



**Ventura County Medi-Cal Managed  
Care Commission (VCMCC) dba  
Gold Coast Health Plan  
Special Commission Meeting**

2240 E. Gonzales, Suite 200, Oxnard, CA 93036  
**Monday, March 17, 2014**  
**3:00 p.m.**

**AMENDED AGENDA**

**CALL TO ORDER / ROLL CALL**

**SWEAR IN OF NEW AND RETURNING COMMISSIONERS**

Antonio Alatorre, David Araujo, Michelle Laba, Gagan Pawar and Dee Pupa

**PUBLIC COMMENT** A Speaker Card must be completed and submitted to the Clerk of the Board by anyone wishing to comment:

- **Special Meeting Public Comment** - Comments at Special Meetings are only allowed on agenda items.

**CLOSED SESSION**

1. **Closed Session Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9**
  - a. United States of America et al. ex re Donald Gordon, v. Gold Coast Health Plan, et al, United States District Court, Central District, Case Number: CV 11-5500-IFW (AJWx)
  - b. Philip Fields v. Ventura County et al, Case 2:13-cv-07357-FMO-RZ Court of Appeal Ninth Circuit

Meeting Agenda available at <http://www.goldcoasthealthplan.org>

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ADMINISTRATIVE REPORTS RELATING TO THIS AGENDA AND MATERIALS RELATED TO AN AGENDA ITEM SUBMITTED TO THE COMMISSION AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS AT THE OFFICE OF THE CLERK OF THE BOARD, 1701 LOMBARD STREET, SUITE 100, OXNARD, CA.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT TRACI AT 805/889-6900. REASONABLE ADVANCE NOTIFICATION OF THE NEED FOR ACCOMMODATION PRIOR TO THE MEETING (48 HOURS ADVANCE NOTICE IS PREFERABLE) WILL ENABLE US TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING

**Ventura County Medi-Cal Managed Care Commission (VCOMMCC) dba  
Gold Coast Health Plan March 17, 2014 Special Commission Meeting Agenda (continued)**  
**PLACE:** 2240 E. Gonzalez, Room 200, Oxnard, CA  
**TIME:** 3:00 p.m.

## **RETURN TO OPEN SESSION**

Announcement from Closed Session, if any.

### **Legal Counsel**

[In re Application to file Late Claim Don Gordon - Recommendation Deny  
Late Claim Application](#)

## **2. APPROVAL ITEMS**

- a. Ratification of Termination of Lease – 2220 E. Gonzales, Suite 200,  
Oxnard, California

## **COMMENTS FROM COMMISSIONERS**

## **ADJOURNMENT**

Unless otherwise determined by the Commission, the next regular meeting of the Commission will be held on March 24, 2014 at 3:00 p.m. at 2240 E. Gonzales Road, Suite 200, Oxnard CA 93036

Meeting Agenda available at <http://www.goldcoasthealthplan.org>

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1 William K. Hanagami, SBN 119832  
2 THE HANAGAMI LAW FIRM  
3 A PROFESSIONAL CORPORATION  
4 21700 OXNARD STREET, SUITE 1150  
5 WOODLAND HILLS, CA 91367-7572  
6 (818) 716-8570 / (818) 716-8569 FAX  
7 BillHanagami@esquire.la

8 Abram J. Zinberg, SBN 143399  
9 THE ZINBERG LAW FIRM  
10 A PROFESSIONAL CORPORATION  
11 412 OLIVE AVENUE, SUITE 528  
12 HUNTINGTON BEACH 92648  
13 (714) 374-9802 / (714) 969-0910 FAX  
14 AbramZinberg@gmail.com

15 Attorneys for Claimant, Donald Gordon

16 In the matter of the Claim of  
17 DONALD GORDON,  
18 vs.  
19 VENTURA COUNTY MEDI-CAL  
20 MANAGED CARE COMMISSION, dba  
21 Gold Coast Health Plan.

APPLICATION FOR PERMISSION  
TO PRESENT LATE CLAIM  
[Gov.C. §911.4]

22 TO: Ventura County Medi-Cal Managed Care Commission, dba Gold Coast Health Plan  
23 Application is hereby made for permission to present the Claim, attached as Exhibit 1,  
24 after expiration of the time limit provided in Government Code § 911.2.

25 1. As stated in the Claim, attached as Exhibit 1, claimant's cause of action accrued  
26 on or about July 14, 2011.

27 2. The time for presentation of such claim under Government Code § 911.2 expired  
28 on or about January 14, 2012.

3. The reason for the failure to present such claim within the time provided in  
Government Code § 911.2 was as follows: On July 1, 2011, Claimant Donald Gordon, as a  
relator, filed a Complaint, a copy of which is attached as Exhibit 2, in camera and under seal  
pursuant to 31 U.S.C. § 3730(b)(2) with the United States District Court for the Central  
District of California for violations of the Federal False Claims Act, 31 U.S.C. §§ 3729, et

Received


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Gold Coast Health Plan

1 seq., and California False Claims Act, California Government Code §§ 12650, et seq., against  
2 defendants Ventura County Medi-Cal Managed Care Commission, dba Gold Coast Health  
3 Plan (collectively, "Gold Coast") and Regional Government Services (RGS), among others.  
4 Subsequently, the Court ordered the seal extended pursuant to 31 U.S.C. § 3730(b)(3). On  
5 April 26, 2012, Gordon filed a First Amended Complaint (FAC), a copy of which attached as  
6 Exhibit 3, in camera and under seal pursuant to 31 U.S.C. § 3730(b)(2) adding third and fourth  
7 claims for relief against Gold Coast and RGS for employment retaliation in violation of 31  
8 U.S.C. § 3730(h) and California Government Code § 12653. The lawsuit remained under seal  
9 from July 1, 2011 until the Court entered its order unsealing the Complaint and FAC on  
10 November 4, 2013. The Claim, attached as Exhibit 1, concerns a number of the retaliatory  
11 acts, including constructive termination, directed against Gordon that occurred after July 1,  
12 2011 and while the Complaint was under seal. Assuming that a governmental tort claim was  
13 required, a governmental tort claim concerning Gordon's employment retaliation claims could  
14 not be presented to Gold Coast and RGS in light of, among other things, the Complaint and/or  
15 FAC for violations of the Federal and California False Claims Acts being under seal pursuant  
16 to 31 U.S.C. § 3730(b)(2) between July 1, 2011 and November 4, 2013. (*Wells v. One2One*  
17 *Learning Found.*, (2006) 39 Cal.4th 1164, 1215; *U.S. ex rel. Lujan v. Hughes Aircraft Co.*,  
18 67 F.3d 242, 245-246 (9<sup>th</sup> Cir. 1995).)

19 I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct, and that this declaration was executed on February 5, 2014 at  
21 Woodland Hills, California.

22  
23   
24 William K. Hanagami  
25 Attorney for Claimant, Donald Gordon  
26  
27  
28

**CLAIM Against the VENTURA COUNTY MEDI-CAL MANAGED CARE COMMISSION doing business as GOLD COAST HEALTH PLAN**

To: Clerk of the Commission  
Gold Coast Health Plan  
2220 E. Gonzales Road, Suite 200  
Oxnard, CA 93036  
(805) 889-6900

Pursuant to the provisions of Sections 905 and 920 of the Government Code of the State of California, demand is hereby made against Ventura County Medi-Cal Managed Care Commission dba Gold Coast Health Plan. In support of said claim, the following information is submitted.

1. Name, Mailing Address, Telephone Number of Claimant(s):  
Donald Gordon  
c/o The Hanagami Law Firm, A.P.C.  
21700 Oxnard Street, Suite 1150  
Woodland Hills, CA 91367-7572 (818) 716-8570

2. Dollar Amount of Claim: More than \$600,000

3. Address to Which Official Notices and Correspondence are to be Mailed:  
The Hanagami Law Firm, A.P.C.  
21700 Oxnard Street, Suite 1150  
Woodland Hills, CA 91367-7572


4. Date and Time Alleged Damage / Injury Occurred: See Attachment No. 1

5. Location of Where Alleged Damage / Injury Occurred: Gold Coast Health Plan offices

6. Facts on How Alleged Damage / Injury Occurred (Include Name of GCHP Employee(s) Who Caused Injury, if Known): See Attachment No. 1  
Darlene Johnson, Earl Greenia, Amy Sziklai, among others.

7. Describe Damage / Injury and How Amount of Claim was Computed:  
Lost earnings and benefits in excess of \$300,000; emotional distress damages in excess of \$300,000.

8. February 5, 2014  
Date

  
Signature of Claimant  
(Person Acting on Claimant's Behalf)  
William K. Hanagami, Attorney for Donald Gordon

NOTE: Provide all information you wish GCHP to consider and submit **original signed claim form** and back-up documentation if any, to address listed above. ANY CLAIM PRESENTED WITH INSUFFICIENT INFORMATION WILL BE RETURNED WITH NO ACTION TAKEN BY GCHP (GOVERNMENT CODE SECTIONS 910, 910.2, 910.4, AND 910.8).

ATTACHMENT NO. 1

Page 1 of 2

At all times relevant, Ventura County Medi-Cal Managed Care Commission, dba Gold Coast Health Plan (collectively, "Gold Coast") contracted with Regional Government Services (RGS) to supply employees to Gold Coast to perform various functions necessary to carry out Gold Coast's duties in administering the Medi-Cal Managed Care program in Ventura County.

During or about January 2011, Gold Coast wanted to employ Donald Gordon's (Gordon) services, and required Gordon to become a employee of RGS. During or about January 2011, Gordon became a general employee of RGS, and worked as a servant or special employee Gold Coast. Gordon believes that during the time of his employment with Gold Coast and RGS, most if not all employees working at Gold Coast had a similar employment relationship with RGS and Gold Coast.

About February or March 2011, Gordon complained to Gold Coast CFO Darlene Johnson that Gold Coast was committing a fraud on Medi-Cal by misrepresenting that Gold Coast's computerized systems handling Medi-Cal eligibility and capitation (including the algorithm used to assign members to physicians), and integration with financial systems (including general ledger and accounts payable), were ready to "go live" on July 1, 2011 and that various interim benchmarks had been achieved. Subsequently, Darlene Johnson verbally reprimanded Gordon, and instructed him to not raise such complaints again.

During or about mid-April 2011, Gordon complained to the upper management at Gold Coast, including but not limited to Gold Coast CEO Earl Greenia, Gold Coast CFO Darlene Johnson and Gold Coast HR manager Candice Limogen, that Gold Coast was committing Medi-Cal fraud by intentionally misrepresenting that Gold Coast's computerized systems handling Medi-Cal eligibility and capitation (including the algorithm used to assign members to physicians), utilization management, claims, information reporting, member services, and integration with financial systems (including general ledger and accounts payable) and external pharmacy systems, were ready to "go live" on July 1, 2011 and that various interim benchmarks had been achieved, and that all interested stakeholders (including but not limited to Medi-Cal) should be immediately notified that Gold Coast's systems were not and would not be ready by July 1, 2011.

During or about late April or early May 2011, Gold Coast CEO Earl Greenia received a written complaint from James Swoben advising that Gold Coast had and was defrauding Medi-Cal by misrepresenting to Medi-Cal that Gold Coast had performed all required testing of its computer systems and that Gold Coast's computer system would be ready to "go live" by July 1, 2011. When Greenia approached Gordon regarding Swoben's complaint, Gordon (a) advised Greenia that Gordon concurred with Swoben's complaint, and (b) complained that Gold Coast had and was defrauding Medi-Cal by misrepresenting to Medi-Cal that Gold Coast had performed all required testing of its computer systems and that Gold Coast's computer system would be ready to "go live" by July 1, 2011. Gordon responded to Greenia's inquiry and made such complaints in an effort to stop the violations of the federal and California False Claims Acts.

ATTACHMENT NO. 1

Page 2 of 2

As a result of Gordon responding to Greenia's inquiry regarding Swoben's complaint and complaining to Gold Coast, including but not limited to Greenia and Johnson, that Gold Coast had and was defrauding Medi-Cal, Gold Coast retaliated against Gordon by, among other things, discriminating against him in the terms and conditions of his employment and/or subjecting him to a hostile work environment that included, but was not limited to, taking away substantially all of Gordon's significant job duties, reducing Gordon's work hours and pay, having Gordon no longer report to Greenia but instead to one of his subordinates, subjecting Gordon to unwelcome and unwarranted yelling, criticism and humiliation, and constructively terminating Gordon's employment during mid-July 2011 by subjecting him to such a hostile work environment.

As a result of such retaliation and discrimination, Gordon suffered, among other things, loss of earnings and employment benefits, emotional distress, worry, anxiety and humiliation.

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5 WOODLAND HILLS, CA 91367-7572  
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7 BillHanagani@esquire.la

FILED  
CLERK, U.S. DISTRICT COURT  
JUL 11 2011  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY DEPUTY

5 Abram J. Zinberg, SBN 143399  
6 412 OLIVE AVENUE, SUITE 528  
7 HUNTINGTON BEACH 92648  
8 (714) 374-9802 / (714) 969-0910 FAX  
9 AbramZinberg@gmail.com

8 Attorneys for Plaintiffs and Qui Tam Relators,  
9 Donald Gordon and James M. Swoben

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA and  
14 STATE OF CALIFORNIA, *ex rel*  
15 DONALD GORDON and JAMES M.  
16 SWOBEN,

16 Plaintiffs,

17 vs.

18 GOLD COAST HEALTH PLAN, a public  
19 entity; VENTURA COUNTY MEDICAL  
20 MANAGED CARE COMMISSION, a  
21 public entity, dba Gold Coast Health Plan;  
22 COUNTY OF VENTURA, a public entity;  
23 and AFFILIATED COMPUTER  
24 SERVICES, INC., a Delaware corporation,

22 Defendants.

CASE NO. 11-550 OAMM(ATU)  
LACW 11-550 OAMM(ATU)  
COMPLAINT FOR VIOLATIONS  
OF FEDERAL FALSE CLAIMS  
ACT AND CALIFORNIA FALSE  
CLAIMS ACT; REQUEST FOR  
JURY TRIAL

[UNDER SEAL PER 31 U.S.C. §  
3730(b)(2)]

24 COME NOW, Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben,  
25 individually and on behalf of the United States of America and the State of California, and  
26 allege as follows:

27 JURISDICTION AND VENUE

28 1. Plaintiffs and Qui Tam Relators Donald Gordon (Gordon) and James M. Swoben



1 (Swoben) file this action on behalf and in the name of the United States Government  
2 ("Government") seeking damages and civil penalties against the defendants for violations of  
3 31 U.S.C. § 3729(a). Plaintiffs also file this action on behalf and in the name of the State of  
4 California ("California") seeking damages and civil penalties against the defendants for  
5 violations of California Government Code § 12651(a).

6 2. This Court's ~~jurisdiction~~ over the claims for violations of 31 U.S.C. § 3729(a)  
7 is based upon 31 U.S.C. § 3732(a). This Court's ~~jurisdiction~~ over the claims for violations of  
8 California Government Code § 12651(a) is based upon 31 U.S.C. § 3732(b).

9 3. Venue is vested in this Court under 31 U.S.C. § 3732(a) because at least one of  
10 the defendants transacts business in the Central District of California and many acts  
11 constituting violations of 31 U.S.C. § 3729(a) occurred in the Central District of California.

#### 12 13 THE PARTIES

14 4. Plaintiffs are residents and citizens of the United States, the State of California,  
15 and of this District. Plaintiffs bring this action of behalf of the Government under 31 U.S.C.  
16 § 3730(b) and on behalf of California under California Government Code § 12652(c).

17 5. At all time relevant, California administered and partially funded the Medi-Cal  
18 program in which eligible Medi-Cal beneficiaries could enroll with managed care  
19 organizations contracted with California for a capitated rate paid by California that would  
20 provide at least those services provided to standard Medi-Cal beneficiaries. The Government  
21 also partially funded the Medi-Cal program as part of the Government's Medicaid program.

22 6. Defendant Gold Coast Health Plan is and was a public entity formed under the  
23 laws of the State of California, and ~~transacted~~ business in, among other places, the Central  
24 District of California.

25 7. Defendant Ventura County Medi-Cal Managed Care Commission is a public  
26 entity formed under the laws of the State of California, and ~~transacted~~ business in, among  
27 other places, the Central District of California. Plaintiffs are informed and believe, and upon  
28 such information and belief allege, that said defendant also does business as Gold Coast

1 Health Plan.

2 8. Defendant County of Ventura is a public entity formed under the laws of the  
3 State of California, and transacted business in, among other places, the Central District of  
4 California.

5 9. Defendants Gold Coast Health Plan, Ventura County Medi-Cal Managed Care  
6 Commission, and County of Ventura are collectively referred herein as "Gold Coast."

7 10. Defendant Affiliated Computer Services, Inc. (ACS) is a Delaware corporation  
8 that transacted business in, among other places, the Central District of California.

9 11. At all times relevant, Gold Coast was and is a managed care organization that  
10 administers the Medi-Cal program in and about Ventura County. Gordon was a project  
11 manager for Gold Coast between February 2011 and the present. Swoban worked with Gold  
12 Coast and ACS personnel between November 4, 2010 and May 4, 2011.

13  
14 COMMON ALLEGATIONS

15 12. During or about 2011, Gold Coast was awarded a contract by California to  
16 administer the Medi-Cal managed care program in and about Ventura County. Gold Coast  
17 advised California that Gold Coast's claims processing system, pharmacy benefits  
18 administration system, and member enrollment and services systems would be tested by May  
19 1, 2011 and fully functioning and in place by July 1, 2011. Gold Coast contracted with ACS  
20 to test and provide the systems as represented by Gold Coast and/or required by the Gold  
21 Coast/California contract. However, said systems were not tested nor functioning on May 1,  
22 2011. Rather, Gold Coast and ACS advised California that Gold Coast was ready to perform  
23 all aspects of its contract with California even though said systems had not been tested and  
24 were not fully functional.

25 13. As of July 1, 2011, Medi-Cal enrollment, member services, claims processing,  
26 and pharmacy benefits administration in and about Ventura County were and are handled by  
27 Gold Coast and its contractor, ACS. However, the required systems are not fully functional,  
28 and daily enrollment transaction information from California, member service inquiries, claims

1 (including but not limited to electronic claims from vendors), and pharmacy benefits  
2 administration are not, and cannot be properly processed by Gold Coast and/or ACS as  
3 required by the Gold Coast/California contract and/or the Health Insurance Portability and  
4 Accountability Act (HIPAA) and regulations promulgated thereunder.

5 14. Gold Coast's contract with California required Gold Coast to comply with state-  
6 mandated bidding procedures when purchasing products and materials needed to perform said  
7 contract. However, Gold Coast violated said bidding procedures by purchasing services,  
8 products and materials, including but not limited to member cards, member materials, and  
9 mailings, from ASC's affiliated company(ies), including but not limited to Xerox, without  
10 following the required bidding procedures.

11  
12 FIRST CLAIM FOR RELIEF

13 (Violation of 31 U.S.C. § 3729(a) against all defendants)

14 15. Plaintiffs reallege and incorporate by reference all previous paragraphs of this  
15 complaint as though fully set forth at length.

16 16. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C.  
17 § 3729(a)(1)(A) by knowingly presenting and/or causing to present to agents, contractors or  
18 employees of the Government false and fraudulent billings for payment and approval.

19 17. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C.  
20 § 3729(a)(1)(B) by knowingly making, using, and/or causing to make or use false records and  
21 statements to get false and excessive billings paid or approved by Medi-Cal.

22 18. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C.  
23 § 3729(a)(1)(G) by knowingly making, using and/or causing to make or use false records and  
24 statements to conceal, avoid, or decrease its obligation to return to Medi-Cal excessive  
25 payments received.

26 19. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C.  
27 § 3729(a)(1)(C) by conspiring to commit a violation of 31 U.S.C. §§ 3729(a)(1)(A),  
28 3729(a)(1)(B) and/or 3729(a)(1)(G), as alleged above.

1 20. Plaintiffs are informed and believe, and upon such information and belief allege,  
2 that as a result of the concealments and use of false records and statements by Gold Coast and  
3 ACS, Medi-Cal paid and is paying more than \$20 million per month as a result of the frauds  
4 alleged herein.

5 21. As a result of their conduct, Gold Coast and ACS are liable to the Government  
6 for three times the amount of damages sustained by the Government as a result of the false and  
7 fraudulent billing, reporting and concealment practices alleged above.

8 22. As a result of the above-alleged conduct, 31 U.S.C. § 3729(a) provides that Gold  
9 Coast and ACS are liable to the Government for civil penalties between \$5,000 and \$10,000  
10 for each such false and fraudulent billing, statement, reporting and concealment.

11 23. Plaintiffs are also entitled to recover their attorneys fees, costs and expenses  
12 from the Gold Coast and ACS pursuant to 31 U.S.C. § 3730(d).

13  
14 SECOND CLAIM FOR RELIEF

15 (Violation of California Government Code § 12651(a) against defendants)

16 24. Plaintiffs reallege and incorporate by reference all previous paragraphs of this  
17 complaint as though fully set forth at length.

18 25. At all times mentioned, Gold Coast and ACS routinely and repeatedly violated  
19 California Government Code § 12651(a)(1) by knowingly presenting and/or causing to present  
20 to California employees, agents and/or contractors false and fraudulent billings and statements  
21 for payment and approval.

22 26. At all times mentioned, defendants routinely and repeatedly violated California  
23 Government Code § 12651(a)(2) by knowingly making, using, and/or causing to make or use  
24 false records and statements to get false billings paid or approved by Medi-Cal.

25 27. At all times mentioned, defendants routinely and repeatedly violated California  
26 Government Code § 12651(a)(7) by improperly retaining and concealing excessive payments  
27 received.

28 28. At all times mentioned, defendants routinely and repeatedly violated California

1 Government Code § 12651(a)(7) by knowingly making, using and/or causing to make or use  
2 false records and statements to conceal, avoid, or decrease its obligation to return to Medi-Cal  
3 excessive payments received.

4 29. At all times mentioned, defendants routinely and repeatedly violated California  
5 Government Code § 12651(a)(3) by conspiring to commit violations of California Government  
6 Code § 12651(a), as alleged above.

7 30. Plaintiffs are informed and believe, and upon such information and belief allege,  
8 that as a result of defendants' concealments and use of false records and statements, Medi-Cal  
9 paid and is paying more than \$20 million per month as a result of the frauds alleged herein.

10 31. As a result of defendants' conduct, defendants are liable to California for up to  
11 three times the amount of damages sustained by California as a result of the false and  
12 fraudulent billing, reporting and concealment practices alleged above.

13 32. As a result of defendants' conduct, California Government Code §12651(a)  
14 provides that defendants are liable to California for civil penalties of up to \$10,000 for each  
15 such false and fraudulent billing, reporting, statements and concealment.

16 33. Plaintiffs are also entitled to recover their attorneys fees, costs and expenses  
17 from defendants pursuant to California Government Code § 12652(g)(8).

18  
19 PRAYER FOR RELIEF

20 WHEREFORE, Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben  
21 pray for relief as follows:

22 FOR THE FIRST CLAIM FOR RELIEF

- 23 1. Treble the Government's damages according to proof;  
24 2. Civil penalties according to proof;  
25 3. A relator's award of up to 30% of the amounts recovered by or on behalf of the  
26 Government;

27 FOR THE SECOND CLAIM FOR RELIEF

- 28 4. Treble the State of California's damages according to proof;

- 1 5. Civil penalties according to proof;
- 2 6. A relator's award of up to 50% of the amounts recovered by or on behalf of the
- 3 State of California;

4 FOR ALL CLAIMS FOR RELIEF

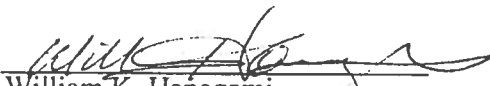
- 5 7. Attorneys fees, expenses, and costs; and
- 6 8. Such other and further relief as the Court deems just and proper.

7

8 ABRAM J. ZINBERG

9 THE HANAGAMI LAW FIRM  
10 A Professional Corporation

11 Dated: July 1, 2011

12 By:   
13 William K. Hanagami  
14 Attorneys for Plaintiffs and Qui Tam Relators,  
15 Donald Gordon and James M. Swoben


16 REQUEST FOR JURY TRIAL

17 Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben hereby request  
18 a trial by jury.

19 ABRAM J. ZINBERG

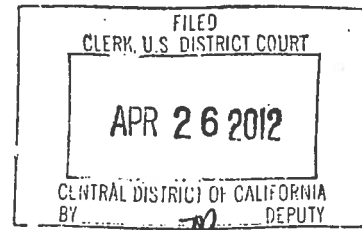
20 THE HANAGAMI LAW FIRM  
21 A Professional Corporation

22 Dated: July 1, 2011

23 By:   
24 William K. Hanagami  
25 Attorneys for Plaintiffs and Qui Tam Relators,  
26 Donald Gordon and James M. Swoben

27 Complaint P01.wpd

1 William K. Hanagami, SBN 119832  
2 THE HANAGAMI LAW FIRM  
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9 AbramZinberg@gmail.com

8 Attorneys for Plaintiffs and Qui Tam Relators

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12

13  
14 UNITED STATES OF AMERICA,  
15 [UNDER SEAL],

15 Plaintiffs,

16 vs.

17 [UNDER SEAL],

18 Defendants.  
19

CASE NO.: CV11-5500-AHM(AJWx)

FIRST AMENDED COMPLAINT  
FOR VIOLATIONS OF THE  
FEDERAL FALSE CLAIMS ACT  
AND [UNDER SEAL]

[UNDER SEAL PER 31 U.S.C. §  
3730(b)(2)]

20  
21 [UNDER SEAL]  
22  
23  
24  
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28

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12 AbramZinberg@gmail.com

13 Attorneys for Plaintiffs and Qui Tam Relators,  
14 Donald Gordon and James M. Swoben

FILED  
12 APR 25 PM 12:10  
CLERK OF DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA and  
18 STATE OF CALIFORNIA, *ex rel*  
19 DONALD GORDON and JAMES M.  
20 SWOBEN, and DONALD GORDON,

21 Plaintiffs,

22 vs.

23 GOLD COAST HEALTH PLAN, a public  
24 entity; VENTURA COUNTY MEDICAL  
25 MANAGED CARE COMMISSION, a  
26 public entity, dba Gold Coast Health Plan;  
27 COUNTY OF VENTURA, a public entity;  
28 REGIONAL GOVERNMENT SERVICES,  
a public entity; and AFFILIATED  
COMPUTER SERVICES, INC., a Delaware  
corporation,

Defendants.

CASE NO.: CV11-5500-AHM(AJWx)

FIRST AMENDED COMPLAINT  
FOR VIOLATIONS OF THE  
FEDERAL FALSE CLAIMS ACT  
AND CALIFORNIA FALSE  
CLAIMS ACT; REQUEST FOR  
JURY TRIAL

[UNDER SEAL PER 31 U.S.C. §  
3730(b)(2)]

COME NOW, Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben,  
individually and on behalf of the United States of America and the State of California, and  
allege as follows:

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JURISDICTION AND VENUE

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2 1. Plaintiffs and Qui Tam Relators Donald Gordon (Gordon) and James M. Swoben  
3 (Swoben) file this action on behalf and in the name of the United States Government  
4 (“Government”) seeking damages and civil penalties against the defendants for violations of  
5 31 U.S.C. § 3729(a). Plaintiffs also file this action on behalf and in the name of the State of  
6 California (“California”) seeking damages and civil penalties against the defendants for  
7 violations of California Government Code § 12651(a). Plaintiff Donald Gordon further files  
8 this action in his individual capacity for violations of 31 U.S.C. § 3730(h) and California  
9 Government Code § 12653.

10 2. This Court’s jurisdiction over the claims for violations of 31 U.S.C. §§ 3729(a)  
11 and 3730(h) are based upon 31 U.S.C. § 3732(a). This Court’s jurisdiction over the claims for  
12 violations of California Government Code §§ 12651(a) and 12653 are based upon 31 U.S.C.  
13 § 3732(b) and/or 28 U.S.C. § 1367(a).

14 3. Venue is vested in this Court under 31 U.S.C. § 3732(a) because at least one of  
15 the defendants transacts business in the Central District of California and many acts  
16 constituting violations of 31 U.S.C. §§ 3729(a) and 3730(h) occurred in the Central District  
17 of California.

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19 THE PARTIES

20 4. Plaintiffs are residents and citizens of the United States, the State of California,  
21 and of this District. Plaintiffs bring this action of behalf of the Government under 31 U.S.C.  
22 § 3730(b) and on behalf of California under California Government Code § 12652(c).  
23 Plaintiff Donald Gordon also brings this action in his individual capacity for violations of 31  
24 U.S.C. § 3730(h) and California Government Code § 12653.

25 5. At all time relevant, California administered and partially funded the Medi-Cal  
26 program in which eligible Medi-Cal beneficiaries could enroll with managed care  
27 organizations contracted with California for a capitated rate paid by California that would  
28 provide at least those services provided to standard Medi-Cal beneficiaries. The Government

1 also partially funded the Medi-Cal program as part of the Government's Medicaid program.

2 6. Defendants Gold Coast Health Plan and Regional Government Services are and  
3 were public entities formed under the laws of the State of California, and transacted business  
4 in, among other places, the Central District of California.

5 7. Defendant Ventura County Medi-Cal Managed Care Commission is a public  
6 entity formed under the laws of the State of California, and transacted business in, among  
7 other places, the Central District of California. Plaintiffs are informed and believe, and upon  
8 such information and belief allege, that said defendant also does business as Gold Coast  
9 Health Plan.

10 8. Defendant County of Ventura is a public entity formed under the laws of the  
11 State of California, and transacted business in, among other places, the Central District of  
12 California.

13 9. Defendants Gold Coast Health Plan, Ventura County Medi-Cal Managed Care  
14 Commission, and County of Ventura are collectively referred herein as "Gold Coast."

15 10. During plaintiffs' performance of work and services for Gold Coast, plaintiffs  
16 were employees of Gold Coast and Regional Government Services. Gold Coast and Regional  
17 Government Services are collectively referred herein as "Employer Defendants."

18 11. Plaintiffs are informed and believe, and upon such information and belief allege,  
19 that all of Gold Coast's officers and employees were actually employees of the Employer  
20 Defendants and acting within the course and scope of their duties as such for said defendants.

21 12. Defendant Affiliated Computer Services, Inc. (ACS) is a Delaware corporation  
22 that transacted business in, among other places, the Central District of California.

23 13. At all times relevant, Gold Coast was and is a managed care organization that  
24 administers the Medi-Cal program in and about Ventura County. Gordon was a project  
25 manager for Gold Coast from about February 2011 to about July 2011. Swoben worked with  
26 Gold Coast and ACS personnel from about November 4, 2010 to about May 4, 2011.

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1 COMMON ALLEGATIONS

2 14. During or about 2011, Gold Coast was awarded a contract by California to  
3 administer the Medi-Cal managed care program in and about Ventura County. Gold Coast  
4 advised California that Gold Coast's claims processing system, pharmacy benefits  
5 administration system, and member enrollment and services systems would be tested by May  
6 1, 2011 and fully functioning and in place by July 1, 2011. Gold Coast contracted with ACS  
7 to test and provide the systems as represented by Gold Coast and/or required by the Gold  
8 Coast/California contract. However, said systems were not tested nor functioning on May 1,  
9 2011. Rather, Gold Coast and ACS advised California that Gold Coast was ready to perform  
10 all aspects of its contract with California even though said systems had not been tested and  
11 were not fully functional.

12 15. As of July 1, 2011, Medi-Cal enrollment, member services, claims processing,  
13 and pharmacy benefits administration in and about Ventura County were and are handled by  
14 Gold Coast and its contractor, ACS. However, the required systems are not fully functional,  
15 and daily enrollment transaction information from California, member service inquires, claims  
16 (including but not limited to electronic claims from vendors), and pharmacy benefits  
17 administration are not, and cannot be properly processed by Gold Coast and/or ACS as  
18 required by the Gold Coast/California contract and/or the Health Insurance Portability and  
19 Accountability Act (HIPAA) and regulations promulgated thereunder.

20 16. Gold Coast's contract with California required Gold Coast to comply with state-  
21 mandated bidding procedures when purchasing products and materials needed to perform said  
22 contract. However, Gold Coast violated said bidding procedures by purchasing services,  
23 products and materials, including but not limited to member cards, member materials, and  
24 mailings, from ASC's affiliated company(ies), including but not limited to Xerox, without  
25 following the required bidding procedures.

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FIRST CLAIM FOR RELIEF

(Violation of 31 U.S.C. § 3729(a) against all defendants)

17. Plaintiffs reallege and incorporate by reference all previous paragraphs of this complaint as though fully set forth at length.

18. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(A) by knowingly presenting and/or causing to present to agents, contractors or employees of the Government false and fraudulent billings for payment and approval.

19. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(B) by knowingly making, using, and/or causing to make or use false records and statements to get false and excessive billings paid or approved by Medi-Cal.

20. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(G) by knowingly making, using and/or causing to make or use false records and statements to conceal, avoid, or decrease its obligation to return to Medi-Cal excessive payments received.

21. At all times mentioned, defendants routinely and repeatedly violated 31 U.S.C. § 3729(a)(1)(C) by conspiring to commit a violation of 31 U.S.C. §§ 3729(a)(1)(A), 3729(a)(1)(B) and/or 3729(a)(1)(G), as alleged above.

22. Plaintiffs are informed and believe, and upon such information and belief allege, that as a result of the concealments and use of false records and statements by Gold Coast and ACS, Medi-Cal paid and is paying more than \$20 million per month as a result of the frauds alleged herein.

23. As a result of their conduct, Gold Coast and ACS are liable to the Government for three times the amount of damages sustained by the Government as a result of the false and fraudulent billing, reporting and concealment practices alleged above.

24. As a result of the above-alleged conduct, 31 U.S.C. § 3729(a) provides that Gold Coast and ACS are liable to the Government for civil penalties between \$5,000 and \$10,000 for each such false and fraudulent billing, statement, reporting and concealment.

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1 25. Plaintiffs are also entitled to recover their attorneys fees, costs and expenses  
2 from the Gold Coast and ACS pursuant to 31 U.S.C. § 3730(d).

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4 SECOND CLAIM FOR RELIEF

5 (Violation of California Government Code § 12651(a) against all defendants)

6 26. Plaintiffs reallege and incorporate by reference all previous paragraphs of this  
7 complaint as though fully set forth at length.

8 27. At all times mentioned, Gold Coast and ACS routinely and repeatedly violated  
9 California Government Code § 12651(a)(1) by knowingly presenting and/or causing to present  
10 to California employees, agents and/or contractors false and fraudulent billings and statements  
11 for payment and approval.

12 28. At all times mentioned, defendants routinely and repeatedly violated California  
13 Government Code § 12651(a)(2) by knowingly making, using, and/or causing to make or use  
14 false records and statements to get false billings paid or approved by Medi-Cal.

15 29. At all times mentioned, defendants routinely and repeatedly violated California  
16 Government Code § 12651(a)(7) by improperly retaining and concealing excessive payments  
17 received.

18 30. At all times mentioned, defendants routinely and repeatedly violated California  
19 Government Code § 12651(a)(7) by knowingly making, using and/or causing to make or use  
20 false records and statements to conceal, avoid, or decrease its obligation to return to Medi-Cal  
21 excessive payments received.

22 31. At all times mentioned, defendants routinely and repeatedly violated California  
23 Government Code § 12651(a)(3) by conspiring to commit violations of California Government  
24 Code § 12651(a), as alleged above.

25 32. Plaintiffs are informed and believe, and upon such information and belief allege,  
26 that as a result of defendants' concealments and use of false records and statements, Medi-Cal  
27 paid and is paying more than \$20 million per month as a result of the frauds alleged herein.

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1           33. As a result of defendants' conduct, defendants are liable to California for up to  
2 three times the amount of damages sustained by California as a result of the false and  
3 fraudulent billing, reporting and concealment practices alleged above.

4           34. As a result of defendants' conduct, California Government Code §12651(a)  
5 provides that defendants are liable to California for civil penalties of up to \$10,000 for each  
6 such false and fraudulent billing, reporting, statements and concealment.

7           35. Plaintiffs are also entitled to recover their attorneys fees, costs and expenses  
8 from defendants pursuant to California Government Code § 12652(g)(8).

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THIRD CLAIM FOR RELIEF

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(Violation of 31 U.S.C. § 3730(h) by Donald Gordon against Employer Defendants)

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36. Plaintiff Gordon realleges and incorporates by reference all previous paragraphs  
of this complaint as though fully set forth at length.

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37. Gordon was an employee of the Employer Defendants from or about January  
2011 until or about early July 2011. Initially, Gordon held the job title of Interim  
Implementation Consultant, and about eight weeks later was promoted to Project Manager.

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38. During or about May 2011, Gold Coast CEO Earl Greenia received a written  
complaint from Swoben advising that Gold Coast had and was defrauding Medi-Cal by  
misrepresenting to Medi-Cal that Gold Coast had performed all required testing of its  
computer systems and that Gold Coast's computer system would be ready to "go live" by July  
1, 2011. When Greenia approached Gordon regarding Swoben's complaint, Gordon (a)  
advised Greenia that Gordon concurred with Swoben's complaint, and (b) complained that  
Gold Coast had and was defrauding Medi-Cal by misrepresenting to Medi-Cal that Gold Coast  
had performed all required testing of its computer systems and that Gold Coast's computer  
system would be ready to "go live" by July 1, 2011. Gordon responded to Greenia's inquiry  
and made such complaints in an effort to stop the violations of the federal and California False  
Claims Acts.

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1           39. As a result of Gordon responding to Greenia's inquiry regarding Swoben's  
2 complaint and complaining to the Employer Defendants, including but not limited to Greenia,  
3 that Gold Coast had and was defrauding Medi-Cal, the Employer Defendants retaliated against  
4 Gordon in violation of 31 U.S.C. § 3730(h)(1) by, among other things, discriminating against  
5 him in the terms and conditions of his employment and/or subjecting him to a hostile work  
6 environment that included, but was not limited to, taking away substantially all of Gordon's  
7 significant job duties, reducing Gordon's work hours, having Gordon no longer report to  
8 Greenia but instead to one of his subordinates, subjecting Gordon to unwelcome and  
9 unwarranted yelling, criticism and humiliation, and constructively terminating Gordon's  
10 employment by subjecting him to such a hostile work environment.

11           40. As a result of such retaliation and discrimination, Gordon has suffered, and will  
12 continue to suffer, loss of earnings and employment benefits in an amount exceeding the  
13 minimum jurisdiction of this Court.

14           41. As a result of such retaliation and discrimination, Gordon has suffered, and will  
15 continue to suffer, emotional distress, worry, anxiety and humiliation in amount according to  
16 proof at trial.

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FOURTH CLAIM FOR RELIEF

19 (Violation of Government Code § 12653 by Donald Gordon against Employer Defendants)

20           42. Plaintiff Gordon realleges and incorporates by reference all previous paragraphs  
21 of this complaint as though fully set forth at length.

22           43. As a result of Gordon responding to Greenia's inquiry regarding Swoben's  
23 complaint and complaining to the Employer Defendants, including but not limited to Greenia,  
24 that Gold Coast had and was defrauding Medi-Cal, the Employer Defendants retaliated against  
25 Gordon in violation of California Government Code § 12653(a) and/or (b) by, among other  
26 things, discriminating against him in the terms and conditions of his employment and/or  
27 subjecting him to a hostile work environment that included, but was not limited to, taking  
28 away substantially all of Gordon's significant job duties, reducing Gordon's work hours,

1 having Gordon no longer report to Greenia but instead to one of his subordinates, subjecting  
2 Gordon to unwelcome and unwarranted yelling, criticism and humiliation, and constructively  
3 terminating Gordon's employment by subjecting him to such a hostile work environment.

4 44. As a result of such retaliation and discrimination, Gordon has suffered, and will  
5 continue to suffer, loss of earnings and employment benefits in an amount exceeding the  
6 minimum jurisdiction of this Court.

7 45. As a result of such retaliation and discrimination, Gordon has suffered, and will  
8 continue to suffer, emotional distress, worry, anxiety and humiliation in amount according to  
9 proof at trial.

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11 PRAYER FOR RELIEF

12 WHEREFORE, Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben  
13 pray for relief as follows:

14 FOR THE FIRST CLAIM FOR RELIEF

- 15 1. Treble the Government's damages according to proof;  
16 2. Civil penalties according to proof;  
17 3. A relator's award of up to 30% of the amounts recovered by or on behalf of the  
18 Government;

19 FOR THE SECOND CLAIM FOR RELIEF

- 20 4. Treble the State of California's damages according to proof;  
21 5. Civil penalties according to proof;  
22 6. A relator's award of up to 50% of the amounts recovered by or on behalf of the  
23 State of California;

24 FOR THE THIRD CLAIM FOR RELIEF

- 25 7. General damages in amount according to proof;  
26 8. Reinstatement with the same seniority status that Gordon would have had but  
27 for the discrimination and retaliation;  
28 9. Two times the amount of back pay;



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10. Interest on the back pay;

11. Loss of future earnings in an amount according to proof;

FOR THE FOURTH CLAIM FOR RELIEF

12. General damages in amount according to proof;

13. Reinstatement with the same seniority status that Gordon would have had but  
for the discrimination and retaliation;

14. Two times the amount of back pay;

15. Interest on the back pay;

16. Loss of future earnings in an amount according to proof;

FOR ALL CLAIMS FOR RELIEF

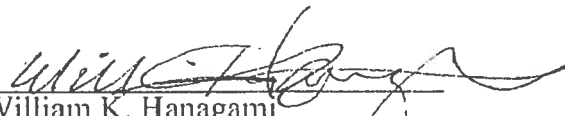
17. Attorneys fees, expenses, and costs; and

18. Such other and further relief as the Court deems just and proper.

ABRAM J. ZINBERG

THE HANAGAMI LAW FIRM  
A Professional Corporation

Dated: April 26, 2012

By:   
William K. Hanagami  
Attorneys for Plaintiffs and Qui Tam Relators,  
Donald Gordon and James M. Swoben

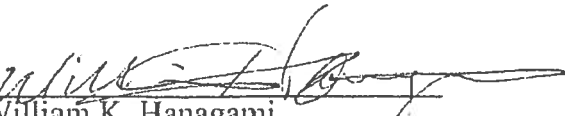
REQUEST FOR JURY TRIAL

Plaintiffs and Qui Tam Relators Donald Gordon and James M. Swoben hereby request  
a trial by jury.

ABRAM J. ZINBERG

THE HANAGAMI LAW FIRM  
A Professional Corporation

Dated: April 26, 2012

By:   
William K. Hanagami  
Attorneys for Plaintiffs and Qui Tam Relators,  
Donald Gordon and James M. Swoben