



FULL ACQUITTAL FOR BELL NUNNALLY CLIENT IN TRICARE HEALTH CARE FRAUD TRIAL

December 20, 2019

On Tuesday, after six weeks of trial and two weeks of deliberation, a jury seated in the U.S. District Court for the Northern District of Texas, Dallas Division announced the acquittal of three defendants for the \$100 million TRICARE health care fraud matter brought by the federal government. These defendants included Bell Nunnally client Steven Bernard Kuper – represented by Partner Jeffrey J. Ansley and Associate Arianna G. Goodman.

TRICARE is a military service member and beneficiary health care program. In 2016, the U.S. Attorney's Office for the Northern District of Texas indicted 13 individuals — including doctors, pharmacy owners and marketers – alleging that their fraudulent actions, including illegal kickbacks, caused TRICARE to incur “more than \$100 million in actual losses” during a period stretching from May 2014 to February 2016.

Kuper owned and operated Burleson, Texas-based compounding pharmacy FW Medical Supplies d/b/a Dandy Drug (Dandy). Dandy was alleged to have paid kickbacks to a marketing group in exchange for prescription referrals, including from TRICARE members. Kuper was charged with one count of conspiracy to commit health care fraud and multiple counts of violations of the federal anti-kickback statute.

Ansley and Goodman were able to secure, on behalf of Kuper, a broad and complete acquittal, with the jury agreeing with their assertions that, “The government has failed to provide any foundation for a jury to find the most basic predicates necessary for the imposition of criminal liability in this case,” and that Kuper was neither aware of nor engaged in illegal activity, including paying kickbacks for referrals or conspiring to do anything wrong. The jury issued the remainder of its verdicts in the TRICARE matter today.

“The government's crusade to root out health care fraud and abuse has, at times, including in this instance, simply swept up too broad a range of individuals and businesses – at great operational and reputational cost,” said Ansley. “Here, the facts simply didn't support the dogged and years-long

prosecution of a small business owner and his operation. We deeply appreciate the jury's ability to separate fact from fiction and see, plainly, that Steven Kuper is an innocent man."

"The health care operating environment, particularly for small and midsize businesses, is challenging enough without the looming threat of regulatory dragnets ensnaring everything in their sights," said Goodman. "While this full acquittal is justice, it is not restorative. The price paid is the continued damage these false assertions have caused. Hopefully, this sort of setback will ensure that prosecutors reexamine their cases to avoid false accusations."

Related Media Coverage:

- [Dallas Business Journal](#) – January 3, 2020
- [The Texas Lawbook](#) – December 23, 2019
- [The Dallas Morning News](#) – December 21, 2019

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