



Department of Justice

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JUSTICE DEPT. CIVIL FRAUD RECOVERIES TOTAL \$2.1 BILLION FOR FY 2003 FALSE CLAIMS ACT RECOVERIES EXCEED \$12 BILLION SINCE 1986

WASHINGTON, D.C. - Recoveries in suits and investigations of fraud against the United States for the fiscal year ending September 30, 2003, tallied a record \$2.1 billion, the Justice Department announced today. This is a 75 percent increase over the prior year's recoveries (\$1.1 billion) and brings total recoveries to over \$12 billion since Congress substantially strengthened the civil False Claims Act in 1986.

"The record recoveries in civil fraud cases demonstrate this Administration's unwavering commitment to combat fraud and to ensure that tax dollars are well spent," said Peter D. Keisler, Assistant Attorney General for the Department's Civil Division. "It also attests to the contributions of whistle-blowers who report fraud and the extraordinary and tireless efforts of the civil servants from Justice's Civil Division, the United States Attorneys' Offices and other agencies that investigate and prosecute these cases."

Mr. Keisler also paid tribute to Senator Charles Grassley of Iowa and Representative Howard L. Berman of California who sponsored the 1986 amendments to the False Claims Act, the government's primary weapon to fight fraud against the government. "Without this important legislation strengthening the act and, in particular, the qui tam provisions that give everyone who comes in contact with a federally funded program a stake in reporting fraud, such recoveries would not have been possible."

Of the \$2.1 billion, \$1.48 billion is associated with suits initiated by whistle-blowers under the qui tam provisions of the False Claims Act. The qui tam provisions authorize individuals, known as "relators," to file suit on behalf of the United States against those who have falsely or fraudulently claimed federal funds. Such cases run the gamut of federally funded programs from Medicare and Medicaid to defense contracts, gas leases and agricultural subsidies. If the United States intervenes in the action, the person filing the suit can recover from 15 to 25 percent of any settlement or judgment attributable to the fraud identified by the whistle-blower. The percentage increases up to 30 per cent if the United States declines to intervene and the whistleblower pursues the action alone. In the fiscal year just ended, whistle-blowers recovered over \$319 million in rewards under the Act.

As in the last several years, health care fraud accounted for the lion's share of recoveries-\$1.7 billion. This number includes both whistleblower claims and those initiated by the United States in independent fraud investigations. The Department of Health and Human Services (HHS) reaped the biggest recoveries, largely attributable to its Medicare and Medicaid programs. Substantial recoveries were also made for the Office of Personnel Management which administers the Federal Employees Health Benefits Program, the Department of Defense for its TRICARE insurance program, the Department of Veterans Affairs and the Railroad Retirement Board.

Outside the health care arena, defense procurement fraud accounted for \$299 million in recoveries and fraud in connection with gas leases with the Department of the Interior totaled another \$49 million.

Among the Department's largest recoveries in fiscal year 2003 were:

- \$641 million from HCA Inc. (formerly known as Columbia/HCA and HCA - The Healthcare Company) for cost report fraud, the payment of kickbacks to physicians and overbilling Medicare for HCA's wound care centers. This settlement concluded litigation in numerous qui tam lawsuits as well as separate investigations initiated by the government. Along with an earlier civil settlement and criminal guilty plea reached in 2000, as well as a related administrative

settlement with HHS, HCA has paid the United States \$1.7 billion, with whistleblowers receiving a combined share of \$154 million-by far, record recoveries both by the United States and whistle-blowers.

- \$382 million from Abbott Laboratories and its Ross Products Division. Abbott is the first combined civil settlement and criminal conviction arising from "Operation Headwaters," an undercover investigation by the Federal Bureau of Investigation, the U.S. Postal Inspection Service and the Office of the Inspector General for HHS, in which federal agents created a fictitious medical supplier known as Southern Medical Distributors. During its operation, various manufacturers, including Ross, offered kickbacks to undercover agents to purchase the manufacturers' products and then advised them how to fraudulently bill the government for those items. In addition to federal Medicare and Medicaid recoveries, the states recovered \$18 million in state Medicaid funds in connection with the federal government's claims and an additional \$14.5 million on claims the states pursued alone. Abbott subsidiary C G Nutritionals also paid \$200 million in criminal fines.
- \$280 million from AstraZeneca Pharmaceuticals, LP, to resolve allegations that AstraZeneca conspired with health care providers to charge Medicare, Medicaid and other federally funded insurance programs for free samples of its prostate cancer drug, Zoladex, and for otherwise inflating the price of the drug in violation of the Prescription Drug Marketing Act. The whistleblower's share of this settlement was \$47.7 million.
- \$191 million from Northrop Grumman to resolve three separate fraud investigations. In the first, Northrop Grumman Space & Mission Systems Corporation paid \$111 million as successor to TRW Inc. to resolve allegations that TRW fraudulently overcharged the government on Department of Defense and National Aeronautics and Space Administration contracts. The whistleblower's share of this settlement was \$27.2 million. In the second and third, Northrop Grumman Corporation paid \$60 million and \$20 million, respectively, to resolve allegations of mischarging and selling the Navy defective military equipment. The former settlement involved Newport News Shipbuilding which Northrop Grumman acquired in November 2001.
- \$143 million from Bayer Corporation to resolve a whistleblower's allegations that Bayer defrauded the Medicaid and Public Health Service programs by relabeling products sold to a health maintenance organization at deeply discounted rates and then concealing the discounts to avoid paying rebates, in violation of the Medicaid Rebate program. In addition, Bayer paid \$108 million to reimburse state Medicaid programs for the same conduct.
- \$47 million from SmithKline Beecham Corporation, doing business as GlaxoSmithKline, to settle claims similar to those against Bayer. GlaxoSmithKline paid an additional \$40 million to reimburse state Medicaid programs and Public Health Service entities.
- \$51 million from Tenet Healthcare Corporation and Tenet HealthSystems Hospitals, Inc. to settle government allegations that Tenet's Redding, California facility performed unnecessary cardiac procedures that were then billed to Medicare, Medicaid and TRICARE. In addition, Tenet paid nearly \$3 million to reimburse California's Medicaid funds.
- \$49 million from Endovascular Technologies, Inc., a subsidiary of Guidant Corp., to settle the government's allegations that Endovascular Technologies failed to report to the Food and Drug Administration thousands of adverse incidents involving its "Ancure" cardiac device. The failure resulted in the submission of tens of millions of dollars of false claims for Medicare, Medicaid and VA benefits for procedures involving the device. In several instances, the device was linked to patient injuries and deaths. Endovascular Technologies also paid \$43.4 million in criminal fines and forfeitures.
- \$49 million from Shell Oil Company to settle allegations that Shell improperly vented and flared gas from various offshore leases with the Interior Department. The suit also alleged that Shell underreported and underpaid royalties on the vented and flared gas. In 2000 and 2001, Shell paid the United States \$56 million and \$110 million to settle two earlier cases involving underpaid royalties owed the United States on natural gas and oil, respectively.
- \$38 million from Lockheed Martin Corporation to settle claims that Lockheed Martin failed to provide complete, accurate and current cost and pricing data as required by the Truth in Negotiations Act, when it bid on a foreign military sales contract under the Air Force's Low Altitude Navigation and Targeting Infrared for Night program, known as LANTIRN. The United States' complaint alleged that the inaccurate data concealed a scheme to create additional profit which could be used to offset overruns on another Air Force contract.