# JUSTICE NEWS

**Department of Justice**

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## JUSTICE DEPARTMENT RECOVERS NEARLY $6 BILLION FROM FALSE CLAIMS ACT CASES IN FISCAL YEAR 2014



***First Annual Recovery to Exceed $5 Billion; Over 700 Whistleblower Lawsuits for Second Consecutive Year***

The U.S. Department of Justice obtained a record $5.69 billion in settlements and judgments from civil cases involving fraud and false claims against the government in the fiscal year ending September 30, Acting Associate Attorney General Stuart F. Delery and Acting Assistant Attorney General Joyce R. Branda for the Civil Division announced today. This is the first time the department has exceeded $5 billion in cases under the False Claims Act, and brings total recoveries from January 2009 through the end of the fiscal year to $22.75 billion – more than half the recoveries since Congress amended the False Claims Act 28 years ago to strengthen the statute and increase the incentives for whistleblowers to file suit.

"In the past three years, we have achieved the three largest annual recoveries ever recorded under the statute," said Acting Associate Attorney General Delery. "This sustained success demonstrates that these figures result not only from large individual matters, but from a continuous commitment year after year to pursue those who defraud taxpayers and to remain vigilant in identifying those who would unlawfully obtain money from the federal fisc."

The recoveries reflect the administration's priorities to hold the financial industry accountable for its part in the gross misconduct that led to the housing and mortgage crisis, and to continue to root out fraud in the health care industry. In fiscal year 2014, the department recovered an unprecedented $3.1 billion from banks and other financial institutions involved in making false claims for federally insured mortgages and loans. False claims against federal health care programs such as Medicare and Medicaid accounted for another $2.3 billion. These amounts reflect federal losses only. In many of these cases, the department was instrumental in recovering additional billions of dollars for consumers and state treasuries.

"It has been an extraordinary year for civil fraud recoveries, but the true significance is not in

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breaking records or making history; it is in the billions of dollars restored to the federal treasury," said Acting Assistant Attorney General Branda. "The False Claims Act was enacted both to protect vital taxpayer dollars and deter those who would misuse public funds. The department will continue to enforce the law aggressively to ensure the integrity of government programs designed to keep us safer, healthier and economically more prosperous."

The False Claims Act is the government's primary civil remedy to redress false claims for government funds and property under government contracts, including national security and defense contracts, as well as under government programs as varied as Medicare, veterans' benefits, federally insured loans and mortgages, transportation and research grants, agricultural supports, school lunches and disaster assistance. With more whistleblowers coming forward since the act was strengthened in 1986, the government opened more investigations, which led to the surge in recoveries we see today.

Most false claims actions are filed under the act's whistleblower, or *qui tam*, provisions that allow individuals to file lawsuits alleging false claims on behalf of the government. If the government prevails in the action, the whistleblower, known as a relator, receives up to 30 percent of the recovery. The number of *qui tam* suits filed in fiscal year 2014 exceeded 700 for the second year in a row. Recoveries in *qui tam* cases during fiscal year 2014 totaled nearly $3 billion, with whistleblowers receiving $435 million.

**Housing and Mortgage Fraud**

The $3.1 billion in federal funds recovered in the wake of the housing and mortgage crisis this past fiscal year includes $1.85 billion from Bank of America Corporation, $614 million from JPMorgan Chase, $428 million from SunTrust Mortgage Inc. and $200 million from U.S. Bank. This brings recoveries for civil fraud and false claims against federal housing and mortgage programs from January 2009 through the end of fiscal year 2014 to $4.65 billion – an historic and important amount, especially as it restores scarce funds stolen from vital government programs. For details about the settlements, see previously issued press releases on Bank of America, JPMorgan Chase, SunTrust and U.S. Bank.



Bank of America paid $1.85 billion to settle allegations of false claims in connection with the bank's practices in underwriting, origination and quality control of residential mortgages the bank sold to Fannie Mae and Freddie Mac, as well as loans insured by the Federal Housing Administration (FHA). The settlement also covered the bank's alleged submission of inflated insurance claims to the FHA. Bank of America acknowledged that it had misrepresented the quality of loans to Fannie Mae, Freddie Mac and the FHA. The $1.85 billion paid by Bank of America to settle False Claims Act allegations was part of a broader settlement that included a $5 billion penalty under the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) and $7 billion in relief to consumers harmed by the financial crisis to redress abuses in residential mortgage backed security practices. In total, Bank of America agreed to pay $16.65 billion under the global resolution – the largest civil settlement with a single entity in the department's history.

SunTrust paid $418 million to settle allegations of false claims in connection with mortgages insured by the FHA. SunTrust admitted that from 2006 to 2012, it originated and underwrote FHA-insured mortgages that did not qualify for federal insurance under the FHA program, failed to institute an effective quality control program to identify noncompliant loans and failed to report the noncompliant loans it did identify to the FHA as required. In addition to the $418 million restored to the federal treasury, SunTrust agreed to pay $500 million in relief to struggling homeowners by various means, including reducing the principal on mortgages for borrowers who are at risk of default and reducing interest rates for homeowners who are current but underwater on their mortgages. SunTrust also agreed to pay $10 million to the federal government and an additional $40 million to state governments to remedy the effects of its improper loan servicing practices. This brings SunTrust's total payment under the settlement to redress its abusive

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mortgage origination and servicing practices to $968 million.

These recoveries are part of the broader enforcement efforts by President Barack Obama's Financial Fraud Enforcement Task Force. President Obama established the interagency task force in 2009, to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general, and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets and recover proceeds for victims of financial crimes. In September, Attorney General Eric Holder informed an audience at a financial fraud conference that the department had brought more than 60 cases against financial institutions since 2009, resulting in recoveries totaling more than $85 billion, including civil remedies, criminal fines and consumer relief. For more information about the task force, visit www.StopFraud.gov.

**Health Care Fraud**

The $2.3 billion in health care fraud recoveries in fiscal year 2014 marks five straight years the department has recovered more than $2 billion in cases involving false claims against federal health care programs such as Medicare, Medicaid and TRICARE, the health care program for the military. This steady, significant and continuing success can be attributed to the high priority the Obama Administration has placed on fighting health care fraud. In 2009, Attorney General Eric Holder and Health and Human Services Secretary Kathleen Sebelius announced the creation of an interagency task force, the Health Care Fraud Prevention and Enforcement Action Team (HEAT), to increase coordination and optimize criminal and civil enforcement. This coordination has yielded historic results: from January 2009 through the end of the 2014 fiscal year, the department used the False Claims Act to recover $14.5 billion in federal health care dollars. Most of these recoveries relate to fraud against Medicare and Medicaid. Additional information on the government's efforts in this area is available at StopMedicareFraud.gov, a webpage jointly established by the Departments of Justice and Health and Human Services.



The pharmaceutical industry accounted for a substantial part of the $2.3 billion in health care fraud recoveries in fiscal year 2014. Global health care giant Johnson & Johnson and its subsidiaries, Janssen Pharmaceuticals and Scios (J&J), paid $1.1 billion to resolve False Claims Act claims relating to the prescription drugs Risperdal, Invega and Natrecor. The government alleged that J&J promoted the drugs for uses not approved as safe and effective by the U.S. Food and Drug Administration (FDA). Because J&J marketed the drugs for uses not covered by federal health care programs, the company's promotion of the drugs caused physicians and other health care providers to submit hundreds of millions of dollars in alleged false claims against Medicare, Medicaid, TRICARE and other federal health care programs. The government also alleged that J&J paid kickbacks to physicians and to Omnicare Inc., the nation's largest provider of pharmaceuticals to nursing homes and long-term care facilities. In addition to the federal civil settlement, J&J paid more than $600 million in civil claims for state Medicaid programs and $485 million in criminal fines and forfeitures, making this $2.2 billion global resolution of the government's claims one of the largest health care fraud settlements in U.S. history.

In a separate settlement, the department also recovered $116 million from Omnicare. The settlement resolved allegations that Omnicare engaged in a kickback arrangement with skilled nursing facilities to induce the facilities to select Omnicare as their pharmacy provider, in violation of the Anti-Kickback Statute, which prohibits offering, paying, soliciting or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid and other federally funded programs. The statute is designed to ensure that the decisions of doctors and other professionals in prescribing drugs or recommending providers are driven by the needs of the

patient and not the prospect of personal gain. Since claims for services or supplies induced by kickbacks are not eligible for reimbursement under federal health care programs, the government alleged that these claims violated the False Claims Act. In addition to recovering $116 million in federal claims, the government recovered $8.2 million that will go to states that jointly funded the Medicaid programs impacted by Omnicare's conduct.

Cases involving hospitals resulted in $333 million in fiscal year 2014 settlements and judgments, with significant recoveries from two hospital chains. Community Health Systems Inc., the nation's largest operator of acute care hospitals, paid $98.15 million to settle allegations that it billed Medicare, Medicaid and TRICARE for inpatient services that should have been provided in a less costly outpatient or observation setting. Halifax Hospital Medical Center and Halifax Staffing Inc., hospital service providers in Florida, paid $85 million to resolve allegations that it violated the Stark Law, which prohibits hospitals from billing Medicare for certain services when referred by physicians who have a financial relationship with the hospital.

The government also had significant recoveries for home health services provided in alleged violation of the False Claims Act. Amedisys Inc., one of the nation's largest providers of home health services, paid $150 million to resolve allegations that it billed Medicare for medically unnecessary services, for services to patients who were not homebound and for violations of the Anti-Kickback Statute. The government alleged that Amedisys management pressured nurses and therapists to provide care based on the financial benefits to Amedisys rather than the needs of patients.

In a trio of cases involving cardiac procedures, the government recovered $85 million based on claims involving potentially life threatening conduct. Boston Scientific Corp., which purchased Guidant LLC and Guidant Sales LLC, and Cardiac Pacemakers Inc. in 2006, paid $30 million to settle claims that Guidant sold defective heart devices to health care facilities that implanted them into Medicare patients. The devices were small defibrillators surgically implanted into patients' chests. When a working device detects an irregular heartbeat, it sends an electrical pulse to shock the heart back to its normal rhythm. The Guidant devices allegedly short circuited, rendering them ineffective. In the other two cases, Kentucky hospitals King's Daughters Medical Center and Saint Joseph Health System Inc. billed Medicare and Medicaid for coronary procedures that the government alleged were unnecessary. King's Daughters paid $39 million in federal claims and $2 million in state Medicaid claims to settle allegations that it billed for medically unnecessary coronary stents and diagnostic catheterizations, and that it had prohibited financial relationships with physicians referring patients to the hospital. St. Joseph's paid $16 million in federal claims and $366,000 in state Medicaid claims to settle allegations that St. Joseph Hospital in London, Kentucky, billed Medicare and Medicaid for numerous invasive cardiac procedures that were performed on patients who did not need them, including procedures involving coronary stents, pacemakers, coronary artery bypass graft surgeries and diagnostic catheterizations.



**Other Fraud Recoveries and Actions**

Although mortgage, housing and health care fraud dominated recoveries for fiscal year 2014, the department has aggressively pursued fraud in government procurement and other federal programs.

Significant recoveries include settlements with Hewlett-Packard Co. and The Boeing Co. Hewlett-Packard paid $32.5 million to resolve claims involving a contract for IT products and services with the U.S. Postal Service. Boeing paid $23 million to settle alleged false claims for labor on maintenance contracts for the C-17 Globemaster aircraft with the U.S. Air Force.

In addition, the government filed lawsuits against a number of government contractors.

In a lawsuit against Kellogg, Brown & Root (KBR) and two foreign subcontractors arising from claims in connection with KBR's contract with the U.S. Army to provide wartime logistical

support, the government alleged that KBR employees took kickbacks from two subcontractors in return for favorable treatment in the award and performance of numerous subcontracts for maintenance, transportation and other services in Iraq. The alleged scheme resulted in inflated prices for services and equipment that were often deficient or not provided at all. Three KBR employees previously pleaded guilty to taking kickbacks or making false statements in connection with the allegations made in the government's complaint.

The government filed a complaint against global software provider CA Inc. after intervening in a whistleblower suit against the company. The government's complaint alleges that CA knowingly overcharged the government for software licenses and maintenance in connection with a General Services Administration (GSA) Multiple Award Schedule (MAS) contract. Under the MAS program, GSA negotiates prices and contract terms for goods and services that are later purchased by federal agencies throughout the government. To gain access to the vast government marketplace, contractors agree to disclose their commercial pricing practices and discounts so GSA can negotiate fair prices for government customers. The government's complaint alleges that CA provided incomplete and inaccurate information that resulted in the Departments of Defense, Energy, Health and Human Services, and Labor, and other federal agencies paying higher prices for software licenses and maintenance than they should have.

The government recovered an $80 million judgment against BNP Paribas, a global financial institution headquartered in Paris, France, for violations of the Department of Agriculture's (USDA) Supplier Credit Guarantee Program. Under the program, the USDA guarantees credit extended to foreign importers to purchase grain and other agricultural commodities from domestic growers and distributers, which opens up foreign markets for U.S. commodities. To qualify for the program, the U.S. exporter and the foreign importer must be distinct companies, not under common ownership or control. BNP Paribas consented to an $80 million judgment entered by the court to resolve the government's allegations that the bank knowingly entered into a scheme to defraud the Supplier Credit Guarantee Program by accepting the assignment of credit guarantees given by U.S. exporters on the sale of grain to Mexican importers under common ownership or control. The government alleged that BNP knew that the exporters and importers were disqualified from the program because of their common ownership and also knew that some of the transactions were total shams that did not involve a sale or shipment at all. Yet when the Mexican importers defaulted on the credit financing, BNP claimed reimbursement from the USDA on the guarantees. In 2012, BNP Paribas vice president Jerry Cruz, who had accepted bribes from the exporters, pleaded guilty to charges involving bank fraud, mail and wire fraud, and money laundering for his part in the scheme.



**Recoveries in Whistleblower Suits**

Of the $5.69 billion the government recovered in fiscal year 2014, nearly $3 billion related to lawsuits filed under the *qui tam* provisions of the False Claims Act. During the same period, the government paid out $435 million to the individuals who exposed fraud and false claims by filing a *qui tam* complaint, often at great risk to their careers.

The number of *qui tam* suits rose from 30 in 1987, to 300 to 400 a year from 2000 to 2009, to more than 700 for each of the last two fiscal years. The growing number of *qui tam* lawsuits filed since 2009 has led to increased recoveries, which exceeded $2 billion for the first time in fiscal year 2010, and has approached or exceeded $3 billion ever since. As recoveries increased, so have whistleblower awards. From January 2009 to the end of fiscal year 2014, the government paid awards in excess of $2.47 billion.

"We acknowledge the men and women who have come forward to blow the whistle on those who would commit fraud on our government programs," said Acting Assistant Attorney General Branda. "In strengthening and protecting the False Claims Act, Congress has given us the law enforcement tools that are so essential to guarding the treasury and deterring others from

exploiting and misusing taxpayer dollars. We are grateful for their continued support."

In 1986, Senator Charles Grassley and Representative Howard Berman led successful efforts in Congress to amend the False Claims Act to, among other things, encourage whistleblowers to come forward with allegations of fraud. In 2009, Senator Patrick J. Leahy, along with Senator Grassley and Representative Berman, championed the Fraud Enforcement and Recovery Act of 2009, which made additional improvements to the False Claims Act and other fraud statutes. And in 2010, the passage of the Affordable Care Act provided additional inducements and protections for whistleblowers and strengthened the provisions of the federal health care Anti-Kickback Statute.

Acting Assistant Attorney General Branda also expressed her deep appreciation for the many dedicated public servants who investigated and pursued these cases – the attorneys, investigators, auditors and other agency personnel throughout the Civil Division and the U.S. Attorneys' Offices, as well as the agency Offices of Inspector General, and the many federal and state agencies that contributed to the department's recoveries this past fiscal year.

"Without the tremendous talent and dedication of the public servants who worked tirelessly to bring these matters to settlement or judgment, the nearly $6 billion in recoveries we announce today would not have been possible," said Branda. "I commend them all for their exceptional efforts."

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Civil Division

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