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WESTERN DISTRICT OF WASHINGTON  
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UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
TODD CLAWSON,  
Defendant.

NO. **CR16-75 RSL**  
INFORMATION

The United States Attorney charges that:

**Count One**  
**(Conspiracy to Commit Criminal Conflicts of Interest, Bribery,**  
**and Health Care Fraud)**

**I. Introduction**

At all times relevant to this Information:

1. The Department of Veterans Affairs (VA) is an executive level government agency that provides healthcare and benefits to veterans of the United States. The Veterans Healthcare Administration is a "federal health care benefit program" as defined by Title 18, United States Code Section 24(b) that provided medical benefits to veterans of the United States armed forces.

2. Advanced BioHealing Inc., ("Company") was a biopharmaceutical company founded in 2004 that developed and commercialized bioengineered tissue

1 products and regenerative medicine therapies. Advanced BioHealing Inc. (ABH) was  
2 headquartered in Westport, CT, and had a large manufacturing plant and training facility  
3 in La Jolla, CA. ABH produced Dermagraft, a product which was approved by the Food  
4 and Drug Administration for the treatment of diabetic foot ulcer wounds. ABH acquired  
5 the rights to Dermagraft in May 2006, and began selling Dermagraft to United States  
6 customers in February 2007. ABH was purchased by Shire PLC effective July 18, 2012.

7 3. Dermagraft is also known in the industry as a "living skin equivalent"  
8 and/or "biologic dressing" product. There were several competitive products to  
9 Dermagraft that were used in VA facilities by podiatrists and wound care clinicians who  
10 treat serious diabetic wound issues.

11 4. On December 1, 2008, ABH was awarded a five year Federal Supply  
12 Schedule, contract number V797P-4155B, to provide Dermagraft to the VA at the cost of  
13 \$1,360 per unit.

14 5. Each VA facility placed orders for Dermagraft against the Federal Supply  
15 Schedule contract based upon a physician and/or clinician's determination that  
16 Dermagraft was the appropriate treatment protocol for the patient.

17 6. TODD CLAWSON worked for ABH from September 8, 2008, through  
18 August 6, 2012. CLAWSON worked as the Director of Specialty Markets focusing on  
19 VA sales in 2009. CLAWSON was promoted to the National Director of the Federal  
20 Markets Division in approximately June 2010, and he held this position until he resigned  
21 in 2012. CLAWSON managed and directed the expansion of the Federal Markets  
22 Division from a few employees to an organization employing more than 35 sales  
23 representatives by 2012.

24 7. ABH Federal Markets Division's primary focus was to market and promote  
25 Dermagraft at VA facilities around the nation. CLAWSON knew that VA facilities could  
26 purchase Dermagraft with very few restrictions, in contrast to ordinary Medicare  
27 purchases of the product.  
28

8. A "speaking engagement" was a specific agreement under which a company paid a VA physician or clinician as much as \$3,000 to recommend, and in fact sell, Dermagraft to other VA personnel. These events usually took place at a restaurant where the company, and in some instances the VA speaker, would solicit VA personnel to attend, and the company would pay for their meals.

9. A “preceptorship” was a specific agreement in which a company paid a VA clinician as much as \$1,500 per day to allow company sales personnel to accompany the clinician at the VA while the VA clinician used the company’s product to treat VA patients. The VA clinicians performed these preceptorships while on-duty at VA medical facilities, and while treating VA patients.

10. A “sales training” event was a specific agreement in which a company paid a VA clinician up to \$3,000 to train company sales personnel how to sell to VA facilities. The “sales training” required the VA clinician to travel to company headquarters, or other locations, to deliver a presentation on how to navigate VA facilities, how to avoid impediments to sales, and on how to reach the people who controlled purchasing in VA facilities.

11. An "advisory board" meeting was a specific agreement to pay a VA clinician approximately \$2,000 to participate in medical company meetings to discuss the use of the company's product and the effectiveness of potential sales and marketing programs at VA.

## II. The Conspiracy

### A. The Agreement

12. Beginning on or about January 1, 2009, and continuing to on or about August 6, 2012, in the Western District of Washington; San Diego, California; Los Cabos, Mexico; San Francisco, California; Phoenix, Arizona; Cleveland, Ohio; Dallas, Texas; Atlanta, Georgia; and elsewhere, TODD CLAWSON and others at ABH, including KO, TE, and NR (who were ABH officers known to the defendant and the government), and members of the ABH sales force, along with key VA physicians and



1 clinicians, did knowingly and willfully conspire, confederate and agree amongst  
2 themselves, and with others known and unknown to:

3 a. Defraud the United States by impeding and impairing the  
4 governmental functions of the VA, including those intended to regulate the ethical  
5 practice of physicians working for the VA; and

6 b. Commit the following violations of federal criminal law:

7  
8 i. To engage in criminal conflicts of interest, in violation of  
9 Title 18, United States Code, Section 208;

10 ii. To pay the salaries of federal employees, in violation of Title  
11 18, United States Code, Section 209;

12 iii. To commit healthcare fraud, in violation of Title 18, United  
13 States Code, Section 1347;

14 iv. To commit the offense of bribery, in violation of Title 18,  
15 United States Code, Section 201;

16 v. To commit the offense of health care bribery, in violation of  
17 Title 42, United States Code, Sections 1320a-7b(b)(1)(A) and (B).

18 **B. Manner and Means of the Conspiracy**

19 13. The defendant and his co-conspirators, through their own actions and others  
20 acting under their directions, used the following means and acted in the following  
21 manner, among others, to effect the conspiracy:

22 14. It was part of the conspiracy that TODD CLAWSON would, and did offer  
23 and pay, VA podiatrists and clinician kickbacks, in the form of meals, salaries, gifts, and  
24 other in-kind inducements (collectively "gratuities") in an effort to cause the recipients to  
25 order, purchase, use, and to cause others to order, purchase and use Dermagraft on VA  
26 patients.

27 15. It was further part of the conspiracy that TODD CLAWSON would, and  
28 did forge relationships with well-known VA podiatrists and clinicians with the intent to

1 influence and use them to influence others at VA facilities to purchase and use  
2 Dermagraft in their treatment of veterans with diabetic foot ulcers.

3 16. It was further part of the conspiracy that TODD CLAWSON would and did  
4 cultivate at least four VA Podiatrists and others to become key speakers for the Federal  
5 Markets Division. CLAWSON and employees under his direction established speaking  
6 engagements and dinner lectures for these VA physicians at various locations throughout  
7 the United States. CLAWSON caused ABH to pay these VA physicians an honorarium  
8 for each speaking engagement. These payments ranged from \$500 to \$3,000 per event,  
9 depending on the agreement between ABH and the physician. The speaking  
10 engagements focused specifically on using Dermagraft to treat diabetic foot ulcers, and in  
11 effect, were sales presentations. The target audiences consisted primarily of other VA  
12 physicians and clinicians. The speaking engagements were held at non-VA locations  
13 during off-duty hours, but the company lured VA physicians and clinicians to attend by  
14 supplying all invited guests with free meals at expensive restaurants.

15 17. It was further part of the conspiracy that the conspirators would, and did  
16 organize these formal speaking engagements at a local level. The goal of these speaking  
17 engagements was to increase sales to VA facilities at which the attendees worked. By  
18 accepting these speaking engagements, the VA physicians became employees, agents, or  
19 independent contractors of ABH.

20 18. It was further part of the conspiracy that the VA clinicians and physicians  
21 who joined the conspiracy would conceal from VA ethics advisors the full nature and  
22 scope of their arrangements with the company.

23 19. It was further part of the conspiracy that the conspirators would, and did  
24 give each federal sales representative an expense account of up to \$5,000 per month. The  
25 monthly company expense account was to be used for travel, meetings with VA  
26 personnel, and to provide meals and beverages to VA physicians and clinicians,

27 20. It was further part of the conspiracy that the conspirators would, and did  
28 account for, track, and reimburse expenses incurred in grooming VA physicians and



1 clinicians with an electronic expense management program administered by Concur  
2 Technologies Inc., a company based in Bellevue, Washington.

3 21. It was further part of the conspiracy that the conspirators would, and did  
4 work together to create algorithms to direct VA podiatrists and clinicians to consider and  
5 use the company's living skin products (i.e., Dermagraft) in an effort to increase  
6 Dermagraft sales at VA facilities.

7 22. It was further part of the conspiracy that the conspirators would, and did  
8 pay bribes to VA personnel, and did accept bribes in the form of meals, trips, payments,  
9 concert tickets, and travel.

10 **C. Overt Acts in Furtherance of the Conspiracy**

11 23. In furtherance of the conspiracy, and in order to achieve the objectives  
12 thereof, TODD CLAWSON and his co-conspirators, known and unknown, on or about  
13 the dates specified below, committed, or caused to be committed, the following  
14 transactions and associated activities which are representative examples of overt acts in  
15 the Western District of Washington and elsewhere:

- 16 a. On or about March 30, 2010, TODD CLAWSON approved the  
17 preceptorship payment of \$2,000 to PX, a Phoenix VA clinician, to train  
18 new ABH sales employees at the Phoenix VA Medical Center.
- 19 b. On or about August 24, 2010, TODD CLAWSON and other ABH  
20 executives approved the payment by ABH of honorarium payments in  
21 excess of \$4,000 and travel expenses for three Phoenix VA clinicians,  
22 including PX, to travel from Phoenix, Arizona, to Cabo San Lucas,  
23 Mexico, to attend a multi-day fishing trip with CLAWSON and other  
24 ABH employees.
- 25 c. On or about August 24, 2011, TODD CLAWSON purchased four Def  
26 Leopard concert tickets, valued at \$1,102.00, for SF, a VA clinician. SF  
27 did not reimburse TODD CLAWSON for the tickets. TODD  
28 CLAWSON claimed reimbursement for the tickets as a business

1 expense, and he was reimbursed by ABH for the cost of the concert  
2 tickets.

3 d. On or about August 11, 2011, TODD CLAWSON and other ABH  
4 executives authorized the expenditure of ABH funds to pay for a fishing  
5 trip to Jackson Hole Wyoming for three Phoenix VA clinicians,  
6 including PX. TODD CLAWSON directed that honorariums be paid to  
7 each of the VA physicians to cover their expenses for the trip. The  
8 purpose of the trip was to further influence these physicians to use and  
9 continue to recommend the use of Dermagraft for the treatment of VA  
10 patients.

11 e. On or about February 11, 2011, TODD CLAWSON authorized the  
12 expenditure of ABH funds to pay honorariums for a weekend trip to Las  
13 Vegas, Nevada, for three Phoenix VA clinicians, including PX. TODD  
14 CLAWSON directed that honorariums be paid to each of the VA  
15 physicians to cover expenses for the trip. The purpose of the trip was to  
16 further influence these physicians to use and continue to recommend the  
17 use of Dermagraft for the treatment of VA patients.

18 f. On or about April 21, 2010, TODD CLAWSON and other ABH  
19 employees requested that CL, a Cleveland VA clinician, conduct a paid  
20 speaking engagement to influence VA clinicians in Dallas, Texas.  
21 CLAWSON subsequently authorized the payment of honorarium and  
22 travel expenses to CL in June 2010.

23 g. On or about September 12, 2010, TODD CLAWSON provided  
24 approval for a \$1,500 honorarium payment and travel expenses to CL  
25 for speaking to a Seattle VA audience in an attempt to influence the VA  
26 employees to use Dermagraft to treat patients.

- 1 h. On or about, May 21, 2010, TODD CLAWSON authorized a \$2,000  
2 honorarium and travel expenses to PX for conducting a speaking  
3 engagement in the Seattle area to influence Seattle VA clinicians.  
4 i. On or about, February 2, 2010, TODD CLAWSON authorized a \$2,500  
5 honorarium and travel expenses to SF for conducting a speaking  
6 engagement in the Seattle area to influence Seattle VA clinicians.  
7 j. On or about, September 20, 2011, TODD CLAWSON authorized a  
8 \$1,500 honorarium and travel expenses to AT, an Atlanta VA clinician,  
9 for conducting a speaking engagement in Las Vegas, Nevada.  
10 k. On or about April 14, 2010, TODD CLAWSON used the Internet to  
11 send a message to CL in furtherance of the development of an algorithm  
12 intended to influence VA clinicians.

13 All in violation of Title 18, United States Code, Section 371.

14 **Count Two**  
15 **(Healthcare Fraud)**

16 24. The United States realleges and incorporates paragraphs 1 through 23 as  
17 though fully set forth herein.

18 25. Beginning on January 1, 2009, and continuing through on or about August  
19 6, 2012, in the Western District of Washington, and elsewhere, the defendant, TODD  
20 CLAWSON, knowingly and willfully executed and attempted to execute the above-  
21 described scheme and artifice to defraud and did obtain, by means of materially false and  
22 fraudulent pretenses, representations, and promises, money and property owned by and  
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1 under the custody and control of the VA, a health care benefit program as defined in Title  
2 18, United States Code, Section 24(b), all in connection with the delivery of and payment  
3 for health care benefits, items, and services.

4 All in violation of Title 18, United States Code, Sections 1347 and 2.

5  
6 DATED this 17<sup>th</sup> day of March, 2016.

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