



Department of Justice

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Former Operators of Highland Medical Center in Lubbock, Texas, are Sentenced, Remanded Into Federal Custody and Ordered to Pay More Than \$5 Million in Restitution Following Tax Convictions

LUBBOCK, Texas — At a sentencing hearing held this morning in federal court in Lubbock, Texas, U.S. District Judge Sam R. Cummings sentenced Herschel A. Breig, 64, and James Cheek, 64, each to 60 months in federal prison and ordered each to pay a \$10,000 fine, following each of their guilty pleas in February 2012 to one count of failure to pay over payroll taxes and aiding and abetting, related to their operation of Highland Medical Center in Lubbock. Restitution in the amount of \$5,049,875.62 was ordered by the Court. In addition, as per the terms of their plea agreements, Breig and Cheek have paid a total of \$120,000 in restitution to the individual victims identified by the U.S. Department of Labor (DOL). Today's announcement was made by U.S. Attorney Sarah R. Saldaña of the Northern District of Texas.

According to documents filed in the case, in March 2006, Breig and Cheek acquired control of Highland Medical Center (HMC). HMC was purchased by Shiloh Health Services, which involved other individuals, but was essentially controlled by Breig and Cheek. Cheek was Shiloh's founder, Executive Officer and President; Breig served as Shiloh's Vice-President and Secretary. While both Breig and Cheek are former residents of Lubbock, they currently reside in Springfield, Missouri.

From March 2006 to May 2008, Cheek exercised control over every aspect of HMC's business affairs. During that same time period, Breig exercised control over HMC's financial business affairs, including the required payment of payroll taxes owed by HMC, including federal income taxes, Federal Insurance Contributions Act (FICA) taxes and Medicare taxes.

Throughout the calendar years of 2006, 2007 and 2008, HMC withheld payroll taxes from employees' paychecks, however, from December 2006, through May 2008, HMC made no payments to the Internal Revenue Service (IRS). Breig admitted that he had a duty to collect, to truthfully account for and to pay over the payroll taxes that were withheld from HMC employees. Cheek admitted that payroll taxes were withheld from employees and that he willfully failed to truthfully account for and pay over the payroll taxes. For example, for the tax

quarter April 1, 2007 through June 30, 2007, they failed to pay over \$337,470 in taxes owed to the IRS.

The case was investigated by the IRS - Criminal Investigation and DOL. Assistant U.S. Attorney Ann C. Roberts of the U.S. Attorney's Office in Lubbock, was in charge of the prosecution.

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