

## DOJ Continues Pursuit of False Claims Act Violations Related to Fraudulent Paycheck Protection Program Loans

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On January 9, 2023, the U.S. Department of Justice (DOJ), the U.S. Attorney's Office for the Eastern District of California, and the Small Business Administration's (SBA) Office of General Counsel (OGC) and Office of Inspector General (OIG) announced a settlement that resolves alleged violations of the False Claims Act (FCA) and the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) related to improper inflation of employee head count numbers on the companies' Paycheck Protection Program (PPP) loan applications.<sup>[1]</sup>

The settlement involves four California companies and their owner (collectively, the Seasholtz Defendants) who have agreed to pay \$600,000 in damages and penalties to settle allegations that they knowingly violated the FCA and the FIRREA when they improperly inflated the employee head count on the companies' PPP loan applications by impermissibly including non-employee contract workers who were, in fact, employed by other, unrelated entities.

The DOJ alleged the inclusion of non-employees allegedly caused the Seasholtz Defendants to receive approximately \$1.8 million in excess PPP funds. Though the Seasholtz Defendants previously repaid the excess PPP loan funds to the lender, this settlement resolves a *qui tam* lawsuit brought by Bell Hill LLC on behalf of the United States to recover money that was fraudulently obtained from the government.<sup>[2]</sup>

Similarly, on February 1, 2023, the DOJ, the SBA's OGC and OIG, and the U.S. Attorney's Office for the Northern District of California announced three separate settlements that resolved alleged violations of the FCA related to improper duplicate PPP loans and improper forgiveness of PPP loan proceeds.<sup>[3]</sup>

The settlements involve three California companies that have agreed to pay a total of \$530,000 to settle allegations that they knowingly violated the FCA when they received and retained more than one PPP loan prior to December 31, 2020, in violation of PPP rules. The three California settlements resolve claims brought by J. Bryan Quesenberry under the *qui tam* or whistleblower provisions of the FCA.<sup>[4]</sup>

According to the companies' respective settlement agreements, La Baguette LLC has agreed to pay \$430,000 to settle allegations that it fraudulently received two separate PPP loans from two separate lenders, each totaling more than \$200,000.<sup>[5]</sup> Dynamic Integrated Solutions Inc. has agreed to repay its duplicate loan in full and to pay \$50,000 to settle allegations that it fraudulently received two separate PPP loans, each totaling more than

\$900,000.<sup>[6]</sup> Priority Acquisitions Inc. has agreed to repay its duplicate loan in full and to pay \$50,000 to settle allegations that it fraudulently received two separate PPP loans, each totaling more than \$200,000.<sup>[7]</sup>

## Key Takeaways:

- **The detection of improper loans related to COVID-19 relief funds continues to be a focus for the federal government.** The three California FCA settlements are the most recent examples of the DOJ's cracking down on companies and individuals who have misused COVID-19 relief funds, collectively serving as a cautionary tale that detecting and combating COVID-related fraud will continue to be a top priority for the government. Although the impact of the pandemic itself appears to be subsiding, the pursuit of COVID-19 related fraud with all the tools available to criminal and civil law enforcement authorities will likely continue for years to come.
- **Whistleblowers play an important role in the detection of PPP-related fraud.** Under the *qui tam* provisions of the FCA, a private party may file an action on behalf of the United States and receive a portion of any recovery. As previewed by Winston & Strawn LLP attorney Suzanne Jaffe Bloom, in addressing DOJ statements about the role individuals can play in fighting PPP fraud, "[w]histleblowers may view this as a call to action, resulting in a marked increase in the filing of claims under the *qui tam* provision of the FCA, fueled not only by their desire to expose potential fraud, but also by their hopes of sharing in the government's recovery. . . ."<sup>[8]</sup>

If you have additional questions or need further assistance, please reach out to Christopher Parker (Associate, White Collar, Regulatory Defense & Investigations), or your Winston & Strawn relationship attorney.

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<sup>[1]</sup> The DOJ press release is available here: <https://www.justice.gov/opa/pr/california-agricultural-companies-and-their-owner-agree-pay-600000-settle-false-claims-act-0>.

<sup>[2]</sup> See *United States ex rel. Bell Hill, LLC v. John Seasholtz*, No. 1:20-cv-942 (E.D. Cal.).

<sup>[3]</sup> The DOJ press release is available here: <https://www.justice.gov/opa/pr/three-california-companies-settle-false-claims-act-allegations-relating-improper-paycheck>.

<sup>[4]</sup> See *United States ex rel. Quesenberry v. Bay Wire, Inc.*, No. 2:20-cv-712 (N.D. Cal.).

<sup>[5]</sup> The settlement agreement entered into by the DOJ, the relator, and La Baguette LLC is available here: <https://www.justice.gov/opa/press-release/file/1566686/download>.

<sup>[6]</sup> The settlement agreement entered into by the DOJ, the relator, and Dynamic Integrated Solutions Inc. is available here: <https://www.justice.gov/opa/press-release/file/1566681/download>.

<sup>[7]</sup> The settlement agreement entered into by the DOJ, the relator, and Priority Acquisitions Inc. is available here: <https://www.justice.gov/opa/press-release/file/1566691/download>.

<sup>[8]</sup> The Bloomberg Law article can be found here: <https://news.bloomberglaw.com/business-and-practice/lawyer-sniffs-out-covid-loan-fraud-as-doj-sleuth-suing-from-afar>.

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