despite being subpoenaed to appear in front of you.

On September 13, 2022, Nicholas DeSimone was served a subpoena to testify before you today in this public hearing. On Friday, October 7,

2022, one business day before this hearing, Nicholas DeSimone filed a motion to quash this public hearing subpoena. We, as an agency, will take all measures legally and statutorily available to us to secure his presence before you, including, but not limited to, the filing of a motion for contempt.

COMMISSIONER BURZICHELLI: Can I ask you a question?

MS. CIALINO: Yes.

COMMISSIONER BURZICHELLI: Was there any ruling from the court in regards to the subpoena? Is there any stay in place against us and our subpoena for him to appear today?

MS. CIALINO: No. There is no stay and no order from the court.

COMMISSIONER BURZICHELLI: Thank you.

May I ask a question of the panel?

MS. CIALINO: Yes.

COMMISSIONER BURZICHELLI: Very compelling testimony from you both. Thank you. It was clear, concise, and sort of lays out a very convoluted situation.

In terms of going back to the billing, you saw a billing for psychotherapist. Is there a licensed psychotherapist employed by Kingsway?

MS. GUHL: Yes. He's not a direct employee. They have an individual who is a psychiatrist, but he is an independent contractor.

COMMISSIONER BURZICHELLI: On the Capital One card, is that a business card or is that an individual card?

MS. MERCANDETTI: Business card, Kingsway business card.

COMMISSIONER BURZICHELLI: In terms of those expenses flowing down to the individuals, were you able to get -- was there any -- was there a mixing of private purchases and business purchases?

MS. MERCANDETTI: Yes. I was going to get to that. You're absolutely correct, Commissioner, there were business expenses that were being paid by Kingsway. You know, there was for their utilities and for their payroll and for their, you know, maintaining their electronic medical records system.

You know, the key takeaway here is, yes, there was also personal expenses, but the key takeaway here is that they, through their questionable billing practices, were able to buy items, as I've mentioned, over and above what they would have been able to do had they, you know,

played by the rules.

COMMISSIONER BURZICHELLI: The lab, you talked about there is a charge for the lab, is that an independent lab? Or do they have a lab on premises?

MS. GUHL: They utilized an independent laboratory.

COMMISSIONER BURZICHELLI: Thank you.

And earlier there was a mention about a urine sample that had been tampered with for purposes of keeping a person in rehab, was that related to this facility or was that someplace else?

MS. GUHL: This was at Kingsway.

COMMISSIONER BURZICHELLI: How did you come by that information?

MS. GUHL: By the former employee who was instructed to do that.

COMMISSIONER BURZICHELLI: And did that employee indicate who instructed him or her to do it?

MS. GUHL: It was some -- if it was not the owner, it was someone in the executive management.

COMMISSIONER BURZICHELLI: Thank you very much.

CHAIR WILLIAMS BREWER: Any other Commissioner questions?

COMMISSIONER REINA: I want to thank you both for the in-depth analysis.

Ms. Mercandetti, in the $15 million that you were able to determine that came into Kingsway, did your investigation also -- were you also through your investigation able to find out how much of that was due to double billing? Do you have that number?

MS. MERCANDETTI: I don't currently have that number. We are continuing to, you know, move forward in the investigation.

COMMISSIONER REINA: Are either one of you able to speak to the actual treatment that was given to some of the patients at Kingsway? Most of this is financial impropriety, and it's excellent information to have, but in the course of your investigation, were either one of you able to speak to patients who actually got treatment at Kingsway? Did you have any opinion on that from those interviews, perhaps?

MS. MERCANDETTI: Well, we have heard from former employees who have worked there that they were cutting therapy sessions short. They

would come in, and, you know, a 45-minute therapy session, could have been cut down to 15 minutes or the group therapy sessions, which were supposed to be three hours, they were required to, you know, end them prior to that time. We have had former employees mention that, you know, they were instructed by Michelle DeSimone or Nicholas DeSimone to, actually, go -- if they were going over the time, to go over to the therapist door, and to knock on the door and say, you know, you have to cut this out.

Just like I was saying about overlapping of services, they are in a therapy session, and if they needed help with the resume billing or making outside appointments, they were pulled out of their therapy session. So the treatment, again, it was all about the insurance money and not the care, the complete care, of the clients at Kingsway.

COMMISSIONER REINA: What were the DeSimones' background to enable them to open up these kinds of centers? Did they themselves have a history in this? Or, perhaps, they were in recovery themselves? Do you know anything about that?

MS. MERCANDETTI: Yes. I took a look

at their backgrounds, and, actually, Nicholas DeSimone has had -- worked predominantly in the mortgage industry. His wife, Michelle DeSimone, is a Licensed Practical Nurse, or an LPN, and some of the duties of an LPN is to provide basic patient care measuring and recording vital signs, taking patient histories, and assisting with tests and procedures, and, to date, we have not come across any information that suggests that she had any experience in sober living homes, in running sober living homes.

COMMISSIONER BURZICHELLI: You know, when you look at the sober living home situation, from a thousand feet above, you're like, oh, they are giving a nice gift back to these people by since these insurance companies don't pay for it, we're gifting some of the money that we've made into this to provide them with housing, food, transportation, we're helping them get better, but, in fact, we are saying something different, aren't we?

MS. MERCANDETTI: You're 100 percent correct, Commissioner. We have to keep in mind that all of the food, little to no rent, and transportation back and forth, that was a way that they could pull the clients in to get them to choose

Kingsway, because, again, a lot of these clients needed those necessities, and it all circles back to getting as much insurance monies as possible, right? And how do they do that? How does Kingsway get the clients? I mean, there is several ways, but one of the big ways is to have the clients from the sober living homes, and, as you can see, started out with one, and it grew to six, is to get those residents to become clients at Kingsway, and then they can just continue to bill for services. And, as we have seen today, there are, you know, overbilling and billing for services never rendered, and doing such things which that's why they made 15 million within a three-year period. I mean, most businesses, when they first start out, they are not profitable. I mean, this is right out of the gate they are making a lot of money.

MS. GUHL: If I may, it also underscores a knowing decision that the owners made to not take Medicaid patients. There is no money in Medicaid.

COMMISSIONER BURZICHELLI: And there's a lot more oversight in Medicaid, isn't that true also?

MS. GUHL: I believe so.

COMMISSIONER BURZICHELLI: In terms of the quality of care, I think my fellow Commissioner talked about, what type of -- you mentioned there was a psychotherapist there, and independent contractor, but on a day-to-day basis, who's conducting these therapy sessions? Are they licensed clinicians? Are they former rehabilitation --

MS. GUHL: There are -- there are licensed clinicians there.

COMMISSIONER BURZICHELLI: So they are providing some services?

MS. GUHL: And I would imagine that, you know, people -- there is oversight that way, there are people with the requisite clinical training there.

COMMISSIONER BURZICHELLI: Was there much overturning in that staff over there? Were there people leaving?

MS. MERCANDETTI: Yes.

COMMISSIONER BURZICHELLI: Do we have a sense of why they were leaving?

MS. MERCANDETTI: They did not buy in what was happening at Kingsway. They felt -- again, we've heard from several former employees that, you

know, the main motivation was to make money, bill, bill, bill, bill, as much as you possibly can, and it was at the expense of the client's treatment.

COMMISSIONER BURZICHELLI: And were some of those employees former recovery people who are familiar with recovery and what it takes, they were firsthand witness to the type of level of care that they felt was insufficient.

MS. GUHL: Yes. Yes.

CHAIR WILLIAMS BREWER: I'm just curious whether Michelle DeSimone was involved in any provision of clinical services being she was an LPN? Or was she just an owner?

MS. MERCANDETTI: Not from what we have uncovered to date with respect to the investigation. Her main role was Graceway, sober living homes, that was, basically, where she played a part. Of course, it was connected with her husband and Kingsway because they got those residents to become clients.

COMMISSIONER BURZICHELLI: Do we have any sense of what type of environment was going on in the sober living homes, were they truly sober, or was there no oversight going on in those facilities? This may not be your panel, I apologize, you're the

numbers people. I should have asked that two panels ago, maybe, I don't know.

MS. GUHL: We are still -- the component of sober homes is still being investigated.

COMMISSIONER BURZICHELLI: Thank you.

MS. CIALINO: It will be in our final report.

COMMISSIONER BURZICHELLI: Thank you, counsel.

CHAIR WILLIAMS BREWER: Any other questions?

MS. CIALINO: I do have some more questions. But before we go forward with those last few questions for the witnesses here, just before with regards to the banking question that you had asked about when we were talking about structuring and what was being reported, just to clarify and go back, the reason I jumped in there was because we and the agents are bound by certain confidentiality provisions, so I didn't want them to answer something that would violate that confidentiality provision through FinCEN.

CHAIR WILLIAMS BREWER: Okay. And thanks for letting the public know that as well.

And for the public that is also watching, what you are seeing is our public hearing and our investigation is continuing to be ongoing as well, and we conduct these public hearings, but we also have a final report that we issue, as well, and, certainly, the questions today of the Commissioners, any other input that we receive, is something that we certainly take into account. And right up to the very moment of issuing our report, we want to make sure that we are being accurate. And in that context, there are various aspects of confidentiality, both under federal, local, and state law that we do honor in this process even in a public proceeding.

Any other questions for this panel?

MS. CIALINO: Yes, just a few more.

FURTHER EXAMINATION

BY MS. CIALINO:

Q. And Investigator Mercandetti, did the Commission look into the finances of any other outpatient addiction treatment centers in New Jersey?

A. Yes.

Q. And did the Commission find the same type of issues that you just described with Kingsway

with other outpatient treatment centers?

A. Well, not exactly, but the Commission did find another outpatient facility known as the Sanctuary in Cherry Hill that used the insurance proceeds simply for their own gain.

Q. All right. And how did they do that? How did they use them for their own gain?

A. Well, the Sanctuary Treatment Center brought in approximately 6 million within an 18-month period, and they spent it on food, clothing, car payments, personal vacations and entertainment, other home expenses, and ATM cash withdrawals.

Q. Now, what, ultimately, ended up happening to the Sanctuary?

A. Well, the owners drained the treatment center bank accounts of all monies leaving it unable to pay business operating expenses and employees salaries, thereby shutting it down. This left numerous employees, many who were in recovery themselves, along with the patients, with no job or treatment center.

Q. Now, Investigator, based on your review of the finances of Kingsway and the Sanctuary, were there any common findings by the

SCI?

A. Yes, we found that through the insurance proceeds, these outpatient treatment centers can be very profitable. And, as you heard at Kingsway and Sanctuary, profits were the main motivation and were put above the care of the clients. And, unfortunately, the people needing the care the most, were the ones that were exploited by being used as commodities to build the wealth of the owners.

MS. CIALINO: All right. Thank you agents.

Commissioners, any additional questions based on that?

COMMISSIONER BURZICHELLI: No, Counsel.

I would just urge our legal staff to take all appropriate action to make sure that our subpoenas are honored. The SCI has a long tradition of using its statutory powers to execute its statutory authority to investigate areas that legislature has deemed appropriate for us and, in this case, it's very appropriate for us. The Supreme Court of the United States, long ago, acted on the issue involving subpoena and a mobster from

Philadelphia and found it was within the State Commission of Investigation's power to compel witnesses. So I would urge you guys, ladies to do everything appropriate to bring these people before us and answer our questions.

CHAIR WILLIAMS BREWER: I also want to thank the panel that's been here today for your professionalism and clarity in which you are drawing our eye and attention to this issue and, particularly, that it is not just a concern that any business is profitable in New Jersey, but you're pointing out the profitability on the backs of vulnerability of those that should be served.

To my fellow Commissioner's point, Director Lackey, we will technically remain in session for this public hearing so that we can pursue our ability to have the missing witness here, correct?

MR. LACKEY: Absolutely. Chair and Commissioners, you have our, as staff, our commitment to enforce the statutory authority of the SCI. We are proud of who we are, we are proud of the power that we have, and we intend to use every lawful avenue to move forward to bring that witness that failed to appear today before you.

CHAIR WILLIAMS BREWER: Thank you.

Anything else, Counsel?

MS. CIALINO: No. I'd just turn it over to Executive Director Lackey.

MR. LACKEY: Sure. Chair, I think you wanted to, because of the technical difficulties we had earlier, the folks online could not hear Confidential Informant 628, I think it is.

Chair, would you be inclined to have that witness recalled before you, so that the folks online could hear that testimony.

CHAIR WILLIAMS BREWER: Absolutely. I think that was an important piece of testimony today, so those of you live, you've heard it already, but for those that are live streaming, we are going to play it again for you right now.

(At this time, a video of a prerecorded statement of Treatment Center Client is played as follows:

"EXAMINATION BY MS. CIALINO:

Q. How long have you worked in the addiction treatment industry?

A. I have worked in the addiction treatment industry for probably over 15 years.

Q. Now, what type of places have you

worked at within the addiction treatment industry?

A. I've worked in detoxes, I've worked in inpatient programs, I've worked in PHP programs, I've worked in IOPS and outpatients, and also, non-profits. And also, a few treatment centers, also.

Q. Now, in terms of your experience, have you worked in the addiction treatment industry in New Jersey?

A. Yes.

Q. And what types of jobs have you held at these addiction treatment centers?

A. Many jobs. Transportation, clinician, interventionist, director of interventions, director of marketing, owner. I've done just about every job there is to do in the addiction industry.

Q. What about non-profits? You mentioned them, too. What type of jobs have you held at non-profits?

A. I volunteered at many non-profits, as a transport, interventions, fundraising. Multiple titles.

Q. Now, are you familiar with patient brokering or body brokering?

A. Yes.

Q. Have you seen patient brokering occur in the addiction treatment industry?

A. Yes.

Q. In what forms?

A. In many forms.

You have a salary that you're getting and there is a commitment that you will get in three to four patients each month, and that will cover your salary.

Anything above that, you can be paid anywhere from 1,000 to $2,000 per client, as long as -- most treatment centers, as long as they stay for two weeks. You have to make sure that they stay for a little while in order for us to pay for it.

Q. What other forms of patient brokering have you seen in the industry?

A. Let's say I own a detox, or I'm the director of a detox, and I'm a standalone detox, meaning we just detox people and that's it. Now, if someone sends me a patient, or a client, to be detoxed, they want that client coming back to their treatment center. It's very important.

Q. Now, in -- in terms of owing a client back, you know, how does that work?

A. If I'm sending 12, 15 detox patients to a standalone detox, I expect 12 to 15 patients coming back to my treatment center. And if they're not, we're going to have a problem. Okay? I sent you ten this month, you got me back seven. You owe me three patients, three clients. That's what you owe me. Three. And you better get them to me as soon as possible or I'm not sending you any more people. I've been in many of these meetings.

The addict and the alcoholic, you know, becomes a commodity. It's a trade. And a lot of times, whether they're appropriate for that level of care or that treatment center doesn't matter. You're sending them. And there are places that do not do that. But there's more than -- than there are not.

Q. Now, the people we're talking about here getting, you know, traded or brokered, are they typically people with private insurance plans or are they typically no insurance or Medicaid type people?

A. Yeah, no one's swapping for Medicaid clients. It's sad to say, but, you know, in the State of New Jersey, the reimbursement rates for Medicaid and Medicare are well below what you

would
get for a -- specifically an out-of-network policy. Out-of-network pays the most.

Q. Now, when you're talking out-of-network private insurance, how much can a treatment center bring in from those treatment centers per patient?

A. The numbers vary with each different insurance company. Could be $800 a day, could be $1,800 a day.

Q. And when we're talking, you know, those -- those numbers, 800, $1,800 a day, approximately, obviously, how many days typically can these treatment centers bill the insurance for at that rate?

Well, let's say on average you got -- let's just say 20. Okay. And you're getting 800 a day.

Do you have a calculator? That's a lot. That's a lot of money per month.

Q. Going back to patient brokering, in terms of non-profits, have you seen patient brokering occurring in a -- in relation to non-profits?

A. Yes. There are certain

non-profits in many states, including New Jersey, who the people that volunteer at those non-profits don't get paid anything.

But there's also non-profits in other states and in the State of New Jersey where people who work there are paid salaries and have benefits.

So these non-profits need -- need to generate donations.

Certain non-profits will accept donations from treatment centers. I approached this nonprofit, You've been sending us a lot of clients, we're very grateful, we're going to make a donation of $10,000 a month to you. Keep the clients coming. Or maybe you'll let us open up a little outpatient program in your building. Keep the clients coming.

Q. Now, are any of these agreements, you know, in your experience, we're talking, hey, there's -- you know, we'll give you a donation, keep the referrals coming, is that ever put in writing?

A. No.

Q. How is it conveyed?

A. Verbal.

Q. And based on what you've seen, if the referrals stop, do the donations stop?

A. They can. They definitely can.

I've been in many meetings, You only sent me five clients this month; we're giving you $10,000 a month to help you keep this place open; we're one of the reasons why you're doing well; we need more clients.

And then behind closed doors, it's like, We got to get these people some -- we've got to get them some addicts, we've got to get -- got to get them some referrals. Okay. We can't lose this $10,000 a month. This is really important, we need to keep this place open.

Q. Now, how can patient brokering affect a person who's trying to get clean and sober?

A. I think it -- it has -- in the -- the whole system of getting a client to a treatment center using marketers or outreach specialists or community liaison, whatever bullshit name they give it, your job is to get clients. As many as you can. And not only can it harm the client, because the client can be sent somewhere that they shouldn't go. We have a client with an under -- underlying psychiatric issue that was diagnosed at a young age going to an addiction treatment center that doesn't belong there. Let them figure it out. I've been in that -- those --

This is the only industry where you

can go from, mop floors, nothing wrong with that, now I'm --one year later, I'm the director of marketing of a treatment center that -- that has a hundred patients, and I've only been working here for -- for a year. I've only worked in the industry for a year, now I'm making $150,000 a year and I haven't directed shit. Ever.

And these people are not licensed. They have no clinical training whatsoever. They have no ethical training whatsoever. They're only as good as the person who's training them, and that person is most likely, 90 percent of the time, the guy who went from janitor to chief marketing officer in a freaking year. Like, what?

You know, get them in, let's figure it out, if we need to -- need to send them somewhere else, we will. That's the philosophy of those places.

Q. And those, again, are people with private insurance plans, correct?

A. Yes. Yes. No one is fighting over Medicare -- Medicaid clients, sorry to say.

Q. Now, what about when we're talking about, you know, non-profits making referrals specifically, or recovery coaches making

referrals, people who aren't affiliated with a specific treatment center, are they qualified to make referrals?

A. I don't believe so.

Q. Why not?

A. Just because I -- you know, I don't think those people should be referring anyone anywhere. I think what they should be doing is getting the information and passing it along to the appropriate clinician, not calling a treatment center and saying, Hey, I got somebody for you, 'cause the treatment center, first thing they think is cha-ching.

Q. And then, you know, based on your experience, if -- if that person does have these psychiatric issues that maybe the treatment center isn't -- isn't set up to treat, yet that patient has a good private insurance policy?

A. If someone has a primary psychiatric issue, most of the treatment centers that I worked at, they would say we can -- we can treat this.

Q. And could they?

A. No. You need to refer that -- that person out to a place that -- that is

psychiatric primary. That's what they do. And the addiction being secondary.

Q. Or is that what they do or is that what should be done?

A. I'm sure there's places that do it, but I've never seen any. But that's what should be done.")

MS. CIALINO: All right. Now, at this time, I'd like to move the presentation slide show marked AR-85 into evidence, and turn this back over to Director Lackey.

MR. LACKEY: Chair, did you have some comments to close?

CHAIR WILLIAMS BREWER: I'll close after you. Thanks.

MR. LACKEY: I just wanted to say thank you. Thank you to the Chair and Commission and counsel.

Public hearings and displaying our evidence in public is never easy, but this staff worked diligently to be able to put this together for the public and for you Commissioners, so on behalf of myself and senior leadership of the organization, we just want to say thanks. Great job. Thank you so much for your hard work.

To the public, what I would say is, we are not done here. Our investigation continues. We have more things to do. And, in particular, we are statutorily required to write a public report, which we will, and we've talked about some of the things that we will include.

So, as we come to a close, I just wanted to give a special thanks to Counsel Cialino, and her team, for their hard work and diligence, and thanks so much for making this organization look great today. We appreciate it.

MS. CIALINO: Thank you.

MR. LACKEY: Chair?

CHAIR WILLIAMS BREWER: Thank you.

And on behalf of the Commissioners that are here, we also wanted to thank all of you that came out today, those that are streaming with us live. Thank you for paying attention to this important matter. And most important for us, as well, we want to reiterate Director Lackey's appreciation of our staff, and I'll start with our executive director, Chadd Lackey, thank you for your leadership. Thank you for upholding the banner of excellence that SCI has been known for for 50 years. I also want to thank our Chief Counsel Galietta,

thank you very much. Counsel Cialino, we want to thank you, as well, for leading everything today and for your team and the important work that you have been doing in order to bring this issue to the light that it deserves in the State of New Jersey. So thank you for your impact and your leadership on behalf of my two Commissioners and myself.

We do receive all of those exhibits into evidence. We are adjourned for now. We will continue this matter to hear from the witness that we have subpoenaed in the future.

Thank you all. And as a point of personal privilege it's my first hearing I presided over since I've been appointed chair earlier this year, and thank you all for making it a very seamless process. To our witnesses, as well, thank you.

We are adjourned.

(At which time, the proceeding concluded at 1:10 p.m.)

C E R T I F I C A T E

I, Tracey L. Pinsky, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness and/or witnesses were sworn by me to testify to the truth and nothing but the truth.

I do further certify that the foregoing is a true and accurate computer-aided transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I do further certify that I am neither of counsel nor attorney for any party in this action and that I am not interested in the event nor outcome of this litigation.

Certified Court Reporter
XI00219700
Notary Public of New Jersey
My commission expires 12-9-26

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