

I. Key Points about the False Claims Act

- The Legislation empowers individual citizens with the actual secret information about fraud to bring cases in the name of the Government against individuals and corporations who defraud the Government. It gives those individuals and their attorneys a strong financial incentive to risk income, career and their personal safety to stop the fraud and return some three times the amounts taken to the public purse. Most importantly the legislation forges a public-private partnership between the private citizens with the information and the institutions of Government to pursue the cases. This public-private partnership allows for the Government to maintain control of the prosecution of those cases and to make all the crucial decisions about both the investigation and case strategy including the decision not to intervene and devote Governmental resources to the case. Most importantly the citizen can use his own resources to pursue the case upon the behalf of the Government if they believe they have sufficient information about the fraud.
- The False Claims Act is 150 years old and, though fought by corrupt corporations and public bureaucracy, has endured and become the single most effective Governmental tool to fight fraud in public contracts.
- The U.S. False Claims Act has been refined over its 150 year existence to carefully delineate liability, damages, penalties, protections, legal fees and costs, and the all important Relator's Share award incentive.
- The Federal, State and Local Government False Claims Act statutory schemes can act in unison to ferret out fraud, privately prosecute it and reward whistleblowers.
- The FCA is very effective at bringing healthcare and construction kickbacks and dangerous health practices and issues into the open. Whistleblowers have unearthed fraudulent schemes that would be very hard or impossible for trained Government investigators to discover on their own.
- The FCA has resulted in \$35 billion of recoveries since 1986 and in recent years recovered more that \$3 billion per year on average.
- The Modern False Claims Act was brought to life in 1986 by a unique set of political circumstances. The Presidency of Ronald Reagan, from 1981 to 1989, was marked by a significant peacetime increase in Defense Department spending and a major policy initiative by the President to stop waste, fraud and abuse in Government spending. The examples of such fraud were not only detailed in exhaustive Government reports such as the General Accounting Office, *Fraud in Government Programs: How Extensive Is It? How*

Can It Be Controlled?[†], but also in lurid front page newspaper stories about \$600 toilet seats and \$7,000 coffee pots supplied to the Department of Defense under Government contracts. By 1986 it was no longer accepted fact, as it appeared to be in 1943, that the Attorney General and the Department of Justice were able and willing to do the job of ferreting out and prosecuting fraud in Government procurement. Interestingly the primary sponsor of the legislation in the Senate was Senator Charles Grassley, a conservative Republican, and the sponsor in the House was Howard Berman, a liberal Democrat.

- The underlying problems of fraud against the Government in the procurement of public goods and services were the same in 1863 as they are in 2014. The Government, whether at local or national level contracts, is always vulnerable to fraud. Since the risk of being caught defrauding the Government is often small, there are always dishonest actors willing to take such risks. The crucial missing ingredients are always (1) information, since the cheaters have a great incentive to keep their frauds secret and often to ensnare public officials in the fraudulent schemes themselves and; (2) privately initiated prosecutions.

[†] Comptroller General of the United States. *Fraud in Government Programs: How Extensive Is It? How Can It Be Controlled?* Washington: U.S. General Accounting Office, 1981.



“It would send a message from the top of the bureaucracy on down that whistleblowers should be heard and treated with rewards not reprisals.”

-Sen. Charles Grassley

“Grassley holds President accountable for promises to make Government transparent.” *Senator Chuck Grassley of Iowa*. March 13, 2009. Web. 27 Jan 2014.