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GOVERNOR

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
OFFICE OF THE FRAUD INSPECTOR GENERAL
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ZACHARY S. WEISS
CHAIR

February 2, 2010

Office of the District Attorney for Queens County
Att: Assistant District Attorney Rosemary Buccheri,
12501 Queens Boulevard
Kew Gardens, NY 11415

Re: Harry's Nurses Registry and Harry Doyielien
Case: IG # 37534

Dear ADA. Buccheri:

We are referring the above-referenced case to your office for possible criminal prosecution pursuant to New York State Penal Law, Sections 155.40 (Grand Larceny in the 2nd Degree); 190.65 (Scheme to Defraud in the First Degree); and New York State Workers' Compensation Law, Section 31 (Illegal Contribution) and for such other charges as you may deem appropriate.

Harry's Nurses Registry (Harry's) is a duly incorporated New York State corporation that provides nurses and other health care personnel for home health service. Harry Doyielien is the President of the corporation and controls the daily operation which includes directing and supervising the placement of health care personnel in particular job assignments and overseeing the hours that they work. Doyielien provides his employee with necessary supplies and requires each nurse or home health personnel to submit reports on forms provided by Harry's.

In February 2006, Harry's obtained state mandated workers' compensation coverage through New York State Insurance Fund (SIF). The policy obtained by Harry's only covered office personnel and did not cover the aforementioned home health personnel. By leaving these healthcare workers without coverage, Doyielien sought to impermissibly reduce his premium below what was otherwise required if the health care workers were counted as employees. An audit by SIF, in 2006, discovered the additional workers and Harry's insurance premiums were increased to include the additional personnel.

Commencing in July 2006, Dovieliien and Harry's deducted \$1 per hour from the payroll checks of each of its home healthcare personnel to purportedly pay the additional premium cost for the workers' compensation coverage. When Harry's personnel complained of the deductions, Dovieliien misinformed his employees that the deductions were mandated by the Workers' Compensation Board. In fact, the exact opposite was true in that an employer may not collect the cost of the premium from his/her employees even if the employee agreed to the deduction. Workers Compensation Law, Section 31, provides in relevant part that:

No agreement by an employee to pay any portion of the premium paid by his employer ...shall be valid, and any employer who makes a deduction for such purpose from the wages or salary of any employee ... shall be guilty of a misdemeanor.

Here, there was no agreement, only Dovieliien's fraudulent misrepresentations. Collecting money under the guise of paying for increased premiums, Dovieliien and Harry's, over the period from August 2006 through November 2007, fraudulently collected deductions from their healthcare workers totaling more than \$300,000. Evidence of these collections gathered by this office includes payroll checks for the respective periods and interviews with various home healthcare employees of Harry's who uniformly confirmed the illegal deductions.

Please inform us as to your acceptance of the case and, if accepted, its assignment. If not accepted, please return the file to us so that we may pursue alternative remedies. If you have any questions or need any additional information in this matter, please contact Special Assistant Effie McCartney-Donaldson at 718-802-6907 who developed the case for prosecution.

Thank you for your cooperation in this matter.

Very truly yours,

William Gurin
Inspector General
New York State Workers' Compensation Board