

DOJ Shows No Sign of Slowing Down Prosecution of Individuals Connected to FCA Cases

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by Katherine Chaves

Following a record year for False Claims Act (“FCA”) settlements and judgments in 2021, the Department of Justice (“DOJ”) continues to aggressively pursue the prosecution of not only corporations, but also the individuals connected to corporate criminal cases.

Within the first quarter of 2022, the DOJ has already announced numerous False Claims Act violations involving corporate defendants, including a \$260 million settlement with pharmaceutical company Mallinckrodt, a \$48.5 million settlement with TriMark USA, LLC, and a \$20 million settlement with BayCare Health System Inc. A notable theme emerging from the DOJ's stream of FCA prosecution press releases, however, is its focus on holding individual defendants accountable for crimes committed in connection with their corporate activity.

For instance, as part of TriMark USA's \$48.5 million settlement to resolve allegations that its subsidiaries manipulated federal contracts set-aside for small businesses, TriMark's former executive in charge of the company's government business, Kimberley Rimsza, agreed to pay an additional \$100,000 as an individual civil penalty for her conduct in connection with the scheme. Likewise, the DOJ announced that a Philadelphia-based psychiatrist and his wife, Dr. Harry Doyle and Sonya Doyle, agreed to pay a total of \$3 million to resolve alleged violations of the FCA, including the submission of false billing to the U.S. Department of Labor Office of Worker's Compensation Programs (“OWCP”), as well as upcoding and double-billing patient claims. And, earlier this month, the DOJ announced it has filed a complaint against two laboratory CEOs, one hospital CEO, and other individuals, alleging FCA violations in connection with patient referrals in violation of the Anti-Kickback Statute and the Stark Law.

This activity aligns with Attorney General Merrick Garland's pronouncement at the ABA Institute on White Collar Crime in March that “prosecution of corporate crime is a Justice Department priority” and that the DOJ's “first priority in corporate criminal cases is to prosecute the individuals who commit and profit from corporate malfeasance.” President Biden's FY22 budget supports these efforts with proposed increases in funding for both

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the DOJ's criminal enforcement divisions, as well as the FBI's White Collar-Crime Program. With more resources and human capital on hand to support its prosecutorial goals, we can expect another busy and productive year from the DOJ in connection with its FCA enforcement initiatives.