

Qui Tam Whistleblower Legal NEWS

Re: Qui Tam Cases In Fiscal Year 2010

McInnis Law
Timothy J. McInnis, Esq.
521 Fifth Avenue, 17th Floor
New York, NY 10175-0038
212-292-4573 – 917-903-9424
www.WhistleblowerLegal.com
TMcInnis@McInnis-Law.com

Qui Tam Whistleblowers Rewarded With \$350 Million
Of \$2.3 Billion In FY 2010 Federal False Claims Act Recoveries;
More Than \$18 Billion Has Been Returned To Federal
Taxpayers Since 1986 False Claims Law Revisions, From
Which Qui Tam Whistleblowers Received Nearly \$3 Billion,
Qui Tam Attorney Timothy J. McInnis Announced

WASHINGTON (November 2010) – Qui Tam whistleblowers have received nearly \$3 billion in rewards for helping the federal government recover more than \$18 billion in false claims cases since 1986 revisions to the federal law added protections and more incentives for whistleblowers who step forward and, “Do the right thing,” Qui Tam attorney Timothy J. McInnis announced.

The U.S. Department of Justice reported total FY2010 Qui Tam-assisted recoveries of \$2.3 billion. Whistleblowers who brought those cases were rewarded with \$385 million of the proceeds, according to a news release quoting Assistant Attorney General Tony West, who heads the Department’s Civil Division.

In FY2010 (Oct. 1, 2009 through Sept. 30, 2010) the Division obtained \$3 billion in civil settlements and judgments, which included a record total for healthcare fraud of \$2.5 billion. Some \$5.4 billion was returned to taxpayers and government programs in the last two fiscal years, West added, making it the Division’s highest two-year total in the past 11 years.

A \$2.3 billion Pfizer settlement, which represented the largest health care fraud settlement in history, included nearly \$670 million recovered under the federal False Claims Act (“FCA”). The pharmaceutical manufacturer also paid \$1.3 billion in criminal fines and forfeitures and \$331 million to state Medicaid programs, said McInnis, a former federal prosecutor and now senior name partner of the McInnis Law Firm in New York City.

The \$2.5 billion healthcare fraud total for FY 2010 comprised 83 percent of total civil fraud recoveries and were attributable to the Department of Health and Human Service’s Medicare and Medicaid programs, the USDOJ news release explained. Other agencies that benefitted in the \$3 billion in civil fraud recoveries for the past fiscal year included the Office of Personnel Management, the Department of Defense, and the Department of Veterans Affairs.

“Qui Tam Whistleblowers,” McInnis said, “are a critical first line of defense for recovering dollars improperly siphoned from taxpayers by businesses and

individuals who make false claims in providing goods or services to the federal government.”

McInnis is a long-time member of the Taxpayers Against Fraud Education Fund, (“TAF”) the Washington, D.C. based Qui Tam legal bar. Over the years he has served as a TAF advisory board member, chaired TAF committees and presented Qui Tam legal topics at the organization’s annual meetings.

In 2009 the False Claims Act that had been strengthened in 1986 was further amended and strengthened, McInnis explained, to provide an even broader opportunity for whistleblowers to come forward and, “Do the right thing.”

Dating back to the Lincoln administration during the Civil War, Qui Tam provisions of the False Claims Act allow citizens to file suit on behalf of the United States against those who have falsely or fraudulently claimed federal funds. The term, “Qui Tam” is derived from the Latin, “*Qui tam pro domino rege quam pro se ipso in hac parte sequitur,*” meaning “who as well for the king as for himself sues in this matter.” A whistleblower under the False Claims Act legally is referred to as a “relator.”

The FCA allows the government to collect up to three times the amount it was defrauded, in addition to civil penalties of \$5,500 to \$11,000 per false claim. Under the FCA, whistleblowers could receive awards representing 15 to 25 percent of Qui Tam recoveries when the Government intervenes and either settles the case or wins after a trial. The amount of the award rises to between 25 to 30 percent when the Government declines the case and the whistleblower goes forward on his/her own and prevails, McInnis explained.

An experienced Qui Tam whistleblower lawyer is vital to advancing cases brought under federal or state false claims statutes, McInnis said. In most instances, Qui Tam matters can take years to reach resolution and a skilled attorney is needed each small step of the way. Historically, the best outcomes occur when the Government joins or “intervenes” to investigate and settle or successfully litigate a False Claims case, McInnis added.

As in all lawsuits, while there are no any guarantees that a Qui Tam case will be successful, an attorney who has previously shepherded cases to his clients’ benefit and who has worked with federal and state investigators is invaluable in the process which could take years, according to McInnis. It is also often helpful to retain an attorney who has taken a non-intervened case forward to trial without the Government’s assistance. “These are very challenging cases, usually they are what might best be called ‘high risk/high reward lawsuits,’” he added.

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