

Addressing Findings of Systemic Causes of Preventable Neglect, Abuse and Human Suffering in For-Profit Nursing Homes

Medicaid Fraud Control Unit:

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November 3, 2025



Overview

This presentation will cover 5 topics:

- I. Medicaid Fraud Control Unit
- II. PHHPC Ad Hoc Committee 9/18/25 Questions
- III. Nursing Home Legal Framework review
- IV. Findings of Repeated Illegality and Fraud
- V. Common shareholder/operator defenses





MEDICAID FRAUD CONTROL UNIT



Medicaid Fraud Control Unit

- The NYS Attorney General's Medicaid Fraud Control Unit (MFCU) is Independent of the Department of Health and the New York State Medicaid Program
- MFCU is legally required to investigate Fraud by Medicaid Service Providers
- MFCU is also legally required to investigate Allegations of Patient Abuse and Neglect in Residential Healthcare Facilities, Regardless of Payment Sources



PHHPC QUESTIONS



PHHPC Ad Hoc Committee 9/18/25 Questions

1. Effect of Related Party Transactions on Operations and Resident Care?
2. Effect of Splitting Ownership of Operator from Real Estate?
3. Fair Market Value/FMV and Rent?
4. Effect of Collusive Related Party Transactions on CMS Staffing Ratings?
5. Do DOH/PHHPC “Approved” Persons Make the Decisions on Operations?
6. What Is the Relevance of Character and Competence of Shareholders?



NURSING HOME LEGAL FRAMEWORK



Nursing Home Legal Framework

State and Federal Laws Require NY Nursing Homes to:

Provide

- Required Care in Individualized Care Plans
- Medical Care, Wound Care, Medication Administration
- Basic Care and Assistance with Activities of Daily Living
- Infection Prevention and Control

Operate with Sufficient and Competent Staffing to deliver required Care

Limit Admissions to Only Residents for whom the Nursing Home can
Provide Required Care



Some Nursing Home Legal Framework

- Most Nursing Home Revenue is from Medicaid and Medicare. Those Programs Pay Reliably, per Resident Day, Relying on the Operator's Certification that it Delivered Required Care
- Reimbursement: Higher Nursing Home Census Results in More Revenue
- DOH & PHHPC Operator Approval Processes Include "Character and Competence" Review Because Nursing Homes Owe Many Duties in Order to Protect Vulnerable People Living in Them
- Nursing Homes Are Required to File Accurate and Truthful Cost Reports, Payment Certifications, and CON Applications



Findings of Repeated Illegality and Fraud under Executive Law 63(12)

1. MFCU Findings of Repeated Illegality and Fraud
2. Common findings from investigations and enforcement actions
3. 2021 Attorney General Nursing Home Report findings
4. Effects of Fraud in CON Approval Process; Hidden Control and Operations decisions benefiting shareholders and harming residents



Findings: Repeated Illegality Under Executive Law 63(12)

Vulnerable people living in 11 for-profit nursing homes suffered preventable neglect, abuse, injuries of pressure ulcers, sepsis, falls, fractures, dehydration, UTIs, death, and dehumanizing humiliation from lying for hours in their own waste with soiled diapers and clothes.

Why?



Findings: Repeated Fraud under Executive Law 63(12)

From the outset, **shareholders** of the operators, related party landlords, and related party “management” companies implemented a coordinated fraudulent asset-stripping scheme disguised as elder care -- while disregarding the nursing homes’ legal duties to operate with sufficient staffing, limit admissions and provide care.



Findings: Repeated Fraud under Executive Law 63(12)

These same operators engaged in collusive related party real estate transactions that saddled the homes with obligations to pay unnecessary mortgage debt.

Without ensuring the nursing homes complied with their duties, they also regularly transferred millions in inflated “rents” and other collusive payments to related party landlords and their shareholders, facilitating up-front profit-taking.



Findings: Repeated Fraud under Executive Law 63(12)

Operators also paid “management” companies that they or their family members or business partners owned. They entered into non-arms-length collusive arrangements requiring the homes to pay related parties “fees” for duplicative or sham services that provided little or no benefit to the homes.

They then caused the homes to operate with insufficient staffing and to continue admissions, resulting in the failure to provide necessary care to residents.



Findings: Repeated Fraud under Executive Law 63(12)

Meanwhile, the nursing homes engaged in repeated illegality by neglecting residents, and by disregarding their duties to operate with sufficient staffing and RN supervision, to limit admissions to residents to whom they could provide care, and to provide required care.

**They hurt vulnerable people
who depended on them for care they needed,
yet didn't get.**



Findings: 4 Lawsuits

The Attorney General filed 4 Lawsuits (all Verified Petitions) to Address Findings of Systemic Causes of Neglect in 7 For-Profit Nursing Homes

The Villages of Orleans (November 2022: Orleans County): a for-profit 120-bed nursing home
14 Affidavits, including Auditor Affidavit, Medical Analyst Affidavit, Detective Affidavit and Civilian Affidavits
17 Respondents

Fulton Commons (December 2022: Nassau County), a for-profit 280-bed nursing home, in East Meadow
13 Affidavits, including Auditor Affidavit, Medical Analyst Affidavit, Detective Affidavit and Civilian Affidavits
9 Respondents: Nursing Home, 14 individuals including 12 nursing home owners, 4 other corporate entities including related party landlord and management company

Cold Spring Hills (December 2022: Nassau County), a for-profit 588-bed nursing home in Oyster Bay
21 Affidavits, including Auditor Affidavit, Medical Analyst Affidavit, Detective Affidavit and Civilian Affidavits
27 Respondents: Nursing Home, 12 LLCs, 1 other corporate entity, 14 individuals, including owners of nursing home and related party landlord and management companies

Centers, et al – 4 nursing homes. (June 2023: Bronx, Queens, Buffalo, and White Plains): 27 Respondents.



Findings: 7 Enforcement Actions in 11 For-Profit Nursing Homes

1. Preventable Neglect, Injury and Suffering of Vulnerable People
2. Insufficient Staffing Levels and Compensation
3. Continued Resident Admissions Despite Insufficient Staffing
4. Up-Front Profit-taking by Shareholders through Collusive Related Party Transactions
5. Control or Influence by Persons NOT Approved as Operator in Operations Decisions, and Operator Complicity in Up-front Profit-taking



Findings: Why and How (Preventable Neglect)

1. Preventable Neglect, Injury and Suffering of Vulnerable People

These tragic, preventable things happened because the Nursing Homes failed to timely (or at all) provide required care to the residents.



Findings: Why and How (Insufficient Staffing)

2. Insufficient Staffing Levels and Compensation

Under the scheme, nursing homes reduced staffing and RN supervision levels, and operated with chronic insufficient staffing, resulting in too few direct care staff to provide required care to residents.

To reduce expenses and facilitate up-front profit-taking, Operators and Related Party Management Companies made decisions that:

- Cut staffing to insufficient levels
- Set limited budgets for the Home's staffing
- Assigned staff too many care duties and provided inadequate training and RN supervision, which created poor working conditions, required staff to decide which care to provide, and resulted in staff burnout and turnover
- Used temporary staffing from Related Party staffing agencies instead of fulltime employees who were familiar with resident care needs
- Offered direct care staff compensation that was too low to enable the Home to hire and retain sufficient numbers of competent staff



Findings: Why and How (Resident Admissions)

3. Continued Resident Admissions Despite Insufficient Staffing

While the nursing homes were operating with insufficient staffing, Operators continued admitting additional residents in order to increase census and revenue, to facilitate Up-front Profit-taking by shareholders.

Findings: Why and How (Up-front Profit-Taking)

4. Up-Front Profit-Taking by Shareholders through Related Party Transactions

Why?

- To Conceal High Dollar Amount of Upfront Profit-Taking by Shareholders

Which Also Enabled Industry lobbyists to **falsely** claim:

- Medicaid Rates are “too low for Nursing Homes to be profitable” and
- “Staffing shortages” cause insufficient staffing

The 'nursing shortage' is really a staffing crisis

As the president of the largest nurses' union in New York, I am often asked how to solve the nursing shortage. I always respond first that it's not a nursing shortage but only a shortage of nurses willing to work under the current conditions in our healthcare facilities. To solve a problem, you need the correct diagnosis.

The nursing shortage is really a crisis of understaffing that health care employers have manufactured. It started well before the Covid-19 pandemic — the pandemic only exacerbated the problem. In New York and throughout the country there are more than enough licensed registered nurses to fill hospital vacancies. Many nurses look for jobs beyond the bedside

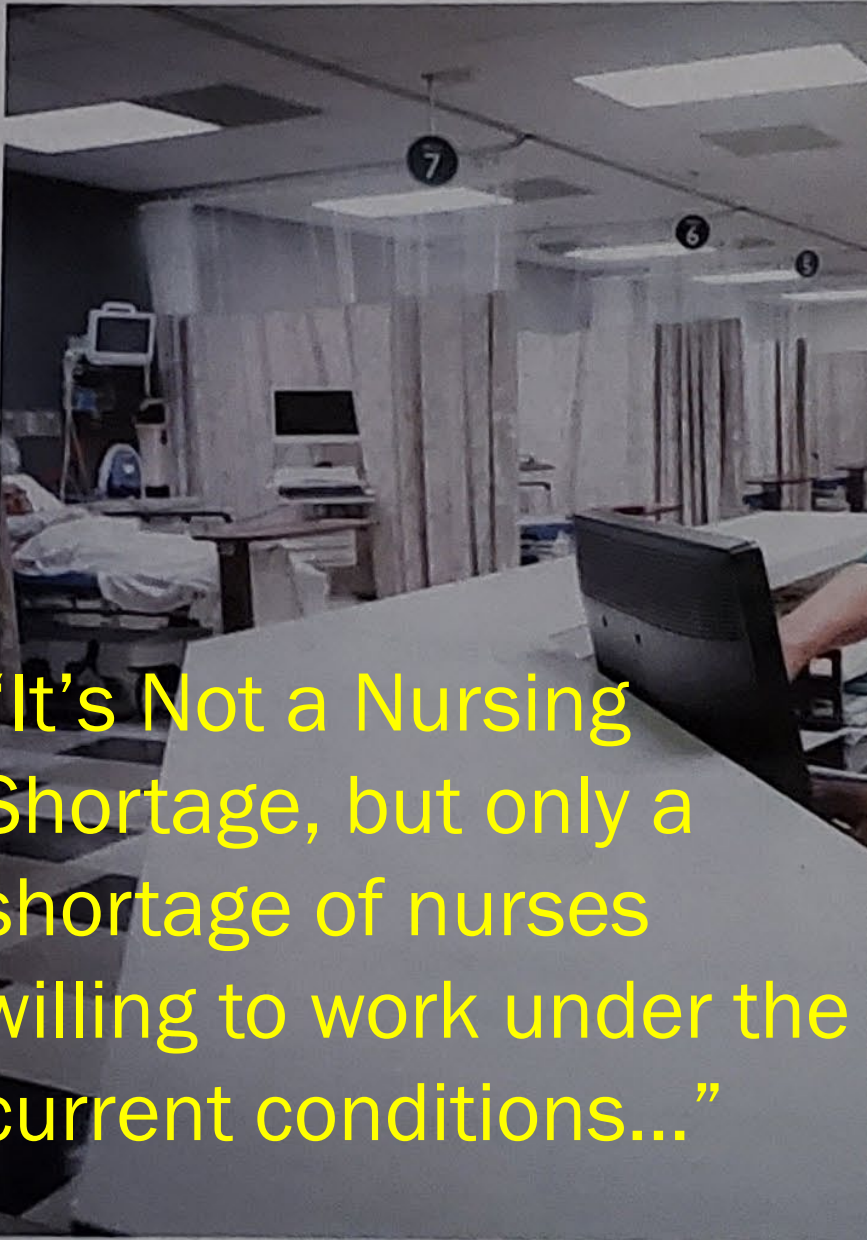


Nancy Hagans, RN, BSN, CCRN, is the president of the New York State Nurses Association.

ing healthcare. They may be the first person you see when you walk through the door, the person who answers your call bell, the person who monitors your condition to catch small problems before they become big problems, and the person who teaches you how to support your health before you leave the hospital. Patient outcomes largely depend on nursing staff.

Need safe staffing

Pushing nurses to constantly do more with less — to take on more patients and more hours and be more flexible with less support from administration and less pay than temporary travel nurses — has led to moral distress, exhaustion and a record

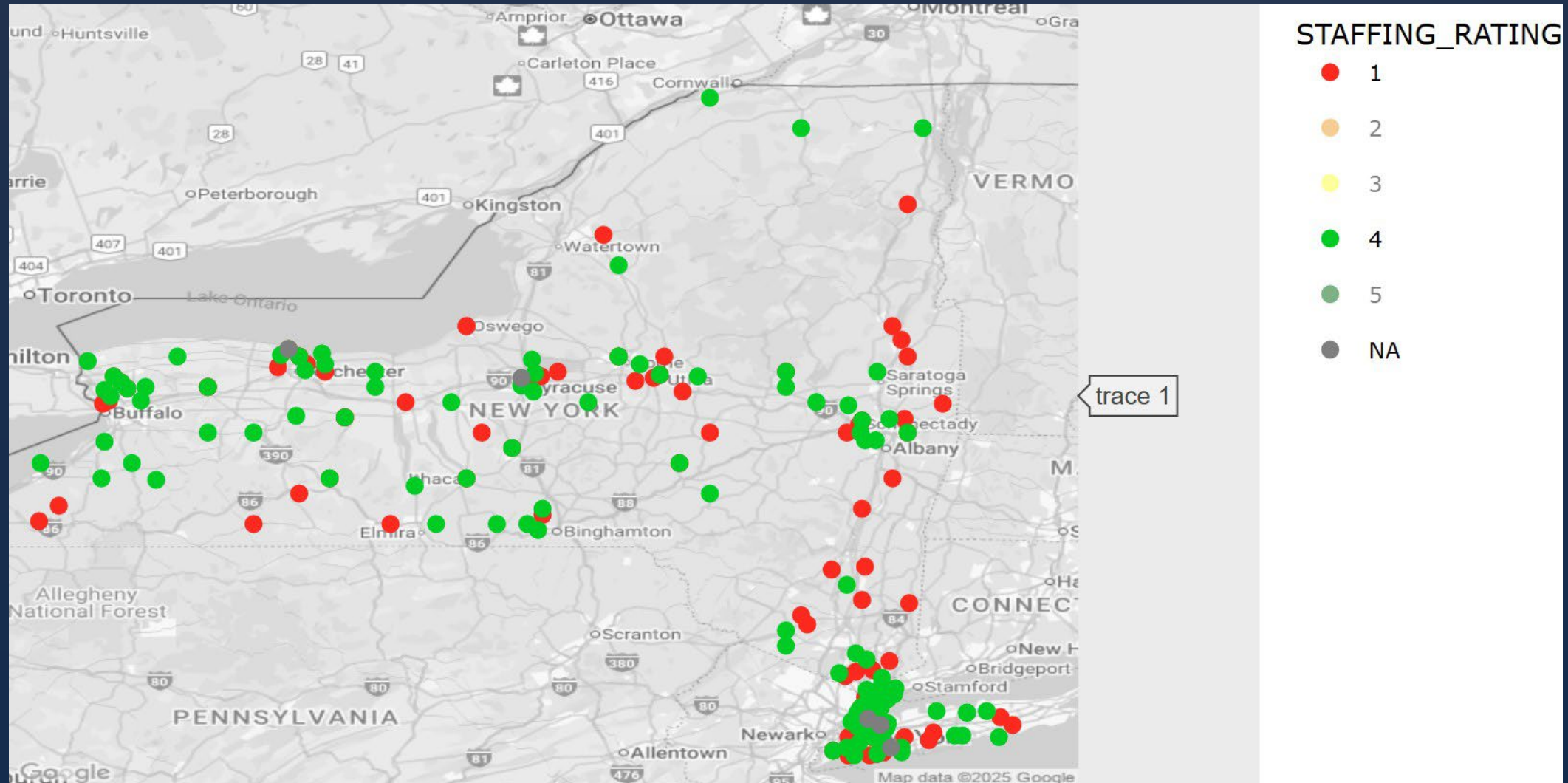
A photograph of a hospital room. A patient is lying in a bed on the left, partially covered by a white sheet. Medical equipment, including a monitor and IV stands, is visible. The room has large windows with blinds. The lighting is bright and clinical.

“It’s Not a Nursing Shortage, but only a shortage of nurses willing to work under the current conditions...”

Crains, Nov 13, 2023

NYS NH Distribution by CMS Staffing Stars: 1s & 4s & SFF

“Far Below Average” and “Above Average” are Neighbors



Findings: Why and How (Control or Influence on Complicit Operator)

5. Control or Influence by Persons NOT Approved as Operator in Operations Decisions

Shareholders and Officers of Related Party Landlords and “Management” companies that were NOT Approved as Operators controlled or influenced operations decisions, with complicit operators, that promptly transferred revenue from the Homes to shareholders through collusive Related Party transactions -- while the operator disregarded the Home’s legal duties.

This behavior prioritized Shareholder Up-front Profit-Taking -- while Disregarding and Violating the Home’s Duties to Operate with Sufficient Staffing, Limit Admissions and Provide Required Care.



Findings: Why and How (Up-front Profit-Taking)

What Is “Up-front Profit-Taking” and How It Is Done? *(a/k/a “Tunnelling” or “Funneling” in Research Reports)*

Structured Transfer of Millions in Medicaid, Medicare and other Patient Care Revenue from the Home to Shareholders/Related Parties:

- Before Legally-Required Care is Delivered
- Without Regard to Quality of Care
- For Services of No or Insufficient Value to Residents or Home, in exchange for Inflated “fees”
- To Persons Associated with Operators who are Legally Required to Ensure the Care
- By Self-Negotiated, Collusive Related Party (Not Arms-Length) Transactions
- Arranged and Paid In Disregard of the Nursing Home’s Duties to Operate with Sufficient Staff, Limit Admissions and Provide Required Care

Through Financial Vehicles Causing the Home’s Priority Transfer of Money to Shareholders, Resulting in those Funds Being Unavailable to Spend on Staffing and Care:

- “Rent”: including “Triple Net” Leases paying Landlord’s Obligations
- “Mortgage” Payments on Debts where Capital Goes to Other Ventures; Also Other Loans
- Related Party Transactions: “Consulting”, “Management Fees”, Staffing Agencies, Other Vendors



Findings: Why and How (Up-front Profit-Taking)

2024 Judicial Decision re Up-Front Profit-Taking

“‘Up-front profit taking’ refers to respondents’ practice of making self-negotiated and/or collusive payments from the nursing homes to themselves, companies they control, or their Favored Persons disguised as legitimate “expenses” and other transfers of funds, as a priority over, and without regard to, ensuring that the Nursing Homes have used the public funds they received to meet their duty to provide required care, with sufficient staffing to render such care to its residents.”

Supreme Court, NY County: *People v. Abraham Operations Associates LLC dba Beth Abraham Center for Rehabilitation and Nursing*, Index number 451549-2023, 8/23/24, at p. 6 (Decision and Order denying 27 Respondents’ motions to dismiss).



Findings: Up-front Profit-taking from Fraudulent Related Party Real Estate Transactions

- The operator's owners, relatives or other business associates establish a **realty company** for the purpose of owning the building and renting it to the nursing home
- The **realty company** is essentially a shell company whose main income is the "rent," and the only expenses are mortgage-related
- There are 4 ways upfront profits are siphoned out from NH through real estate transactions:
 - Inflated Rent: rent easily covers all the expenses; the rest is taken as shareholder distributions.
 - "Cash-Out Mortgage": mortgage or refinancing taken out by NH that is significantly above purchase price or what is owed, with portion of proceeds transferred to shareholders directly
 - Fraudulent Promissory Notes by shareholders issued to NH at High Interest Rates
 - No Interest Loans from NH to Owners' Other NHs in Other States



Findings: Up-front Profit-taking Through Fraudulent Related Party “Management” Company Transactions

Four ways funds were siphoned from nursing home through fraudulent Related Party transactions:

1. “Inflated Purported Management” Fees: Related Party “management” companies that control or influence NH operator decisions to pay up-front profit through inflated “fees” for sham “management” and/or “consulting” services that are of no or little benefit to NH in relation to “fees” paid, and that result in operator disregard and violation of NH duties.

Shareholders of the NHs and “management” companies are the same, or are in family relationships where the parent(s) own and control the “management” company and the son, daughter and/or sons-in-law are shareholders of the operator. Would the “Management” company owners pass C&C review? If not, why are they participating in operations decisions?



Findings: Upfront Profit-taking Through Other Fraudulent Related Party Transactions

2. “Related Party Staffing Companies” – Operator pays Related Party Staffing Company to provide temporary staffing that benefits shareholders, instead of hiring NH employees who are familiar with resident care needs and can work more efficiently.
3. “Other vendors” who the NH pays inflated fees for sham technology, lab or other services.
4. No-Show jobs – Operator transfers of up-front profit to shareholders of NH.



Findings: Court's 8/23/24 Decision Denying Respondents' Motions to Dismiss Petition

NY County 2013])). Here, instead, the AG alleges that the respondents orchestrated multiple ongoing illegal schemes to divert nursing home assets to themselves. As set forth in the petition (*see e.g.* Doc 1, ¶ 15), these alleged schemes include:

- Causing the Nursing Homes to enter into collusive real estate arrangements that saddled the homes with excessive debts and forced them to pay falsely inflated rents to real estate companies owned by Hagler;
- Extracting millions of dollars from the Nursing Homes through collusive related party transactions, including the payment of “fees” to sham vendors owned in whole or part by Rozenberg, Hagler, and/or their family members;
- Causing the Nursing Homes to make interest-free loans to other nursing homes owned and operated by Rozenberg for no discernable business purpose, which deprived the Nursing Homes of funds to spend on staffing; these loans were rarely repaid in full, if at all; and
- Causing the Nursing Homes to pay purported “salaries” to their owners – salaries that were frequently unreported, inflated, and in some instances, indicative of no show jobs, in that the purported “salaries” bore no

Findings: “Rents and Landlords”

In every Example discussed Today:

Real Estate was Purchased by Landlord simultaneously with Licensing (CON) of Operating Company

Owners of Landlord Substantially Overlap with Ownership of Operating Company, Directly, or Through Parent/Child Relationships

“Triple Net Leases” : NH pays all Expenses of the Real Property, including Real Estate Taxes, Insurance, & Maintenance, plus Rent

Usually, that’s for a *Lower* Rent– but NYS For-Profit Nursing Homes the “Rent” Was Inflated.

Some Ownership Groups also Required Home to Directly Pay the Landlord’s Mortgage, including Cash-Out Debt exceeding the Purchase Price, and



Findings: Decision Appointing IFM in 4 NHs, 8/27/24, Supreme Court, Commercial Division

A favorite ruse of Respondents was to borrow money from a regular commercial bank and then re-loan that money to one of the nursing homes at a much higher rate and take the spread, when the nursing home could have simply borrowed the money directly at a lower rate.

The Attorney General has demonstrated what amounts to a massive fraud whereby Respondents, through myriad financial machinations, managed to siphon Medicaid and Medicare funds for themselves without permission. Although Respondents have promised to cease payments to related entities and that principals will take no further draws, the sheer magnitude and variety in the fraud that has allegedly persisted warrants the imposition of an independent financial monitor. In all likelihood, the massive self-dealing will continue without a monitor.

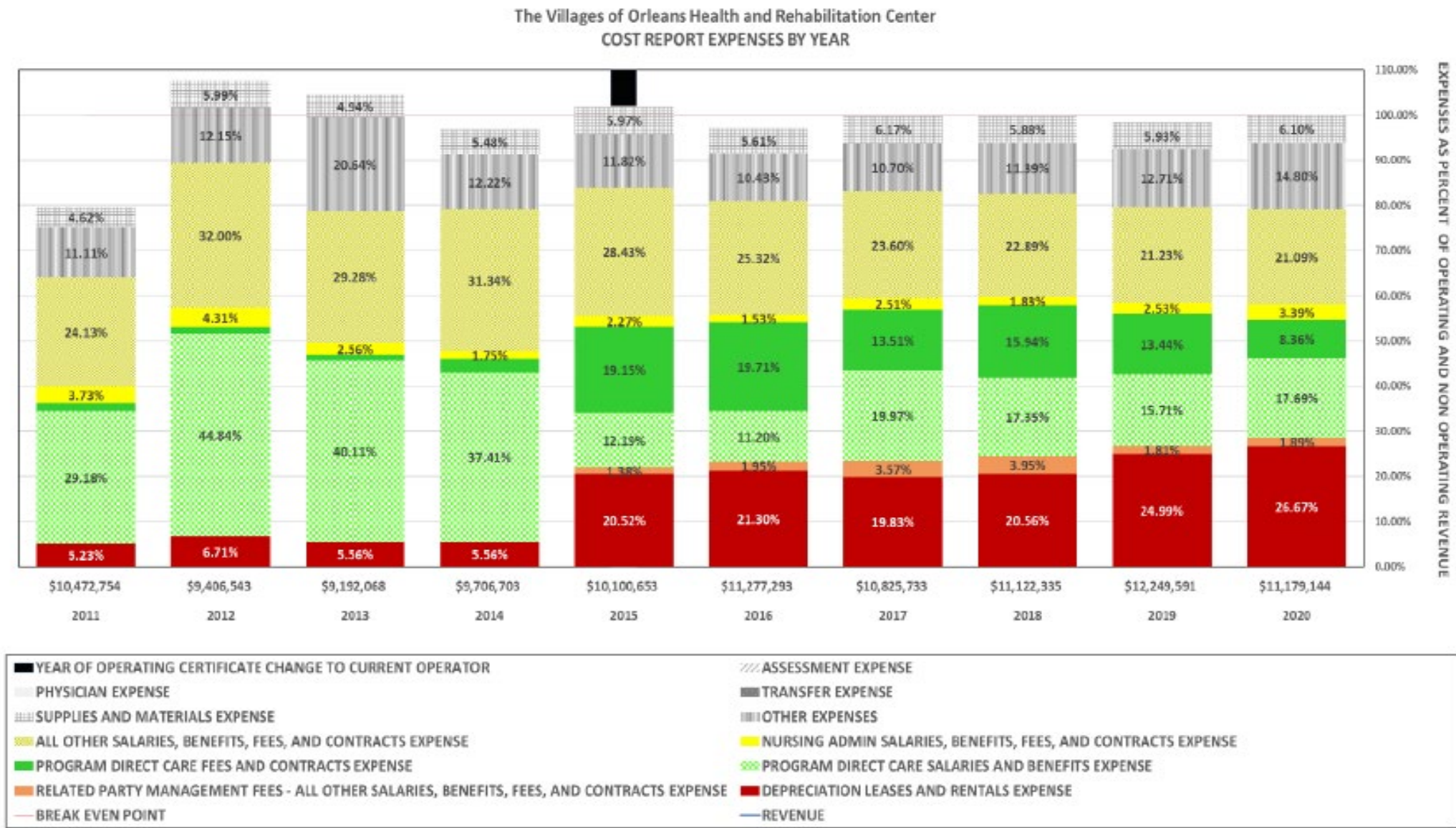
Findings: Increasing Rents

Can an Operator Substantially Increase
Rent Payments to a Related Party Landlord
without Cutting Staffing and Operating
with Insufficient Staffing?

No.

Executive Law § 63(12) Special Proceeding re: The Villages of Orleans, Filed 11/29/22

Respondents' fraudulent conduct gave the false impression The Villages was not a profitable investment for them after their purchase in 2015.



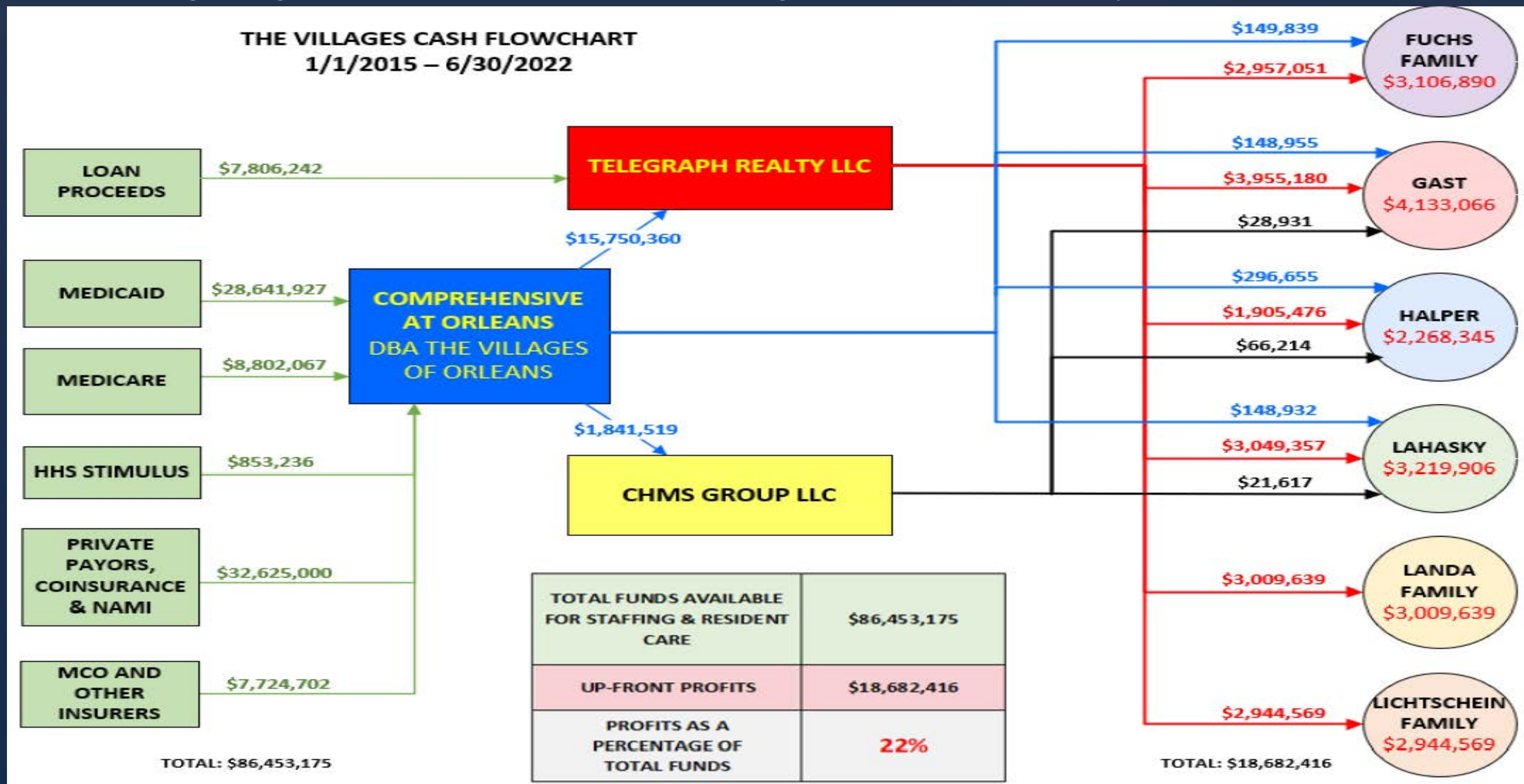
LIGHT GREEN shows decrease in direct care staffing expenses

RED is the increase in "rent" expenses



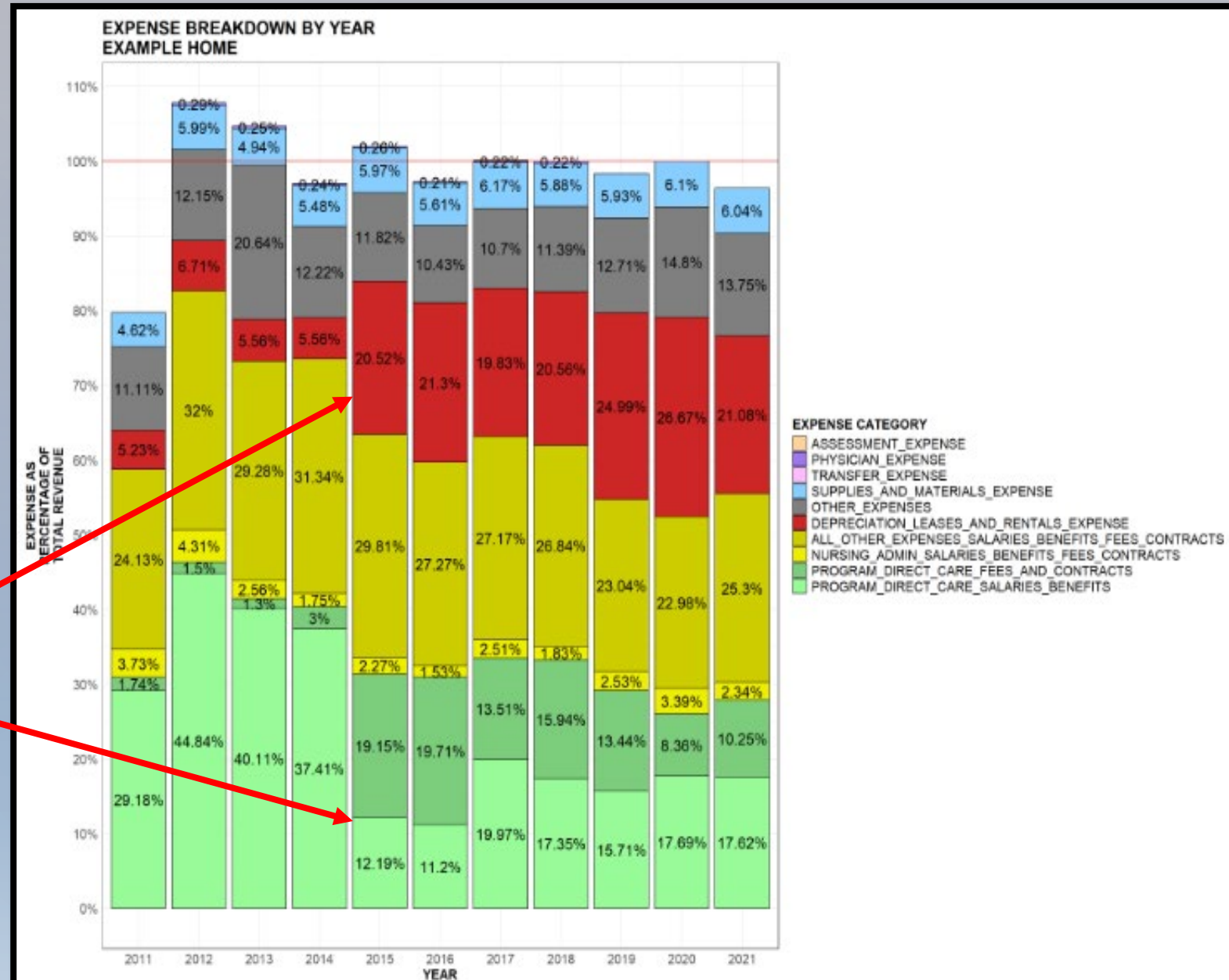
Findings: Executive Law § 63(12) Special Proceeding re: The Villages of Orleans, Filed 11/29/22

Financial Findings: Illegal Conversion of \$18.6 Million through Collusive Related Party Transactions



Cost Report Analysis: Rent Increases and Staffing Decreases After 2015 Acquisition

- Operators and Landlord jointly acquired NH in 2015, started Paying (themselves) Increased Rent
- Increased Contract Staffing (Related-Party Agency)
- Rental Increase Comes out of Direct Care Spending
- Net Less Staffing Expenditure
- Resulting Lower CMS Staffing Rating



Real-Life Effect of Up-Front Profits

Centers Facilities, in 2019-2021:

IF Beth Abraham had been allowed to Spend the \$11.09 Million transferred to Owner/Landlord -- over 75,000 hours of additional direct care

Holliswood: IF \$4.8M less Up-front Profit Taken -- over 32,500 hours of additional direct care

Buffalo Center: IF \$3M less in Up-front Profit -- over 34,000 of additional direct care

Martine Center IF \$1.2M more spent on staffing between 2019 and 2021 -- over 30,000 hours of additional direct care



205. Kalter is not only an owner and operator of Fulton Commons but is also the principal owner of Fulton Realty LP, its related-party landlord. (*See Ronan Aff.* at ¶¶ 4, 39, 42, 44.) Through his control of both entities, Kalter set the terms of an unwritten self-dealing “lease” and repeatedly and persistently caused Fulton Commons to pay Fulton Realty LP exorbitant “rent” that he padded to include significant up-front profit for his and Fogel’s personal gain,⁴¹ without ensuring the nursing home was complying with its duties to provide required care.⁴² (*Id.* at ¶¶ 39,

Example: Findings re: Fulton Commons Operator Increased Inflated Rent Paid to His Real Estate Company

Fulton
Petition,
p. 105.

209. Further, between 2018 and 2020, Kalter increased Fulton Commons’ “rent” on an annual basis, regardless of Fulton Commons’ revenue, pursuant to a supposed escalator clause of the verbal lease that existed only in Kalter’s mind. (*See Ronan Aff.* at ¶ 49; *see also Ronan Aff. Ex. 1* at 156.) Kalter raised Fulton Commons’ “rent” by close to \$1.5 million between 2018, when Fulton Commons paid over \$8.3 million in inflated rent, and 2020, when Fulton Commons paid close to \$10 million in inflated rent. Kalter increased Fulton Commons’ “rent” by almost 18%, despite a 16.79% decrease in Fulton Commons’ total operating revenue for the corresponding period. (*See Ronan Aff.* at ¶¶ 49–54.)

Fulton
Petition, p.
112



Example:

Buffalo Center
paid Related Party
Landlord
Significantly
Higher than State
Average % of its
Rent to Revenue,
\$5.7M Above State
Average,
Reducing Funds
available for Care.

(¶ 201 of Petition)

544. Unsurprisingly, Buffalo Center's rent-to-revenue ratio is significantly higher than the statewide average rent-to-revenue ratio, as detailed in the below chart:

Year	Buffalo Center Operating Revenue	Buffalo Center Rent Expense	Buffalo Center Rent to Revenue Ratio	Statewide Rent to Revenue Average	Rent Expense Above State Average
2016	\$15,052,665.00	\$2,067,628.00	13.74%	7.69%	\$910,078
2017	\$18,553,616.00	\$3,044,547.00	16.41%	8.28%	\$1,508,308
2018	\$21,390,865.00	\$2,540,582.00	11.88%	8.65%	\$690,272
2019	\$22,265,400.00	\$3,698,126.00	16.61%	9.05%	\$1,683,107
2020	\$22,872,450.00	\$3,390,283.00	14.82%	10.62%	\$961,229
Total	\$100,134,996.00	\$14,741,166.00	14.72%	8.28%	\$5,752,994

See O'Leary Aff. ¶¶ 38-39.

545. Thus, from 2016 through 2020, Buffalo Center's rent expenses were approximately \$5.7 million greater than what they would have been if Buffalo Center's rent-to-revenue ratio had been at the state average (*see* O'Leary Aff. ¶ 40). The elevated rents that Rozenberg and Hagler caused Buffalo Center to pay to Delaware Real Property, through their collusive relationship, significantly decreased the amount of funds available for Buffalo Center to spend on care,

Cold Spring Hills 3/15/24 Decision and Order on AG's Petition, Granting the Second Cause of Action for repeated Fraud under Executive Law 63(12) against Respondents Cold Spring Realty Acquisition, LLC, Philipson Family, LLC, Lifestar Family Holdings, LLC, ZBL Management, LLC, and Benjamin Landa, and the Fourth Cause of Action for repeated Illegality under Executive Law 63(12) against Cold Spring Hills Acquisition, LLC d/b/a Cold Spring Hills Center for Nursing & Rehabilitation and its two Managing Members:

ORDERED, that the Petition is **granted** with respect to the Second Cause of Action as against Cold Spring Realty Acquisition, LLC, Philipson Family, LLC, Lifestar Family Holdings, LLC, ZBL Management, LLC, and Benjamin Landa, together with their individual members as herein provided, and is **granted** with respect to the Fourth Cause of Action as against Cold Spring Hills Acquisition, LLC d/b/a Cold Spring Hills Center for Nursing & Rehabilitation, Avi Philipson, and Joel Leifer as herein provided, and is otherwise **denied**; and it is further



Cold Spring Hills 3/15/24 Decision and Order on AG's Petition:

Court found liability for Repeated and Persistent Illegality under Executive Law 63(12) by the Nursing Home and Its two Managing Members for violation of many state and federal regulations, and 18 NYCRR 515.2.

The court agrees with Petitioner to the extent that the examples of lack in care that were properly included in the Petition clearly establish CSIT's failure to meet the standard of care required and expected pursuant to PHL and governing regulations. Any lack of appropriate care, whether it concern a single resident or hundreds of residents, must be adequately acknowledged by the court as a violation of the law. To that end, the court finds that the Petition sets forth violations of 42 CFR §§ 483.70(e), 483.25(b), 483.10(a), 483.24(b), 483.25, 483.35, 483.60, 483.80 and 10 NYCRR §§ 415.3, 415.5(h), 415.12(a)(3), 415.12(c), 415.12(i), 415.13(a), 415.15, 415.26(c), and 415.29.

The court finds the appropriate remedy for these violations to be installation of an Independent Healthcare Monitor (IHM) to be selected by the court in consultation with the parties and retained by CSH in short order. The IHM will report to the court and will not be an agent for either the Petitioner or the Respondents.



Cold Spring Hills 3/15/24 Decision and Order on AG's Petition:

Court found liability for Repeated and Persistent Fraud by Related Party Landlord for Undisclosed \$16M Subordinated Promissory Note in favor of Lending Partners LLC requiring Nursing Home to Pay \$2M in Interest at 13% Interest Rate, after Bent Philipson and Benjamin Landa submitted 2016 Affidavits to DOH stating:

I will provide the needed equity to Cold Spring Acquisition, LLC, to the extent required in the event that there is a need for these resources in support of the Cold Spring Acquisition, LLC, pending CON 142146-E.

(NYSCEF Doc. 32). By November of 2018, Cold Spring Realty refinanced the mortgage on the real property and folded the Promissory Note, with interest, into the new loan. Thereafter, the payment became part of the debt service rent charged to CSH.

Court ordered each of the four individual members of the Real Estate Company pay \$503,899 to Nursing Home, for total of \$2M.



VII.

Cost Report Data: “Rent”



Cost Report Data: NYS Nursing Homes and “Rent”

1. On average, in 2021, 558 NYS facilities filed a Cost Report.
 - 381 of these facilities reported a rent expense
 - Of those, 367 facilities reporting a rent expense were for-profit; 90% of for-profits paid “rent”.
2. “Rent” expense equaled approximately 6% to 10% of Facility revenue, with some facilities spending more than 20% of revenue.
3. Rent is the primary means of Upfront Profit-taking; Revenue is transferred out before the Operator ensures the NH complies with duties to operate with sufficient staffing, limit admissions and provide required care.



VIII.

2021 Attorney General Nursing Home Report Findings



AG Nursing Home Report Findings:

- During the Pandemic, For-Profit Nursing Homes had Lower CMS Staffing Ratings and Higher Death Rates than NFP or Government Nursing Homes
- NYS had over 400 For-Profit Nursing Homes and 200 NFP or Government
- For-Profit Facilities have Financial Motivation to Operate with Insufficient Staffing to Facilitate Transfer of Up-Front Profit to Owners/Related Parties



IX.

Findings regarding Effect of Fraud
in CON Approval Process:

Hidden Control of Operations
Decisions benefiting shareholders
and harming residents



What are the Implications of Overlapping and Concealed Ownership?

After New Villages (Concealed) Owners and Landlord took Control, its CMS Ratings Dropped in Every Category and Quality Measures became Among the Worst in the State:

October 2014: The Villages had an Overall rating of 3-Stars, as a County-owned Facility.

January 2015: New Operators/Landlords

February 2015: Overall rating drops to 2-Stars

April 2015: Overall rating drops to 1-Star

March 2021: Special Focus Facility

Question: Were Operators Aware?

Sam Halper: "I plead the Fifth."

\$2 Million in "Management Fees"

Why Pay “Management Fees” to *Downgrade* a Facility’s Healthcare Performance?

600.2 Requirements for approval.

(a) The application must be complete and in proper form. It shall provide all the information essential for the Public Health Council's consideration.

(b) The applicant must satisfactorily demonstrate to the council:

(1) that there is a public need for the facility or the proposed new facility;

(2)

(i) if a nonprofit corporation, that the members of the board of directors and the officers of the corporation are of such character, experience, competence and standing as to give reasonable assurance of their ability to conduct the affairs of the corporation in its best interests and in the public interest and so as to provide proper care for the patients or residents to be served by the facility or the proposed facility;

(ii) if a proprietary business, that the owner, or all the partners, if a partnership, are persons of good moral character who are competent to operate the business so as to provide proper care for the patients or residents to be served by the proposed facility;

(iii) if a business corporation, that the members of the board of directors, the officers and the stockholders of the corporation are of such character, experience, competence and standing as to give reasonable assurance of their ability to conduct the affairs of the corporation so as to provide proper care for the patients or residents to be served by the proposed facility;

(3) that there are adequate finances to properly establish and conduct the proposed facility;



**“Is it okay
if we use your
name”
on the CON?**

So [M. Lahasky] ... brought this deal to us he offered us to be a 9 percent owner to me and my children giving them a half percent each, a total of 19 percent, in the operations and in the real estate.

When it came to get the CON he said to me there's too many partners involved. It will take a very long time to get the CON approval and the Village wants to close very quickly, so is it okay if we use your name as a 100 percent and then we will file applications to change the ownership accordingly the way it's supposed to be and I said fine, no problem and that's how it began.

- B. Fuchs, 5/24/22

600.3 Amendments and modifications to applications.

(a) A change to an application before the Public Health and Health Planning Council has approved or contingently approved the application is hereafter referred to as a revision; a change to an application which has been approved or contingently approved by the council but for which an operating certificate has not yet been issued shall be referred to as an amendment if it meets the criteria contained in subdivision (c) of this section, and shall be referred to as a modification approvable pursuant to subdivision (f) of this section if it does not meet the criteria contained in subdivision (c) of this section or does not meet the criteria in subdivision (e).

(b) An application made to the Public Health and Health Planning Council, pursuant to this Part, may be modified before the council has approved or contingently approved the application. Such modifications shall be made on appropriate forms supplied by the department and submitted to the council through the central office of the department in Albany and shall be governed by the following:

(1) any modification in the information contained in the original application must be accompanied by a satisfactory written explanation as to the reason such information was not contained in the original application;

(2) the department, when reviewing a competitive batch of applications, may establish deadlines pursuant to written notification for the submission of any modification to an application; and

(3) if a modification is submitted after any such deadline(s), the application shall be removed from consideration within the competitive batch being reviewed.

(c) After the Public Health and Health Planning Council has approved or contingently approved an application but prior to the issuance of an operating certificate, any change as set forth in paragraphs (1) through (3) of this subdivision shall constitute an amendment to the application, and the applicant shall submit the proposed amendment to the department's central office together with appropriate documentation explaining the reason(s) for the amendment and such additional documentation as may be required in support of such amendment. The amended application shall be referred to the health systems agency having geographic jurisdiction and the Public Health and Health Planning Council for their reevaluation and recommendations. The approval of the Public Health and Health Planning Council must be obtained for any such amendment. Each of the following shall constitute an amendment:

(1) a change in the number and/or types of beds and/or services, other than a reduction of service which would be subject to administrative review;

(2) a change in the location of the site of the construction if outside the facility's service area or adjacent service area; and

(3) any change in the applicant.

10 NYCRR 600.3(c)(3)



Villages' Straw Owner Learns “Years Later”

Q. So as far as you know, the Department of Health never approved David Gast or Ephram Mordy Lahasky or Sam Halper as additional members of Comprehensive at Orleans; is that correct?

A. Correct. I thought it was approved and I found out it was not approved.

Q. How did you – when did you find that out?

A. Later on. Years later when there was a problem at Orleans and all of a sudden I was told I am 100 percent owner and I said what do you mean I am 100 percent owner? We had an application to change it and then they told me it was never approved. I said thank you very much for letting me know.

Q. Who is “they”?

A. Mordy Lahasky.

B. Fuchs, 5/24/22





“Just this one? Correct.”

Okay. But you're still business partners with Mordy Lahasky, right?

In this one facility, correct.

Besides this one facility, is there any other facility that you're business partners with Mordy Lahasky in?

No.

Just this one?

Correct.



What about your own family members? Do they have any other investments or arrangements with Mordy Lahasky, David Gast or Sam Halper?

I'm not sure, but I highly doubt it.

B. Fuchs, 5/24/22

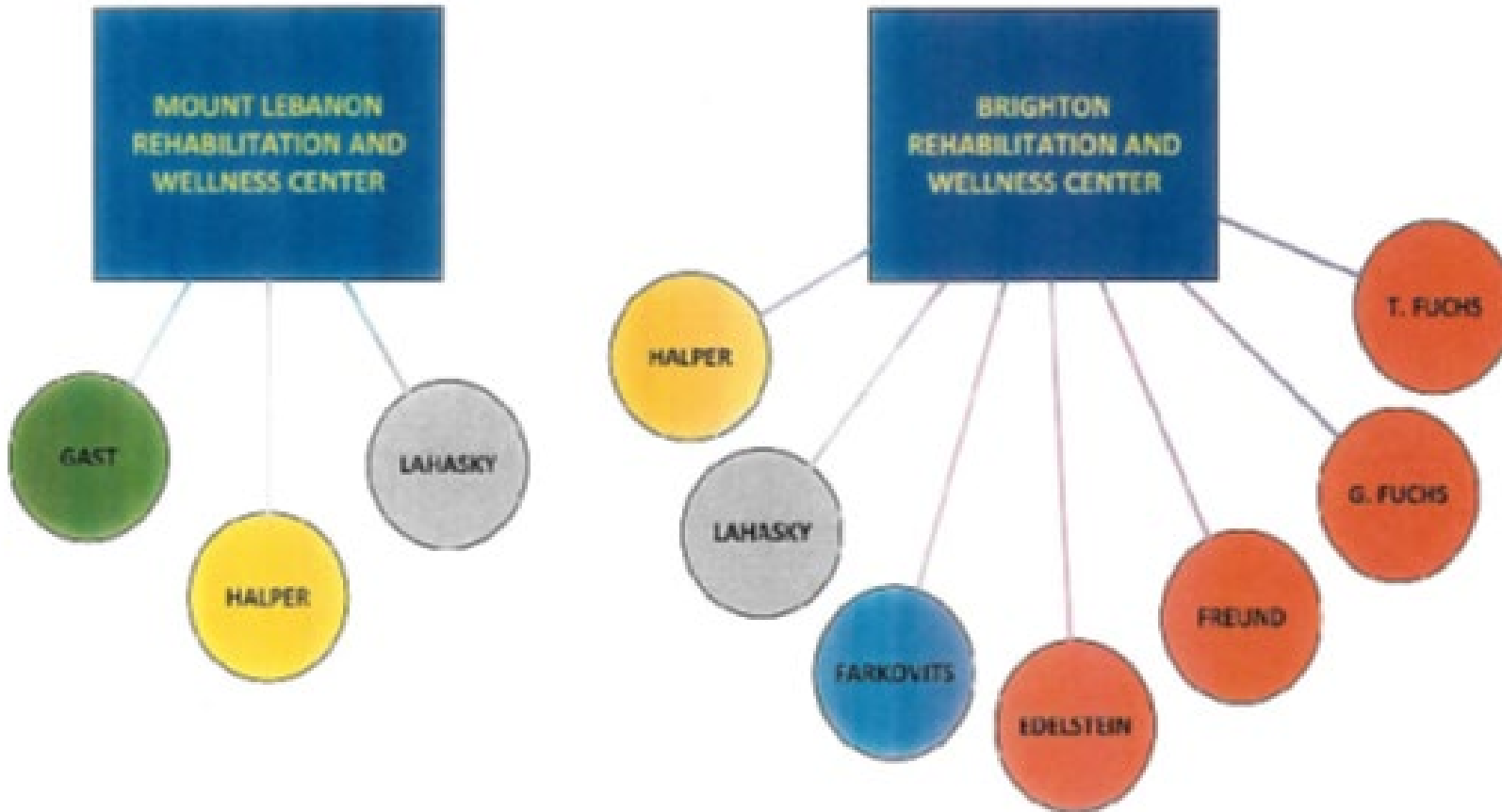


Operator testified, “Highly Doubt It”?

Owners of Villages of Orleans (NY) overlap with 2024-Convicted Facilities (PA)

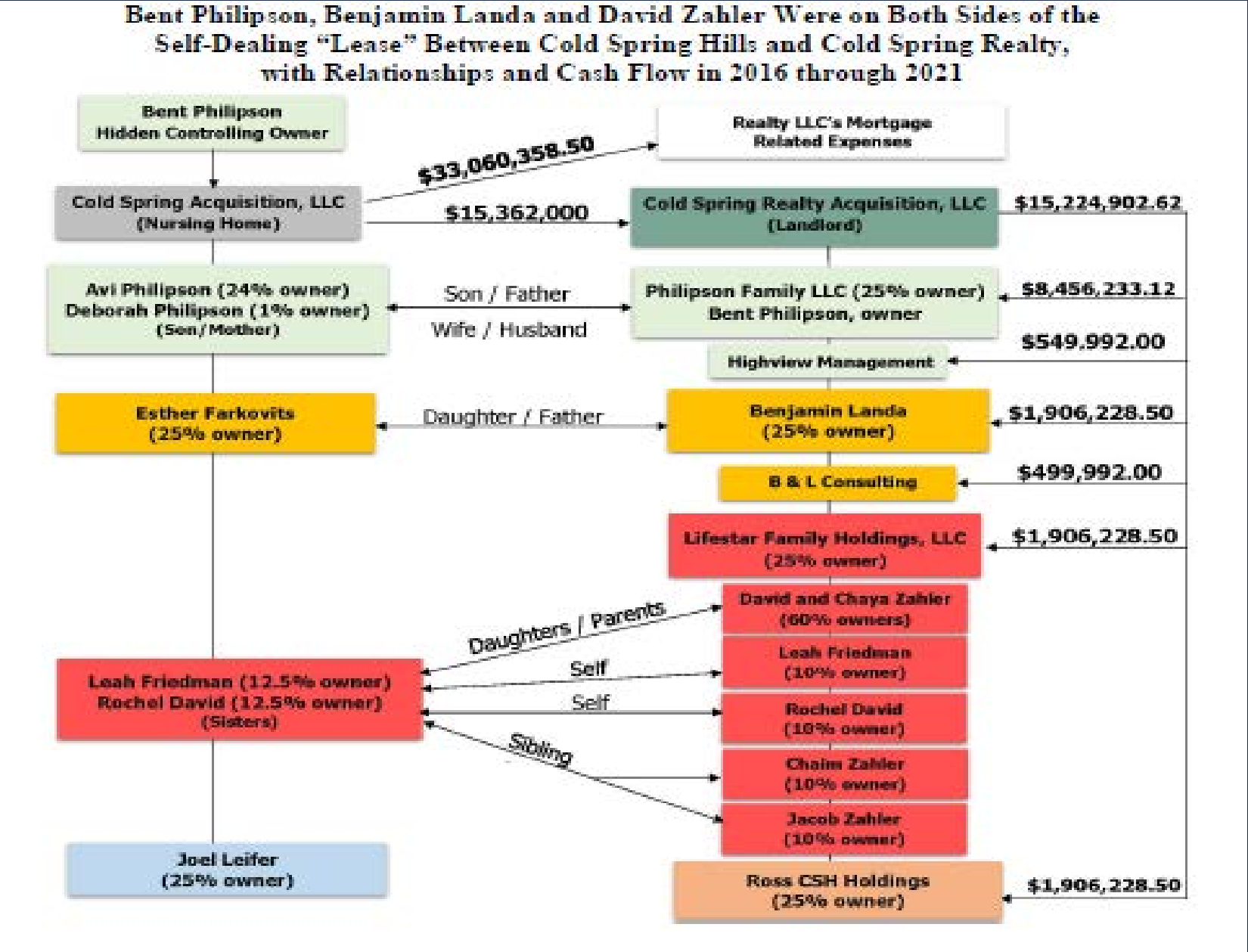
Indicted Facility Ownership

United States v. Sam Halper et al., No. 21-cr-79 (W.D. Pa.)



Yellow and Gray Circles
Reflect Common
Ownership by
Undisclosed
Villages Operators in
2 Indicted Nursing
Homes

Red Circles Reflect
Ownership by 4 Family
Members of Approved
Villages Operator in
1 of the Indicted Nursing
Homes



Operator
Shareholders:

Family
Members are
in same color
boxes

Related Party
Real Estate
Shareholders

Family members
are in same color
boxes



X.

Shareholder / Operator “Defenses” Claimed in Courts



Nursing Home Operators Claimed in Courts:

- Don't Focus on the Neglected Residents because Many People Weren't Neglected --- *Not the Law*
- Profit-taking is Allowed Regardless of whether the Nursing Home Complies with Its Legal Duties – *Not in the Law*
- “Staffing shortages” justify operation with insufficient staff & continued admission of residents. – *Not the Law*
- Disclosures made to DOH and PHHPC to obtain Certificate of Need to be Truthful only at Moment of Filing – *Contrary to 10 NYCRR 600.3 and Certification*
- Approval of such CONs by Public Health Agencies and Advisory Bodies means they Agree that these Financial Arrangements are Appropriate. – *Contrary to law and public policy.*
- Operator alleged poor financial condition permitted violation of DOH closure plan requirements and DOH guidance requiring confidentiality for proposed closure plans, and permitted its public announcement of its “emergency evacuation” for financial reasons, a week before Hannukah and Christmas. -- *Not the Law, and self-interested use of residents as human shields.*



Status of AG's Special Proceedings as of 11/3/25

Nassau County: Fulton Commons

SETTLED: residents in 280-bed Nursing Home are Protected by Independent Healthcare and Financial Monitors, \$1.6 Million Restitution, \$7M Resident Care Fund, and Long-term Reform Obligations.

Centers, et al. – SETTLED: over 1,100 Residents in 4 Nursing Homes Protected by Independent Healthcare and Financial Monitors, \$10 Million Restitution and \$35 Million Resident Care Fund, and Long-term Reform Obligations.

Nassau County: Cold Spring Hills

Pending – Court Denied Motions to Dismiss Petition and then Issued Decision on Petition:

- finding Operator and Managing Members Liable under Executive Law 63(12) for Repeated Illegality for violating many state and federal regulations requiring the home to operate with sufficient staffing, limit admissions, provide required care, and appointing Independent Healthcare Monitor; and
- finding Real Estate Company liable under Executive Law 63(12) for Repeated Fraud for Undisclosed \$2M Promissory Note and Directing Each Real Estate Shareholder to Pay \$503,00 Restitution to Nursing Home. Operator filed for Bankruptcy; Receiver Operating Facility; IHM in place, subject to motion to replace; Appeals pending

Orleans County: The Villages of Orleans

Pending – Respondent Owner/Operators' Motions to dismiss denied EXCEPT for minor shareholders



Questions from the Ad Hoc Committee of the Public Health and Health Planning Council

Medicaid Fraud Control Unit:

Amy Held, Deputy Attorney General

Paul Mahoney, Assistant Deputy Attorney General

November 3, 2025



Thank you!

Please Feel Free to Comment to:

Amy.Held@ag.ny.gov

Paul.Mahoney@ag.ny.gov

and to report suspected fraud or abuse to:

ag.ny.gov/nursinghomes

