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July 15, 2026

The Hon. Orelia E. Merchant
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. Public Partnerships, LLC ("PPL") et al.*, No. 1:26-cv-03601 (OEM)

Dear Judge Merchant,

I write pursuant to Paragraph III.B of Your Honor's Practice Rules to request a conference regarding Defendant PPL's proposed motion to dismiss pursuant to FRCP 12(b)(6), 12(f), and 9(b).

This case is an act of gross overreach by the federal government. True to its promise to use lawfare against its political enemies, this Administration deploys the Department of Justice against New York and its contract partner PPL for executing a lawful state program that the Administration's political allies opposed. The Administration claims to be concerned about fraud, waste, and abuse in state health care programs. If that were true, DOJ would be applauding what New York and PPL have achieved – more than $1 ***billion*** in taxpayer savings. This case demonstrates that political attacks and score settling now matter more to DOJ than the truth. These claims represent a dramatic misuse of the law, are fatally defective, and should be dismissed.

In 2024, New York moved to a single statewide fiscal intermediary for the Consumer Directed Personal Assistant Program ("CDPAP"). PPL won that contract through a procurement that New York state and federal courts have repeatedly affirmed was fair and proper. PPL prevailed because of its track record of administering health care programs across 18 states, processing tens of billions of Medicaid transactions, and serving hundreds of thousands of consumers and caregivers nationwide. PPL then achieved one of the largest and most complex Medicaid administrative transitions in history: migrating more than 250,000 consumers and 300,000 caregivers from 600 disparate entities to a single unified, compliance-first statewide system in a matter of months. Unfortunately, the transition confronted well-funded opposition from legacy fiscal intermediaries whose business interests the consolidation eliminated. Those disgruntled business interests are the engine of this Complaint. Indeed, portions of DOJ's claims are lifted wholesale from failed bid protests that New York courts have repeatedly rejected in finding the CDPAP award to PPL to be fair and lawful.[1]

[1] State court decisions receive full faith and credit in every federal Court under 28 U.S.C. § 1738. "If a state proceeding comported with due process, every federal court must afford the final judgment entered therein the same preclusive effect it would be given in the courts of that state." *Allco Fin. Ltd. v. Roisman*, 2026 WL 796580, at *3 (2d Cir. Mar. 23, 2026). Numerous lawsuits challenging the CDPAP award to PPL have been dismissed, including four separate bid protests that upheld the legality of the procurement. DOJ cannot relitigate those issues here and this is a basis to dismiss this matter.

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DOJ gets the facts backwards, and sides with the interests that created the widespread fraud and abuse that New York and PPL are now solving. The Complaint reads like an ill-informed editorial, because that is what it is: a litany of conclusory (and totally false) allegations, often devoid of even threadbare factual assertions. DOJ fails to state a claim for relief for several independent reasons, summarized below[2], and the Court should dismiss this case.

1. DOJ Cannot Obtain The Relief It Requests Under 18 U.S.C. § 1345 as a Matter of Law.

DOJ asks this Court to take the unprecedented step of sanctioning the use of § 1345 as a freestanding civil tool, in a matter where DOJ has disclaimed any criminal proceeding, against sovereign state officials executing a state Medicaid program, and that state's duly awarded contractor, and impose permanent asset seizure and other financial relief without any criminal prosecution safeguards.

"18 U.S.C. § 1345 simply provides a procedural vehicle for the Government to enjoin substantive violations of enumerated federal fraud statutes or restrain the fruits of such violations during the pendency of a criminal prosecution." *United States v. New York City Hous. Auth.*, 347 F. Supp. 3d 182, 198 (S.D.N.Y. 2018) (emphasis added). DOJ has itself affirmed that §1345 inherently contemplates a companion criminal proceeding: "The Government also contends that information from the Civil Receivership case is properly shared in the Criminal case, since civil receiverships under 18 U.S.C. § 1345 are expressly structured to coordinate with parallel criminal proceedings." *United States v. Petters*, 667 F. Supp. 2d 1043, 1045 (D. Minn. 2009).

DOJ repeatedly assured PPL in the 15-month period in which PPL fully cooperated with DOJ's investigation that this is a civil matter. During that time, PPL produced tens of thousands of documents and made its most senior executives available for extensive interviews. Despite PPL's cooperation—and despite possessing evidence that categorically disproves the allegations in its complaint—DOJ now makes the galling claim that PPL somehow refused to "come clean." DOJ's decision to proceed with this case after reviewing proof of PPL's innocence is sanctionable. Regardless, PPL provided this information in reliance on DOJ's express assurances that this was a civil matter.

DOJ's actions are unprecedented, unsupported by §1345 and its history, and should be dismissed.

2. DOJ's Fraud Allegations Are Woefully Insufficient Pursuant to FRCP Rule 9.

There was no fraud here and DOJ's Complaint woefully fails to allege any. Looking to conjure falsity where none exists, the Complaint intentionally misstates the RFP and contract. DOJ barely quotes either document, because the actual terms disprove DOJ's case. DOJ claims "the sole FI would be compensated solely with a [PMPM] payment from the state to compensate the FI for all costs." Compl. ¶ 38. DOJ does not quote the contract because the claim is blatantly false. The RFP approves two categories of costs: "[T]he Statewide FI will be reimbursed for both: 1) Administrative Costs; and 2)

[2] PPL may may raise additional arguments in its motion to dismiss. *See, e.g.*, *Freudenberg v. Cnty. of Orange*, 2024 WL 4307176, at *12 (S.D.N.Y. Sept. 25, 2024).

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Direct Care Service Costs." The Complaint depends on the purposeful confusion of these two categories of costs. The PMPM is to cover PPL's overhead (which it does) and PPL may not shift administrative costs into direct care service costs (which PPL does not do and DOJ does not allege). Moreover, the direct care rate is reset by New York yearly and the contract requires full cost transparency, so there is no opportunity for fraud. That is the wisdom of the CDPAP reform that DOJ seeks to undo.

Because there is no evidence of fraud, DOJ resorts to vague and conclusory assertions, often failing even to allege that statements attributed to PPL were false (because they were not). "Baldly asserting the legal elements of a claim for fraud without the necessary factual allegations is not enough to survive a motion to dismiss." *Am. Exp. Travel Related Servs. Co. v. Henein*, 257 B.R. 702, 707 (E.D.N.Y. 2001).

Apart from failing to allege fraud with ***any*** detail, let alone the particularity required by FRCP 9(b), DOJ falls even farther short of alleging scienter. No doubt because senior PPL executives told DOJ in interviews that everything PPL ever said to New York and the public ***was true***, DOJ asserts no facts alleging believed any statements were false. Instead, DOJ confines itself to boilerplate assertions that this Court has repeatedly held are insufficient to plead a claim for fraud as a matter of law. "[DOJ's] allegations of scienter scattered throughout the [Complaint] are conclusory. ...These allegations include no factual detail at all with respect to mental state. …They simply urge that the [PPL] 'knew.' Such conclusory assertions are not entitled to the presumption of truth and they cannot by themselves establish fraudulent intent." *BAT, LLC v. TD Bank, N.A.*, 2018 WL 4693644, at *7 (E.D.N.Y. Sept. 28, 2018).

3. DOJ's Fails to Allege Facts to Support Its Extreme and Unfounded Request for a Receiver.

Section 1345(a)(2) allows for the freezing of assets, and/or appointment of a receiver, if DOJ can prove that the purported criminal defendant is "alienating or disposing of property." PPL is the largest employer in the state of New York and administering CDPAP in close coordination with DOH. The idea that PPL is poised to "alienate" funds in connection with CDPAP is absurd, which is why DOJ ***does not even attempt to allege it***. There is not a single factual allegation supporting DOJ's tacked on request for asset freezing and a receiver; courts routinely reject such unsupported relief. *See e.g. Capital Solutions, LLC v. Konica Minolta Business Solutions U.S.A., Inc., et al.*, 2009 WL 1635894 (D. Kan. Aug. 24, 2018) (plaintiff "fail[ed] to allege any reasons, let alone any compelling equitable reasons or extreme circumstances … which would warrant an appointment of a receiver"). The Court should strike DOJ's request for a receiver under Rule 12(f).

PPL respectfully requests a conference regarding Defendant PPL's motion to dismiss pursuant to FRCP 12(b)(6), 12(f) and 9(b).

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