

Civil Fraud, False Claims, *Qui Tam* and Whistleblower Actions

Wiley's White Collar Defense & Government Investigations Practice is a national leader in defending allegations of civil fraud, false claims, and related actions. No matter what type of civil fraud exposure a company faces when doing business with the government, we have the experience to help.

In particular, Wiley has extensive experience with the False Claims Act (FCA), defending against government and *qui tam* whistleblower actions under the FCA. The FCA is the government's most powerful tool to recover money in circumstances of alleged fraud, waste, and abuse. The FCA reaches all companies doing business with the government, such as government contractors, grantees, and other recipients of federal funds through programs like Medicare and Medicaid. FCA suits are brought in every industry, ranging from government procurement and health care to the communications and financial services industries.

Our White Collar Group has worked extensively with the Fraud Section of the U.S. Department of Justice's (DOJ) Civil Division Commercial Litigation Branch, and we have a long record of success in persuading the government not to intervene in *qui tam* actions and not to bring its own suit after investigations. When the risks of litigation are too great, we can negotiate favorable settlements that minimize the damage and provide certainty for a company. In cases where the government or a *qui tam* whistleblower is just too unreasonable for a settlement, our experienced litigators are prepared to aggressively defend our client's interests in federal court.

Our experience has transcended industries, representing clients in government contracts, technology, health care, lending, consulting, travel, defense, insurance, education, and other industries. For example, we recently:

- Won multiple sanctions against the DOJ for discovery violations and forced settlement for less than \$9 million in DOJ suit alleging \$400 million of FCA violations by a Coast Guard contractor.
- Persuaded the government not to intervene against three government contractors in industry-wide *qui tam* suits alleging improper allocation and disclosure of alliance benefits by technology vendors and affiliated resellers and systems integrators.
- Convinced a U.S. Attorney's Office not to proceed with an FCA investigation of a software company regarding the use, implementation, and testing of technology supplied to military and intelligence agencies.

- Negotiated inexpensive settlement, without any discovery, of government investigation and *qui tam* suit alleging false statements in technology services proposal.
- Secured dismissal of a *qui tam* suit by three former employees of a contractor who alleged FCA violations and retaliation, after convincing DOJ not to intervene and the U.S. Department of Labor not to pursue related allegations.
- Obtained summary judgment dismissal of several claims in a *qui tam* suit alleging FCA violations related to Hurricane Katrina survivor assistance contracts in Louisiana and negotiated favorable settlement regarding sole remaining claim.
- Won dismissal of class action lawsuit against multiple government contractors alleging, among other things, RICO violations, fraud, and conspiracy in connection with benefits paid to employees working abroad.
- Convinced a *qui tam* relator to voluntarily dismiss a filed suit by presenting legal and factual arguments regarding flaws in the allegations.
- After winning multiple motions to dismiss allegations of overbilling, negotiated favorable settlement to *qui tam* suit on behalf of major government contractor.
- Achieved dismissal of two separate class actions alleging improper and deceitful labor practices by a government contractor working in Kuwait.
- Represented a manufacturer of laser products under investigation for potential false claims related to certifications of eligibility for federal small business grants.
- Represented a hospital with respect to a DOJ inquiry related to the hospital's acquisition of a physician group.
- Assessed FCA risks associated with potential Service Contract Act violations by a government contractor.
- Reached favorable results in attorneys' fees disputes with *qui tam* whistleblowers.
- Advised multiple companies on whether and how to make a disclosure to the government under the Federal Acquisition Regulation mandatory disclosure rule, including whether evidence gathered during an internal investigation constituted "credible evidence" of a FCA violation.

Our Practice also has a wealth of experience counseling clients on their compliance with federal regulations that are common sources for FCA allegations, including federal and state government contracting; the allocation of commissions, rebates, and discounts; health care compliance; and compliance with federal communications regulations. Working with Wiley's Government Contracts Group and other regulatory practice groups, we can provide counseling to effectively minimize the risk of expensive investigations and litigation.

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