

COULD MILITARY PERSONNEL BE JAILED FOR AGENCY OR MILITARY LOYALTY?

Can Agency Diversion of A Whistle-Blower's Fraud "Recovery" Trigger Personal Liability Under The Uniform Code of Military Justice And Other Overlapping Rules, Regulations And Statutes?

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"Whistle-Blower" Whammy

Military personnel must be extremely cautious and avoid violations of the Uniform Code of Military Justice when identifying what is and what isn't part of any fraud recovery "proceeds" in False Claims Act "*qui tam*" fraud action, or, as the Department of Justice (DOJ) Civil Division likes to call them, "Whistle-blower lawsuits."

Complex laws can also find certain actions to be outside of the service member's and the agency official's statutory authority. The Supreme Court has recently decided that a criminal conspiracy is itself a federal offense even if the object of the conspiracy is prevented or incomplete. It is important to identify illegal orders and rethink what you agree to do and certify.

In order to establish a violation of the False Claims Act the plaintiff must prove three elements: (1) there was a claim, (2) it was false, and (3) it was made "knowingly". Clearly, the (1) dollars value or amount of the fraud claim and (2) the amount of the proceeds recovered to satisfy it are material facts. 31 U.S.C. §3729(a) prohibits, inter alia, four distinct acts:

- (1) Knowingly presenting (or causing presentation of) a false claim to the United States;
- (2) Knowingly using (or causing use of) a false record or statement to get a claim paid;
- (3) Conspiring with others to get a false claim paid; and
- (4) Knowingly using (or causing to be used) a false record or statement to avoid having to pay money owed to the United States. (Known as a "reverse false claim.")

Number 4 above is the Whistle-Blower Whammy! It must be understood that the "United States" referred to in this statement should more accurately be read as the "United States Treasury Department's General Receipts Account." The mandatory term "shall" is used more than 35 times in what Congress wrote into the "fraud against the government" law. It clearly states that any recovered "proceeds of the action or settlement of the claim" are to be identified to the District Court of jurisdiction and ultimately delivered to the Treasury Department's general account, with a few exceptions.

But therein lies the minefield for members of the Armed Services.

What are "proceeds"?

Several federal courts have specifically included all items of value; both cash payments and alternate remedies. This can be almost every type of alternate remedy negotiated by the government while the fraud case is still under seal. This might include free immediate, future or additional work, waived administrative claims in unrelated Board of Contract Appeals litigation, and forfeitures. Anything that trades hands as a result of the fraud proceedings can not be omitted or shielded by renaming it as damages or contract adjustments in lieu of "proceeds". Misrepresenting or hiding any portion of the proceeds from the court may trigger personal liability.

It is taxpayer money. The defrauded agency must face Congressional scrutiny to get the same money reallocated to a program in which the agency did not unilaterally discover, prevent, terminate or litigate the fraud. If they did, there would be no "relator".

Congress made a contract offer to the public. They generally said that if a private person does or will discover fraud against the Government and help recover taxpayer money, then the U.S. Government will give them a percentage of the entire "proceeds of the action or settlement of the claim." The Treasury Department is owed the balance.

Beware! If a service member helps divert anything from the proceeds it may be considered a government "taking" of the private person's percentage and a theft or illegal "reverse false claim" of the larger percentage of the proceeds belonging to the Treasury Department. This can be just as serious as the original fraud against the public fisc.

Congressional investigations may insist that "heads shall roll" and programs and careers may end. Additionally, the recovered "fraud proceeds" of the presently allocated budget funds required to administer a current, on-going program, must be recovered and delivered back to the District Court and Treasury Department's General Account as "qui tam" proceeds. Not "use it or lose it" for the defrauded agency... just "lose it".

Human nature and common sense would make anyone want to avoid this attention and simply keep the problem and proceeds in-house. Members of the Armed Services should actively avoid any involvement when any superior officer tries to hide this type of problem.

Conspiracy and attempts "...not to lose that budget money."

An Article 81 Conspiracy and an Article 80 Attempt to illegally divert any "proceeds" funds back to the agency as "alternate remedies" of contract adjustments, forfeitures, future work, or quid-pro-quo settlement barter in any Board of Contract Appeals action, may set in motion violations of the clear and mandatory language of the False Claims Act and trigger a UCMJ Article violation. Article 78 Accessory After The Fact charges or even Article 121 Wrongful Appropriation charges could follow a service person's misguided attempt to placate a budget-hungry superior officers wishes to cover up "the dirty laundry." Acting with the agreement of the defendants and the Main Justice attorneys, the officer may be tempted to rename the "recovered funds" as something not subject to delivery to Treasury under the False Claims Act... and keep it at home.

If anyone, but especially a member of the armed services, attempts to divert "fraud recovery cash or assets", that is, "...proceeds of the action or settlement of the claim..." away from identification to the District Court of jurisdiction and the Treasury

Department's General Fund, they may well be guilty of violations of the Uniform Code of Military Justice and subject to a Court Martial under one of the Articles listed in the table below. A simple two step charge could be an Article 127 Extortion charge and an Article 121 Wrongful Appropriation charge. Simple dictionary definitions clarify the initial step.

Webster's Revised Unabridged Dictionary gives one definition of "Extortion" as the offense committed by an officer who corruptly claims and takes, as his fee, money, or other thing of value, that is not due, or more than is due, or before it is due.

The American Heritage® Dictionary of the English Language gives another definition of "extortion" as the illegal use of one's official position or powers to obtain property, funds, or patronage.

The second step would be an Article 121 Wrongful Appropriation charge for "delivering less of the 'proceeds of the action or settlement of the claim' than was due to the U.S. Treasury" under the False Claims Act, 31 USC 3729 - 3733. The second step could also include any or a combination of the violations defined in the table below.

A retired, Judge Advocate General (JAG) stated anonymously (because of the sensitivity of the subject matter) that a misplaced sense of service loyalty, no matter how sincere, may make the individual personally liable to a legal theory of a reverse false claim, that is, delivering less to the Government (Treasury Department's General Fund / Public Fisc) than is owed. This is exactly as serious as the original fraud.

Court Martial grounds?

The United States Coast Guard was an armed service under the Department of Transportation during peacetime and under the Department of Defense / Navy during war. They are now an armed service under the Department of Homeland Security. Coast Guard personnel, along with many others, are subject to the United States Code of Military Justice (UCMJ). In serious violations of the UCMJ, the President of the United States may recall a retired violator back into service to face charges. The most important administrative penalty is a court-martial. The most over-looked court-martials are for:

- Wrongful disposition of U.S. Military property. Article 108
- Larceny and wrongful appropriation. Article 121
- Noncompliance with procedural rules. Article 98
- Failure to obey ... regulation. Article 92

US military soldiers know that if they receive an illegal order they are not to obey it. As military law is written now, the subordinate, and not the superior issuing the order, is the one responsible for determining the legality of an order. Every person is responsible for his or her actions.

It is a well articulated principle of US and international law that no court can enforce an unlawful order and no individual is obligated to follow an unlawful order. The "war criminal" defense of following an unlawful order has been widely rejected. Many

constitutional tests have come from disobedience and subsequent litigation of unlawful statutes and orders.

Qui Tam "Proceeds" Must Go To The US Treasury's "General Funds" First

Service members must be aware that any effort to divert (or rename any of the proceeds of the action or settlement of the claim of a fraud lawsuit) back to their agency can have disastrous effects on his or her own career, financial status and personal freedom. This can be true even if the service member is cooperating with his or her superior officer and the attorneys of the DOJ's Civil or Criminal Division.

("...the courts will inquire as to whether the action taken was within the agency official's statutory authority, whether there was evidence before him/her in support of his/her determination to satisfy elementary standards of fairness and reasonableness.) See *Lloyd Sabaudo Societa Anomina Per Azioni v. Elting*, 287 U.S. 329 (1932).

Congress clearly stated that all recovered fraud proceeds are delivered to the Treasury Department under the checks and balances features of our government. It is then the Congress' job to ask the hard questions (How did this fraud happen? Why didn't the FBI, DOJ and Agency prevent, discover and litigate the fraud? Who's watch did it happen on? Should any careers end? Should any rules, procedures, laws or statutes change?)

Simply stated, all proceeds in any form must be identified, have a dollar value placed on them and presented to the District Court of jurisdiction. Agency preferred alternate remedies can then be negotiated.

The following references indicate many Courts agree.

U.S. *ex rel* Gibeault v. Texas Instruments, 104 F.3d 276 (9th Cir. 1997) - "...were in part proceeds of the action and due to the public treasury."

U.S. *ex rel* Kelly v. Boeing Corp., 9 F.3d at 769 (All penalties and government recoveries from defense industries' fraud, under the qui tam statute, were originally intended to be deposited in the federal treasury's "general funds" account which is sometimes called the "miscellaneous receipts account".)

U.S. *ex rel* Springfield Terminal Ry. Co. v. Quinn, 14 F.3d 645, 649 (D.C. Cir. 1994) (qui tam provisions are meant to encourage insiders with "genuinely valuable information" which will return money to the Federal Treasury).

U.S. *ex rel* Jane Doe 1 et al. v. X, Inc. et al., 2000 WL 305742 (E.D. Va. March 23, 2000) - "The court noted that, even without intervention, the United States receives the majority of any amount recovered and retains significant rights over the litigation."

"Moreover, in the course of the qui tam proceedings, any findings of fact which show a potential for increased return to the Federal Treasury are material to the court's application of Section 3730(b)(5), (Comment added: Section 3730(b)(5) is the "first-to-file" bar)." Source: Page 3 - Brief of Taxpayers Against Fraud, The False Claims Act Legal Center as AMICUS CURIAE Supporting Appellant in United States of America, ex rel. Linda A. Lujan, Appellant, vs. Hughes Aircraft Company, Appellee, No. 00-55328, in the United States Court of Appeals For The Ninth Circuit.

- Reference: DOJ, US Attorney's Manual (DOJ), § 4-4.110 - Civil Fraud Litigation, ¶ 4, Sentence 4 (Rev.06/98.) - "Flagrant frauds, justifying the initiation of suits for multiple damages and penalties under relevant statutes generally, should not be compromised for less than multiple damages and some forfeitures."
- Reference: DOJ, US Attorney's Manual (DOJ), § 4-1.511 - Cases Delegated To United States Attorneys., ¶ 2, (Rev.06/98.) - "Disposition of delegated cases, like the disposition of nondelegated cases, must be accurately reported on the Department's statistical reporting system. In particular, all money and property collected for the government should be reported."
- Reference: DOJ, US Attorney's Manual, Title 4, 4-4.430 Collections. "A major responsibility of the Attorney General, the Civil Division, and the United States Attorneys is recovering sums owed the United States. "In particular, all referrals of money claims which come within the United States Attorneys' delegated authority up to \$1,000,000 should be made through the National Central Intake Facility. Referrals beyond that amount should continue to be made directly to the Commercial Litigation Branch of the Civil Division."

"...Similarly, the United States is not bound by state statutes of limitation." United States v. Summerlin, 310 U.S. 414 (1940); United States v. Merrick Sponsor Corp., 421 F.2d 1076 (2d Cir. 1970).

Acts Outside Of Statutory Authority Could Trigger “Distress Warrants”

Would a big fish ever sacrifice a little fish?

If the investigative heat is on and the court inquires, investigates and decides that a service member took action (even under direct orders) to divert or misrepresent a portion of the proceeds (even in cooperation with the FBI or DOJ attorneys) it will probably find the action outside of the agency official's statutory authority. Another name for this is personal liability for delivering less than what was owed the government (U.S. Treasury.) The powers Congress gave to the Treasury to recover these proceeds are little known but very severe.

The Treasury Department can recover this money directly from the service member and everyone involved. The Comptroller General issues what is appropriately called a “Distress Warrant”. The Treasury Department rules speak for themselves:

Title 31 - Money And Finance, Subtitle III - Financial Management, Chapter 33 - Depositing, Keeping, And Paying Money, Subchapter I - Deposits And Depositories:

Custodians of money:

"...an official or agent of the Government receiving money for the Government from any source shall **deposit the money in the Treasury...**" 31 U.S.C. § 3302(b)

"...An official or agent not complying with subsection (b) of this section may be **removed from office...**" 31 U.S.C. § 3302(b)

Title 31 - Money And Finance, Subtitle III - Financial Management, Chapter 35
- Accounting and Collection, Subchapter IV - Collection Distress warrants:

"...When an official receiving public money before it is paid to the Treasury... does not... pay the money as prescribed by law, the Comptroller General shall make the account for the official and certify to the Secretary of the Treasury the amount due the Government..." 31 USC § 3541(a)

"...The Secretary shall issue a distress warrant against the official stating the amount due from the official and any amount paid. The warrant shall be directed to the marshal of the district in which the official resides..." 31 USC § 3541(b)

Carrying out distress warrants:

"...A marshal... shall seize the personal property of the official and sell the property... If the property does not satisfy the amount due under the warrant, the official may be sent to prison..." 31 U.S.C. § 3542(a)

"...The amount due... is a lien on the real property of the official..." 31 U.S.C. § 3542(b)(1)

"...If the personal property of the official is not enough to satisfy a distress warrant, the marshal shall sell the real property of the official... A buyer of the real property has valid title against all persons claiming under the official..." 31 U.S.C. § 3542(b)(2)

CONCLUSION: Military Personnel Are Accountable

The Uniform Code of Military Justice (UCMJ) provides the articles to which every soldier is legally held accountable. The UCMJ also dictates the proper punishment that would be applicable to a specific violation, and specifies the difference (if any) if the act or acts were committed during "times of war." For example, Article 90 calls for the soldier to obey all lawful orders and imposes up to 6 months imprisonment when the act is not committed in times of war, and the death penalty when it is. Other violations that carry the death penalty in times of war include desertion, mutiny, sedition, and espionage (the only one with a mandatory death sentence).

The U.S. Army has become aware of the fact that all soldiers need a basic education in military ethics, and to this end the U.S. Army recently extended its basic training period by one week. In the recent past, ex-Secretary of the Army Louis Caldera made an announcement in a Joint Services Conference on Professional Ethics (JSCOPE) that the extra week allowed several military ethics topics to be inserted throughout the basic training period, thus increasing the soldier's awareness of the importance of this topic.

Military or Armed Services personnel must be extremely cautious and avoid (1) violations of the Code of Military Justice and (2) actions outside of their statutory authority when taking any actions and identifying what is and what isn't part of the "entire" fraud-recovery "proceeds" in a False Claims Act "*qui tam*" fraud action.

It is suggested that every person vigorously use the standard American court oath as their personal and mandatory guidelines for performance; the truth, the whole truth and nothing but the truth. Their careers as a member of the United States Armed Forces, assets and personal freedom may depend on it. Their responsibility demands it.

ADDENDUM 1

Uniform Code of Military Justice¹

TABLE OF POSSIBLE PERSONAL VIOLATIONS

Attempts (10 USC § 880) Article 80			
Principals (10 USC § 877) Article 77		Accessory after the fact (10 USC § 878) Article 78	
Conspiracy (10 USC § 881) Article 81	Extortion (10 USC § 927) Article 127	Perjury (10 USC § 931) Article 131	
Larceny and wrongful appropriation. (10 USC § 921) Article 121		Wrongful disposition or loss of military property of the United States (10 USC § 921) Article 108	
Fraud against the United States (10 USC § 932) Article 132			
Failure to obey order or regulation (10 USC § 892) Article 92	Conviction of a lesser included offense (10 USC § 879) Article 79	General article (10 USC § 934) Article 134	Conduct unbecoming an officer and gentleman (10 USC § 933) Article 133

¹ http://www.access.gpo.gov/uscode/title10/subtitlea_partii_chapter47_subchapterx_.html

ADDENDUM 2

PUNITAVE ARTICLES – UNIFORM CODE OF MILITARY JUSTICE

Title 10 – Armed Forces, Subtitle A -- General Military Law, Part II -- Personnel,
Chapter 47-- Uniform Code Of Military Justice,
Subchapter X - PUNITAVE ARTICLES:

<u>ARTICLE</u>	<u>SECTION</u>	<u>CITE</u>	<u>PUNITAVE ARTICLES</u>
77	877	(10 USC 877)	Principals.
78	878	(10 USC 878)	Accessory after the fact.
79	879	(10 USC 879)	Conviction of lesser included offense.
80	880	(10 USC 880)	Attempts.
81	881	(10 USC 881)	Conspiracy.
92	892	(10 USC 892)	Failure to obey order or regulation.
98	898	(10 USC 898)	Noncompliance with procedural rules.
107	907	(10 USC 907)	False official statements.
108	908	(10 USC 908)	Military property of U.S. -- Loss, damage, destruction, or wrongful disposition.
121	921	(10 USC 921)	Larceny and wrongful appropriation.
127	927	(10 USC 927)	Extortion.
131	931	(10 USC 931)	Perjury.
132	932	(10 USC 932)	Frauds against the United States.
133	933	(10 USC 933)	Conduct unbecoming an officer and a gentleman.
134	934	(10 USC 934)	General article.

PUNATIVE ARTICLES:

Article 77. Principals. Any person punishable under this chapter who-- (1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission; or (2) causes an act to be done which if directly performed by him would be punishable by this chapter; is a principal. (Aug. 10, 1956, ch. 1041, 70A Stat. 65.) (10 USC 877)

Article 78. Accessory after the fact. Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 65.) (10 USC 878)

Article 79. Conviction of lesser included offense. An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein. (Aug. 10, 1956, ch. 1041, 70A Stat. 65.) (10 USC 879)

Article 80. Attempts. (a) An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense. (b) Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a court-martial may direct, unless otherwise specifically prescribed. (c) Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated. (Aug. 10, 1956, ch. 1041, 70A Stat. 65.) (10 USC 880)

Article 81. Conspiracy. Any person subject to this chapter who conspires with any other person to commit an offense under this chapter shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial may direct, (Aug. 10, 1956, ch. 1041, 70A Stat. 66.) (10 USC 881)

Article 92. Failure to obey order or regulation. Any person subject to this chapter who -- (1) violates or fails to obey any lawful general order or regulation; (2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or (3) is derelict in the performance of his duties; shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 68.) (10 USC 892)

Article 98. Noncompliance with procedural rules. Any person subject to this chapter who -- (1) is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this chapter; or (2) knowingly and intentionally fails to enforce or comply with any provision of this chapter regulating the proceedings before, during, or after trial of an accused; shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 69.) (10 USC 898)

Article 107. False official statements. Any person subject to this chapter who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 71.) (10 USC 907)

Article 108. Military property of United States. Loss, damage, destruction, or wrongful disposition. Any person subject to this chapter who, without proper authority -- (1) sells or otherwise disposes of; (2) willfully or through neglect damages, destroys, or loses; or (3) willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of; any military property of the United States, shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 71.) (10 USC 908)

Article 121. Larceny and wrongful appropriation. (a) Any person subject to this chapter who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind-- (1) with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny; or (2) with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, is guilty of wrongful appropriation. (b) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 73.) (10 USC 921)

Article 127. Extortion. Any person subject to this chapter who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 74.) (10 USC 927)

Article 131. Perjury. Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly -- (1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or (2) in any declaration, certificate, verification, or statement

under penalty of perjury as permitted under section 1746 of title 28, subscribes any false statement material to the issue or matter of inquiry; is guilty of perjury and shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 75; Pub. L. 94-550, Sec. 3, Oct. 18, 1976, 90 Stat. 2535; Pub. L. 97-295, Sec. 1(13), Oct. 12, 1982, 96 Stat. 1289.) (10 USC 931)

Article 132. Frauds against the United States. Any person subject to this chapter-- (1) who, knowing it to be false or fraudulent -- (A) makes any claim against the United States or any officer thereof; or (B) presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States or any officer thereof; (2) who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States or any officer thereof-- (A) makes or uses any writing or other paper knowing it to contain any false or fraudulent statements; (B) makes any oath to any fact or to any writing or other paper knowing the oath to be false; or (C) forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited; (3) who, having charge, possession, custody or control of any money, or other property of the United States, furnished or intended for the armed forces thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or (4) who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the armed forces thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States; shall, upon conviction, be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 75.) (10 USC 932)

Article 133. Conduct unbecoming an officer and a gentleman. Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct. (Aug. 10, 1956, ch. 1041, 70A Stat. 76.) (10 USC 933)

Article 134. General article. Though not specifically mentioned in this chapter, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this chapter may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. (Aug. 10, 1956, ch. 1041, 70A Stat. 76.) (10 USC 934)

ADDENDUM 3

U.S. Treasury Department Enforcement Responsibilities

Title 31 - Money And Finance, Subtitle III - Financial Management, Chapter 33 - Depositing, Keeping, And Paying Money, Subchapter I - Deposits And Depositories:

Custodians of money:

"...an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury..." 31 U.S.C. § 3302(b)

"...An official or agent not complying with subsection (b) of this section may be removed from office..." 31 U.S.C. § 3302(b)

Title 31 - Money And Finance, Subtitle III - Financial Management, Chapter 35 - Accounting and Collection, Subchapter IV - Collection Distress warrants:

"...When an official receiving public money before it is paid to the Treasury... does not... pay the money as prescribed by law, the Comptroller General shall make the account for the official and certify to the Secretary of the Treasury the amount due the Government..." 31 USC § 3541(a)

"...The Secretary shall issue a distress warrant against the official stating the amount due from the official and any amount paid. The warrant shall be directed to the marshal of the district in which the official resides..." 31 USC § 3541(b)

Carrying out distress warrants:

"...A marshal... shall seize the personal property of the official and sell the property... If the property does not satisfy the amount due under the warrant, the official may be sent to prison..." 31 U.S.C. § 3542(a)

"...The amount due... is a lien on the real property of the official..." 31 U.S.C. § 3542(b)(1)

"...If the personal property of the official is not enough to satisfy a distress warrant, the marshal shall sell the real property of the official... A buyer of the real property has valid title against all persons claiming under the official..." 31 U.S.C. § 3542(b)(2)