Reinhart

Defending False Claims Act Investigations and Enforcement Actions

Exposure to liability under the federal False Claims Act (FCA) presents significant and growing risks to any company or individual that does business with the government. The FCA and analogous state laws provide government investigators and prosecutors powerful weapons that are used aggressively to extract millions of dollars in civil penalties and settlements from organizations and their individual stakeholders, often leading a targeted party to be suspended or debarred from participation in any federal program or payment thereunder. In addition, an ever-increasing number of claims are brought by private whistleblowers, who sue on behalf of the government under the FCA's *qui tam* provisions (and seek significant monetary awards for themselves).

Reinhart's False Claims Act Team understands the unique challenges presented by any FCA matter, whether brought by the government or private whistleblowers, and is well-equipped to meet those challenges on behalf of our clients.

Who We Are

Reinhart's False Claims Act Team is comprised of former federal and state prosecutors and seasoned trial lawyers with years of experience handling and defending claims under the FCA and its state equivalents. Armed with that experience, our False Claims Act Team understands the complexities associated with allegations of fraud and abuse in any context, and is well-equipped to navigate any resulting investigations or litigation. We offer our clients creative, practical and battle-tested approaches to handling FCA matters, from the moment an allegation of fraud or abuse first arises through final resolution.

Our False Claims Act Team represents companies, their boards, or management, and individuals in all aspects of FCA matters, in jurisdictions throughout the United States, and across a wide spectrum of industries, including: health care, manufacturing, financial services, defense contracting and more. In addition, in the wake of the COVID-19 pandemic, our False Claims Act Team works closely with clients across varied industries—including those hit hardest by the pandemic—to manage FCA compliance risks presented by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Paycheck Protection Program (PPP) loans or other aspects of the government's response to the pandemic and resulting economic fallout.

We regularly collaborate with attorneys throughout the firm, combining our FCA experience with industry-specific expertise to build the best case for our clients. Should you face a government investigation of fraud or abuse, our False Claims Act Team will provide the informed counsel you need during every stage of the investigation and defense.

What We Do

Our clients rely on us to help them navigate any FCA matter, including avoidance of liability altogether by

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ensuring compliance at every level. We assist with the creation of policies and procedures that incorporate the highest level of accountability. Our False Claims Act Team helps clients overcome any threat of FCA liability, at every stage in the life of a potential, threatened or actual FCA claim:

- **Compliance and Risk Management:** An ounce of prevention is always worth far more than the expense of defending a FCA allegation in court. Our attorneys regularly work with clients to improve compliance and minimize the risk that they will face an FCA claim in the future, including by: assessing company policies, procedures and controls to identify and address compliance risks; auditing existing compliance programs to address potential shortcomings; and even developing, preparing for and implementing new compliance programs from scratch.
- **Transactional Due Diligence:** Members of our False Claims Act Team routinely partner with attorneys across the firm to conduct transactional due diligence and assess FCA risks presented in the context of sale opportunities, mergers, acquisitions or other corporate transactions. We also regularly advise clients on government contract bidding procedures and requirements, and contract administration and interpretation under the Federal Acquisition Regulations (FAR).
- **Internal Investigations:** We have extensive experience leading internal investigations of highly sensitive compliance issues, including investigations of actual or suspected fraud and abuse. In so doing, we help our clients evaluate their potential exposure under the FCA and other laws, marshal the resources they need to defend against allegations of misconduct, and identify solutions that are both sensitive to the client's business needs and consistent with their legal and ethical obligations.

- **Government Program Fraud**: We represent clients accused of committing government program fraud such as health care fraud under the Medicare/Medicaid programs, defense contracting fraud, coronavirus relief programs, minority and women preference programs and more.
- **Government Audits and Investigations:** Our False Claims Act Team also represents clients in connection with audits or investigations, including criminal investigations conducted by state and federal prosecutors, agency investigators, offices of the inspector general or government contractors. We regularly assist clients in responding to subpoenas or civil investigative demands, and with our extensive knowledge of the factors that influence the government's approach to those investigations, have negotiated favorable resolutions of potential claims before a costly, time-consuming and public FCA suit has been filed.
- **FCA Litigation:** When an FCA claim cannot be resolved without litigation, our team of experienced trial lawyers is ready to aggressively defend our clients in court. We have successfully defended high-stakes, "bet-the-company" FCA cases brought by the government, *qui tam* whistleblowers, or both, and are equally adept at handling ancillary matters that often accompany an FCA case, including retaliation claims, securities litigation and suspension or debarment proceedings.
- **Representing Whistleblowers/Relators:** We are selective in accepting compelling cases where we represent whistleblowers or relators. If you have concerns about government fraud of which you have personal knowledge, we welcome a dialogue with you.

For assistance with a FCA accusation, please call a member of Reinhart's False Claims Act Team.

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