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Whistleblower Defense Alert: Department of Justice Announces Third Straight Year of Record-Breaking False Claims Act Recoveries

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According to a recent Department of Justice press release regarding annual False Claims Act (FCA) recoveries, FCA recoveries continue to skyrocket, in keeping with the trend in recent years. 2014 marks the third straight year in which the Department of Justice has announced a record-setting annual recovery. This year, the government recovered \$5.69 billion under the FCA — the largest annual recovery under the FCA since the statute was enacted. And, for the second straight year, the number of *qui tam* suits filed in federal courts has exceeded 700. Recoveries from *qui tam* cases in 2014 accounted for more than \$3 billion of the total recovered.

About half of this year's FCA recoveries came from the financial sector. A total of \$3.1 billion of the annual recovery was related to housing and mortgage fraud. This total includes more than \$1.85 billion recovered from Bank of America to settle allegations relating to the bank's underwriting, origination and quality control of residential mortgages. The recoveries for housing and mortgage fraud are part of the larger efforts by the Financial Fraud Enforcement Task Force that was assembled in 2009 to investigate and prosecute financial crimes. A total of \$4.65 billion has been recovered in civil fraud claims against federal housing and mortgage programs since the task force was announced.

In 2009, the government also announced the creation of a Health Care Fraud Prevention and Enforcement Action Team to target health care fraud. Consistent with the recent focus on health care fraud, the Department of Justice announced \$2.3 billion in health care fraud recoveries in 2014. Johnson & Johnson paid \$1.1 billion this year to settle allegations that the pharmaceutical company marketed drugs for uses that were not approved by the Food and Drug Administration and for allegedly offering kickbacks to physicians who frequently prescribed the drugs.

Though financial and health care fraud dominated FCA recoveries in 2014, the Department of Justice continues to target the procurement industry. For example, the government obtained a \$23 million settlement this year from Boeing to resolve allegations that it submitted false claims for labor charges on maintenance contracts with the U.S. Air Force. The government also filed a complaint early in 2014 against Kellogg, Brown & Root Services, Inc. alleging claims under the FCA and the Anti-Kickback Statute in connection with an Army contract to provide logistical support in Iraq.

Since the effects of the recent amendments to the FCA are just beginning to be felt, companies that work with the government can expect the increase in FCA cases and recoveries to continue for the foreseeable future. A copy of the Department of Justice's press release is available at <http://www.justice.gov/opa/pr/justice-department-recovers-nearly-6-billion-false-claims-act-cases-fiscal-year-2014>.

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