

## Ten Years Later — The End of Tuomey’s Journey

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In October 2005, Dr. Michael Drakeford filed his *qui tam* against Tuomey Healthcare System alleging Stark Law and False Claims Act violations. After ten years of investigation and litigation, including two jury trials, two trips to the Fourth Circuit U.S. Court of Appeals, and a staggering judgment of \$237 million, on October 16, 2015, the Department of Justice announced that it reached a settlement with Tuomey to pay \$72.4 million before its sale to Palmetto Health. Dr. Drakeford received a 25 percent share (\$18.1 million) plus an additional \$2.5 million payment for attorneys’ costs and fees.

We have previously analyzed the Fourth Circuit’s July decision affirming the 2013 jury verdict and judgment [here](#), and the Tuomey litigation in great detail [here](#).

Consistent with DOJ’s policy announced in the Yates Memorandum ([see post](#)), the settlement agreement only releases Tuomey, and does not release any corporate officers, directors or employees. Moreover, the settlement contains some unusual provisions concerning two such officers, noting that Tuomey had agreed to indemnify Jay Cox and Gregg Martin, the CEO and COO respectively during the relevant time period, for their attorney fees and expenses relating to the conduct covered by the settlement. According to the settlement, Tuomey has informed the United States how much Tuomey has already advanced Cox and Martin, and Tuomey assigned to the United States all claims or potential claims Tuomey has or may have against Cox and Martin for reimbursement of fees and costs advanced to them.

Tuomey also entered into a five-year corporate integrity agreement (CIA) with the Department of Health and Human Services Office of Inspector General as part of the settlement. The CIA requires that Tuomey retain a law firm as a “Legal IRO” to perform reviews of Tuomey’s process for entering into arrangements with referral sources as well as reviewing specific arrangements. The CIA also contains a requirement that is starting to appear in more recent CIAs — certifications of compliance from both the compliance officer and the chief executive officer instead of only the compliance officer.

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National Law Review, Volume V, Number 294

Source URL: <https://natlawreview.com/article/ten-years-later-end-tuomey-s-journey>

