

**ELEVENTH ANNUAL  
TAXPAYERS AGAINST FRAUD  
EDUCATION FUND  
AWARDS DINNER**

Marriott at Metro Center, Washington, D.C.  
Tuesday, September 13, 2011

**LAWYER OF THE YEAR AWARD**

KENNETH J. NOLAN  
MARCELLA AUERBACH  
Nolan & Auerbach, P.A.

*Presented by Jim Breen*

**WELCOME**

NEIL V. GETNICK  
Chairman of the Board of Directors  
Taxpayers Against Fraud Education Fund

**LIFETIME ACHIEVEMENT AWARD**

NEIL V. GETNICK  
Getnick & Getnick, LLP

*Presented by Jim Helmer*

**KEYNOTE ADDRESS**

THE HONORABLE KATHLEEN SEBELIUS  
United States Secretary of Health and Human Services

*Introduction by John R. Phillips*

**“HONEST ABE” INTEGRITY IN GOVERNMENT AWARD**

MICHAEL F. HERTZ  
Deputy Assistant Attorney General  
United States Department of Justice

*Presented by Shelley Slade*

**WHISTLEBLOWER OF THE YEAR AWARD**

CHRISTOPHER RIEDEL  
Chief Executive Officer  
Hunter Laboratories

*Presented by Harry Markopolos*

## **KATHLEEN SEBELIUS**

### **U.S. SECRETARY OF HEALTH AND HUMAN SERVICES**

Kathleen Sebelius was sworn in as the 21<sup>st</sup> Secretary of the Department of Health and Human Services (HHS) on April 28, 2009. Since taking office, Secretary Sebelius has formed a historic partnership with the U.S. Department of Justice to stamp out health care fraud. That effort has resulted in record numbers of fraud prosecutions and record sums of money returned to federal and state treasuries.

Even as she has worked to recover America's stolen billions, Secretary Sebelius has also led the fight to improve the delivery of health care services to our nation's most vulnerable populations, including children, those with disabilities, and the elderly.

As part of the Affordable Care Act, Secretary Sebelius has implemented reforms ending many of the insurance industry's worst abuses, and she has worked to make sure 34 million uninsured Americans get health care coverage. Under the new law, she is also carrying out policies that put a new focus on wellness and prevention, support the adoption of electronic medical records, and help recruit and train more primary care providers. Secretary Sebelius is also working closely with doctors, nurses, hospital leaders, employers, and patients to slow the growth in health care costs.

In 2011, *Forbes* named Secretary Sebelius the 13<sup>th</sup> most powerful woman in the world. Before her Cabinet appointment in April, 2009, she served as Governor of Kansas, where she was named one of America's Top Five Governors by *Time* magazine. From 1995 to 2003 she served as Kansas Insurance Commissioner. She was a member of the Kansas House of Representatives from 1987 to 1995.

Secretary Sebelius is the first daughter of a governor to be elected governor in American history; her father John Gilligan served as Ohio's Governor from 1971-75. She holds a Master of Public Administration degree from the University of Kansas and a Bachelor of Arts degree from Trinity Washington University. She is married to Gary Sebelius, a federal magistrate judge. They have two sons, John and Ned, and a daughter-in-law, Lisa.

## **"HONEST ABE" INTEGRITY IN GOVERNMENT AWARD**

### **MICHAEL F. HERTZ**

The staff, board and membership of Taxpayers Against Fraud Education Fund are pleased to give our "Honest Abe" Integrity in Government Award to Michael F. Hertz, Deputy Assistant Attorney General of the U.S. Department of Justice, Civil Division.

As most of you know, Mike has been "Mr. False Claims Act" at the U.S. Department of Justice for 25 years.

Mr. Hertz was born on September 16, 1949 in New York City, and raised and educated in Roslyn, New York. Upon graduating in 1971 from Rensselaer Polytechnic Institute, Mr. Hertz attended Northwestern University School of Law, where he was elected to the Order of the Coif and graduated *magna cum laude* in 1974. After completing a clerkship with the late Judge Robert A. Sprecher of the United States Court of Appeals for the Seventh Circuit, Mr. Hertz joined the Civil Division's Appellate staff in October 1975.

During his tenure with the U.S. Department of Justice, Mr. Hertz has received numerous awards, including the Department of Justice's John Marshall Award for handling appeals in July 1981, the Attorney General's Distinguished Service Award in July 1988, the Stanley D. Rose Memorial Award in 2002, the Edward H. Levi Award in 2010 for outstanding professionalism and exemplary integrity, and Presidential Rank Awards for Senior Executives in 1989, 1997 and 2006. He was appointed to the Senior Executive Service as the Civil Division's Appellate Litigation Counsel in May 1982, promoted to Director, Commercial Litigation Branch, in charge of civil fraud litigation in March 1984, and promoted to Deputy Assistant Attorney General in March 2007. Mr. Hertz served as the Acting Assistant Attorney General for the Civil Division from January 2009 through April 2009.

Mike has shaped the way the False Claims Act and *qui tam* provisions are interpreted and used, and has been instrumental in defending the constitutionality of the provisions themselves. He has been, and remains, a relentless advocate of the government's interest, and exhibits uncompromising professionalism, integrity, and judgment which serves not only as a model for the Civil Division, but for the U.S. Department of Justice itself.

## LAWYERS OF THE YEAR

### KENNETH J. NOLAN AND MARCELLA AUERBACH

The staff, board and membership of Taxpayers Against Fraud Education Fund are pleased to name Ken Nolan and Marcella Auerbach our Lawyers of the Year.

In the past year, Ken Nolan and Marcella Auerbach have settled five multimillion-dollar *qui tam* cases, including an unprecedented string of three nine-figure settlements in a single month. These cases include recoveries against Novartis Pharmaceuticals (\$422 million overall); Allergan (\$600 million overall); Forest Laboratories (\$300 million overall); St. Jude Medical (\$16 million overall); and a million dollar settlement from Remedi Seniorcare, a long-term care pharmacy. All together, these cases recovered more than \$1.3 billion in civil settlements and related criminal fines, and included criminal pleas by three corporate defendants.

In addition to these recoveries, Mr. Nolan and Ms. Auerbach exposed an industry-wide scheme responsible for billions of dollars of fraud. In an as-yet unjoined False Claims Act case unsealed in January of this year, they showed that dozens of companies have illegally marketed hundreds of unapproved drugs in the U.S. by repeatedly lying to the U.S. Government by certifying that these drugs had passed FDA tests for safety and effectiveness, or otherwise met Medicaid standards.

**Marcella Auerbach** is a Partner at Nolan & Auerbach. She is a former federal prosecutor who spent more than twenty-five years at the United States Department of Justice, serving in a wide variety of leadership roles. As First Assistant United States Attorney for the Southern District of Florida, Ms. Auerbach managed, directed, and supervised 210 attorneys in the criminal and civil divisions, worked directly with every federal agency, and was involved in all stages of criminal and civil prosecutions and forfeitures. Prior to being named First Assistant, she represented the federal government for eight years as an AUSA in the Civil Division, where she represented the government in health care fraud *qui tam* cases in the Southern District of Florida. Ms. Auerbach also supervised and spearheaded a large number of prosecutions as Chief of Narcotics, Special Counsel to the United States Attorney, and a Special Attorney in the Organized Crime and Racketeering Section of the United States Department of Justice. She received numerous awards during her tenure at the United States Department of Justice, including

the John Marshall Award for outstanding litigation work, the Law Enforcement Woman of the Year Award, and numerous special commendations from Attorney Generals of the United States.

Since joining Nolan and Auerbach, Marcella has led numerous panel discussions and training conferences for attorneys, federal and state prosecutors, and federal agents on such topics as health care fraud, investigative techniques, and federal court and trial advocacy.

Ms. Auerbach earned a Bachelor of Arts degree from the University of Miami, a Juris Doctor degree from Samford Law School, and a Master of Laws degree from New York University.

**Kenneth J. Nolan** is a Partner at Nolan & Auerbach. He has served as lead counsel in dozens of healthcare fraud *qui tam* cases, and has over 25 years of hands-on litigation experience.

Mr. Nolan is an original member, and current Chairman, of the President's Council of Taxpayers Against Fraud. He represented clients in the first successful off-label medical device case in the 90's, one of the largest cost report recoveries against long-term care facilities in the 90's, and one of the first off-label drug cases in the early 2000's.

Mr. Nolan has authored numerous articles concerning the False Claims Act and healthcare fraud. His published writings include book chapters, articles in pharmaceutical publications, and articles in legal journals.

Mr. Nolan is a recognized authority on *qui tam* law and healthcare fraud, and he has been quoted widely in national magazines and newspapers throughout the country. He has been a speaker on healthcare fraud *qui tam* cases before a variety of audiences, including healthcare providers, attorneys, and regulators.

Mr. Nolan has been a Trial Practice Adjunct Professor of Law at Nova University Law School, an instructor and faculty member for the National Institute for Trial Advocacy, and past chairman (as well as vice chairman and CLE chairman) of the Florida Bar Consumer Protection Law Committee. He has also served as a board member and hearing officer for the Broward County Consumer Protection Board, and an auxiliary reserve police officer for two law enforcement agencies.

Mr. Nolan was educated at Yale University (B.A.) and the University of Florida (J.D.).

## WHISTLEBLOWER OF THE YEAR AWARD

### CHRIS RIEDEL

Taxpayers Against Fraud Education Fund is proud to name Chris Riedel our Whistleblower of the Year.

Mr. Riedel is CEO of a Hunter Labs and, as such, he filed seven *qui tam* cases under the California False Claims Act, alleging a broad pattern of business plan fraud in which California laboratories routinely and systematically overcharged California's Medicaid program, while giving doctors deep discounts for non-Medicaid patient referrals.

These kinds of frauds not only resulted in price-gouging against Medi-Cal, California's Medicaid system, but they also made it difficult for new laboratories to gain a share of the lab testing market, and thereby stymied the free-market system.

Chris Riedel's cases were filed in 2005, and in 2008 the California Attorney General's office joined all seven cases.

Earlier this year the first case against Quest Diagnostics, the largest lab in California, settled for \$241 million. This is the largest settlement ever made under the California False Claims Act.

In recent weeks the second of Mr. Riedel's seven cases settled, with LabCorp agreeing to pay the state of California \$49.5 million.

The five defendants ahead include: Health Line Clinical Labs, Westcliff Medical Labs, Physicians Immunodiagnostic Laboratory, Whitefield Medical Laboratory, and Seacliff Diagnostics Medical Group.

Chris Riedel, of course, is not new to the health care field. A graduate of the University of California at Berkeley, he serves as a member of the Board of Directors of the Boston Heart Lab. Prior to starting Hunter Labs, he was the founder and CEO of three profitable health care companies which developed assay panels for hospitals and independent clinical labs, and pioneered antibiotic susceptibility testing and bacterial identification tests which have gone on to become world standards. Meris, Mr. Riedel's third health care company went public and raised over \$53 million in an IPO after being named by *Business Week* as the one of the best small companies in America.

## LIFETIME ACHIEVEMENT AWARD

### NEIL V. GETNICK

The staff, board and membership of Taxpayers Against Fraud Education Fund are honored to give our Lifetime Achievement Award to Neil Getnick.

Neil is a graduate of Cornell University and Cornell Law School. While still a law student, he became the youngest recipient of New York Public Interest Research Group's Public Citizenship Award, based on his leadership in the area of social responsibility in university investment policy.

After graduating law school, he began his career at the Manhattan District Attorney's Office as an Assistant District Attorney, first in the Trial Division and later in the Frauds Bureau where he was in charge of litigation stemming from "Operation Good Buy," the then largest undercover fencing investigation in the history of New York City. As an ADA, he investigated the wrongful conviction of an incarcerated prisoner and won his freedom. In a newspaper interview Neil described this as his "proudest moment as a prosecutor."

After entering private practice in 1982, Neil undertook a series of fraud investigations and litigations. Each of his civil RICO cases led to a criminal conviction. Those cases included the first successfully filed civil RICO class action, the "Alliance" case heralded by *Forbes* for its "get-tough attitude" on an insurance fraud ring of corrupt lawyers, and the celebrated Tandem Computers parts theft case, described by *The New York Times* as a "real life 'Mission Impossible.'"

Neil is the chairman of the New York State Bar Association's Civil Prosecution Committee and also the Chairman and President of the International Association of Independent Private Sector Inspectors General. After 9/11, Neil and his firm were appointed as integrity monitors for the World Trade Center disaster clean-up. Following Congressional hearings, a House Homeland Security oversight subcommittee declared the WTC independent monitoring program a "Best Practice" to be emulated in future national disasters. In 2004, Neil and his law firm were appointed by the U.S. District Court for the Eastern District of New York as the Monitor of the New York Racing Association which runs thoroughbred racing in the State. Upon conclusion, the State Comptroller extolled Getnick & Getnick "for their unflinching integrity, expertise, dedication and business acumen."

In addition to his law practice, Neil led the international campaign to free and support his former Cornell classmate, Koigi wa Wamwere, one of Kenya's most renowned anti-corruption and human rights activists. In 2004, Neil and Koigi co-founded the Ujima Subukia Fund, a charitable organization operating a scholarship program for Kenyan students.

Neil's success in the False Claims Act arena includes:

- *U.S. ex rel. Andrew Hendricks v. LabCorp*, leading to a \$182 million recovery in 1996, which at the time was the largest False Claims Act recovery in U.S. history;
- *U.S. ex rel. George Couto v. Bayer Corporation USA*, achieving a \$251 million Medicaid recovery in 2003, the then largest in U.S. history. This precedent setting case was the first to successfully advance a "Best Price" fraud cause of action, and;
- *U.S. ex rel. Cheryl Eckard v. Glaxo Smith Kline et al.*, achieving a \$600 million Medicaid recovery in 2010 (part of a \$750 million civil and criminal resolution), and resulting in the largest reward to a single whistleblower to date. This groundbreaking case represents the first time the False Claims Act has been successfully used to hold a drug maker accountable for violations of manufacturing standards.

This track record is the result of the cumulative efforts of the Getnick & Getnick team including Neil's law partners Lesley Ann Skillen, Margaret J. Finerty, and Richard J. Dircks.

Neil has played a leading role for over a decade in all phases of the successful fight to enact and effectuate New York State's False Claims Act, from beating back early attempts to enact weak versions of the law, to the passage of the New York City FCA in 2005 and the New York State FCA in 2007, up to and including the passage of the Fraud Enforcement and Recovery Act amendments last year which transformed the New York State FCA into the most robust such law in the country.

Neil serves as the Chairman of Taxpayers Against Fraud. The latest project undertaken by Neil, his wife and law partner Peggy, and their law firm, is the creation of a whistleblower law program at Cornell Law School. A formal announcement of the program launch, and the role of the Taxpayers Against Fraud Education Fund in supporting the program, will take place this fall.

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wishes to recognize the generosity and  
support of the following sponsors  
of tonight's Awards Dinner:**

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