

INTRODUCTION

We, the members of the Forty-First Statewide Investigating Grand Jury, having received and reviewed evidence pertaining to violations of the Pennsylvania Crimes Code occurring in and around numerous counties in Pennsylvania including, but not limited to, Bucks, Dauphin, Montgomery, Chester, Delaware and Philadelphia counties, pursuant to Notice of Submission of Investigation Number 61, do hereby make the following findings of fact and recommendation of charges:

FINDINGS OF FACT

The Grand Jury conducted an investigation into allegations that Liberation Way, LLC (“Liberation Way”), a company having a principal place of business in Yardley, Bucks County, generated millions of dollars in profits by exploiting individuals with drug and alcohol dependencies as tools to defraud insurance companies. From 2015 through 2018, Liberation Way and its holding company, Liberation Behavioral Health, LLC (“Liberation Behavioral”), along with Liberation Way’s founding members, various employees and investors, illegally secured and paid the premiums for their patients’ insurance policies so they could then bill insurance companies for treatments that were sub-standard, not provided, or, medically unnecessary. In addition, as a money-making scheme, these individuals and entities implemented a cycle of “treatment” that illegally required patients to live in company-owned housing, and was designed to maximize the amount of time for which insurance could be billed – to the detriment not just of the insurers, but of the patients themselves. The investigation further revealed that Dallas Fetterman (“Fetterman”) and Jason Gerner (“Gerner”), two of the founding members of Liberation Way, developed an elaborate and complex “kickback” scheme wherein thousands of medically unnecessary urine tests were sent to Florida-based laboratory facilities for analysis. The laboratory facilities, in turn, billed

the insurance companies for the testing at exorbitant rates. Once the laboratory facilities received the insurance payments for the testing, a portion of the money collected was sent to Fetterman and Gerner. When the unnecessary laboratory fees were not paid-in-full by the billed insurance company, laboratory employees and members of Liberation Way harassed and threatened the patients and their families, demanding that they pay the outstanding balances. This activity served to increase the “kickback” amounts received by Fetterman and Gerner.

- **CREATION OF LIBERATION WAY**

The Grand Jury heard testimony that Fetterman,¹ Gerner and Branden Coluccio (“Coluccio”) designed a business plan to create a drug and alcohol rehabilitation facility which would ultimately result in the formation of Liberation Way.² Special Agent Eric Norman (“SA Norman”) of the Pennsylvania Office of Attorney General (“OAG”) testified that Liberation Way was registered with the Pennsylvania Department of State as entity number 4342604, with an address of 90 West Afton Avenue, Suite 101 in Yardley, Bucks County.

SA Norman stated that the OAG began investigating Liberation Way after receiving a referral from the Department of Drug and Alcohol Programs (“DDAP”) following complaints from several former employees and patients of Liberation Way. Specifically, it was alleged that Liberation Way was billing insurance companies for treatments that were not provided and/or were sub-standard. Additionally, it was alleged that Liberation Way was obtaining health insurance policies for patients by using fraudulent information so that the patients would qualify for “high-

¹ The Grand Jury learned that Fetterman died in Florida in 2017.

² At the same time that Liberation Way was created, Liberation Behavioral and LBH Holdings, LLC were also created with Liberation Behavioral serving as a holding company. Fetterman, Gerner, Coluccio and other investors formed Liberation Behavioral on October 13, 2014. Liberation Way was a wholly owned subsidiary of Liberation Behavioral.

end” insurance policies. The “high-end” policies were those that paid the highest amounts to Liberation Way for the treatments.

The Grand Jury learned that the “DDAP” is the state oversight entity for drug and alcohol treatment programs in Pennsylvania. In order for a drug and alcohol rehabilitation facility to operate in Pennsylvania, it must first apply for, and obtain a license through, the DDAP. The Grand Jury heard testimony from Wenona Wake (“Wake”), the Bureau Director for Quality Assurance for Prevention and Treatment for the DDAP. Wake advised that Liberation Way’s initial application for a license through the DDAP was submitted in 2015 and listed an address in Yardley, Bucks County.³ Gerner was listed on the application as the owner of Liberation Way and the point of contact for the facility. Coluccio and Fetterman were also listed as owners of the facility.

The Grand Jury viewed the application for Liberation Way that was signed and verified by Gerner as being truthful and accurate. Gerner attested in the application that neither he, nor any of the individuals listed in the application, had ever been the subject of criminal charges. Specifically, Gerner answered “no” to the question “Have any of the facilities/[Narcotic Treatment Programs] identified and/or individual(s) identified in this document been the subject of CRIMINAL CHARGES?” Gerner also answered “no” to the question “Have any of the facilities/[Narcotic Treatment Programs] identified and/or individual(s) identified in this document been the subject of CIVIL CHARGES?” The Grand Jury learned that these statements were false as Gerner had previous criminal convictions and was also the subject of a fraud investigation undertaken by his prior employer in New Jersey. Wake testified that the DDAP relied upon the

³ Wake testified that Gerner submitted another application on June 1, 2016 for a second location in Bala Cynwyd, Montgomery County. A final application for a third location in Fort Washington, Montgomery County was submitted on August 17, 2016.

truthfulness of these answers to determine whether the facility was eligible to receive licensure by the DDAP. She stated that any omissions or false statements could be a reason for the disqualification/rejection of a license application.

Wake testified that the application for the Yardley location noted that the facility would be used for intake evaluations, referrals, outpatient and partial hospitalization. She explained that intake evaluation and referral is a service that every licensed drug and alcohol facility conducts. It entails an assessment to determine the level of care to be assigned to an individual prior to his/her admission. The Grand Jury learned that there are various classifications or levels of care associated with drug and alcohol treatment. Only certain levels of care are permitted to occur in an outpatient facility as opposed to a hospital or inpatient treatment program. On July 24, 2015, Liberation Way received its license from the DDAP. Wake stated that Liberation Way was only approved for outpatient treatment services; it was not licensed to operate as an inpatient facility, which includes both treatment and housing for the patient.⁴ Inpatient treatment also includes more intensive services for patients who are not yet capable of completing outpatient levels of care. Domenick Braccia, M.D. (“Dr. Braccia”) was listed as the Medical Director on Liberation Way’s application. Wake explained that, as Medical Director, it would be Dr. Braccia’s responsibility to oversee all of the medical activities, including the dispensing of narcotic medications. Further, as Medical Director, Dr. Braccia would be the individual who would approve the ordering of medication and determine appropriate dosage requirements for a patient.

⁴ Liberation Way was licensed by the DDAP to provide: Detoxification (“Detox”)(at their Fort Washington location, only); partial hospitalization program (“PHP”); intensive outpatient program (“IOP”); and, sober living levels of care. SA Norman explained that each level of care was reimbursed at different amounts by insurance plans. Detox was reimbursed at the highest rate, followed by PHP, IOP and sober living, respectively.

Liberation Way's Yardley facility opened in July 2015 with Fetterman serving as the president, Gerner serving as the Chief Executive Officer and Coluccio serving as the Chief Financial Officer. A few months later, Michael Armstrong ("Armstrong") became the Chief Networking Officer and was involved in the day-to-day operations and the "marketing" activities of Liberation Way. The Grand Jury learned that "marketing" was a term used to describe the recruitment of patients with drug and alcohol addictions for potential treatment at Liberation Way, or a treatment center affiliated with Liberation Way.

- **"PLATINUM PLAN" INSURANCE POLICIES**

From its inception, Liberation Way structured its business plan to target specific insurance carriers who offered plans that paid the highest reimbursement amount for the daily treatment of a patient attending Liberation Way. Liberation Way's business plan specifically targeted "out-of-network" insurance carriers. Liberation Way, being an out-of-network provider, billed insurance companies any amount it deemed appropriate for treatment services. The out-of-network designation meant that Liberation Way did not have any contractual agreements with insurance companies regarding reimbursement rates or schedules. Generally, insurance plans with "out-of-network" benefits reimburse at higher rates than insurance plans with "in-network" insurance benefits. The Grand Jury learned that the cost for a patient to receive treatment at Liberation Way ranged from \$3,000.00 to \$5,000.00 per day. Daily costs were dictated by the specific level of care assigned to the patient (*i.e.*, Detox, PHP, IOP, sober living).

One insurance carrier that was targeted by Liberation Way was Independence Blue Cross ("IBC"). IBC is a Pennsylvania insurance carrier, providing coverage to customers residing in specific areas including Philadelphia, Bucks, Montgomery, Delaware and Chester counties. Jason Cottrell ("Cottrell"), an investigator with IBC, appeared before the Grand Jury and explained that

IBC discovered a significant number of claims that were submitted by Liberation Way in connection with newly issued policies in 2016. These policies were IBC's top tier "platinum plan" policies with premium costs ranging from \$500.00 to \$800.00 per month. These "platinum plan" policies also provided IBC's highest reimbursement rates and the lowest deductible and out-of-pocket expenses for covered patients.

Cottrell testified that IBC was part of a nationwide network of insurance companies of Blue Cross/Blue Shield. This network included insurance companies such as IBC and AmeriHealth of New Jersey ("AmeriHealth"). Cottrell testified that during his investigation of Liberation Way, it was determined that between July 2015 and the beginning of 2018, Liberation Way billed all Blue Cross/Blue Shield insurance companies in excess of \$115 million. Of that amount, the specific companies IBC and AmeriHealth had been billed nearly \$60 million by Liberation Way. Cottrell indicated that the \$60 million billed to IBC and AmeriHealth did not include billings for urine testing of patients who were being treated at Liberation Way.

Cottrell testified that as IBC began to further investigate the claims that were being submitted for treatment of patients at Liberation Way, it was discovered that numerous claims involved policies which had been obtained with IBC just prior to - - or sometimes the same day as - - the beginning of the patient's treatment. IBC's review of the applications for these newer policies revealed that they mostly involved "platinum plan" policies and contained several common addresses which were listed on multiple applications as a home address. Cottrell noticed that, on several applications, the addresses were misspelled and listed incorrect zip codes. Cottrell testified that IBC's investigation discovered that many of the customers applying for these "platinum plan" insurance policies resided outside the state of Pennsylvania and were therefore not eligible for coverage through IBC.

Cottrell explained to the Grand Jury that enrollment in an IBC insurance plan typically occurs during the open enrollment period.⁵ If insurance is not obtained during the open enrollment period, an individual seeking insurance would have to enroll during a special enrollment period (“SEP”). In order to apply for insurance during a SEP, a “life event” was required. A “life event” includes losing coverage from a previous employer, or moving to a new residence in an area that would not be covered by the insurance carrier.

A document published by the Center of Medicare and Medicaid Services was shared with the Grand Jury. Cottrell explained that the document defined a SEP and specifically defined the terms “permanent move” and “intent to reside.” Cottrell stated that “individuals visiting an exchange service area for a transitory purpose, like a business matter, to obtain medical care or for personal pleasure, do not have a present intent to reside.” Accordingly, these individuals would not meet the residency requirement as defined by a SEP.

The contract available on IBC’s website was also shown to the Grand Jury. Specifically, one clause in the contract stated:

“Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

Cottrell stated that misrepresentations with respect to residency would render a patient ineligible for the plan that he/she was attempting to purchase.

Michael Sarubbi (“Sarubbi”), a former employee of Liberation Way, testified that Liberation Way paid the insurance premiums for the patients’ policies, including “platinum plan”

⁵ Open Enrollment generally occurs every year between the months of October and November.

policies. Sarubbi testified that he and Gerner purposely disguised the source of money used to pay for these policy premiums so that Liberation Way was not directly linked to the policies. The Grand Jury learned that federal guidelines prohibit a healthcare facility such as Liberation Way from paying the insurance policies for individuals who were receiving treatment there. This prohibition was also set forth in IBC policy and was commonly known through the industry. Sarubbi testified that he personally paid for the patients' premiums using Gerner's debit card information. Alternatively, he would go with Gerner to obtain cash in order to pay for the premiums. Sarubbi also stated that Liberation Way obtained pre-paid Visa cards to pay for some of the insurance policies. Initially, the policy premiums were paid from a bank account for Hope for Families, LLC ("Hope for Families"). Hope for Families was a company that was established by Gerner on April 17, 2015. Between August 2015 and November 2016, Hope for Families received \$862,899.59 from Liberation Way accounts. During that time period, the same accounts were also used to pay the policy premiums for patients enrolled with AmeriHealth and IBC. The premium payments totaled \$29,135.65. SA Norman testified that as the number of patients at Liberation Way increased, the funding for the premium payments shifted from Hope for Families to a new company named Leaf Healthcare Financial, LLC ("LEAF").

- **LEAF**

The Grand Jury heard testimony from Sarubbi that, at one point, most patients at Liberation Way obtained insurance policies funded by LEAF. Sarubbi stated that he was tasked with the establishment of LEAF⁶ and that it was created for the sole purpose of funding the treatment of patients through the purchase of fraudulent insurance policies from companies such as IBC. Sarubbi testified that he was instructed by Gerner and Fetterman to refer to the payments made by

⁶ LEAF was established on or about January 29, 2016.

LEAF as “scholarships” when Liberation Way and/or LEAF paid for a policy. LEAF, on paper, was made to appear as an organization that received donations in order to provide loans/“scholarships” for individuals who were not able to obtain insurance on their own. LEAF was specifically set-up so that it appeared to have no direct connection to Liberation Way.

Sarubbi testified that patients who received insurance policies paid by LEAF were usually provided coverage through IBC or AmeriHealth because those companies paid the highest amount in reimbursement fees. According to Sarubbi, patients were never informed that they were being loaned money, nor were they informed that they had to pay any money to LEAF. Accordingly, the treatment for patients at Liberation Way was free-of-charge. SA Norman testified that Liberation Way was able to recover any money spent by LEAF to purchase the insurance policies. This was possible because the amount of the monthly insurance premiums that paid for the policies was equal to, or sometimes less than, the amount that Liberation Way billed the insurance company for one day of treatment.

SA Norman testified that his investigation confirmed that patients receiving insurance coverage usually did not know what insurer was providing the benefits for their treatment at Liberation Way. Liberation Way, using LEAF, set everything up for the patient including submission of the insurance application and payment of the policy premiums. Sarubbi testified that, to his knowledge, Fetterman, Gerner and Coluccio funded LEAF through “investments.”

Sarubbi advised that he was instructed by Fetterman and Gerner to recruit someone to open a bank account for LEAF who had no association with Liberation Way. Sarubbi, in turn, hired his friend, Brian Botcheos (“Botcheos”), to open a bank account and become the “face” of LEAF.

Sarubbi stated that he provided Botcheos with an initial check to fund the LEAF bank account. The Grand Jury learned that Coluccio issued a \$13,200.00 check to Sarubbi from a

Liberation Way bank account. The words “April Consulting” were written in the memo line and the check was signed by Coluccio. Sarubbi explained that he was instructed by Coluccio to deposit the check into his (Sarubbi’s) personal account and then write a check from his personal account to LEAF in the amount of \$13,200.00. Coluccio instructed Sarubbi to write “loan” on the memo line. Sarubbi then provided this check to Botcheos to be deposited into the new account. Sarubbi stated that although he was uncomfortable with funneling the money through his personal account, he did it because he was informed that he would be fired by Gerner if he did not comply.

The Grand Jury viewed a January 21, 2016 check issued by Coluccio to Botcheos in the amount of \$10,000.00. The words “personal loan” were written on the memo line. The Grand Jury also viewed a March 21, 2016 check issued by Fetterman to Botcheos in the amount of \$12,500.00. The words “business loan” were written on the memo line of this check.

On January 29, 2016, a bank account was opened for LEAF and \$20,000.00 was transferred into this new account. Botcheos was listed as the sole signatory on the account. Bank records revealed that the checks written by Coluccio and Fetterman to Botcheos were also deposited into the LEAF account. Additionally, the \$13,200.00 check written from Sarubbi’s personal account was deposited into the LEAF account, shortly after the account opening.

The Grand Jury learned that between January 2016 and September 2016, deposits totaling \$173,188.38 were made into the LEAF account. The deposits consisted of cash, funds transferred from a Liberation House, LLC (“Liberation House”) account, and payments from Philly 180, LLC (“Philly 180”), Fetterman, Coluccio, and Sarubbi. During this time period, the same account was used to pay the premiums for patients who were enrolled with AmeriHealth and IBC. The premium payments totaled \$45,290.38.

Olin Morris (“Morris”), a former patient at Liberation Way, appeared and testified before the Grand Jury. He stated that he attended Liberation Way at no cost. Morris explained that he entered treatment in April 2016 and did not have insurance at the time. In order to obtain insurance, Morris was instructed to use the address of a sober home affiliated with Liberation Way in New Jersey. This struck Morris as odd because he had been a lifelong resident of Pennsylvania and did not understand why Liberation Way wanted him to use a New Jersey address. Morris further stated that he never paid any money toward his insurance policy. He told the Grand Jury that Botcheos provided him with cash so that he (Morris) could pay his insurance premiums.

Following his treatment, Morris became an employee at Liberation Way. In that capacity, he was aware of two patients who used his (Morris’) home address of 619 North 34th Street in Philadelphia in order to obtain insurance policies. Armstrong had asked that the patients to be able to use Morris’ address so that they could obtain insurance coverage and begin treatment at Liberation Way. Morris testified that neither one of the patients ever lived at his address. Morris explained that he was reluctant to allow the patients to use his home address, but after experiencing pressure, he agreed so that the patients could begin obtaining treatment services.

Another former patient at Liberation Way, Tommy Markov (“Markov”), testified that his father was provided with the contact information for Botcheos so that Markov could obtain an insurance policy. Markov testified that after receiving Botcheos’ contact information, an insurance policy through IBC was secured for him (Markov). Markov learned that Liberation Way’s address of Afton Drive in Yardley was listed on the application as Markov’s residence. Markov testified that, at some point, Gerner told him that if he (Markov) was ever asked about payments of the insurance premiums, he should advise that his family was making the payments.

Botcheos also appeared and testified before the Grand Jury. He confirmed that he was approached by Sarubbi about a job opening at Liberation Way. Botcheos testified that he then met with Gerner, Fetterman, Sarubbi and a man named “Muhammad.” The Grand Jury learned during the course of this investigation that Muhammad Hadi (“Hadi”) operated Legacy House, LLC (“Legacy House”), the housing associated with Liberation Way. In this capacity, Hadi employed patients of Liberation Way and tasked them with performing maintenance-related duties at properties managed by Hadi. Hadi paid the patients in cash, cigarettes and other commodities.

During his interview with Gerner, Fetterman, Sarubbi and Hadi, Botcheos was informed that he would be in charge of LEAF, a new company that Liberation Way was going to create. Botcheos explained to the Grand Jury that the “marketers” at Liberation Way would send him the contact information for potential patients and/or their family members. When asked what would happen if a potential patient did not have insurance, Botcheos advised that he would inform the potential patient that he could obtain insurance for them through the “Marketplace”⁷ and that LEAF would pay for the policy premiums so that the individual could start treatment.

Botcheos stated that he also informed potential patients that they needed a Pennsylvania address in order to obtain coverage through a Pennsylvania-based insurance company. To that end, he would provide patients with the address of one of the multiple housing locations affiliated with Liberation Way. Botcheos stated that he randomly selected one of these housing locations unless Sarubbi or Armstrong instructed him to use a specific location for a patient. Once the patient had a housing address, Botcheos purchased a pre-paid credit card from a CVS or other stores with money from the LEAF bank account. He then registered the credit card in the name of

⁷ Cottrell testified that one way to obtain a policy with IBC would be through accessing the Affordable Care Act Marketplace at www.healthcare.gov.

the patient and used the credit card to pay for the insurance policy. Botcheos explained that in addition to the checks from Fetterman and Sarubbi, the LEAF bank account was funded by checks that were given to him from Hadi and Coluccio. Botcheos further stated that Elsie Concepcion (“Concepcion”),⁸ another Liberation Way employee, helped him purchase the pre-paid credit cards. She also aided him by calling insurance companies in order to make the premium payments for the policies.

Botcheos testified that, randomly, one day, Gerner and Armstrong told him that they were shutting down LEAF. Sarubbi stated that after IBC began its audit of Liberation Way, Botcheos was instructed by Gerner to destroy all the records relating to LEAF.

The Grand Jury was informed that there were seven bank accounts associated with Legacy House (D/B/A Liberation House) and that Hadi was the authorized signatory on these accounts. Legacy House and Liberation House, initially established on November 23, 2015, were used interchangeably, and money was consistently transferred between the bank accounts for the two entities. Between November 2014 and January 2018, funds from one of these Liberation House bank accounts were used to make \$264,872.48 in payments to IBC, United Healthcare and A. McGlawn Insurance. An additional \$28,931.29 was paid to AFCO, a system that is utilized to generate quotes for insurance policies. The Grand Jury learned that during that time period, the same Liberation House account, under the control of Hadi, received \$8,646,295.00 in payments from Liberation Way. Another one of the seven accounts associated with Liberation House received \$465,170.00 from Liberation Way.

For his part, Hadi also established a bank account on September 9, 2015 for Prestige Worldwide, LLC (“Prestige Worldwide”) and was the authorized signatory on this account.

⁸ Concepcion was known as Elsie Hernandez during her employment with Liberation Way.

Between September 2015 and January 2018, \$574,146.08 was deposited into this account from Gerner as well as Philly 180, Legacy House and Hope for Families. An additional \$20,119.00 was deposited into the account from Liberation Way.

The Grand Jury was informed that between December 2014 and January 2018, Liberation Way accounts received over \$42 million in payments from different health care companies in connection with the claims that were submitted by Liberation Way. After reviewing the records, it was determined that roughly 95% of the deposits consisted of direct payments from insurance companies including Horizon Blue Cross Blue Shield, AmeriHealth, Cigna, IBC, Integrity Health, United Healthcare, and Team Care. During this same time period, numerous healthcare companies were paid over \$419,000.00 from Liberation Way accounts in connection with insurance plan premiums. These same accounts were also used to make over \$98,000.00 in payments to Coastal Laboratory (“Coastal”), Orange Grove Labs (“Orange Grove”), Quality Toxicology (“Quality”) and Deep Blue Toxicology (“Deep Blue”). Additionally, more than \$8 million was deposited into the accounts of Legacy House from Liberation Way. The Grand Jury learned that Gerner, Coluccio, and Fetterman were the authorized signatories on the Liberation Way accounts.

The Grand Jury heard testimony that on November 21, 2016, Cottrell and members of IBC interviewed Gerner. During this interview, Gerner admitted that Liberation Way enrolled 89 clients into “relocation policies” with either IBC or AmeriHealth. Gerner advised that this was a “mistake” and should not have occurred. Gerner stated that Liberation Way wanted to “right their wrongs” and write a check to IBC as re-payment for the 89 policies. After IBC interviewed Gerner, Liberation Way produced a document detailing 70 patient applications that contained fraudulent home addresses. During its review, IBC subsequently discovered that the total of fraudulently

obtained policies was 107 insurance policies.⁹ Cottrell testified that IBC paid Liberation Way nearly \$7 million for individuals who improperly obtained a “relocation” policy.

- **HOUSING ADDRESSES**

SA Norman testified that the addresses commonly listed on the applications for insurance were the residential locations affiliated with Liberation Way. The Grand Jury learned that these residential locations were operating as sober homes but were not licensed through the Department of State or the DDAP.¹⁰ SA Norman further testified that one location - - 1146 Stump Road in North Wales, Montgomery County - - was initially owned by Dr. Braccia. This address was included on more than 10 insurance applications. During his testimony, Markov stated that he never had the option of choosing where he could live and was initially placed at the North Wales residence. He testified that there was minimal supervision at the house and that patients referred to it as the “party house.” Markov asked to be moved to another housing location because he was actively trying to get better and did not want to be tempted to relapse. In response to his request, Markov was placed at another housing location in Hatfield that was run by Liberation Way.

Following his treatment, Markov became an employee of Liberation Way and was working there when an IBC investigator appeared and ask to speak with him. Markov later met with Gerner who instructed Markov to lie to the IBC investigator. Markov was told to inform the investigator that he (Markov) found his own living arrangements and that the locations where he stayed while attending treatment at Liberation Way were not connected to Liberation Way. Markov reiterated

⁹ The 107 policies included the 70 policies that Liberation Way admitted were fraudulently obtained.

¹⁰ For housing to be included in the treatment program, Liberation Way would have had to become a licensed inpatient treatment facility. There are DDAP regulations that must be followed by inpatient treatment centers in order to ensure that the housing is safe and meets the needs of those residing there and attending treatment.

to the Grand Jury that the housing was, in fact, connected to Liberation Way. He added that he had never before known of a sober house where everyone living in the house attended the same treatment facility.

During his testimony, Dr. Braccia informed the Grand Jury that he was paid \$8,000.00 per month by Liberation Way to rent his North Wales house for the use of Liberation Way patients. He stated that Gerner, Fetterman and Coluccio liked the house so much that Liberation Way purchased it for \$800,000.00 on September 16, 2016. Dr. Braccia initially testified that he sold the house directly to Liberation Way; however, he then corrected himself and stated that he sold it to another entity. The Grand Jury learned that the house was actually purchased by 1146 Stump Road, LLC ("Stump Road") and reviewed a check that was issued to Stump Road. This check was issued from a Liberation Way bank account and signed by Coluccio. The check served as reimbursement for the purchase of the property.

SA Norman informed the Grand Jury that housing was controlled by Hadi under the entity Legacy House. Hadi invested money in Liberation Way and worked hand-in-hand with Gerner and Armstrong. Even though Liberation Way claimed that it had no association with Legacy House, all housing issues were to be reported directly to the clinicians at Liberation Way. Once an issue was reported, it was expected that corrective action would be taken, or recommended by, the patient's counselor. Given that there was no real separation of Liberation Way from its housing facilities, SA Norman explained that Liberation Way was actually operating as an inpatient facility and lacked the proper levels of oversight required of such facilities. Additionally, SA Norman stated that employees working at the housing locations believed that they were employees of Liberation Way.

Wake testified that when the DDAP received complaints regarding Liberation Way's Yardley facility, it appeared that clients thought that their recovery houses (sober homes) were a part of the licensed treatment activities since there was no clear distinction between the treatment and housing. During on-site visits, clients informed Wake that they thought it was a requirement to live in the housing affiliated with Liberation Way. Morris, as well as William Milligan ("Milligan") and John Haskopolus ("Haskopolus") all testified that they stayed at sober houses affiliated with Liberation Way and did not have a choice as to where they could live while attending treatment at Liberation Way. Cottrell testified that, on one occasion, he confronted Coluccio about whether the housing was affiliated with Liberation Way. Despite the information about the ties to Liberation Way, Coluccio insisted that the housing was a completely separate entity from Liberation Way.

The Grand Jury learned that, on a daily basis, shuttles ran from the housing locations to Liberation Way's treatment locations. Since transportation was provided, the patients at Liberation Way had to adhere to the schedules of the drivers. Patients were not free to leave and had to wait until the transport vans returned them to their housing. This was yet another example of how Liberation Way controlled their patients.

The Grand Jury heard testimony from previous employees and patients of Liberation Way that some of the housing was co-ed, which is uncommon in the drug and alcohol treatment industry. Moreover, it was revealed that Liberation Way housing staff and employees were having sexual relationships with patients who were actively receiving treatment. Furthermore, the Grand Jury learned that some of the housing was located in areas that were known for nefarious activity. Former employees testified that these housing locations facilitated patient relapses. Alex Ott, a former clinician at Liberation Way, testified that it would be more appropriate to transfer these

patients to another facility in order to provide the care that was needed. The Grand Jury learned that a patient who relapsed would receive treatment at Liberation Way at a higher level of care. This, in turn, resulted in a higher rate of reimbursement from the insurance companies. Gerner and Armstrong continued to allow clients to re-enter treatment at Liberation Way after multiple relapses.

The Grand Jury also heard testimony that Liberation Way cycled patients through the treatment process as many times as possible. SA Norman stated that his investigation revealed that some patients were cycled through treatment at Liberation Way up to eight times. However, the amount of time a patient could cycle through treatment was often dictated by their insurance policy. Once a patient's benefits were exhausted, Liberation Way transferred the patient to another treatment center. These centers had agreements with Liberation Way for an immediate exchange of a new patient or for an exchange of a patient in the future.

- **URINE TESTS AND FLORIDA LABORATORIES**

On July 30, 2015, just after Liberation Way opened its Yardley facility, Dana Fetterman, the brother of Fetterman, opened a PNC Bank account for Philly 180. SA Norman testified that he discovered that a "consulting contract" had been entered into by Dana Fetterman and Liberation Way effective March 1, 2016. The contract stated that Dana Fetterman had a background in the addiction industry. This was not true. This contract, on its face, made it appear that Liberation Way and Dana Fetterman were engaged in a legal business relationship and that any money exchanged between the two would be for legitimate business purposes.

SA Norman testified that he spoke with Detective Mark Berey ("Detective Berey") of the Palm Beach County Sober Homes Task Force in Florida who shared information about an investigation into Jesse Peters ("Peters"). According to Detective Berey, Peters was associated

with numerous laboratory facilities located in Florida which entered into illegal agreements with treatment facilities. Peters agreed to pay the owners of the treatment facilities illegal “kickbacks” in exchange for submitting requests for laboratory testing (mainly urine tests) to his laboratory facilities.

During his investigation, Detective Berey discovered that significant amounts of money were being sent from Peters’ laboratory companies to Philly 180. These companies included Coastal, Deep Blue, Orange Grove, Axiom and Anchor Diagnostics. Detective Berey provided SA Norman with a spreadsheet detailing the percentages of money that were paid by the companies to other entities. The Grand Jurors viewed this spreadsheet and learned that 40% of the insurance payments that the companies received in connection with the Liberation Way patients would be sent back to Gerner and Fetterman as a “kickback.” SA Norman explained that a check would be issued by the company to Philly 180. Once the money was received by Philly 180, Dana Fetterman would distribute the money from Philly 180 to Gerner and Fetterman. The spreadsheet illustrated that between the months of January 2016 and July 2016, Philly 180 received \$657,083.92 in “kickbacks” from Peters and his companies.

The Grand Jury learned that the companies eventually discontinued sending checks to Philly 180 in July 2016 and began to send equal monthly amounts to Hot Wheels and Alban, LLC (“Alban”).¹¹ From August 2016 to November 2016, these two companies each received \$334,346.42 in “kickbacks” from Peters and his companies. This arrangement allowed Fetterman and Gerner to continue to receive their “kickbacks,” but removed Dana Fetterman and Philly 180 from the process.

¹¹ Hot Wheels was controlled by Fetterman and Alban was controlled by Gerner. Alban was established on September 30, 2016.

SA Norman testified that IBC was billed in excess of \$33 million for urine testing. IBC paid more than \$4 million for this testing.

- **URINE TESTS AND DR. BRACCIA**

As noted above, Dr. Braccia was listed as the Medical Director of Liberation Way in its application to the DDAP. Wake testified that when she conducted an onsite visit at Liberation Way, she was shocked by the number of urine tests that were being ordered. She noticed that for some patients, a urine specimen was collected every day. Wake also found it suspicious that Liberation Way was sending all of its urine specimens to laboratory facilities in Florida for testing. Various patients-turned-employees, including Markov, Morris, Haskopolous and Scott Collins (“Collins”), testified that they were required to provide multiple urine samples each week. Additionally, Milligan testified that he had to submit as many as three-to-four urine samples per day.

When some of these individuals became employed by Liberation Way, they were responsible for collecting multiple urine samples each week. Upon collecting the samples, they would request that the patients sign what they presumed to be a consent form; however, these employees testified that no one ever read the form. Markov told the Grand Jury that a counselor at Liberation Way told him that Gerner would offer staff incentives/bonuses of \$100.00 or \$200.00 per week for requesting that a certain number of urine samples be ordered. During their tenure, Markov and Haskopolous stated that the testing was performed at four or five different laboratory facilities in Florida, but the contact person remained the same.

SA Norman testified that he conducted an interview with Collins wherein Collins stated that Gerner was aware that the insurance company would cover nine urine tests per month, per patient. Gerner tasked Collins with ensuring that nine urine specimens were collected from each

patient. SA Norman stated that Collins informed him that he would receive a bonus of \$500.00 per month from Gerner's personal checking account for collecting nine specimens for each patient attending treatment at Liberation Way. The Grand Jurors viewed a \$500.00 check that was written to Collins and signed by Gerner. On the memo line, the word "consulting" was written. Collins told SA Norman that he knew the bonuses were for the collection of urine samples because the word "consulting" was written on the check. Collins provided SA Norman with blank laboratory forms that were pre-signed by Dr. Braccia. Dr. Braccia's signature indicated that each test was medically necessary.

The Grand Jury learned that full panel tests were performed on every urine specimen collected at Liberation Way. This type of testing was the most expensive and thus the most lucrative in terms of billing the insurance companies. By ordering the most expensive test, laboratories were able to maximize their profits which, in turn, increased the amount of "kickbacks" sent to Gerner and Fetterman.

The Grand Jury learned through the testimony of Dr. Braccia and other witnesses that urine tests were ordered without Dr. Braccia performing any evaluation of the patients. The Liberation Way employees had access to blank forms, which were pre-signed by Dr. Braccia. When instructed to obtain a urine specimen from a patient, the employees would complete the pre-signed form with the patients' information and send the specimen to whichever Florida-based laboratory Liberation Way was using at that time. Former patients and employees testified that the results of the patients' urine tests were not discussed with them.

During this investigation, SA Norman discovered that patients and/or the patients' families were receiving large invoices from the Florida laboratories wherein the laboratories sought payments for amounts that were not paid for by the insurance companies. SA Norman testified

that in some instances the bills were between \$80,000.00 and \$100,000.00. One particular family was forwarded a promissory note, stating that they would be responsible for anything that the insurance company would not cover. When the family was hesitant to sign the document, Armstrong tried to force the family into signing the document by threatening that their son would not receive any treatment with Liberation Way unless they signed it. Tiffany Brooks (“Brooks”), an employee responsible for billing at Liberation Way, stated that she began receiving inquiries from patients who had received significant bills from companies in Florida in connection with the urine testing. When asked about the billing statements that some clients were receiving, Gerner informed Brooks that the bills were generated in error and that the clients were not supposed to be billed. Further, Brooks testified that Gerner told her to inform the patients to call the laboratories directly if there were any further issues.

- **FRAUDULENT BILLINGS AND INSURANCE CLAIMS**

The Grand Jury learned that in addition to Dr. Braccia, bills to the insurance companies were submitted under the names of two other physicians: Ramesh Sarvaiya, M.D. (“Dr. Sarvaiya”) and Joseph Savon, M.D. (“Dr. Savon”).

Dr. Sarvaiya is a physician licensed to practice medicine in Pennsylvania and New Jersey. SA Norman testified that Dr. Sarvaiya was interviewed by Special Agent Marysol Mateo from the Office of Personnel Management, Office of Inspector General (“OPMOIG”) regarding an investigation being conducted by the OPMOIG. During this interview, Dr. Sarvaiya stated that he worked for Liberation Way for approximately eight months during the initial startup period in 2015 and that he was paid \$500.00 per month. Dr. Sarvaiya further advised that he initially met with Gerner and was informed that he (Dr. Sarvaiya) would not have to do anything except sign paperwork as needed. Dr. Sarvaiya stated that he did not know where Liberation Way was located,

never visited the facility, and, never met nor evaluated any patients. Dr. Sarvaiya acknowledged that he received laboratory requests through either electronic mail (“e-mail”) or facsimile and, upon receipt, he would just sign-off on the request. He would then send the signed documentation back to a Liberation Way employee via e-mail. From July 2015 through October 2015, Florida-based laboratory companies billed IBC over \$14 million for urine testing, based upon Dr. Sarvaiya’s representation that the testing was a medical necessity for Liberation Way patients.

Liberation Way also submitted bills for treatment under the name of Dr. Savon from July/August 2015 to June 2016. Dr. Savon is a physician licensed to practice medicine in Pennsylvania. The Grand Jury learned that IBC discovered nearly \$5 million in claims that were submitted by Liberation Way under Dr. Savon’s National Provider Identifier (“NPI”) number. Cottrell testified that in September 2016, he confronted Gerner about the bills submitted by Dr. Savon. Gerner initially explained that Dr. Savon was the Medical Director of Liberation Way during the time of the billings. In a follow-up interview with Coluccio, Coluccio advised that the bills were generated in error. Liberation Way indicated that it would reimburse IBC for the amounts that were billed in error under Dr. Savon’s NPI number. According to Cottrell, no such reimbursement was ever made.

Cottrell testified that he met with Dr. Savon and questioned him about his role in Liberation Way and the \$5 million in claims that were submitted under his NPI number. Dr. Savon advised that although he had been an initial investor in Liberation Way, he never served as the Medical Director. Dr. Savon stated that he had only been to Liberation Way on two occasions and, during those visits, he never saw any patients. He further stated that although he was initially given the impression that he would be hired as Medical Director, Liberation Way selected another physician for that position. He denied ever giving permission to anyone at Liberation Way to use

his NPI number on the billings. Accordingly, nearly \$5 million in claims never should have been submitted to IBC.

Brooks testified that while reviewing patient charts, she discovered notes that appeared to have been copied and pasted. Brooks explained that this was problematic and that she addressed the issue with Gerner. Brooks also stated that in 2016, she was told to bill for full-day sessions on holidays, such as Thanksgiving and Christmas, and that she was instructed on how to bill for holidays by Gerner. Brooks testified that she also discovered that clients left at 1:00 p.m. for the day with an outside “homework assignment.” She believed that Gerner attempted to use the “homework assignment” as a means to bill for a full-day session, even though the “homework assignment” would not include a billable service.

Brooks testified that she overheard Concepcion call insurance companies and pretend to be a patient. Brooks stated that Concepcion told her directly that Gerner instructed her to call the insurance companies pretending to be the patient and to have checks re-issued and/or rerouted to Liberation Way. The Grand Jury learned that while Concepcion would call the insurance companies and impersonate female patients, Collins would call the insurance companies and impersonate male patients.

SA Norman testified that Stephen Thomas, M.D. (“Dr. Thomas”), an expert in drug addiction and pain management, reviewed some of the records and claim notes pertaining to patients who attended Liberation Way. He also reviewed the treatments that were billed to IBC. A copy of his report was shown to the Grand Jury. Dr. Thomas’ report noted that federal guidelines specify that, while in treatment, drug screenings should be obtained at the outset of treatment and at least eight times yearly or once every six weeks.

In his review of the various patient records, Dr. Thomas observed that there was an absence of a history and physical examination which would normally be completed at the time of admission. He further noted that many of the urine screenings reflected in the patient files were medically unnecessary. Dr. Thomas's report stated that the results of the screening should have been added into the patient's profile within their records in order to further tailor the patient's treatment plan. Dr. Thomas found that there was no evidence of any physician input in the ordering and interpretation of the urine tests. Moreover, there was no evidence that the test results were used to modify the treatment being received by the patient. Accordingly, the use of these tests by Liberation Way served no medically-legitimate purpose. SA Norman read the following conclusion contained in Dr. Thomas' report:

The medical records reviewed in this case show a clear pattern of lacking basic required elements of medical evaluation, such as history and physical examinations, standard blood work, discharge summaries or queries of the Prescription Drug Monitoring Program. At the same time there has been a great overutilization of urine drug screens for non-medical purposes. The number, type and combination of drug screens appear to have been chosen for reasons that have nothing to do with appropriate monitoring of the treatment courses of the patients.

Furthermore, the use of the distant laboratories makes reporting of some of the results questionable solely based upon the rapidity with which they were allegedly reported. Many other tests were ordered prior to the previous test being reported.

The business relationship between the entities was documented as problematic. The use of breathalyzers for monitoring ethanol use was of no clinical value whatsoever. The non-addiction related laboratories served no purpose for patient care.

The opinions stated in this report are stated within a reasonable degree of medical certainty. My conclusions are based upon information I have reviewed to date. In the event additional information is made available to me, I reserve the right to extend, amend, and/or clarify my opinions and conclusions based upon review of that additional information.

- **SALE OF LIBERATION WAY**

In December 2017, Liberation Way sold a 70% portion of the business to a private equity firm for \$41.6 million. The proceeds from the sale were divided among the Liberation Way owners and investors including Gerner, Coluccio, Armstrong, Dr. Braccia, Hadi and the Estate of Fetterman.