



Do You Have a False Claims Case

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The United States Congress passed and President Abraham Lincoln signed into law the first Federal False Claims Act (the “FCA”) in 1863 to combat massive fraud on the United States Government (the “Government”). The FCA was enacted to thwart fraud by crooked early day defense contractors selling shoddy goods to the Union Army during the Civil War.

In the 140 year history of the FCA the Government has recovered over \$10 Billion from these thieves and now over \$1 Billion is recovered every year.

While the FCA has undergone numerous revisions, present law allows someone with knowledge of fraud on the Government to act as a private attorney general (a “Relator”) and file a *qui tam* FCA on behalf of the Government against the wrongdoer to recover money for the Government.

Importantly the Relator can get a share – a sizable share – of the Government’s recovery and since recoveries can be three times what the wrongdoer stole, the Relator’s share can be significant. The following will help you decide whether you have a viable FCA case with a legitimate chance of success:

Is US Government Money Involved?

If United States Government money is **not** involved, the FCA does **not** apply. For example defrauding the state of Oklahoma out of money however corrupt, criminal or dishonest does not support a FCA – unless there are US Government dollars involved.

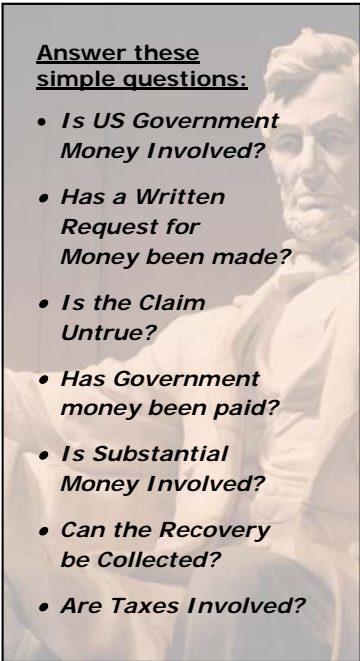
Some states – Arkansas, California, Florida, Delaware, Hawaii, Louisiana, New Mexico, Nevada, Tennessee, Texas, Virginia – have *State* FCAs typically modeled on the Federal FCA that may allow actions in those states; however, this Brochure does not deal with State FCAs.

Has a Written Request for Money been made to the Government?

It is critical that a person or company (the “Claimant”) submit something in writing to the Government because that “Claim” is a prerequisite or basis to an FCA.

Is Something in the Claim not True?

This is the graveman of the FCA. Simply put, the Claim must be *materially* false. Mere waste or incompetence do not support an FCA regardless of their depravity.



Answer these simple questions:

- Is US Government Money Involved?
- Has a Written Request for Money been made?
- Is the Claim Untrue?
- Has Government money been paid?
- Is Substantial Money Involved?
- Can the Recovery be Collected?
- Are Taxes Involved?

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Is the False Statement Material?

While technically a violation of the FCA, a minor, irrelevant false statement will not support a viable FCA that will result in the recovery of substantial money. For example a statement that work was done on a Wednesday when in fact it was done on a Tuesday would typically not support a FCA.

A good test is whether the Government would have paid the Claimant the money had it know the truth. If the Government still would have paid the Claim, the false statement is not likely material and there is no viable FCA lawsuit.

Has the Government Paid Money?

If no money has been paid the case is of little value. The FCA imposes penalties of \$5,000 to \$11,000 for submitting a false Claim; however, absent a large number of such Claims, the case will not justify the involvement of attorneys.

Is Substantial Money Involved?

FCA cases are often more difficult than conventional lawsuits because the Claimants are usually substantial corporations and there is rarely insurance coverage for FCA recoveries. Consequently the Claimants will normally vigorously resist FCA lawsuits. These cases take years and absent settlement or intervention by the Government, the expenditure of time and money can be significant.

Generally competent FCA lawyers are not interested unless the Government has been cheated out of at least \$1 Million.

Is the Recovery Collectible?

Just as in a conventional lawsuit, a viable FCA requires that the Claimant have substantial assets out of which any recovery can be collected. If it cannot be collected, it does little good to get a \$10 Million judgment.

Are Taxes Involved?

Taxes are specifically excluded from the Federal FCA. Some *State* FCA's, however, do permit recovery in cases involving state taxes and revenue.

The Author

Larry D. Lahman, the author of this publication, was born in Carmen, Oklahoma. He attended Northwestern Oklahoma State University receiving a Bachelor of Science in Chemistry, Mathematics and Physics in 1965.

Lahman subsequently attended graduate school at OSU and later received a Juris Doctorate Degree from the OU Law School. He is admitted to practice before all state and local federal courts including the United States Supreme Court.

In late 2004 Lahman and his law firm collected the largest FCA recovery in the state of Oklahoma in the 140 year history of the FCA — \$16 Million.

Lahman served as President of the Garfield County Bar Association and other organizations. He was a parachute officer with the U.S. Army Special Forces – the Green Berets – in Vietnam and retired as a Lieutenant Colonel in the Army Reserves.

Caveat:

This brochure is designed to give general advice only.

Specific Questions should be directed to your Lawyer.