



Pharma Speaking Arrangements May Be Common, But They Are Not Inconsequential: United States of America v. Novartis Pharmaceuticals Corp. – Dkt. No.: 11 Civ. 0071 (S.D.N.Y.)

August 4, 2016

The Federal Government is currently suing Novartis on allegations that it has violated the False Claims Act, 31 U.S.C. 3729 et seq. based on, among other allegations, that it has paid illegal kickbacks to prescribing physicians disguised as fees for services provided by physicians under speaking arrangements between such physicians and Novartis. The Federal Government has issued broad subpoenas to prescribing physicians as part of its investigation. If you have received a subpoena, or any communication concerning this case from the Federal Government, any attorney representing Novartis or any person, please contact me immediately, as you will likely need representation. You should be aware that both the payee and payor of the illegal kickback have exposure under the federal Anti-Kickback Statute, state and federal commercial bribery laws, the False Claims Act and other healthcare-related laws implicated by the speaking arrangements. Additionally, while the current litigation is civil in nature, you should be aware that the payment or receipt of kickbacks implicate the criminal provisions of the federal Anti-Kickback Statute, state and federal commercial bribery laws, as well as state and federal health care claims frauds laws. As such, care should be taken (e.g., in responding to the subpoena and communicating the government, if at all) to avoid criminal prosecution. Finally, there may be ways to limit the subpoena on, among other grounds, the expiry of the relevant statutes of limitation.

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