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Representing Whistleblowers Filing for Rewards
www.HowToReportFraud.com

General Information and Statistics:

The Department of Justice Reward Program Under The False Claims Act

- False Claims Act (FCA) judgments and settlements have totaled over \$24 billion since 1986, due largely to the help of whistleblowers. In 2009, the government recovered \$2 billion from whistleblower actions, and paid out \$380 million in rewards. In 2008, the government recovered \$1.35 billion under the FCA. In 2007, the amount was \$2 billion, and for 2006 it topped \$3 billion. (The False Claims Act is the Government's chief tool for fighting fraud.)
- Whistleblowers initiate over 80% of the False Claims Act cases pursued by the DOJ. In other words, less than 20% of fraud against the government is uncovered without the help of whistleblowers.
- Over \$2.75 billion in rewards have been paid to whistleblowers by the U.S. Department of Justice (DOJ).
- The False Claims Act provides awards of 15% to 25% of funds actually recovered against a defendant in cases where the DOJ joins the case. Combining the past fifteen years, the average reward is nearly 18%, but rewards of 20% are not totally uncommon. In unusual cases, the DOJ has paid 23% or 24%. The government publishes a list of factors it uses to determine the amount of a reward. The whistleblower's attorney negotiates a percentage. If an agreement cannot be reached, the whistleblower's attorney can ask a judge to determine the amount. (If the DOJ declines a case, the whistleblower received a minimum of 25% and a maximum of 30%, based upon the factors published by the DOJ.)
- The DOJ declines to accept approximately 80% of False Claims Act cases brought by whistleblowers. In most instances when DOJ declines, the whistleblower drops the case or fails to recover a reward. Accordingly, it is very important to understand the requirements of the DOJ reward program and to work closely with the DOJ. Of course, there have been several large cases and many smaller cases successfully pursued by a whistleblower after the government declines.
- In 2005, the Government Accountability Office (GAO) estimated that it takes an average of 38 months for the DOJ to make a decision whether or not to intervene in a case. (My personal experience, however, is that DOJ typically takes 9-12 months to make a decision to decline or

turn down a case and a few months longer for cases it intervenes in or accepts. It is not unusual in larger cases for the government to take 3 to 5 years.)

- Today, the average recovery in a False Claims Act case is approximately \$8.5 million, with an average \$1.5 million as an award to the whistleblower. (The GAO estimates, however, that the median size of all FCA case over the past 15 years is \$785,000, with a reward of \$124,000. This figure is skewed for a variety of reasons. In any event, most experienced *qui tam* attorneys will not accept small cases where small rewards are paid.)
- The majority of FCA cases today are healthcare case, accounting for nearly 80%. However, the FCA applies to fraud against the military and any of the other federal agencies, which lose tens of billions of dollars a year due to fraud. Each agency has its own investigators, and will pursue solid allegations of fraud.
- The DOJ recovers \$13 for every \$1 spent in investigating and pursuing Medicare and Medicaid fraud cases.
- The next new area of rewards is fraud under TARP and bailout fraud. The government is spending nearly \$3 trillion under TARP and for bailout funds. It is estimated that over 10 percent of these funds are fraudulent. Thus, there are potentially hundreds of billions of dollars available as rewards for whistleblowers for reporting TARP fraud or bailout fraud.

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