



State of New Jersey
Commission of Investigation

THE DIRTY
BUSINESS BEHIND
GETTING CLEAN

**Fraud, Ethical Misconduct and
Corruption in the Addiction
Rehabilitation Industry**

February 2024

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February 2024

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The President and Members of the Senate

The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M-1 to -20, herewith submits its final report of findings and recommendations stemming from an investigation into abuses and corrupt practices in the addiction rehabilitation industry in New Jersey.¹

Respectfully,

Tiffany Williams Brewer

Chair

Robert J. Burzichelli

Commissioner

Kevin R. Reina

Commissioner

¹ Commissioner John P. Lacey was formally recused from this matter and did not participate in any aspect of the inquiry.

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Executive Summary

It is no secret that substance abuse and addiction are rampant in our state and nation. More than 43 million people annually in the United States need treatment for their dependence on illicit drugs or alcohol, and the commerce borne out of helping the addicted achieve sobriety is a multi-billion dollar industry.²

Over the past several years, the State of New Jersey has spent unprecedented amounts of government funds – with far more earmarked in future years – to battle addiction and the ongoing opioid epidemic through a wide range of much-needed programs, including expanding access to prevention, treatment and recovery services.³ Such programs offer nothing less than lifelines to those grappling with crippling addictions to painkillers and other substances.

Undoubtedly, countless New Jersey residents and their families have benefitted from these government-funded services, and some efforts, such as the broader availability of overdose reversal medications, are credited with lessening drug-related deaths.⁴ Yet the State Commission of Investigation (SCI or the Commission) found in its most recent inquiry that State lawmakers and policymakers have the opportunity to do more to protect individuals seeking treatment from being victimized through the very system that is supposed to help them recover, and to ensure the addiction rehabilitation industry at-large in New Jersey operates with integrity.

² Data from the 2019 and 2021 National Survey of Drug Use and Health by the Substance Abuse and Mental Health Services Administration (SAMHSA).

³ New Jersey will receive \$1 billion over the next 18 years as part of national legal settlements with pharmaceutical companies and consulting companies for their role in the opioid crisis. *New Jersey State Annual Opioid Abatement Report 2023*.

⁴ More than 2,360 New Jersey residents died from suspected illicit drug use in 2023, down from the 2,892 who died from drug-related deaths in the prior year. Source: New Jersey Office of the Chief Medical Examiner.

The Commission's in-depth investigation into the recovery industry revealed unchecked abuses by so-called professionals, owners and operators of addiction-related businesses who routinely engaged in corrupt practices that were more about making profits and promoting their own interests and less about getting their clients clean and sober. Fraud, unethical conduct and wrongdoing were found in businesses at every stage of the recovery process, sometimes starting as early as an overdose victim's first encounter with an addiction professional at their hospital bedside or during an online search for treatment.

Some of the misconduct was aided by the fact that specific laws and the government's regulation of some elements of the treatment industry in New Jersey have not kept pace with its evolution, leaving it unable to respond adequately to the oversight necessary for the businesses and employees now operating in it. Among the Commission's key findings:

- Patient brokering has evolved in new and unseen ways not adequately addressed by New Jersey's patient brokering law.
- Questionable financial conduct – including fraudulent billing, tax evasion and other wrongdoing – by treatment center owners who then took their ill-gotten gains or used accounts assigned to the business to fund their lavish lifestyles.
- Financial arrangements between the owners of sober homes and substance abuse disorder centers that enabled both entities to profit by ensuring residents continue to receive services at specific treatment facilities.
- Corruption and abuse of government programs that help individuals get access to treatment or finance rent at sober living homes.

- Deceptive marketing tactics used by the addiction rehabilitation industry to lure in customers persist because New Jersey has not banned the practice like other states.

The Commission's findings are especially pertinent given that Governor Phil Murphy's administration has designated all funds the State of New Jersey receives through 2038 from national legal settlements with pharmaceutical companies and consulting companies for their role in the opioid crisis will go toward efforts to combat the opioid epidemic.⁵ As part of that initiative, the State created an oversight apparatus intended to ensure effective allocation, prioritization and protection of those monies. Still, the Commission's findings underscore the need for New Jersey to double down on its regulation of government expenditures for addiction-related services and programs as well as the private entities or individuals providing such services.

To build on actions already taken by State government in safeguarding funds earmarked for addiction-related services, the Commission recommends greater scrutiny of the businesses and individuals working in the addiction industry, particularly the facilities that provide treatment and house sober living patients, and expanding and strengthening New Jersey's patient brokering law. Further, New Jersey should adopt consumer protections to guard against deceptive marketing tactics used by corrupt operators to lure clients. A detailed look at the Commission's proposals for reform, including recommendations to establish greater integrity, reliability, and

⁵ Governor Phil Murphy issued Executive Order No. 305 on August 31, 2022, to establish an Opioid Recovery and Remediation Advisory Council to help prioritize and effectively use the settlement funds.

accountability within the industry while prioritizing patient care, can be found at the end of this report.

The SCI's Investigation

The Commission is empowered through N.J.S.A. 52:9M-1 to -20 to conduct investigations in connection with the faithful execution and effective enforcement of laws in New Jersey, with particular reference to, but not limited to, organized crime and racketeering; the conduct of public officers and employees, and of officers and employees of public corporations and authorities; and any matter concerning the public peace, public safety and public justice.

The SCI undertook this inquiry after receiving confidential information that the addiction rehabilitation industry in New Jersey was vulnerable to subversion and manipulation by unscrupulous elements and was susceptible to questionable business practices that cause harm to State residents.

This report culminates a lengthy and far-ranging inquiry with initial findings that were first presented during an October 11, 2022 public hearing and a subsequent hearing on December 21, 2022.

To conduct the sweeping investigation, Commission investigators issued scores of subpoenas, analyzed banking records and conducted more than 150 interviews – obtaining sworn testimony from 40 of those subjects – with recovery industry professionals, the owners of entities engaged in suspect or unlawful behavior, state and county officials, hospital administrators and addiction advocates. Additionally, the SCI interviewed those with firsthand experience with these businesses: the patients and clients who sought help in overcoming their addictions.

The Evolution of Patient Brokering

Patient brokering has been illegal under federal law since 2018. Three years later, Governor Murphy signed a bill into law in New Jersey making it a fourth-degree crime “if a person makes or receives a payment or otherwise furnishes or receives any fee, commission, or rebate” in connection with the referral of a patient to an addiction treatment facility.⁶ Despite these legal prohibitions on patient brokering, the SCI found numerous examples of conduct that appeared to be consistent with the practice. In some cases, the questionable conduct uncovered by the Commission was carried out by entities that are not currently subject to the state’s patient brokering statute.

New Jersey’s patient brokering law is relatively narrow, addressing only misconduct by individuals, not those committed by entities or corporations. It also primarily targets the more traditional forms of brokering where a payment is provided to an individual in connection with a patient referral to a state-licensed substance use disorder treatment facility. In some cases, it was unclear whether the statute is broad enough to apply to some of the brokering-like conduct uncovered by the Commission, which has evolved and grown more sophisticated than the outdated practice of rewarding body brokers for patient referrals with cash-stuffed envelopes.

Some instances of potential patient brokering schemes were executed by so-called “peer recovery coaches,” who are often the first addiction-related personnel patients encounter in the journey to sobriety. Some of these coaches held out-of-state or privately issued certifications as “Certified Peer Recovery Specialists” – an unlicensed vocation in the State of New Jersey – that

⁶ N.J.S.A. 2C:40A-6

conduct interventions, visit hospitals' bedsides after overdoses, and in some communities, work with local police departments or other law enforcement agencies to help get patients into treatment. With limited state involvement concerning the activities of peer recovery professionals, there are minimal guidelines for their background, training and conduct. For instance, there is no requirement for the coaches, who are often in recovery themselves, to possess clinical backgrounds. Nonetheless, the Commission discovered they often make medical decisions for clients by recommending specific treatment services.

Under the best circumstances, peer coaches can provide meaningful support and guidance to individuals and their families in navigating the rehabilitative process. However, the Commission found some coaches exploited their clients' trust by sending them to treatment centers that paid for their referrals. Even worse, this corrupt trade occurs at a time when clients are at their most vulnerable, and with little to no concern whether the treatment course is appropriate for them but only for how the arrangement could enrich the broker.

In a twist on classic brokering schemes, the SCI also discovered a nonprofit organization in Mercer County, which assists clients in finding recovery-related services, had received donations seemingly designed to circumvent brokering laws.

Peer Recovery Coaches Engaged in Patient Brokering Schemes

If there was such a thing as a rising star within the addiction rehabilitation industry in New Jersey, John Brogan was it. He also set the gold standard for how to work the system to his advantage.

A former heroin addict turned self-proclaimed addiction recovery specialist, Brogan was a frequent speaker and panelist at addiction support events throughout the state, sitting

alongside respected experts in the field, judges and politicians. Former Governor Chris Christie publicly lauded him for his work helping victims struggling with addiction to get clean. Online photos showed Brogan meeting with members of Congress and posing with top state law enforcement leaders at various venues, including the White House.

The Commission found Brogan exploited his high-profile relationships to gain access to clients and advance his own financial interests, defrauding the criminal justice system along the way and creating a model used by other peer recovery coaches in New Jersey to engage in brokering-like conduct as recently as 2022.

Opioid abuse was spiking in New Jersey and nationwide around 2016 when Brogan's Recovery Solutions d/b/a Lifeline Recovery Services opened in Toms River. Although Brogan sometimes assisted individuals with Medicaid and the uninsured, by trying to find a Medicaid facility or getting them a "scholarship" that paid their way, there was no profit in those clients. The real payoff was those who had private health insurance. Those clients were the ones Brogan would send to treatment centers that – unbeknownst to the client – were also paying him simultaneously.

The SCI found that while Brogan charged Lifeline clients on a sliding scale of anywhere from \$250 to \$30,000 to help them navigate the recovery process and enter treatment, he also received payments from some facilities for the patient referrals. Brogan was paid nearly \$600,000 between 2017 and 2018 by more than 20 treatment centers, according to a review of financial records subpoenaed by the Commission. He worked in numerous positions, both as a consultant and in salaried positions, usually with the words "marketing" or "outreach" in the job titles, at mostly out-of-state addiction treatment centers. One offer letter from a California-based center

for a job that Brogan told the Commission he turned down stated, “Our expectation and position is to produce three client sales per month.”

When Brogan testified before the Commission on May 30, 2019, he explained that most treatment centers were not as explicit in their written job offers about their expectations for patient referrals. Still, he said the practice was well entrenched in the industry:

...I don't think a client should ever be sent there for a form of payment. However, as I've gone through this process, the entire industry is built on that, from the hospital to the treatment center to the grant funded organizations. It's all based on that client coming through the door.

Brogan also worked closely with various law enforcement agencies, launching the Next Step Program with the Monmouth County Sheriff’s Office to connect inmates battling addiction with recovery coaches. The Next Step program was modeled after the Blue HART (Heroin Addiction Response Team) program Brogan helped create in 2017 with the Belmar Police Department and replicated with the prosecutors’ offices in Ocean and Monmouth counties, enabling inmates charged with certain nonviolent crimes to get treatment. Even though the Sheriff’s Office already had a program helping place Monmouth County Correctional Institute inmates into treatment, Brogan allegedly claimed he could obtain services for them more quickly and without the need to wait for beds to become available. Yet, few details were made public about how the program worked. The Sheriff’s Office did not have a contract to pay Brogan or Lifeline, had no policies or procedures to oversee the arrangement and kept no statistics on the program that effectively set up a client pipeline from the jail to a private treatment facility.

The Commission uncovered evidence suggesting the Sheriff’s Office was unaware of the entities and individuals involved with Brogan and the Next Step Program. A Westchester, Pennsylvania outpatient treatment center was funding the salaries of Brogan’s recovery coaches

who were entering the jail. The treatment center, which has since closed its doors, was owned in part by a Florida resident with a prior conviction for mail and wire fraud. This individual attended meetings with Brogan and the Sheriff's Office, yet personnel with the Sheriff's Office were unclear as to his role and unaware of his criminal history. The Pennsylvania treatment center's owners paid Brogan \$266,000 over six months, according to financial records reviewed by the SCI. In return, Brogan was to send inmates with private insurance policies from the jail to the out-of-state treatment center. Six months after receiving only one client because most of the inmates had Medicaid insurance, the treatment center ended its agreement with Brogan.

Around the same time, allegations that Brogan had engaged in potentially illegal activity in the management of clients first surfaced as part of a wrongful termination lawsuit filed in August 2018 by the then-third in command in the Ocean County Prosecutor's Office. According to legal filings, Brogan had extorted clients, encouraged one young woman to use drugs to gain admittance to treatment and had sent others on probation to out-of-state facilities in violation of court orders. The former executive assistant prosecutor claimed in the lawsuit that he was fired after exposing Brogan's wrongdoing. The legal claims about Brogan's actions taken on behalf of clients, later resolved in a settlement agreement, mirrored investigative findings subsequently made by the SCI.⁷

Several individuals who had worked for Brogan told the Commission in sworn testimony there were other clients he had misled about the probation rules. The witnesses testified he never informed the court after arranging for the clients' attendance at treatment centers outside

⁷ In December 2022, Ocean County agreed to pay the former executive assistant prosecutor more than \$1 million to settle the whistleblower suit. The settlement agreement did not include any admission of wrongdoing regarding the termination or whether there was any merit to the allegations raised about Brogan.

of the state – violating the terms of their probation – even after reassuring them he would do so. Some clients did not learn there was a warrant for their arrest for violating probation until they returned home to New Jersey. Former employees also told the Commission that Brogan gave preferential treatment to clients with familial connections to law enforcement officials or personal relationships with him. Sometimes, legal protocols for matters related to those clients in the county jails and courts, they testified, were manipulated, bypassed or ignored.

One such client was the son of a financial professional with a longtime business relationship with Brogan. In August 2018, the client was accepted into the Next Step Program, given a nine-point treatment/recovery plan overseen by Lifeline, and submitted to prosecutors and the court. Weeks into the program, the client, who had struggled to maintain sobriety and adhere to particular elements of his plan, posted a video online of himself drinking vodka. According to multiple witnesses who provided testimony to the Commission, the client failed to follow numerous parts of the treatment sobriety plan. Not only did the client never attend the outpatient treatment program, but he rarely showed up at Lifeline for family therapy sessions. There was also no indication that the client ever underwent any court-mandated urine tests to check for drug or alcohol use. Despite all this, in October 2018, Lifeline sent a letter to the courts advising the client was sober and had complied with the terms of his probation, with no mention of any problems. The former client was subsequently hired as a recovery coach at Lifeline.

Not long afterward, it would all come to a tragic end for Brogan. Despite his years of sobriety and his highly publicized commitment to getting victims off drugs, Brogan would later succumb to his own addiction. On July 29, 2020, Brogan was found dead of a drug overdose at a Philadelphia hotel. He was 42.

* * *

The SCI found a similar questionable arrangement between a law enforcement agency and a nonprofit organization providing recovery coach services in their jurisdictions, occurring as recently as 2022. In this particular situation, a Central Jersey law enforcement agency had contacted a nonprofit entity and requested the organization to provide recovery coach services under a public grant. No contracts or agreements were executed between the parties, nor did the law enforcement authorities know where clients were referred to for treatment. As in Monmouth County, SCI investigators found evidence revealing client referrals to treatment centers that were also paying the coaches' outside salaries.

* * *

Alton Robinson started volunteering at the nonprofit organization Morris County Prevention is Key in 2015, soon after his acceptance into drug court, the county-based program that diverts defendants charged with non-violent drug-related offenses from jail cells to opportunities for treatment and employment while under intensive court supervision.

Working his way up through the organization on a project known as the Center for Addiction Recovery and Success, Robinson underwent training to become a certified peer recovery specialist through a nonprofit entity based in Hartford, Connecticut. Lacking state certification or licensure for peer recovery professionals, some publicly-funded programs, including the Morris County organization, request employees obtain credentials from such outside entities. Currently, the Addiction Professionals Certification Board of New Jersey, a nonprofit entity in Highland Park, certifies peer recovery coaches. To receive certification, applicants must complete 500 hours working in the field, including 25 hours under direct

supervision, and undergo ethics training. The State of New Jersey has no meaningful role in overseeing their activities.

At the nonprofit, Robinson helped people to obtain social services and find addiction rehabilitation treatment. He worked directly with treatment facilities seeking clients, including the owner of Avenues Treatment Center in Bucks County, Pennsylvania, who he said approached him about a job as an “outreach coordinator.” For about eight months between 2017 and 2018, bank records showed Robinson worked for both Morris County Prevention is Key and at the Avenues. He told the Commission he was a “marketing guru” tasked with getting the facility’s name known in every corner of New Jersey. He claimed to have initially questioned Avenue’s then-practice of authorizing \$500 incentive payments to staff for patient referrals. However, Robinson was reassured by the facility’s owner that it was all legitimate.⁸ “And I said, ‘but is that legal? Is that legal?’ Well, if you’re an employee of the company, then you can give incentives they called it. And I’m like, well, I don’t know about that. So I did ask around, and when you really ask around, almost every treatment facility did the same thing.’ ” Robinson estimated receiving about eight incentive payments from Avenues before the facility ended the practice soon after the enactment of the federal patient brokering law in 2018.

Robinson later lost his job at the nonprofit in 2018 after his supervisors responded to a drumbeat of allegations that he was directing clients to the Avenues and getting paid for the referrals. Financial records obtained by the Commission revealed that in 2017, Robinson received

⁸ An employment contract reviewed by the SCI indicated that effective Nov. 1, 2017, Robinson was to be paid a \$60,000 salary as Director of Family and Government Relations at Avenues. The contract also entitled him to incentive payments of \$300 for additional referrals for patients who remained in treatment a minimum of five days.

\$9,615 from Grandison Management, a company affiliated with Avenues, while also working at the nonprofit. Robinson claimed he soon left Avenues after a disagreement with the management over a business decision.

Nonprofit Organizations Involved in Patient Brokering Schemes

You Can't Beat Addiction Alone.

Are You Ready to Take the First Step?

Those lines greet visitors to the Recovery Advocates for America (RAA) website. The Mercer County-based nonprofit promises to offer clients guidance and support throughout the entirety of their recovery process. The organization provides a host of recovery-related services – including treatment placement, transportation, scholarships for housing, medication co-pays and peer recovery support – all available to clients free of charge. Donations from various sources fund RAA and make all these services possible, according to its web page.

Like many other nonprofit organizations, part of RAA's annual income is paid by charitable contributions from private citizens and local businesses, monies raised through fundraising events and grants. Yet its most significant funding source for several years – comprising more than half of its total revenue – was from private treatment centers, with most located out of state. Over 35 treatment centers donated more than \$600,000 to RAA between 2017 and 2020, according to the SCI's review of RAA's financial records.

The largest contributor was Banyan Treatment Center and its associated companies. Banyan and its affiliates, located in Florida and several other states, contributed over \$300,000 from 2017 through 2020. The second greatest contributor was Recreate Behavioral Health

Network and its subsidiaries, with facilities in Florida and New Jersey, which gave donations of more than \$175,000 over that same time.

The SCI's analysis revealed that while some of the funding came from direct donations, RAA received nearly a third of the funds through a \$100,000 "sponsorship agreement" it entered into with the treatment center from June 2019 to May 2020. A copy of the document obtained by the SCI, stated the agreement will "allow our organization to continue to be instrumental in our community, providing all people suffering from the disease of addiction a safe haven to get treatment options and support through all stages of their recovery." In return for paying four quarterly installments of \$25,000, RAA agreed to promote Banyan's services on its website and in promotional materials distributed at school and community events. It also would make RAA staff available for interventions, client transports and networking on behalf of Banyan.

While the financial arrangement was purportedly to help fund its operations, SCI investigators found the payments were made to ensure RAA would continue referring clients with private insurance to its treatment centers. While taking sworn testimony from RAA's former Executive Director Michael Ziccardi, SCI counsel asked about a reference made in an internal RAA document in which a staff member wrote she wanted to make sure the organization received credit for referring a client to a particular treatment facility.

Q: Would it matter if Recovery Advocates gets the credit?

A: It really doesn't, really doesn't. I mean, it may help when we go ask for our fundraisers when we ask for sponsorship.

Q: Okay. Why would it help there?

A: We support them and, hopefully, support us back.

The SCI's investigation also revealed RAA engaged in questionable conduct that appeared to facilitate patient brokering on behalf of particular treatment facilities. An SCI analysis of RAA's

financial records revealed that even though most of its revenue funded employee salaries and benefits, it also spent a significant portion of its funds to purchase airline tickets to transport individuals with private insurance to out-of-state treatment centers. From May 2018 until February 2020, RAA spent nearly \$107,000 on more than 400 plane tickets, flying individuals to treatment centers in Florida and other states far away from New Jersey, including Alabama, Washington and Hawaii. Of the 180 individuals whose airfare was covered by the nonprofit, only 10 were RAA clients.

The financial arrangements between RAA and the treatment centers seemed designed to circumvent the federal patient brokering law which prohibits rehabilitation facilities from offering enticements, such as airline tickets, to encourage a person to enter treatment. Under the Eliminating Kickbacks Recovery Act (EKRA), it is a criminal offense to pay or receive anything of value in exchange for the referral of patients to recovery homes, clinical treatment facilities or laboratories for services covered by a health care benefit program. In these mutually beneficial arrangements, the nonprofit received funds in addition to those used to pay for the plane tickets to the treatment centers for patients with private insurance. The additional funds were used primarily to pay for RAA employees' salaries.

* * *

The most expansive program in New Jersey pairing peer coaches with individuals wrestling with substance abuse is operated by the RWJBarnabas Health system. Located in 20 hospitals across seven counties, the Institute for Prevention and Recovery's Peer Recovery Program employs approximately 75 hospital-based peer recovery specialists who are available around the clock to offer recovery support services at the bedside of patients reversed from an

opioid overdose. Along with peer recovery specialists and patient navigators, the program employs case managers who assist patients in finding community services and managing their recovery. Patients who accept help receive eight weeks of follow-up care, including regular contact with the program's staff. For the first quarter of 2022, RWJBarnabas Health's recovery specialists received referrals from 3,823 patient encounters.⁹ Its staff also conducted more than 4,000 follow-up calls with post-consultation patients.

Eric McIntire was a certified peer recovery specialist at RWJBarnabas when the program was known as the Opioid Overdose Recovery Program (OORP) and worked his way up through the management ranks. He is now the Assistant Director of Recovery Services, managing supervisors who oversee recovery coaches and program managers. The SCI found that for several years, McIntire held outside employment that appeared to be in direct conflict with his Institute duties. At the same time McIntire was supervising Institute employees who advise patients on where they should go for treatment, the Commission found he was also employed by some of the treatment facilities – sometimes more than one at a time – where those patients were sent for rehabilitation. From 2016 to 2022, the Commission found McIntire made earnings of close to \$400,000 on top of what he made from his job with the hospital system.

Despite the potential overlap of patients between his day job and his work at facilities where the Institute was regularly sending patients, McIntire failed to inform his supervisors at RWJBarnabas about his outside employment. In sworn testimony before the Commission, McIntire said because he did not deal directly with hospital patients in his Institute position, he did not see a conflict between his duties at the Institute and the private treatment centers. The

⁹ Institute for Prevention and Recovery, Peer Recovery Program 2022 Yearly Report

SCI found that as recently as 2022, McIntire was employed by Enlightened Solutions, a treatment center group in Atlantic County that accepts private health insurance. The Commission's investigation revealed that Enlightened Solutions received nearly 80 patient referrals from the Institute between 2019 until the middle of 2022.¹⁰ McIntire was previously employed by several other treatment facilities, including the Discovery Institute and Gen Psych. All of those facilities received patient referrals from the Institute where McIntire works.

Although McIntire saw no conflict of interest between his day job at the Institute and his employment with various treatment facilities, his supervisors at the hospital system apparently saw things differently. Months after McIntire's appearance before the Commission in February 2022, the Institute adopted a new policy for its workers regarding outside employment. The new policy, which went into effect in December 2022, mandates that work-related activities conducted away from the Institute do not compete with, conflict with or compromise the company's interest or adversely affect an employee's work at the Institute. Before accepting any paid or unpaid outside employment, Institute employees must inform their supervisors, through a form describing the proposed job's duties, whether it would interface with the Institute and if the employer has existing contracts with the Institute or other RWJBarnabas Health entities. Further, the Institute reserves the right to ask the employee to end outside employment if a conflict was found later, or if it negatively impacted the Institute. Refusal to terminate the outside employment may result in the worker losing their Institute job. The Commission's review of state

¹⁰ Employment records showed McIntire worked at Enlightened Solutions in 2021 and 2022.

employment records indicated McIntire’s tenure at Enlightened Solutions ended after the last quarter of 2022, around the same time the new conflict of interest policy was enacted.

* * *

McIntire was not the only example of a recovery industry professional in New Jersey holding outside employment that presented a potential conflict of interest with their main job duties. SCl investigators found the majority of coaches working at Mercer Council on Alcoholism and Drug Addiction under the Opioid Overdose Recovery Program grant in Mercer County worked for either a treatment center or for RAA, a nonprofit largely funded by the treatment facilities. Some of the referrals made through the OORP grant in Mercer went to the treatment centers employing the coaches or those that had donated to RAA. No specific evidence of brokering was uncovered; however, the employment of recovery coaches at treatment centers and entities funded by treatment centers has the potential for abuse. At the very least, these employment arrangements should be disclosed under an organization’s conflicts of interest policy and monitored by the entity. Further, it should also be disclosed under any application seeking public funding for providing addiction-related services.

Fraudulent Conduct and Lavish Spending by Addiction Treatment Center Owners

In New Jersey, the State Department of Health (DOH), Certificate of Need and Licensing Behavioral Unit oversees the licensing of “substance use disorder treatment facilities.”¹¹ An applicant seeking a license to operate a treatment center must disclose ownership of any other

¹¹ A new facility licensing fee costs \$1,750, a license renewal fee is \$750 and the biannual inspection fee is \$300.

health care facility, including whether an application was denied, or if a license was revoked in New Jersey or any other state. No facility may be owned, managed or operated by a person convicted of a crime related adversely, either directly or indirectly, to those responsibilities. Although applicants are also supposed to disclose a prior criminal history, the Commission discovered the DOH does not verify the information. Further, applicants are not required to submit any documents concerning their personal finances or those related to the proposed business.

The DOH's review is more comprehensive regarding the medical operation of the facility, mandating counseling and critical medical staff meet explicit professional and educational standards, as well as possessing specific work experience. State regulations outline the responsibilities of the facility to fulfill assessment, diagnostic and treatment services. Violations of licensure requirements related to patient care or physical plant standards that put clients at risk can result in the reduction of licensure status, curtailment of admissions or court action to close the facility.

The SCI's inquiry primarily focused on outpatient addiction treatment centers that only accepted private insurance and self-pay patients because these facilities tended to be where patient brokering typically occurred. In the following examples, the SCI uncovered other illicit conduct occurring at certain treatment centers that raised questions about the owners' commitment to amassing profits instead of protecting the quality of care provided to patients.

Kingsway Recovery Center

Free transportation, housing and food as long as the patient's private insurance payments kept flowing. Double billing insurance firms for duplicate services or those never provided. Illicit proceeds funneled through personal accounts to pay for other businesses, properties and cars.

The Commission first detailed the prevalent misconduct occurring at the Kingsway Recovery Center in Mullica Hill and Graceway Sober Living, which operated multiple sober homes in nearby Glassboro, during an October 11, 2022, public hearing. At that time, SCI investigators revealed that owner Nicholas DeSimone made approximately \$15 million in revenue between 2019 and 2021, in part through numerous billing irregularities, questionable treatment services, and suspicious banking activity through Kingsway and Graceway, owned by his wife, Michelle.

The SCI found the DeSimones used Kingsway to subsidize Graceway, which collected little to no rent. The scheme to prop up the sober home worked as long as Graceway residents continued to attend treatment at Kingsway and their private insurance policies continued to pay for it. To get residents at Graceway to choose Kingsway for ongoing outpatient treatment, they offered enticements, such as free or discounted rent, hot meals and transportation. Investigators traced more than \$1.5 million in funds – some of which was obtained fraudulently – that were funneled first from the Kingsway account and then to their personal accounts before being transferred to the sober home's bank account.

SCI investigators testified that questionable billing practices – notably double billing – occurred virtually every day based on their review of Kingsway's financial records. In addition to the deceptive billing, SCI investigators also found evidence of actions that appeared specifically designed to avoid the scrutiny of banking regulators. Among the most prevalent pattern was the

arrangement of financial transactions consistent with a practice known as structuring, where larger cash deposits are broken into smaller increments over several days to avoid triggering federal banking reporting requirements for amounts over \$10,000. Structuring is often a red flag for money laundering, tax evasion and other nefarious financial activity. The Commission identified 85 questionable transactions – each for \$9,000 – that appeared consistent with the practice that were transferred from Kingsway’s account into DeSimone’s personal accounts.¹² Those transactions totaled \$765,000.

To obtain answers from DeSimone regarding his questionable financial and business practices uncovered by the SCI’s investigation, the businessman was subpoenaed to provide sworn testimony before the Commission at its October 11, 2022 public hearing. However, DeSimone failed to appear. In response, the Commission filed a motion of contempt with the court to compel his testimony.¹³ The SCI reconvened its public hearing on December 21, 2022 to receive testimony from DeSimone.

During the second public hearing, DeSimone claimed Kingsway and Graceway operated separately and that he had little involvement in his wife’s business. According to his testimony, DeSimone did not review the billings and no longer deposited checks received from insurance companies since hiring a controller at Kingsway in 2021. Questioned under oath about money transfers from the Kingsway account to his personal account that were listed as business loan transfers, DeSimone claimed they were clicking errors he made in the accounting software

¹² Unlike cash deposits, fund transfers are typically not subject to the federal cash transactions reporting requirement. Based on the arrangement and amount of the transfers, it appeared that DeSimone believed they were subject to the reporting requirement.

¹³ DeSimone agreed to appear after the Motion for Contempt was filed, and in return, the Commission withdrew its motion after DeSimone’s testimony.

program used for the business. Again, the Commission found that these were not occasional mistakes but appeared to be intentional, frequently repeated acts. By disguising transfers as loan repayments, DeSimone was not required to pay income tax on the funds. The following is an excerpt from the public hearing testimony when SCI counsel pressed DeSimone further on the matter.

Q: And, I mean, the number of transfers that you did that way, do you have any idea or any sense of how many you did?

A: No, no.

Q. Did -- would it surprise you if it was over 50?

A. Was it?

Following the public hearing, SCI referred its findings concerning potential criminality by DeSimone to appropriate federal and State prosecutorial and administrative authorities. In October 2023, Michelle DeSimone filed paperwork with the state Department of Community Affairs, which oversees sober homes, informing regulators that Graceway was no longer operating any sober living residences in New Jersey.

Sanctuary Recovery Center

In its brief 18 months of operation before shuttering its doors for good around February 2019, leaving clients and employees in the lurch, the Sanctuary Recovery Center, an addiction treatment center in Cherry Hill, brought in nearly \$6 million in insurance payments.

But the steady stream of revenue from clients, as well as a succession of private loans, were not enough to keep up with the spending habits of its owners, Gina Imburgio – the licensed owner on paper – and her husband Steve, the de facto owner, who drained the company's accounts to support their extravagant lifestyle. The couple spent more than \$237,000 from June 2017 to June 2018 alone on luxury vacations to Turks and Caicos and Lake Placid, New York,

\$10,000 in veterinary bills, \$53,000 for their son's college tuition, alcohol and other personal expenditures, all of it charged on the company's credit cards.

The excessive spending frequently left Sanctuary unable to pay business operating expenses, including employee salaries. To keep the business afloat, Steve Imburgio orchestrated private loans from approximately ten business associates, acquaintances and even members of Sanctuary's staff, collecting at least \$1.7 million before and during Sanctuary's operation. In return, Imburgio promised investors a percentage share in the business, compiling a dizzying array of evolving ownership in Sanctuary that was never reported to the state DOH.

When Sanctuary first opened in September 2017, offering different levels of outpatient care, it brought in an average of 15 to 30 clients with "good insurance" at a time, according to witnesses. But within months, the treatment facility was struggling financially as the Imburgios used the company's funds to pay back personal debts and fund their lavish life. In August 2018, when Sanctuary's bank account was allegedly shut down following the deposit of an estimated \$80,000 to \$90,000 check that two employees warned Steve Imburgio was fraudulent, the Imburgios were in Turks and Caicos, using the company card to pay for lobster dinners and a \$2,000 bottle of wine. Approximately two months later, at least two employees contacted Sanctuary's director of operations on Christmas morning to report their pay checks had bounced. By then, Sanctuary's inability to make payroll was routine. Some employees would get partial paychecks, with the rest wired to them later. Other workers were laid off and then brought back to work. Sanctuary also evaded payroll taxes, owing the IRS more than \$80,000 for unpaid taxes at the Cherry Hill location and another \$56,000 for a recovery center in Lake Ariel, Pa., according to documents reviewed by the Commission.

The Commission found numerous red flags concerning the financial stability of its ownership long before Sanctuary opened in 2017. However, the State of New Jersey approves substance use disorder treatment facility licenses without asking applicants the most basic questions about their finances. At the time of Sanctuary's licensure application, Gina Imburgio, listed as the CEO/President, owed the State of New Jersey tens of thousands of dollars in unpaid income taxes. The mortgage on the nearly 7,000 square-foot Holmdel home where the Imburgios lived for decades was in default and placed in foreclosure numerous times since the 1990s. She filed for bankruptcy a half dozen times. Meanwhile, her husband, whose name did not appear on any paperwork related to Sanctuary but was actually in charge, was sentenced in December 2012 to serve three months in federal prison and pay the IRS \$198,000 for filing false personal income tax returns. As owner and controller of a New York-based telecommunications company, Steve Imburgio admitted to under-reporting his taxable income to the federal government between 2004 and 2006.

In sworn testimony before the Commission, Gina Imburgio said she had not been employed since 1993 and had no experience in the addiction industry. When SCI counsel asked more specific questions about Sanctuary and its business operations, both she and her husband – who appeared separately – repeatedly invoked their Fifth Amendment right against self-incrimination.

The state DOH rescinded Sanctuary's license in September 2019 after the owners tried to sell it to an out-of-state treatment provider for \$2 million long after it had stopped serving clients, making the license unsellable according to state regulations.

Misleading Marketing Tactics to Reel in Clients

The Commission investigated allegations regarding the use of deceptive and misleading marketing tactics in the addiction recovery industry intended to lure in patients. Some of the schemes target individuals using online searches to find treatment providers by making it appear that the services are available at a nearby location but are actually out-of-state and sometimes far away from New Jersey.

Unlike other states that have enacted laws imposing civil and criminal penalties on entities that engage in fraudulent or deceptive marketing, New Jersey has no prohibitions on the sales tactics used by the addiction rehabilitation industry.

Using computers at the SCI's offices in Trenton and a remote location in Gloucester County, Commission agents entered the phrase "addiction treatment near me" into popular search engines Google and Bing. Although the searches resulted in a list of names and addresses for legitimate treatment centers physically located in the geographical region, more than a dozen others were unfamiliar to investigators and flagged for further follow-up. Investigators reviewed the property records for the locations and called the number listed online for ten facilities that claimed to operate in New Jersey.

Several addresses were fabricated or did not exist at all. One alcohol treatment center claimed to be at a particular Trenton address that turned out to be the location of a hardware storage facility. An abandoned home sat on another property on Brunswick Avenue listed as a treatment facility in the capital city. Other online listings supplied street addresses for treatment centers on properties that did not appear on maps or municipal property records.

Addison Recovery turned up on a search done on Bing, claiming it was located in Sicklerville (Winslow Township) in Camden County. No specific street address was listed. A visit to Addison's website revealed no New Jersey connection at all. Upon closer inspection, the website posted disclaimers stating: "Addison Recovery is a fictitious business name of Mind and Body Sober Living, LLC, a subsidiary of Premier Health Group, a California Limited Liability Corporation." Premier Health Group is the parent company of three treatment centers: Beachside Behavioral Health, Affinity Recovery and Axis Mental Health, all of which have licenses to operate in California. State laws in California and Florida require treatment centers licensed there to post disclaimers online stating another entity and not a locally-based provider named on the website may be answering the calls.

Another listing found by Commission investigators had three different treatment centers listed under the website www.newhopedualdiagnosistreatment.com, all with separate addresses and phone numbers. A call placed by an SCI investigator to the number listed for a center allegedly located in Edison was answered by Allied Addiction Services, a company based in Upper Marlboro, Maryland. When an SCI investigator called the number listed under a completely different website, www.greenmedicaldetox.com, which was supposedly located in Glassboro, it was answered by the same person who took the call the day before but had identified the company as Allied.

Once a Caller is on the Line

An SCI confidential source placed a phone call to a toll-free number listed for Legacy Healing, which operates a treatment center in Cherry Hill and owns numerous sober homes in

nearby municipalities.¹⁴ During the recorded call, the source told the representative, who identified himself as “Jason,” that they were allegedly seeking treatment facilities for the source’s son who had become addicted to opioids following surgery. Early in the call, Jason pressed the source to give details on the available insurance coverage, stating it would take a half hour to explain how the program worked, and if the person did not qualify, it could be all for naught. The caller agreed to share they had a PPO – a preferred provider organization insurance that gives subscribers access to a network of providers – but declined to get more specific. Jason advised it was good that the caller had out-of-network benefits.¹⁵

Despite his reluctance to detail the programmatic offerings, he was more than willing to tout the luxury accommodations and amenities Legacy had to offer. Unlike most centers with one building where patients remain in one facility for 30 days, Jason said Legacy offered daily treatment at one location and separate housing for its clients in \$5 million homes about 10 miles away, with no more than 10 patients per residence. Making it sound more like booking a resort vacation than finding a place to reside while undergoing addiction treatment, Jason added that the company offered weekend outings to movie theaters, bowling and mini golf.

In a subsequent call, the SCI source asked a different Legacy sales representative, who identified himself as “Travis,” about the arrangement where treatment is provided at one location and patients live in offsite homes and if it could be considered inpatient treatment services. Travis told the caller not to worry about the terminology used, and that Legacy’s program essentially provided the same level of service as an in-patient facility, with the only

¹⁴ According to its website, Legacy also has locations in Parsippany, Fort Lauderdale and Margate in Florida, Cincinnati, Ohio and in Los Angeles, California.

¹⁵ Addiction treatment businesses favor clients with out-of-network benefits because they bill at the highest rates.

difference being the patients live in separate housing located 10 minutes away. That characterization is not quite accurate. Inpatient treatment provides around-the-clock supervision and support, along with intensive therapy and other services. Meanwhile, partial hospitalization programs offer a less structured environment, with patients attending treatment several days a week and receiving group therapy, individual counseling and other services.

Questionable Financial Arrangements at Sober Living Homes

In January 2018, the state Department of Community Affairs (DCA) expanded the licensure requirements that had applied to rooming and boarding homes to enable the conversion of one or two-family homes for use as sober living homes for up to 10 residents.¹⁶ To operate lawfully, both the owner and operator of a cooperative sober living residence must be licensed.¹⁷ Owner applicants must provide information regarding their finances and credit information, employment histories and personal references, and any revocation of any other license issued by the State. Owners must also submit to criminal background checks. Similarly, operator applicants must provide prior employment information and references and undergo criminal background checks.

The penalty for failing to apply for and obtain a license to operate a certified sober living residence in New Jersey carries a maximum fine of \$5,000. Even though the DCA has levied fines

¹⁶ New Jersey does not require Oxford Houses to obtain the Class F licenses issued to sober homes. Oxford Houses are cooperatively run, self-supporting and drug-free homes based on a model supported through a national nonprofit.

¹⁷ Both owners and operators pay an annual fee to maintain licensure. The fee paid by the owner is \$356 if the facility will house two to five residents and \$412 if it will house six to 10. If it is not a sole proprietorship, the license to own is \$666, regardless of the number of residents.

against unlawful operators, the Commission found some continued to operate. There are approximately 210 licensed sober homes in New Jersey, but there are an untold number of unlicensed residences operating illegally throughout the state. Unless there is a problem requiring police to respond or if a citizen lodges a complaint, state regulators and local building inspectors are frequently unaware of the existence of unlicensed sober homes.

Sober homes are inspected annually by the DCA, or a municipal or county inspector authorized by the state, for the building's compliance with so-called "life safety protections" under the Uniform Construction Code, looking for things like holes in the wall, missing paint and windows that do not close. Inspectors also check the property's compliance with broad regulations concerning its operation as a sober living facility. Under that scope, state inspectors have the authority to issue notice of violations if they observe evidence of any illicit substance, such as drugs, drug paraphernalia or alcohol – items prohibited at sober homes – or if a police report indicates the presence of those items at a home.

The Commission found undisclosed financial ties between numerous sober homes and outpatient treatment centers in New Jersey, including some instances where the owners went to lengths to hide their connection. Even though state law does not explicitly prohibit such arrangements, applicants seeking licenses to operate a treatment facility must disclose any financial agreements with entities that provide housing for its clients. The potential for abuse in such arrangements raised concerns for Bernard Raywood, chief of the Bureau of Rooming and Boarding House Standards in DCA, who told the Commission in sworn testimony, "It's just something I could see could be corrupted."

Clean and Sober Living

When Steven Hauck first opened his company, Clean and Sober Living, in 2010, there was no such thing as a license to own or run a sober home. He told the SCI he welcomed the creation of a license for cooperative sober living residences in 2018 for the operation of the numerous homes he operated in Atlantic County.

Over the years, Hauck's homes had become known for their history of problems: rampant drug abuse by residents and staff, recurrent visits by local police and overdoses. Yet none of those factors mattered when it came time to obtain or maintain the license from the state to own and operate his sober homes.¹⁸

A primary benefit to licensure for Hauck was that it would make his company eligible to receive regular payments from the Atlantic County government for a program that subsidized three months' rent at a sober home for individuals receiving General Assistance.¹⁹ County records revealed Hauck was paid more than \$170,000 between the fall of 2019 and early 2021 for the rent subsidies for 85 residents at two sober homes operated by Clean and Sober Living. But no mechanism existed for the county to ensure the funds fulfilled their intended purpose, or if they did not, to recover the funds. If a resident left or was kicked out of one of his homes, Hauck testified he kept the county funds. County officials should have been aware of a recipient's living situation, according to Hauck, because any individual getting public assistance must check in regularly with the county to maintain their benefits. The absence of any independent vetting of

¹⁸ There is no state requirement for sober living homes to report critical incidents, such as overdose deaths, to the DCA.

¹⁹ Under the General Assistance/Work First New Jersey program, clients may receive emergency assistance to provide for essential food, clothing and shelter, including temporary rental assistance.

the homes likewise meant that even though there were numerous complaints about the living conditions and drug and alcohol use in Hauck's sober homes, the county continued to provide the rent subsidies based solely on the fact that the licenses for the properties remained in good standing with DCA.

The Commission also discovered that Hauck had an even more sizable share of the overhead paid at his sober homes by an Atlantic County-based substance abuse center. An SCI review of financial records for Clean and Sober Living revealed the business received more than \$280,000 between June 2020 and January 2022 from Addiction Treatment Services International, Inc. (ATSI), a treatment facility in Galloway.²⁰ As mentioned earlier, New Jersey law does not explicitly preclude such agreements but requires applicants seeking licenses for outpatient substance use disorder treatment facilities to disclose any ownership, operational or management interest in housing or lodging services, or any agreement with a consultant to provide those services. The State does not oversee such arrangements if they exist, however any changes to those terms are supposed to be reported to regulators. The Commission found no evidence that ATSI amended its substance use disorder center license to reflect the financial arrangement.

Hauck got out of the sober home business later in 2022. However, the Commission found that ATSI soon found another way to house its treatment center clients by opening its own sober living homes under the business name of Premier Recovery Residences, LLC.

²⁰ The center's executive director told SCI investigators that some of their clients stayed at the Clean and Sober Living sober homes.

Premier Recovery Residences

In July 2022, the co-owner of ATSI's parent company, Armada Recovery, spent \$700,000 to purchase a five-bedroom, four-bathroom house located off a cul-de-sac in an upmarket neighborhood in Galloway Township. Even though the State had no record of its existence, a few months later, Premier Recovery Residences began operating the property as a sober home mainly for ATSI clients. The women who lived at the Brook Lane home were transported daily to either the in-patient or partial hospitalization treatment at the ATSI facility, located approximately seven miles away.

By March 2023, the DCA had received multiple complaints from Galloway's municipal construction official that the house was occupied and functioning illegally as a sober home. After substantiating the complaint, the DCA levied a \$5,000 civil penalty against Premier for operating without a license. Premier, through Armada, paid the fine and began the licensure process while continuing to operate the home unlawfully for several months before moving residents to another unlicensed sober home it owned nearby.²¹ By that point, conditions inside the home had gone from bad to worse, leaving some Premier staff to question if living at the property was harming the residents more than helping them. Testifying before the Commission, a confidential source described the widespread use of prescription drugs and illicit substances by the home's six residents, testifying: "And every single one of them were abusing the medications and stockpiling things and getting into fights and arguments, that's not how a house of recovery works."

²¹ The DCA rejected Premier's application for licensure on April 12, 2023. Premier no longer operates the Galloway house as a sober home.

The confidential source told the Commission that almost everything about how the sober home operated, including managing resident infractions, was decided by ATSI personnel, who often turned a blind eye to misconduct. Even though nothing on the official paperwork for Premier indicated ATSI owned it, sworn witnesses told Commission investigators that the individual listed on the license application was an owner in name only. Shlomo Smith, the co-owner of Armada, actually controlled the sober home. In testimony before the Commission, Smith said he helped Premier's current owner obtain ownership but claimed he had little to do with the day-to-day operation of the business. Smith said Armada "advanced money" to Premier whenever necessary to cover operational costs yet had no plan to recover the funds. Financial records reviewed by the SCI revealed Smith and his associated businesses deposited more than \$95,000 into accounts controlled by Premier between August 2022 and June 2023. Under this questionable financial arrangement, Armada was able to carry out a scheme that was akin to patient brokering, where ATSI essentially funded a resident's stay at the sober home as long as the client remained enrolled in treatment.

Some decisions concerning acceptable resident conduct at the sober home went against established standards in the industry. Under both the DCA regulations for cooperative sober living residences and the house rules for the Galloway home, a drug and alcohol-free environment was supposed to be maintained.²² Yet, residents found in possession of drugs or drug paraphernalia were sometimes permitted to stay at the sober home. When a resident allegedly tested positive for drugs yet was allowed to remain at the home – even after agreeing to go to another facility for detox – the confidential source concluded treatment decisions were

²² N.J.A.C. 5:27-2.1

not being made with the clients' best interests in mind. The source told the Commission: "It's just not how it is supposed to go. If someone wants to go to treatment, you send them to treatment." If the client left the home, she would also leave the program at ATSI, which meant the insurance payments would cease. "I believe that's where the decision came in where they would be losing money if they asked her to leave," the source said. Echoing comments made throughout this inquiry by numerous professionals working in the addiction recovery industry about how clients were viewed as something that can be bought, sold or traded, the source said, "Situations like that tend[s] to be, like, they just need living bodies in that house that are producing money. They are not people; they are just objects."

Poor Living Conditions, Unsanctioned Medical Services and Other Abuses at Unlicensed Sober Homes

During the inquiry, SCI investigators found other facilities operating throughout the state as unlicensed sober homes where unethical and unlawful practices proliferated. Inside these properties, which function outside the scope of regulators, the Commission found evidence of poor living conditions, unauthorized medical services and illicit drug use. In some cases, it is not until a tragic event, such as an overdose, or other incident prompting a call to the police, when local and state inspectors learned of the existence of the unlicensed sober homes. Further, some of the unlicensed residences operate out of homes that are rented or leased making it difficult for regulators to know who is actually running the illicit sober home. The following are representative examples of the Commission's findings with respect to the abuses associated with unlicensed sober homes in specific sections of the state.

Monmouth County

The Commission found the owner of a treatment center in Monmouth County operated several unlicensed sober homes in the region to house clients of his rehabilitation facility, including a residence in Old Bridge, from where clients were transported by van daily to the treatment center. Inside the all-male sober home, the dining room was improperly converted into a makeshift bedroom, and medication was dispensed to clients by a behavioral technician, in violation of the rules for the operation of sober homes. State regulators also received a complaint from a former resident at one of the homes that addiction treatment services were provided at the home. At another unlicensed home run by the same owner in nearby Keansburg, a resident told police he was evicted from the sober home in February 2022 for allegedly switching addiction treatment services from the owner's rehabilitation facility to another provider.

Gloucester County

Numerous complaints about inappropriate and corrupt activities in the operation of several unlicensed sober homes in the county operated by the same individual prompted the Gloucester County Office of Addiction Services to ban the operator from receiving public funding for rent assistance. The laundry list of questionable conduct occurring at the various homes included allegations of illicit drug and alcohol abuse, housing males and females in the same residence and inappropriate sexual relationships between the staff and clients. Following complaints about the conditions at a sober home in Mantua where seven residents received rent assistance, the county increased its scrutiny and vetting of participants in the sober home rent assistance program.

Further, SCI investigators found some of the sober homes operated by this individual were rented or leased from the property's owner. Following the Commission's outreach to local officials regarding illicit operation of a sober home at a particular residence in East Greenwich, the municipal zoning inspector conducted an inspection that found significant code violations at the property. Additionally, local police subsequently arrested the house manager who had an active arrest warrant.

Mercer County

The DCA's Bureau of Fire Code Enforcement had already sanctioned the landlord of a home on Hamilton Avenue in Trenton for the unlawful operation of a sober home in January 2022 where, just weeks later, a resident died of a suspected overdose. While the building's owner and alleged operator were issued a \$5,000 fine, the Commission learned the de facto operator of the illicit business faced no penalty. According to former staff, the unlicensed sober home had operated at the site for approximately three years with a maximum of 26 residents, far above the state limit of 10 residents for licensed cooperative sober living residences.

Referrals and Recommendations

In addition to the referrals already made to the Office of the Attorney General of New Jersey, the United States Attorney for the District of New Jersey and the Internal Revenue Service, the Commission refers the findings of this investigation to the following agencies of government to pursue any responsive actions within their authority.

- New Jersey Department of Health
- New Jersey Department of Human Services
- New Jersey Department of Community Affairs
- New Jersey Department of Treasury, Division of Taxation
- New Jersey Department of Banking and Insurance

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The results of this investigation demonstrate that insufficient government regulation of the substance abuse treatment and recovery residence industry in New Jersey has enabled bad actors to exploit systemic weaknesses, often to the detriment of individuals who are struggling with addiction. Even though the State has devoted substantial funding to addressing addiction and implemented necessary safeguards for some monies dedicated to it, more needs to be done to monitor the public investment in this area, to make the industry less prone to abuse and to protect the individuals who rely on the businesses and personnel who provide these services.

With a billion-dollar drug treatment industry, the state of Florida has been at the forefront of adopting reforms to curb various abuses by particular businesses and professionals in the industry, and to better guard individuals as they navigate treatment and recovery. A number of

the reforms recommended below borrow elements from laws and regulations already established in Florida. To address the myriad forms of misconduct occurring throughout the addiction recovery industry uncovered during this investigation, and with the goal of making the rehabilitative process more trustworthy and reliable for clients, the Commission makes the following recommendations for statutory and regulatory reform:

1. Strengthen and Expand New Jersey’s Patient Brokering Law

The United States Congress passed the Eliminating Kickbacks in Recovery Act (EKRA) in 2018 to prevent patient brokering in treatment for substance abuse disorders. EKRA prohibits the payment or receipt of anything of value in exchange for the referral of patients to recovery homes, clinical treatment facilities or laboratories for services covered by a health care benefit program. Penalties for violating the EKRA are robust, and may include a fine of up to \$200,000 and imprisonment for up to 10 years.

Since passage of the federal law, numerous states – including New Jersey – have adopted their own patient brokering laws. Florida’s patient brokering law is among the strongest and most far reaching of the state-based laws, applying not only to individuals but also to health care providers and health care facilities that engage in the practice. It also carries stiffer penalties for violators when a greater number of patients are affected by a patient brokering scheme. For instance, the brokering of one to nine patients constitutes a third-degree felony and imposes a mandatory \$50,000 fine and a maximum prison term of five years. If it involves 10 or more patients but fewer than 20 patients, it is a second-degree felony, and incurs an automatic fine of \$100,000 with a maximum 15-year prison term. Any brokering involving more than 20 patients

is a first-degree felony, with violators facing a mandatory \$500,000 fine and up to a 30-year prison term.

By contrast, the patient brokering bill signed into law by Governor Murphy in 2021 only applies to individuals who receive or make a payment in connection with the referral of a patient to an addiction treatment center.²³ A person charged with violating the fourth degree law faces an up to 18 month prison term and a maximum \$10,000 fine if convicted of the crime.

Using the Florida statute as a model, the Commission recommends the Legislature expand New Jersey's patient brokering law to encompass misconduct by health care entities, nonprofit organizations and sober homes rather than only applying to individuals. Additionally, both the criminal and financial penalties associated with patient brokering should be upgraded to at least a third degree crime with an automatic fine of \$50,000 for violators.

2. Enact Legislation Targeting Deceptive Marketing Practices

Individuals seeking substance abuse treatment are susceptible to deceptive marketing ploys used by the addiction industry to lure in clients. To protect consumers, both Florida and California have adopted laws prohibiting treatment providers and operators of recovery residences from engaging in various deceptive marketing practices and imposing criminal penalties for violations. New Jersey should join with other states in enacting legislation outlawing deceptive marketing practices in the substance abuse and recovery residence industry, with the following provisions:

- At a minimum, addiction industry businesses should be prohibited from making false or misleading statements or providing false or misleading information about their

²³ N.J.S.A. 2C:40A-6

products, goods, services or geographical locations in their marketing, advertising materials, media or websites.

- Businesses should also be prohibited from posting false information on their websites or through electronic links or other methods that surreptitiously direct visitors to another website.
- Violations of the law should carry both criminal and civil penalties, including fines and license suspensions or revocations for treatment centers and sober living homes.

3. Create a State Licensure System for Peer Recovery Coaches

In New Jersey, State government does not provide any certification or active oversight of peer recovery coaches. Instead, a private nonprofit entity called the Addiction Professionals Certification Board of New Jersey administers the certification of peer recovery specialists. While they are non-clinical positions, peer recovery specialists are often the first person patients encounter in their recovery and are influential in helping decide where individuals go for rehabilitative services. The Commission found some peer recovery specialists who were involved in patient brokering-like schemes, facilitated by their access to treatment center personnel, patients and their role in assisting in treatment decisions.

On June 21, 2023, the New Jersey Department of Human Services' Division of Mental Health and Addictions Services (DMHAS) issued guidelines for best practices in peer recovery services. Developed by the Professional Advisory Committee on Peer Recovery Support Services, the group recommended the creation of a tiered three-level system overseeing volunteers and

peer recovery professionals based on the type and intensity of services, the work status of the individual and the training they have completed. Using the best practices put forth by the panel as the starting point for instituting state oversight of peer recovery services, the Commission recommends the following:

- Establish a state licensure process for peer recovery coaches to be overseen and administered by the New Jersey Division of Consumer Affairs or another agency, if deemed more appropriate, mandating certain training, educational and practical experience standards.
- Create a Board of Peer Recovery Coaching, housed within state government, to regulate the practice of peer recovery coaching.
- Publish an online list with the names of peer recovery professionals whose credentials were suspended or revoked for job-related misconduct.
- Require any patient referrals to a treatment facility be authorized by a clinician or medical professional with background in the addiction rehabilitation industry.

4. Strengthen Licensing and Inspection Standards for Treatment Centers

The SCI's investigation revealed certain weaknesses in the licensure application and inspection process for substance use disorder treatment facilities. Applicants for state licenses to operate treatment centers in New Jersey are not required to provide any information related to their personal or business finances. Further, even though the regulatory framework governing treatment centers allows for both announced and unannounced licensure inspections, the SCI's investigation revealed that most inspections conducted by the Office of Investigation within the Department of Health, unit for Certificate of Need and Licensing, were usually announced.

To address these shortcomings, the Commission recommends requiring applicants to undergo a financial audit, conducted by a certified public accountant and submitted to the State with the application for licensure. Applicants should also submit to fingerprinting and criminal background checks to ensure there is no record of crimes involving fraud and dishonesty. Further, inspections of treatment centers should be unannounced to give state regulators the most accurate picture of a facility's daily operation.

5. Bolster the State's Regulation of Sober Homes

The DCA is currently in the public comment phase of adopting new rules for the operation of rooming and boarding homes in New Jersey, which include cooperative sober living residences. While the Commission generally supports the proposed regulatory changes specific to sober homes, it recommends the State also consider amending the rules to include the provisions below to expand oversight of the properties and strengthen the penalties for operating unlicensed residences.

- Increase the financial penalties imposed on the operators of unlicensed sober homes from the current fine of \$5,000 to \$25,000. Legislators should also consider reviewing whether the law should be amended to impose criminal penalties on violators.
- Require sober homes to report incidents that occur on the premises, such as overdoses, to State authorities as is mandated for substance use disorder facilities.
- The DCA should publish and maintain a list of licensed sober homes on its website.

6. Clarify the Statutory and Regulatory Language Governing Ownership or Financial Ties Between Treatment Centers and Sober Homes

The Commission found that certain outpatient treatment center owners in New Jersey had undisclosed ownership or financial interests in sober homes, including some that went to lengths to hide their ownership stakes. SCI investigators discovered that clinical staff at a southern New Jersey rehabilitation center decided whether residents at the sober home, who were in possession of drugs or illicit substances, could remain at the residence. In these circumstances, the owners have a vested financial interest in keeping patients enrolled in treatment at their facilities. While the DOH requires applicants for outpatient treatment centers to disclose “ownership, operational or management interest in any housing, lodging or concierge services” provided in conjunction with its treatment services, those prohibitions are not explicitly outlined in State law or regulations. To clarify this issue, the State should consider seeking the counsel of industry experts, similar to the panel that drafted guidelines for peer recovery coaches, to establish both best practices for owners and operators of these facilities, and to develop more explicit statutory language regarding New Jersey’s position on dual ownership.

7. Conduct Proper Due Diligence for Entities Seeking Public Funding

Organizations or businesses that seek public funds to perform addiction-related services or want to provide them within certain elements of the public sector should be required to undergo appropriate vetting to ensure the provider and its employees are reputable and free of conflicts of interest that could impede their ability to work. The Commission’s investigation revealed that several programs, either funded by public monies or housed within government entities, created to assist individuals struggling with addiction to obtain treatment or finance

housing costs have been corrupted and abused by bad actors. In some instances, individuals employed by publicly-funded programs were also concurrently working to generate patient referrals to various treatment centers, effectively engaging in a patient brokering type scheme.

The Commission recommends greater scrutiny of individuals and private entities that receive public monies or access to potential pools of clients through public systems, such as jails or the courts, to provide addiction-related services. Applicants seeking grants or public funding should be required to provide information to the grant provider regarding their financing, operations and employees, including whether they hold outside employment.

8. Convene a Task Force on Industry Regulation

In New Jersey, multiple different government agencies oversee separate components of the addiction rehabilitation industry and the businesses and professionals that operate in it. On the state level, the DOH licenses treatment centers and the DCA inspects and licenses sober homes while the Division of Human Services is responsible for community-based mental health and addiction services. The fragmented and statutory framework assigned to distinct elements of the industry lacks coordination and cooperation that could make it operate more efficiently and effectively. Even personnel within those departments or operating in municipal and county-level agencies were sometimes unsure where to direct problems or complaints.

To remedy this concern, the Commission recommends creating a task force, comprised of industry professionals, government and healthcare representatives, patient advocates and other interested parties, to study whether a single government body among those that already exist, or a newly created agency, should oversee the addiction industry. At a minimum, if the panel decides the current oversight structure should remain, it should develop strategies to

improve the current system by enabling the different agencies to better communicate and work cooperatively.

APPENDIX

N.J.S.A. 52:9M-12.2 provides that:

- a. The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following material was submitted pursuant to those statutory requirements.

Eric McIntire



January 30, 2024

Dear Ms. Cialino,

I am writing in response to your letter, dated January 12, 2024, and the portions of the report mentioning me that the New Jersey State Commission of Investigation (the “SCI”) plans to issue regarding its investigation into the addiction rehabilitation industry in New Jersey. I want to emphasize I have never engaged in any unethical or unlawful activity as an employee in the Industry and my primary motivation has been helping people get on the road to recovery. In particular, I want to point out that the excerpt of the SCI report that you shared inaccurately states that I “was supervising [RWJBH] Institute employees who advise patients on where they should go for treatment.” As I explained during my testimony, and set forth again here, it was not my job to deal directly with patients or make recommendations or referrals to treatment facilities. Entirely separate employees at the Institute for Prevention and Recovery at RWJBH (the “Institute”), called Patient Navigators, have that responsibility.

I became involved in the addiction rehabilitation industry because I myself am a recovering addict and believe strongly that, if you can help a person in need of help, you should help. I have been in recovery for twenty years now. I had lost everything. I did not have anywhere to live, did not have a job, and was in and out of correctional facilities. I had made several unsuccessful attempts at rehabilitation and thought recovery for me was not possible. It was not until I met people who had been down the same dark roads I had been down but had straightened out their lives that I finally believed recovery for a person like me could be achieved. After a lot of hard work and help, I finally was able to turn my life around and now am happily married with three sons, a 19 year old and twins who are 15. I also have found meaningful work in the rehabilitation industry, helping others who suffer like I did and advocating that people should pursue recovery.

Working at the Institute has offered me a chance to help others. As I testified, when an addicted patient first arrives at an RWJBH facility, a Peer Recovery Specialist goes to see the patient bedside to offer support and to advocate for recovery. A Peer Recovery Specialist does not make referrals to a treatment facility nor even make recommendations to the patient for any specific treatment facilities. If a patient is interested in pursuing recovery at a facility, the Peer Recovery Specialist refers the patient to a Patient Navigator, licensed in social work, who does an independent assessment of the patient to offer three facility options for treatment. The facility options are based on the patient’s personal information and what would be the appropriate level of care. Importantly, the Peer Recovery Specialist plays no role in the Patient Navigator’s clinical assessment of the patient or the recommendation of treatment options. Once the Patient Navigator completes the clinical assessment and identifies appropriate treatment options, the patient is passed to a second Patient Navigator, who works on a placement for the patient. Again, the Peer Recovery Specialist plays no role in that.

This whole process at the Institute is documented, including what treatment facility the patient goes to. The Institute also provides lots of training to its employees about how the process runs, including which employees are responsible for what jobs. Peer Recovery Specialists are trained not to make referrals.

My most recent position at the Institute was the Assistant Director of Recovery Services. I supervised Managers, who supervised Supervisors, who supervised Peer Recovery Specialists (who do not make referral recommendations). I also did not have contact with Patient Navigators and certainly did not supervise them. So it is incorrect for the SCI to state in its report that I supervised Institute employees who told patients where they should go for treatment.


I also want to make clear that, when I worked at private facilities, my job was not directing patients to those facilities. As I testified, when I worked with outside treatment facilities, I primarily answered calls, encouraged the people I would speak with to get into recovery, and told them treatment at a facility was a good thing. I would collect information about a patient and pass it along for others to assess; I am not qualified to make a clinical assessment.

As I stated during my testimony, I do see the potential for a conflict when an Institute employee also works for a private facility – there could be improper motivation for the employee to try and direct a patient to a certain facility that may not be the most appropriate for the patient. But I never was in a position at the Institute to advise patients where to go (that is the job of the independent Patient Navigators, and all decisions made and actions taken for a patient are documented). Also, while I was compensated for the work I did at outside treatment facilities (the amount indicated in the report likely is the gross amount I earned over the 7 years between 2016 and 2022), I always was ethical in whatever I did to help other addicts and always have tried to act in their best interests. I never directed patients to certain facilities. I never was paid for patient referrals. And I never engaged in patient brokering or brokering-like conduct.

The addiction rehabilitation industry is so important to help addicts recover and improve their lives. There are so many people suffering who need our help. Unfortunately, while there are many, many hardworking and honest people in the industry, there are others in it for the wrong reasons. I support any changes to the industry to make sure it runs the right way and that addicts get the help they desperately need. So I think the SCI's investigation to uncover abuse is a good thing, and any recommendations it makes to help improve the industry will be a huge benefit to the industry and the fight to help addicts.

Thank you.

I declare that the above information is true to the best of my knowledge. I am aware that if any of the information provided by me is willfully false, I am subject to punishment.


Eric McIntire

I, Dr. Nicholas DeSimone, Ph.D., hereby submit this response to the New Jersey State Commission of Investigation's ("SCI") January 12, 2024 Notice of Proposed Report (the "Report"), pursuant to *N.J.S.A. 52:9M-12.2(c)*. This response is timely submitted within fifteen days of the SCI's service of the Report.

I respond to the following statements in the SCI's Report:

- *"The SCI found the DeSimone's used Kingsway to subsidize Graceway, which collected little to no rent. The scheme to prop up the sober home works as long as Graceway residents continued attending treatment at Kingsway and their private insurance policies paid for it. To get residents at Graceway to choose Kingsway for ongoing outpatient treatment, they offered enticements, such as free or discounted rent, hot meals or transportation."*

Respectfully, this statement is false and misleading. There was no "scheme" to "prop up" the Graceway sober living homes. It is true that Graceway collected little to no rent. This is due to the fact the overwhelming majority of residents who attended Graceway had little to no funds. I used my own personal income from Kingsway to support the operations of Graceway. I did so because my then-wife and I both had personal experiences with substance abuse in our family lives, including my own individual struggles. We recognized the need for a sober living environment separate and apart from an environment that facilitated substance abuse and addiction. Therefore, we both had a strong desire to do what we could, utilizing our own resources, to provide a sober living environment that could assist with substance abuse and addiction treatment and recovery. I respectfully believe, and assert under oath and affirmation, that it is unfair for the SCI to criticize me and suggest nefarious and improper motives for using my own money to support such an admirable goal. I remain very proud of the work that I have done in helping hundreds of people overcome the affliction of substance abuse by using my own money to attempt to provide those in recovery with a safe and healthy living environment.

We had many patients at Kingsway who had private insurance coverage to fund their treatment. That was the preferred business model because of my own personal experiences working in the industry and my belief that we had the best chance at a successful recovery with patients who had private insurance coverage to fund their treatment. However, to be clear, private insurance coverage did not extend to stays at Graceway and we did not use Graceway as a way to continue treatment at Kingsway. We did not offer “enticements” for Graceway residents to attend treatment at Kingsway and, in fact, many residents at Graceway sought treatment at other facilities. To the contrary, Graceway offered these benefits – food and transportation – to all of its residents. Discounted rent was offered on an as-needed basis. This support was intended to provide the highest level of comfort and care to residents. As noted, the vast majority of residents were of modest means and had limited funds. The sober living homes were meant to provide the residents with a temporary bridge to assist with their recovery from substance abuse and addiction until they could transition back to their home environments or a new beginning elsewhere, and also back to their employment or new employment. The sober living homes could not make this work without keeping rental payments low and helping residents with food and transportation. Again, these benefits were in no way intended to encourage residents to choose Kingsway.

Notably, during the December 21st hearing, I also explained that Kingsway refers its patients to the sober living home that is most suitable for them (in terms of distance, comfort, or other factors), and did not always send them to Graceway:

Q. Now, you said - - I just want - - you said Kingsway Recovery refers clients to Graceway Sober Living. Does Kingsway Recovery refer clients to other sober living homes other than Graceway?

A. Does Kingsway? Kingsway refers clients to multiple sober living homes.

Q. What other sober living homes.

- A. Diane's House, Amy's House, other Oxford Houses.
- Q. Where is Amy's House?
- A. West Deptford.
- Q. And you said Andy's House?
- A. Amy's House.
- Q. Where is that?
- A. In West Deptford. There's a Shoova House in Mullica Hill.
- ...
- Q. What determines, you know, how are these referrals done? Who makes them?
- A. So you want me to explain the process to you?
- Q. Yes.
- A. So a client would call in the admission line and the person in the admissions would, you know, see if they had any need for sober living, and they would give them three different sober living homes to choose.

See Ex. A, at 145:7 – 146:17.

It is accurate that Graceway was a benefit to Kingsway, but primarily in the sense that we had personal knowledge and took comfort in the fact that Graceway operated well run sober living homes. That was the main motivating factor in Kingsway making a referral to Graceway.

- *“Investigators traced more than \$1.5 million in funds – some of which was obtained fraudulently – that were funneled first from the Kingsway account and then to their personal accounts before being transferred to the sober home’s bank account.”*

Respectfully, this is simply not true. I did use profits derived from operating the Kingsway facility to support the Graceway sober living homes, however, none of the funds I derived from Kingsway were “obtained fraudulently.” That allegation, which under oath and affirmation I contend is demonstrably false, is addressed in the next bullet point.

The Report’s use of the term “funneled” is also misleading. This term has a negative connotation as it pertains to the transfers of funds. I did not “funnel” money from Kingsway to my personal account or to the accounts of Graceway. I properly paid myself funds from income generated by Kingsway’s operations. I was entitled to these funds as Kingsway’s owner and operator. I worked with accountants to deal with Kingsway’s finances. I declared all of the income I received and paid required taxes. I then used this personal income to support the operations of Graceway. I am blessed to have been able to use my personal funds in furtherance of this admirable goal. Despite the fact that it cost me thousands of dollars to support Graceway, the expenditure was made worthwhile by seeing individuals housed at Graceway overcome their struggles with addiction and go on to lead healthy and productive lives.

- *“SCI investigators testified that questionable billing practices – notably double billing – occurred virtually every day based on their review of Kingsway’s financial records.”*

Respectfully this statement is false and misleading. The allegation of “double billing” stems from Kingsway’s practice of billing insurance companies using “bundled” codes. A bundled code is one that encompasses many different services in one. Kingsway began bundled code billing sometime after the billing was brought “in house” after it had previously used a vendor, ReliaBill, to bill its services. The SCI alleges that insurance companies were “double billed”

asserting that they were billed once for a service in a bundled code, and then again for the same service in a separate, individual, and unbundled code. This is not true.

During the hearing, I was presented with Exhibit AR-85S, which was a bill that Kingsway sent to an insurance company for services provided to an in-patient. At the hearing, I succinctly explained that this exhibit does not demonstrate double billing. To the contrary, the services billed to the insurance company individually were separate and distinct from those included in the bundled billing code:

Q. Now I want to direct your attention to AR-85S which is now on the screen and also in front of you. This is just one example of services for one client that the Commission found that Kingsway Recovery billed the health insurance company. So as you can see on March 11, 2019, looks like intensive outpatient treatment was billed under procedure code H0015. On the same date, this is for the same patient, procedure code 80305 was billed for urine drug screening and 90834 was billed for individual psychotherapy for 45 minutes. We talked about H0015 being the bundled code; is that correct?

A. Correct.

Q. And then the individual psychotherapy, which looks here to be procedure code 90834, would that fall - - is it your understanding that that would fall under that bundled code?

A. If you're bundling the services, yes.

Q. Now, here if what you're looking at, let's just say AR-85S, that is for, you know, one patient and they are billing for that bundled code and then also for the individual psychotherapy and then urines, which you said is under the insurance company, is what's depicted here billed twice?

A. No.

Q. So the individual psychotherapy isn't included in the H0015 bundle code?

A. Correct.

See Exhibit A (SCI Hearing Transcript), at 169:14 – 170:16.

According to the American Academy of Professional Coders' own definition, the H0015 bundled billing code is used for intensive outpatient treatment, "including assessment, counseling, crisis intervention, and activity therapies or education." See Exhibit B (AAPC Definition). Therefore, as per the AAPC's own definition, the H0015 bundled code does not include either drug screenings or individual psychotherapy. *Id.* Accordingly, not only were these services properly billed separately from the H0015 code, but it would have been improper to have included such services under the H0015 bundled billing code.

Exhibit AR-85S clearly demonstrates that Kingsway was not double billing insurance companies, but was issuing proper bills and using the AAPC Codes appropriately. Additionally, I want to emphasize that we used billing services and then employed individuals with expertise and training in terms of the billing of insurance companies. Further, every one of our bills is intensely scrutinized by relevant insurance carriers. Kingsway is not in a system and the insurance carriers are not locked into making certain payments for certain services. We routinely interact with insurance carriers to get paid for our services and often we accept lesser amounts the insurance carrier will pay for a given service. In sum, we make every effort to bill our services properly and our bills are heavily scrutinized by sophisticated insurance carriers before they are paid.

- *"SCI investigators also found evidence of actions that appeared specifically designed to avoid the scrutiny of banking regulators. Among the most prevalent pattern was the arrangement of financial transactions consistent with a practice known as structuring, where larger cash deposits are broken into smaller increments over several days to avoid triggering federal banking reporting requirements for amounts over \$10,000 ... The Commission identified 85 questionable transactions – each for \$9,000 – that appeared consistent with the practice that were transferred from Kingsway's account into DeSimone's personal accounts."*

Respectfully, this statement is misleading. I do not deny that transfers were made from my business to personal account in the amount of \$9,000, but this was not done in an attempt to "avoid

scrutiny” or to structure transfers in a manner that would avoid bank reporting requirements. All such payments were set up by my then accountant and I declared all of this income and paid required taxes on this income. The payments were made in this fashion and in this amount to create uniformity in my life and business. *See Ex. A, at 111:13 – 112:20.* Additionally, the SCI’s own exhibit, Exhibit AR-85V, demonstrates that there were multiple days on which I made several transfers of \$9,000. Specifically, it shows that I made two \$9,000 transfers on June 3, 2019 and four \$9,000 transfers on January 21, 2020. My understanding is that transferring over \$10,000 on any single calendar day would generate a banking transaction report. If I were trying to avoid the generation of such a report, I would not have made daily transfers of over \$10,000 on several different occasions.

Notably, Exhibit AR-85V pertains to only a short snippet in time from June 2019 to January 2020. In this time frame, there are at least two days when I made multiple \$9,000 transfers. There are also large gaps of time during which I made no transfers whatsoever. Again, if I were indeed trying to avoid the generation of transaction reports, I would not have made transfers of over \$30,000 on a single calendar day (as I did on January 21, 2020) while making no other transfers in the months of December or January whatsoever. Respectfully, I also believe this excerpt of the Report is misleading in the sense that it draws conclusions based on a superficial “analysis” of transfers I made during only one six-month period.

- *“To obtain answers from DeSimone regarding his questionable financial and business practices uncovered by the SCI’s investigation, the businessman was subpoenaed to provide sworn testimony before the Commission at the public hearing. However, DeSimone failed to appear. In response, the Commission filed a motion of contempt with the court to compel his testimony.”*

Respectfully, this statement is misleading. On September 13, 2022, I was served with Subpoena No. 12723 (the “Subpoena”) to appear and give testimony before the SCI on October 11, 2022. It is my understanding that on October 4, 2022, my attorney contacted the SCI and

advised that a Motion to Quash the Subpoena was going to be filed. On October 7, 2022 – four days before my testimony was to be given – my attorney filed a Motion to Quash the Subpoena in the Superior Court of New Jersey, Law Division, Camden County. *See* Exhibit C (Motion to Quash). Because of the pending Motion to Quash, my attorney advised me not to appear for the hearing. Thus, I did not fail to appear in order to avoid testifying, I was instructed not to appear by my attorney and I abided by this instruction.

Ultimately, my attorneys reached an agreement with the SCI by which I would appear and provide testimony before the SCI on December 21, 2022, which I did. At great expense, I attempted to comply fully with the SCI’s investigation, including responding to prior subpoenas and providing voluminous documentation and business records. Candidly, we did attempt to push back because of the impact complying with the investigation was having on our business operations and concerns we had regarding possible sources driving the investigation, but it was always our desire to be fully transparent, open and honest regarding Kingsway’s business operations.

- *“Questioned under oath about money transfers from the Kingsway account to his personal account that were listed as business loan transfers, DeSimone claimed they were clicking errors he made in the accounting software program used for the business. Again, the Commission found that these were not occasional mistakes but appeared to be intentional, frequently repeated acts.”*

The SCI’s presentation was devoid of any evidence that the transfers to my account were anything other than a clicking or accounting error. The fact that the improper categorization of the transfers took place frequently is not evidence that these errors were “intentional.” During my testimony, I explained that I was operating Kingsway’s “QuickBooks” account, which controlled its payments, and made the errors because of my unfamiliarity with QuickBooks:

Q. Now, from looking at the bank records, Kingsway Recovery’s bank records, some transfers from Kingsway Recovery’s bank account to your own personal bank account were

coded as or listed as, let's say, business loan repayments. Are you aware of that?

A. Yes.

Q. Why were they coded or listed as business loan repayments?

A. I think that was an unfortunate error. They were clicked wrongly.

Q. Clicked wrongly where?

A. On, it was a mistake that was made. It was a category mistake.

Q. So, I'm just trying to get a sense of where you were clicking to make that mistake?

A. Something was categorized wrong.

Q. Right. So who was doing the categorizing? Was that you?

A. I believe so.

Q. So categorized wrong where? Is it when you were doing online banking? Was it in QuickBooks? I'm trying to get a sense of where.

A. Somehow when, I guess, I went in, because I don't know QuickBooks too well, when I went in there, I must have categorized the - - a business loan in there, and something must have been going into the business loan, so . . .

Q. So why were you using QuickBooks and doing that yourself versus, you know, your bookkeeper?

A. Because I think I did that like as I brought the bookkeeper on. Like, I think that's when I was like - - they - - so when we did that, the QuickBooks had it in there already, and they fixed it.

Q. Okay. So you're saying that all the coding of transfers as business loan repayments were done prior to you bringing on the Alloy Silverstein bookkeepers?

A. Yeah. There was a QuickBooks account and they took it over.

Q. So who handled the QuickBooks inputting prior to Alloy Silverstein?

A. It was new, like so we got it and then handed it off to Alloy Silverstein.

Q. Okay. So you were doing the QuickBooks inputting for a period of time?

A. Yeah, that's when I probably um - - I checked the wrong box.

Q. So how long were you doing the QuickBooks inputting on behalf of Kingsway?

A. Very short. It wasn't long at all.

See Ex. A, at 95:14 – 97:16.

Simply put, I inadvertently made this QuickBooks error when issuing payment to myself, and the improper categorizations of the payments ended once I retained Alloy Silverstein. If I had any intention to defraud or issue improper payments to myself, I certainly would not have hired a reputable accounting firm to assist with my bookkeeping. I hired Alloy Silverstein because I realized that the accounting was no longer something that I was able to oversee on my own and I wanted to ensure that my business was functioning properly. I did not deliberately attempt to “disguise” transfers of funds, and I did not knowingly attempt to avoid paying income tax on funds that I received. Ultimately, all the income I received was declared and I paid required taxes on the income. I have incurred significant expense hiring reputable accountants to assist me with all accounting issues related to Kingsway and Graceway and my own personal taxes.

In closing, although I have taken exception to and disagreed with some of the items set forth in the SCI's report, I want to thank the SCI for their investigation and use of their resources and tools to look into issues related to the addiction rehabilitation industry in New Jersey. In founding

Kingsway, I had the same goal in mind, ensure those in Kingsway's care receive the very best treatment in order to obtain the main goal-long term or lifetime recovery. Kingsway is a business, and certainly like any business, the hope is that it operates successfully and profitably, but with the utmost sincerity I want to emphasize that my main motivation in establishing Kingsway was to help people dealing with substance abuse and addiction to be set free from the chains of their disease. It is an honor and a privilege to be able to have a hand in attempting to better the lives of those impacted by substance abuse and addiction. I am thankful that I can use my own personal experience and journey to attempt to provide superior mental health care at the facilities I proudly operate.

I certify that the foregoing statement made by me are true. I am aware that if any of the foregoing statement made by me are willfully false, I am subject to punishment.

Dated: January 26, 2024



Dr. Nicholas DeSimone

EXHIBIT A

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STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

----- x
IN THE MATTER OF:

THE ADDICTION REHABILITATION INDUSTRY
54-3
----- x

PUBLIC HEARING

AT: STATE HOUSE ANNEX
131-137 West State Street
Trenton, New Jersey

DATE: DECEMBER 21, 2022

TIME: 10:00 A.M.

B E F O R E: TIFFANY WILLIAMS BREWER, Chair
CHADD W. LACKEY, Executive Director
KEVIN R. REINA, Commissioner

A P P E A R A N C E S:

MARIAN GALIETTA, ESQ.
LISA CIALINO, ESQ.
Counsel to the Commission

GILBERT L. BROOKS, ESQ.
MATTHEW M. CAMINITI, ESQ.
Counsel for the Witness

RENZI LEGAL RESOURCES
BY: DONNA BRUNCK, CCR
CERTIFIED COURT REPORTER

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I N D E X

WITNESS

PAGE

NICHOLAS DeSIMONE

DIRECT EXAMINATION BY MS. CIALINO

11

E X H I B I T S

EXHIBIT	DESCRIPTION	ID	EVID
AR-85	Powerpoint slides "Addiction Rehabilitation Industry in New Jersey".....		184
AR-88	UB Solutions document.....	161	184

(EXHIBITS NOT ANNEXED HERETO)

1 CHAIRWOMAN BREWER: We are ready to
2 proceed. Wonderful. Good morning. I'm Tiffany
3 Williams Brewer. I'm the chair of the State
4 Commission of Investigation and we are reconvened
5 today for SCI's public hearing into the addiction
6 rehabilitation industry in New Jersey.

7 This proceeding is a continuation of
8 the hearing held here on October 11th that exposed
9 significant abuses in the operation of drug and
10 alcohol treatment centers and rehabs across the
11 state.

12 I'd like to introduce other members
13 of the Commission. Sitting to my right is
14 Commissioner Kevin Reina. Commissioner Burzichelli
15 had planned to join us today but had a death in his
16 family. On behalf of the Commission, we send
17 condolences to Commissioner Burzichelli and his
18 loved ones. Our fourth commissioner, John Lacey,
19 out of an abundance of caution and to avoid any
20 appearance of impropriety or conflict of interest,
21 recused himself from this inquiry and is not present
22 today. Also joining us is Executive Director Chadd
23 Lackey, Chief Counsel Marian Galietta, and Counsel
24 Lisa Cialino, who led the investigative team in this
25 case.

1 Only a few weeks ago the SCI first
2 exposed how broken the addiction recovery industry
3 is in our state and how rampant it is with
4 corruption, fraud and unethical practices. We found
5 the type of care patients received or even which
6 treatments centers to admit them is often based more
7 on the quality of their private insurance coverage
8 and how much it will pay out instead of the services
9 they need to overcome drug or alcohol dependence.
10 Making things worse, much of this inappropriate and
11 elicited conduct occurs with impunity because various
12 areas of the addiction rehabilitation industry
13 remain largely unregulated, making it easy to
14 exploit patients.

15 We are reconvening here today to take
16 testimony from a witness, Nicholas DeSimone, the
17 owner of an outpatient addiction center, Kingsway
18 Recovery Center, in Mullica Hill. During our
19 October 11th hearing, SCI investigators, through
20 sworn testimony and multiple exhibits, detailed
21 findings of what appeared to be questionable billing
22 practices at the facility. The Commission found
23 some of these proceeds obtained from insurance
24 companies helped further Mr. DeSimone's treatment
25 center's operations and fund a lavish lifestyle.

1 This SCI subpoenaed Mr. DeSimone to
2 testify and answer questions about our findings at
3 our earlier public hearing but he failed to appear.
4 His action prompted the Commission to file a motion
5 of contempt with the court to compel his testimony
6 before this panel, and Mr. DeSimone is here today
7 pursuant to the Commission's lawfully issued
8 subpoena.

9 Today's proceeding is important
10 because it allows Mr. DeSimone to have the
11 opportunity to respond to questions from SCI counsel
12 about the Commission's findings concerning financial
13 practices and patient care at his treatment center.
14 Mr. DeSimone's appearance today also underscores the
15 Commission's statutory authority to compel witness
16 attendance in conducting fact finding
17 investigations, power which courts have consistently
18 upheld in the Commission's favor.

19 I'll now turn it over to Counsel
20 Cialino who will briefly recap the testimony the
21 third panel of witnesses provided in our prior
22 hearing, and after that summary, Ms. Cialino will
23 call Mr. DeSimone to testify.

24 Counsel, the floor is yours.

25 MS. CIALINO: Thank you, chair. As

1 the chair indicated, we are here to reconvene the
2 SCI's public hearing on the addiction rehabilitation
3 industry which was held on October 11th of this
4 year.

5 To refresh your memories about the
6 investigative findings detailed in that earlier
7 proceeding, I'm going to give a brief summary of the
8 testimony provided by SCI agents and other witnesses
9 regarding Kingsway Recovery Center.

10 Kingsway Recovery Center is an
11 outpatient addiction treatment facility located in
12 Mullica Hill, New Jersey. SCI forensic accountant,
13 Laura Mercandetti, testified that Kingsway only
14 accepts private insurance and self-pay clients. It
15 was explained by both SCI witnesses and an outside
16 witness that addiction rehabilitation industries --
17 excuse me, addiction rehabilitation facilities often
18 prefer clients who have private insurance over
19 Medicaid and Medicare, because private companies pay
20 at a higher rate for patient care which enables the
21 treatment center to maximize their profits.

22 At the public hearing, SCI agents
23 testified that patients did not always get the care
24 that they were supposed to receive at the facility.
25 Therapy sessions were often cut short from 45

1 minutes to as little as 15 minutes. Sometimes,
2 there were overlapping client services where clients
3 would be taken out of a therapy session early to
4 meet with a nurse or to get help writing a resume.
5 Insurance companies were still billed the entire
6 amount for these services. SCI agents also
7 testified that workers at the facility were
8 instructed to engage in certain unethical practices
9 such as contaminating the urine samples of clients
10 doing well in the recovery with those that were not,
11 as to make it seem as if the client was not making
12 progress, allowing Kingsway to continue billing
13 insurance companies for services at a higher rate.

14 The Commission also found evidence of
15 other questionable billing practices at Kingsway.
16 SCI agent, Karen Guhl, testified that her review of
17 billing records revealed evidence showing insurance
18 companies were billed by Kingsway for the same
19 services twice. In doing so, Kingsway was billed
20 for bundle addiction treatment services for a
21 patient and then billed again for the same patient
22 for the services that were included in the bundle
23 item by item. Agent Guhl testified that from her
24 review of the records, these questionable billings
25 were done, quote, done virtually every day on a

1 daily basis.

2 SCI agents testified that Kingsway
3 used Graceway Sober Living to house their patients.
4 Graceway Sober Living is run by Nicholas DeSimone's
5 wife, Michelle DeSimone. The Commission
6 investigation revealed that almost all of Graceway's
7 residents attended Kingsway for addiction treatment.
8 Graceway would lure clients in with enticements such
9 as little to no rent, meals, transportation, gifts
10 and other necessities that someone might need,
11 which, in turn, incentivized patients to attend
12 Kingsway. In return, since sober living facilities
13 cannot bill insurance companies for clients stays,
14 the insurance payments for treatment residents
15 received at Kingsway funded Graceway's operations.

16 Forensic accountant, Laura
17 Mercandetti, explained how over \$15 million in
18 health insurance proceeds, some of which were
19 obtained through duplicatus billing practices,
20 enabled Graceway to grow from one sober home to six
21 in a span of a few short years. The ill-gotten
22 gains also financed the DeSimones' lavish lifestyle
23 buying luxury goods and vehicles and pumping their
24 investment accounts with \$1-1/2 million in cash.

25 In addition to the deceptive billing

1 A. It was \$9,000, so I just wanted to
2 keep -- that was what was in my mind, just keep
3 transferring \$9,000, but as you can see up there,
4 6/3, I transferred two \$9,000 amounts, and so that
5 would have initiated a transaction report. So I'm
6 just saying, that's just the way I was doing it.

7 Q. So your understanding today is that
8 that would --

9 A. Yeah, yes.

10 Q. Would create a currency transaction
11 report?

12 A. Yes.

13 Q. Why would you do, even if it's the
14 same day, that 6/3/2019, why do two transfers of
15 9,000, just because you were only transferring
16 9,000?

17 A. Umm, I guess I needed to pay for
18 expenses.

19 Q. Why not 18,000?

20 A. Because I was trying to keep it
21 uniform at 9,000.

22 Q. What made you come up with the number
23 9,000?

24 A. I don't recall.

25 Q. And at some point did you stop

1 transferring monies in the amount of 9,000? Did you
2 decide you didn't want to do that \$9,000 uniform
3 transfer anymore?

4 A. Yes.

5 Q. When was that?

6 A. I don't recall.

7 Q. Why did you make that change?

8 A. Because I was just -- I didn't think
9 that it made too much sense anymore.

10 Q. Did somebody advise you to make those
11 transfers in the \$9,000 increments, or you just
12 decided that on your own?

13 A. Decided that on my own.

14 Q. Did anyone advise you not to make
15 that \$9,000?

16 A. No.

17 Q. Were the transfers done in this
18 manner in the amount of \$9,000 in order to avoid
19 federal banking requirements?

20 A. No.

21 Q. I want to direct your attention to
22 Exhibit AR-85W, which is on the screen, and I
23 believe you have a copy in front of you. Now, these
24 are just a few of the transfers that the Commission
25 found from Kingsway's bank accounts into your

1 staying at Graceway Sober Living, are they
2 transported to Kingsway Recovery or treatment?

3 A. I believe so.

4 Q. Who transports them?

5 A. I believe it's that other, the Favor
6 En Route transport company.

7 Q. Now, you said -- I just want -- you
8 said Kingsway Recovery refers clients to Graceway
9 Sober Living. Does Kingsway Recovery refer clients
10 to other sober living homes other than Graceway?

11 A. Does Kingsway? Kingsway refers
12 clients to multiple sober living homes.

13 Q. What other sober living homes?

14 A. Diane's House, Amy's House, other
15 Oxford Houses.

16 Q. Where is Amy's House?

17 A. West Deptford.

18 Q. And you said Andy's House?

19 A. Amy's House.

20 Q. Where is that?

21 A. In West Deptford. There's a Shoova
22 House in Mullica Hill.

23 Q. Who runs Diane's House?

24 A. I'm not sure.

25 Q. Who runs Amy's House?

1 A. I don't know.

2 Q. How about Shoova House, who runs it?

3 A. I don't know.

4 Q. Where is that located?

5 A. Shoova is in Mullica Hill.

6 Q. Any others? Oxford Homes you said?

7 A. Yes.

8 Q. What determines, you know, how are
9 these referrals done? Who makes them?

10 A. So you want me to explain that
11 process to you?

12 Q. Yes.

13 A. So a client would call in the
14 admission line and the person in the admissions
15 would, you know, see if they have any need for sober
16 living, and they would give them three different
17 sober living homes to choose.

18 Q. Does Diane's House transport
19 patients, Kingsway's patients, the ones who are
20 attending Kingsway to the facility every day?

21 A. I don't know.

22 Q. What about Amy's House?

23 A. I don't know.

24 Q. What about Shoova House?

25 A. I don't know.

1 Q. Does anyone from Kingsway personally
2 interact with the insurance companies?

3 A. Yes.

4 Q. Who is that?

5 A. Director of operations.

6 Q. Only -- that same woman who does
7 everything else?

8 A. Yeah. She interacts with them and
9 she interacts with, you know, with the insurance
10 people.

11 Q. Did Jessica Mercier do that too prior
12 to her leaving?

13 A. No.

14 Q. Now I want to direct your attention
15 to AR-85S which is now on the screen and also in
16 front of you. This is just one example of services
17 for one client that the Commission found that
18 Kingsway Recovery billed the health insurance
19 company. So as you can see on March 11, 2019, looks
20 like intensive outpatient treatment was billed under
21 procedure code H0015. On the same date, this is for
22 the same patient, procedure code 80305 was billed
23 for urine drug screening and 90834 was billed for
24 individual psychotherapy for 45 minutes. We talked
25 about H0015 being the bundled code; is that correct?

1 A. Correct.

2 Q. And then the individual
3 psychotherapy, which looks here to be procedure code
4 90834, would that fall -- is it your understanding
5 that that would fall under that bundled code?

6 A. If you're bundling the services, yes.

7 Q. Now, here if what you're looking at,
8 let's just say AR-85S, that is for, you know, one
9 patient and they are billing for that bundled code
10 and then also for the individual psychotherapy and
11 then urines, which you said is under the insurance
12 company, is what's depicted here billed twice?

13 A. No.

14 Q. So the individual psychotherapy isn't
15 included in the H0015 bundle code?

16 A. Correct.

17 Q. How do you know that?

18 A. By speaking with the director of
19 operations who spoke with -- who speaks with the
20 insurance companies. I'm just giving you the
21 information that I'm getting from the insurance
22 companies through somebody.

23 Q. Do you know which insurance company
24 she spoke to?

25 A. No, but I would think it -- it's all

EXHIBIT B



- [Certifications](#) ▾
- [Training and Events](#) ▾
- [Resources](#) ▾
- [Software and Services](#) ▾
- [Shop](#) ▾
- [Membership](#) ▾

Home > Codes > HCPCS > HCPCS Codes > Alcohol and Drug Abuse Treatment H0001-H2037

> Drug, Alcohol, and Behavioral Health Services H0001-H0030

> Alcohol and/or drug services; intensive outpatient (treatment program that operates at least 3 hours/day and at least 3 days/week and is based on an individualized treatment plan), including assessment, counseling; crisis intervention, and activity therapies or education

◀ H0014 **H0015** H0016 ▶

HCPCS Code for Alcohol and/or drug services; intensive outpatient (treatment program that operates at least 3 hours/day and at least 3 days/week and is based on an individualized treatment plan), including assessment, counseling; crisis intervention, and activity therapies or education H0015

HCPCS code H0015 for Alcohol and/or drug services; intensive outpatient (treatment program that operates at least 3 hours/day and at least 3 days/week and is based on an individualized treatment plan), including assessment, counseling; crisis intervention, and activity therapies or education as maintained by CMS falls under Drug, Alcohol, and Behavioral Health Services .

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EXHIBIT C

Eric R. Breslin, Esq. (ID # 024971983)
Matthew M. Caminiti, Esq. (ID# 212782018)
DUANE MORRIS LLP
One Riverfront Plaza
1037 Raymond Boulevard, Suite 1800
Newark, New Jersey 07102-5429
Attorneys for Dr. Nicholas DeSimone

In re: Subpoena No. 12723 to Dr. Nicholas DeSimone.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No.

**NOTICE OF MOTION TO QUASH
SUBPOENAS**

PLEASE TAKE NOTICE that on November 4, 2022, at 9:00 A.M., or as soon thereafter as counsel may be heard, the undersigned attorneys for Dr. Nicholas DeSimone, Ph.D., shall move before the Superior Court of New Jersey, Law Division, Camden County, located at the Camden County Hall of Justice, 101 South 5th Street, Camden, New Jersey 08103, for an Order: (a) quashing Subpoena Number 12723 served by the State of New Jersey’s Commission of Investigation (“SCI”) upon Dr. DeSimone; and (b) for any other relief that this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that in support of this application, Dr. Desimone shall rely upon the enclosed Letter Brief in Support of the Motion to Quash the Subpoenas, the Certification of Eric R. Breslin, Esq., the Certification of Dr. Nicholas DeSimone, the Certification of Michelle DeSimone, and the exhibits thereto.

PLEASE TAKE FURTHER NOTICE that pursuant to New Jersey Court Rule 1:6-2(d), the undersigned requests oral argument only if opposition to the within motion is entered.

A proposed form of Order is submitted herewith.

Respectfully submitted,

DUANE MORRIS LLP

Attorneys for Dr. Nicholas DeSimone

By: /s/ Eric R. Breslin

Eric R. Breslin, Esq.

Dated: October 7, 2022

Eric R. Breslin, Esq. (ID # 024971983)
Matthew M. Caminiti, Esq. (ID# 212782018)
DUANE MORRIS LLP
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Attorneys for Dr. Nicholas DeSimone

In re: Subpoena No. 12723 to Dr. Nicholas DeSimone.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CAMDEN COUNTY

Docket No.

[PROPOSED] ORDER

THIS MATTER having come before this Court on the Motion of Duane Morris LLP, attorneys for Dr. Nicholas DeSimone, Ph.D, seeking an Order pursuant to New Jersey Court Rule 1:9 quashing Subpoena Number 12723 issued to Dr. DeSimone, and this Court having considered the moving papers and oral argument, if any, and for good cause shown;

IT IS on this _____ day of _____ 2022;

ORDERED that Dr. DeSimone’s Motion to Quash the Subpoena is **GRANTED**; and it is further

ORDERED that Subpoena Number 12723 issued to Dr. Nicholas DeSimone is hereby quashed; and it is further

ORDERED that a copy of this Order shall be deemed served by the uploading of this Order on eCourts.

Hon. _____, J.S.C.

OPPOSED _____
UNOPPOSED _____

Commission of Investigation
State of New Jersey.

After reading this Report from the Commission on Investigation – containing a fictionalized version of The Sanctuary – I had to respond. It is littered with many inaccurate and incorrect statements and assumptions.

First, I was never an owner of The Sanctuary de facto or otherwise. Next, it is unclear to me what a legitimate, on-going dispute with a mortgage company from 1994 or a 10-year old tax issue has to do with this Report.

Second, I never purchased a \$2,000 bottle of wine in my life. I never spent \$237,000 on a vacation that is absurd and the company did not pay \$237,000 either. I have never been in Turks and Caicos at Christmas time ever in my life. These are complete fabrications designed to unfairly malign me and The Sanctuary. These events never happened. Period.


Instead of attempted to defame me, the Report should have focused on the myriad of bad actors in this industry (which, hopefully, they did – I was not given access to the complete Report). However, The Sanctuary was not one of them.

Indeed, The Sanctuary is no longer in business, facilitated by this investigation. Investigators parked in front of people's homes at 6:00am, waiting for someone to come out, often confronting people while taking their children to school. Investigators engaged people at their place of business. They encroached on neighbors and family. As a result, some of the vendors lost their jobs.

What you will not see in this Report – because it does not fit the Commission's narrative – is that there are hundreds of clients that are alive and with their families today because of the good work of The Sanctuary and its employees. Every client was treated with dignity and respect.

The real shame is how many more clients could have been helped if this investigation was focused on the real problems in this industry.

Respectfully


Steven Imburgio

Steven J. Hauck, Sr.

Telephone: [REDACTED]

Email: [REDACTED]

January 29, 2024

VIA EMAIL: lcialino@sci.state.nj.us

Lisa N. Cialino, Esq.
State of New Jersey
Commission of Investigation
50 West State Street
PO Box – 045
Trenton, New Jersey 08625

**Re: Notice of Proposed Report
Dissemination Number 24-01-002**

Dear Ms. Cialino,

I received your correspondence dated January 12, 2024 on January 16, 2024. Pursuant to your letter, I ask that the New Jersey State Commission of Investigation include the below written response to the allegations contained within the proposed report:

Initially, I would like to address the Lehigh House, located on Lehigh Avenue in Pleasantville, New Jersey and opened in December, 2010 and the Edgewater House, which was located at 124 Edgewater Avenue in Pleasantville, New Jersey and opened in 2012.

Both houses were operated under the rules of the Oxford Houses and catered to male tenants who could either support themselves or received assistance from their family. The houses each had 16 beds and were very successful in turning around the lives of the residents.

At no time was there ever “rampant drug use” by the residents or the staff. While there were some repeat visits by the police, this was specific to the Edgewater property. The problem with that property arose after residents discovered a loophole that made it virtually impossible to remove individuals who violated the terms of their stay.

When I would attempt to remove individuals who violated the terms of their stay, the Pleasantville Police Department would refuse to remove them as I would be in violation of landlord/tenant laws. Essentially, it was impossible to comply with two sets of regulations.

[REDACTED]

[REDACTED]

[REDACTED]

The [REDACTED] of the Atlantic County Services [REDACTED] has been one of our supporters since 2010. He had been trying to provide funding for us since 2010. So it was a big deal in approximately 2018 that it was able to happen. In the beginning of each home being licensed, Clean and Sober Living, LLC, Atlantic County Social Services, Addiction Treatment Services International and the State of NJ DCA were about to embark in uncharted territory, it was new to all of us. However, the lack of checks and balances within the system allowed for manipulation by residents.

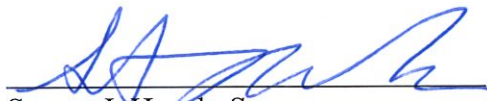
Looking back, I can now see what went wrong with the county funding. We would approve people based on the requirements of the county and let them move in. Within a few days, the county would approve them. However, it took approximately 30 days for us to get paid by the county. The problem was that the resident was required to complete other requirements that many of them had no intention of completing. Therefore, after Clean and Sober Living not getting paid for 30 days of them living in our house and because they still needed the county, they would go back to the county and make false allegations. They would report that they had to leave because residents and staff were using drugs and claim the houses were in bad shape. It is not uncommon for those with drug problems to become manipulative and, unfortunately, the county would simply believe them.

I do not have much knowledge with the agreement with ATSI. This agreement was made between my partner [REDACTED] who has since passed away and [REDACTED] the owner of ATSI who has since passed away. I only know that ATSI paid us about \$14,500 per month. The \$280,000.00 figure used in the report was provided to me by the State.

At least an additional \$170,000 was owed to Clean and Sober that the county promised to pay and never did. In fact, the suggestion that Clean and Sober was experiencing some kind of windfall by operating sober living houses is inaccurate. According to the report, from September 2019 to February 2021, the county provided \$170,000.00 for 18 months. Meanwhile, ATSI provided \$280,000.00 (according to the State) from June 2020 to January 2022, which is also 18 months. Cash residents, meanwhile, amounted to an additional \$162,000.00 in funds. During an 18-month period, house expenses were \$378,000.00 for six houses with office and management expenses costing an additional \$270,000.00. As such, total expenses were \$648,000.00 against \$612,000.00 in funding. Had the county provided appropriate support, I believe that we would still be in a position to serve the residents of the community.

I agree that oversight is important with respect to sober living facilities and encourage a review of current policies. The suggestion or implication, however, that Clean and Sober Living was not always first and foremost concerned with the wellbeing of its residents is inaccurate.

Thank You,




Steven J. Hauck, Sr.

Enclosure

I declare under penalty of perjury under the laws of the State of New Jersey, the foregoing statements are true and correct.



Steven J. Hauck, Sr.

TOMS RIVER POLICE DEPARTMENT TRAINING BULLETIN		
SUBJECT: Cooperative Sober Living Residences (CSLR)	NUMBER: 01-2020	
EFFECTIVE DATE: 1/14/20	DISTRIBUTION TO: All Sworn	ISSUED BY: [REDACTED]
CANCELLATION DATE: 12/31/20		APPROVED BY: [REDACTED]

Purpose: The purpose of this bulletin is to inform and train personnel about Cooperative Sober Living Residences (CSLR). This bulletin will be used to establish guidelines when investigating matters concerning CSLRs.

Cooperative Sober Living Residences (CSLR):

- In June of 2017, the NJ Department of Community Affairs (DCA) created a Sober Living Regulation, which established a new category of facilities to be governed under NJAC 5-27 "Regulations Governing Rooming and Boarding Houses".
- CSLRs are defined as housing units in which residents who are in recovery from drug and alcohol addiction may live in a supportive environment. No CSLR may have more than 10 residents and 1 on-site operator. A CSLR can collect rent from its tenants.
- At this time, a CSLR is the **only residency** through the state that is not required to follow the standard eviction process covered in the NJ Eviction Law NJSA 2A:18-53 through 2A:18-84. This means that they can have a resident removed immediately, as per NJAC 5:27-3.3(c)1 and 5:27-3.3(c)2.
- If a residency claims to be operating as a CSLR, they are required to possess and show an owner's license **AND** operator's license which was issued to them by the DCA, per NJAC 5:27-3.9(a)1-5.
- If the CSLR decides to have the resident removed during the month, tenants should be directed to the Civil Court for rent disputes/reimbursement.
- If the operator and/or resident have any questions, direct them to DCA's Rooming & Boarding House Standards (RBHS). Their main number is 609-633-6251.
- There is currently one CSLR in Toms River as of the publication of this bulletin. **This CSLR is located at 1727 Old Freehold Rd.**

Law Enforcement involvement:

While it is the practice of the Toms River Police Department not to engage in the standard civil eviction process between landlords and tenants as per Toms River Police Department policy V1C35a (Civil Disputes IV(c)), the nature surrounding CSLRs compels this agency to investigate the matter, as it has potential criminal implications for the person being evicted and are within our purview to resolve. As a result, when investigating a CSLR related matter, the investigating officer should do the following:

- Confirm the residency in question is a licensed CSLR by observing the owner and operator's license issued by DCA for that residence.
- Once confirmed, ask the tenant to vacate the residence.
- If the tenant refuses to leave, advise the tenant that they are defiantly trespassing under NJSA 2C:18-3b.
- If the tenant still refuses to leave, the tenant may be arrested for defiant trespass.
- If a residence claims to be a CSLR, however they do not possess the proper credentials; refer the residence to Civil Court for the eviction process **AND** notify the [REDACTED]

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE AND ENTERPRISE SERVICES

SHORT FORM STANDING

EDGEWATER HOUSE A NJ NONPROFIT CORPORATION
0450015719

I, the Treasurer of the State of New Jersey, do hereby certify that the above-named NJ Domestic Non-Profit Corporation (NP) was registered by this office on Tuesday, September 08, 2015.

As of the date of this certificate, said business continues as an active business in good standing in the State of New Jersey, and its Annual Reports are current.

I further certify that the registered agent and registered office are:

STEVEN J HAUCK SR



IN TESTIMONY WHEREOF, I have
hereunto set my hand and
affixed my Official Seal
8th day of September, 2015

Robert A. Romano

Robert A. Romano
Acting State Treasurer

Certificate Number : 4003143752
Verify this certificate online at
https://www1.state.nj.us/TYTR_StandingCert/JSP/Verify_CERT.jsp



JOHN E. HOGAN, ESQ.

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January 25, 2024

Lisa N. Cialino, Counsel
State of New Jersey Commission of Investigation
50 West State Street
PO Box 045
Trenton, NJ 08625

Re: Response to State of New Jersey Commission of Investigation Draft Report, pursuant to N.J.S.A. 52:9M-12.2

Dear Ms. Cialino:

As you are aware, this firm represents Shlomo Smith, an owner of Armada Recovery which manages ATSI, with regard to the New Jersey State Commission of Investigation's (the "Commission") inquiry into New Jersey sober living homes and their interrelationships with substance abuse treatment programs.

The Commission recently forwarded to this office an excerpt of a draft report to allow Mr. Smith the opportunity to provide a response to the SCI's proposed report. We were not provided with the full draft report, any underlying investigative documentation, nor the testimony and identification of witnesses relied upon by the Commission in drafting the report. Thus, we have been denied a meaningful opportunity to confirm the source or veracity of the Commission's investigation. Further, we understand that the excerpt provided contains those references in the draft report pertaining to Mr. Smith but not all references to ATSI and Armada Recovery. Thus, our response is necessarily limited to the excerpt and should not be interpreted as an adoption of all statements, allegations or opinions related to ATSI and Armada Recovery's operations.

We note that Mr. Smith fully cooperated with the Commission and testified prior to receiving the excerpt. Thus his response to the draft provided is also informed by the nature of the questions he was asked, and not asked, by the Commission. While Mr. Smith may not have the full report, it is evident to him that the Commission is focused almost exclusively on private financial support of sober living homes but has expressed no apparent corresponding interest in the patient success attributable to available sober living. Thus, Mr. Smith is concerned that the Commission has,

without a meaningful appreciation of the substance abuse treatment industry, ascribed solely financial motivation to otherwise reasonable investment in comprehensive treatment and care plans.

To that end, it must be articulated that paramount to Mr. Smith's concerns in the operation of ATSI and Armada Recovery is the effective care and treatment of his patients who seek to recover from serious, life threatening substance abuse addiction. Mr. Smith also maintains that he has complied with all applicable laws and regulations concerning the operation of his programs and vehemently rejects any suggestion to the contrary, implicit or otherwise, contained in the Commission's report.

Further, Mr. Smith, ATSI and Armada Recovery, as well as virtually all other experienced and dedicated substance abuse professionals around the country, recognize that patient access to safe, convenient and low-cost sober living is often essential to recovery. In many other states, effective coordination and control over both treatment centers and sober living is applauded. It appears that the Commission is under the misguided impression that pecuniary gain is all that motivates the care provided by New Jersey providers. While we cannot speak for all operators, Mr. Smith and the licensed substance abuse treatment professionals at ATSI do not accept that. Mr. Smith does not deny that he must operate his profit businesses prudently, he takes serious issue with the Commission's allegation that operation of a treatment facility for profit implies that his companies, as the Commission puts it, "patient brokering."

Further, the excerpt makes reference to the fact that Premier Recovery began the licensing process after being fined. While Mr. Smith neither owns nor operates Premier Recovery, he does possess written confirmation that led him to believe that Premier had sought licensure well before accepting patients.

Based solely on the opinion of a "confidential source", the draft also references the confidential source's description that six residents of Premier Recovery were "abusing the medications and stockpiling things and getting into fights and argument..." and there was widespread use of prescription and illicit substances by the residents.

Neither Mr. Smith, nor to his knowledge ATSI or Armada, received complaints or similar information corroborating this anonymous testimony. Had allegations of this kind been timely brought to the attention of Mr. Smith or ATSI or Armada, they would have been addressed in the clinical setting by the professionals and, further, the sober living facilities would have been informed. In fact, it is disturbing that someone with such purported knowledge did not alert the treatment facility when meaningful intervention could have helped. Mr. Smith does not, however, dismiss the reality that relapse is a part of the recovery process. Yet, given the amount of routine drug screening performed on all ATSI patients, including those who resided in sober living, it appears that the "confidential source" has greatly exaggerated the reality.¹

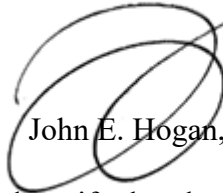
¹ ATSI and Armada possess proof of these screens but cannot reveal them due to patient privacy concerns. Redacted proofs can be made available to the SCI upon request.

The excerpt goes on to criticize ATSI by claiming that “a resident who allegedly tested positive for drugs yet was allowed to remain at the [sober living] home even after agreeing to go to another facility for detox...” While medical privacy laws prevent Mr. Smith and the treatment provider from revealing patient information to refute unsubstantiated claims concerning patient care, suffice it to say that all patient care decisions are determined by licensed professionals based upon a complete understanding of appropriate factors and not by rumor and speculation. To rely upon such an uninformed allegation is irresponsible and unfair.

While Mr. Smith must disagree with many of the allegations and assumptions set forth in the Commission’s draft report, he acknowledges that the provision of treatment is an evolving process and he is always willing to improve and create more successful treatment programs for the patients. He welcomes any recommendations from the Commission that improve the industry. Mr. Smith relied upon professional advice in the operation of ATSI and Armada Recovery and remains available to provide the benefit of his insight and experience to the Commission to address its perceived concerns in the substance abuse treatment arena.

Please advise us if the Commission requires further information.

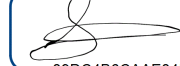
Respectfully submitted,



John E. Hogan, Esq.

I have reviewed the foregoing statement and certify that they are true. I am aware that if any of the foregoing statements so adopted by me are willfully false, I am subject to punishment.

DocuSigned by:



89DC4BRCAA84F6

Shlomo Smith

Dated: January 25, 2024



*State of New Jersey
Commission of Investigation*