

DOJ Announces More FCA Settlement Agreements Over PPP Fraud

February 28, 2022 – FCA Now

by Alex Hartzell

Fresh off the new year, the Department of Justice (“DOJ”) continues to announce new settlements under the False Claims Act, 31 U.S.C. § 3729 *et seq* (“FCA”)—further cementing the trend of private parties suing borrowers for violating requirements of the Paycheck Protection Program (“PPP” or the “Program”). Two new FCA settlements were announced earlier this month involving relators’ allegations that borrowers made false statements when applying for PPP loans in violation of Program rules.

The first settlement, coming from the U.S. Attorney’s Office for the District of New Jersey, was announced on February 7, 2022. According to the settlement agreement, on June 19, 2020, relator Pat L. Christopher filed a *qui tam* action in the United States District Court for the District of New Jersey against Christopher Construction Company, Inc. (“CCC”) and Dennis Christopher. Relator alleged that CCC and Dennis Christopher violated Program rules by causing the submission of a false claim for payment. Specifically, according to the settlement agreement, the government then contends that around April 27, 2020, CCC and Dennis Christopher falsely stated on an application for PPP funds that no individual owner of CCC holding at least 20% of the company’s stock was then indicted or subject to criminal charges. The government further alleged that CCC and Dennis Christopher, at the time of submitting the application, knew that relator owned more than 20% of CCC’s stock and knew that relator had been indicted for theft, embezzlement, and tax fraud. Based on this false statement, the government asserts CCC—which received \$255,507 in PPP funds—knowingly caused its lender to submit a false claim to the Small Business Administration (“SBA”) for \$12,775 in loan processing fees. The settlement agreement states that CCC and Dennis Christopher have returned the value of the PPP loan to the lender as part of the settlement. Further, the terms of the settlement agreement require CCC and Christopher to pay the government a total of \$53,325 in civil penalties and damages under the FCA—\$12,755 of which represents restitution to the SBA for paying the processing fee to the lender. The settlement agreement also notes that CCC and Dennis Christopher will be responsible for the relator’s attorney fees.

Related Capabilities

- Healthcare Enforcement & Compliance
- Government Enforcement & Corporate Investigations

A few days later, on February, 11, 2022, the DOJ announced another FCA settlement involving PPP fraud. According to this settlement agreement, relator Bryan Quesenberry filed a *qui tam* action in the United States District Court for the Eastern District of Virginia against Zen Solutions, Inc. (“Zen”), a technology company based in Arlington, Virginia, alleging Zen violated Program rules by receiving two PPP loans before December 31, 2020. The PPP required loan applicants to certify they would apply for only one first draw PPP loan before December 31, 2020. According to the settlement agreement, Zen received a first draw loan of \$181,055 on April 13, 2020, and then received a second, first draw loan of \$192,727 on April 28, 2020. In connection with this second PPP loan, says the settlement agreement, the SBA paid the second lender \$9,636.25 in processing fees. The government asserts in the settlement agreement that Zen falsely certified on the second loan that it would not receive a second, first draw loan before December 31, 2020. The terms of the settlement agreement require Zen to pay the United States \$31,226.53 in civil damages and penalties under the FCA, of which \$9,636.35 constitutes restitution to the SBA for its payment of processing fees to the second lender.

Notably, this second settlement is one of several settlements based on PPP-related qui tams filed by relator Quesenberry, such as the Sextant settlement previously reported on Dorsey’s FCA Now blog. As reported elsewhere, the ability to mine public data allows relators to discern whether borrowers have violated Program rules by taking multiple, first-draw loans. To stay updated on these developing topics, check out Dorsey’s FCA Now blog and FCA Case Tracker for the latest FCA and PPP fraud news.