JONES DAY

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ADMISSIONS OF WRONGDOING: THE FINAL FRONTIER

Admissions of wrongdoing are the final frontier in civil fraud settlements—that elusive element that purportedly makes the payment of even large settlement amounts more than "just a cost of doing business" for the defendant companies. Federal law enforcement agencies have repeatedly emphasized the importance of admissions as an enforcement tool in civil settlements. Most recently, Mary Jo White, chairman of the U.S. Securities and Exchange Commission, indicated that the SEC would seek more admissions of wrongdoing from defendants as a condition of settling civil cases. Stuart Delery, assistant attorney general, has also emphasized the importance of admissions of wrongdoing in fraud cases, including in civil cases. According to numerous news articles, admissions of wrongdoing are a major stumbling block in both the $13 billion mortgage fraud settlement currently being negotiated between J.P. Morgan Chase and the federal government, and in settlement discussions that allegedly have taken place between Standard and Poor's and the federal government in its case against the ratings agency under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

Like many new frontiers, however, this one also appears to be somewhat in the distance. Although there have been a number of large, highly publicized settlements in which defendants have acknowledged wrongdoing, particularly in the area of pharmaceutical fraud, few of these cases have been purely civil. The settlements in the large pharmaceutical fraud cases, which have included both a criminal plea and a civil settlement, have encompassed agreed statements of fact on the criminal side that constitute admissions of wrongdoing. The corresponding civil settlements still generally include language in which the defendants purport to deny the government's allegations except to the extent admitted as part of the criminal plea agreement.

The fact is that admissions of wrongdoing in settlements of purely civil fraud cases are still a rarity. Since 2011, when admissions began appearing in a smattering of civil settlements, defendants have admitted wrongdoing in only a small fraction of purely civil health care fraud and mortgage fraud settlements, and a minute fraction of purely civil settlements in other areas such as contracting fraud, grant fraud, and procurement fraud, among others. **(Attached is a document showing the language of the admissions of fact in a number of purely civil cases settled with the Department of Justice from 2011 through the present.)**

As defendants in such cases have repeatedly expressed, admissions of wrongdoing—even if they are not admissions of liability *per se*—have the potential to snowball into liability toward plaintiffs in private actions based on similar allegations. Although to date there have been few cases in which private plaintiffs have used admissions of wrongdoing in government settlements against defendants in private actions, in at least one recent well-publicized instance, a government regulator has used admissions of wrongdoing by an individual in an SEC case to exclude the individual from certain regulated insurance activities. Of course, defendants have also expressed concerns that admissions of wrongdoing can lead to significant reputational harm well beyond merely signing a settlement agreement.

Thus, it is still the case that in the vast majority of settlements, defendants routinely deny liability in the time-honored way, in language stating that "This agreement is neither an admission of any wrongdoing or liability by [defendant] nor a concession by the United States that its claims are not well founded." In short, as has been the case throughout history, the parties agree to disagree, but resolve to settle "[t]o avoid the delay, uncertainty, inconvenience, and expense of protracted litigation."

LAWYER CONTACT

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ADMISSIONS OF LIABILITY IN SETTLEMENTS OF PURELY CIVIL CASES

HEALTH CARE FRAUD CASES

U.S. ex rel. FELDMAN v. CITY OF NEW YORK, 09 Civ. 8381 (JSR) (SDNY)

Settlement Date: October 30, 2011

Settlement Amount: $70 million

ALLEGATIONS (quoted from the complaint):

- [C]ivil fraud action brought by the United States of America against the City of New York ("the City" or "defendant"), under the False Claims Act, 31 U.S.C. §§ 3729-3733 ("FCA"), to recover damages sustained by, and penalties owed to, the United States as a result of the City's policies and practices of falsely authorizing 24-hour personal care services pursuant to the Personal Care Services ("PCS") program administered by the City, which is approximately 50% funded by the United States under the Medicaid Program. (¶ 1)

. . .

- Since 2000, approximately 17,500 people have received 24-hour personal care services through the PCS program administered by the City. Currently, the annual cost of such services ranges from $75,000 to $150,000 per individual. Upon information and belief, it has been the City's policy and/or practice to disregard the state Medicaid regulations' requirements on the medical and clinical bases necessary to authorize or reauthorize 24-hour care under the PCS program. For example, although the state Medicaid regulations specify that a physician "is responsible for the final determination of the level and amount of care to be provided" under the PCS program, the City has knowingly overruled physicians' determinations about the appropriate care, and authorized 24-hour PCS care instead. (¶ 2)

- Further, it has been the standard operating procedure for the City to disregard the state Medicaid regulations' express requirement that a local medical director ("LMD")—a doctor under contract with the City—make the determination that 24-hour continuous care (or split-shift care) is appropriate. The City has uniformly reauthorized split-shift care—the most expensive type of care under the PCS program— without first obtaining the LMD's determination on the need for such care. The City has also habitually ignored the state Medicaid regulations and reauthorized patients for 24-hour care, without even obtaining, much less reviewing, patient assessments prepared by nurses and social workers. (¶ 3)

. . .

- As result of these and other policies and practices knowingly disregarding the regulatory requirements for the PCS program, the City improperly authorized and reauthorized 24-hour care for a substantial percentage of the thousands of Medicaid beneficiaries enrolled in the PCS program. (¶ 4)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

The City acknowledges that:

a. 18 N.Y.C.R.R. § 505.14, the state Medicaid regulation for the PCS program ("PCS Regulation"), generally requires HRA to base its authorization of 24-hour PCS care on a physician's, nurse's, and social assessment, as well as, in certain cases, an independent medical review.

b. From 2000 to late 2010, HRA reauthorized 24-hour PCS care for certain patients without having physically obtained certain physician's, nurse's, and/or social assessments, and/or having obtained independent medical reviews.

c. Since the United States commenced its investigation in this matter, HRA has adopted additional policies and procedures designed to ensure full compliance with the PCS Regulation, including, specifically, to obtain independent medical reviews in connection with reauthorizing 24-hour split-shift care. (¶ 3)

Link to Settlement

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U.S. v. BETH ISRAEL MEDICAL CENTER, 12 Civ. 1510 (NRB) (SDNY)

Settlement Date: February 29, 2012

Settlement Amount: $13,031,355

ALLEGATIONS (quoted from the complaint):

- [C]ivil health care fraud action under the False Claims Act ("FCA"), 31 U.S.C. §§ 3729-3733, to recover damages and civil penalties arising from Beth Israel's submission to the United States of false or fraudulent claims for Medicare outlier payments. (¶ 1)

. . .

- Beth Israel knew that Medicare outlier payments were intended and authorized by Congress to compensate hospitals only for treating inpatients whose care involves extraordinarily high costs. Beth Israel nevertheless manufactured excessive outlier payments by intentionally manipulating its charge structure to make it appear as though its treatment of certain inpatients was extraordinarily costly, when in fact it was not. (¶ 3)

- To obtain excessive outlier payments, Beth Israel increased its billed charges for providing medical care far in excess of any increase in the costs associated with that care, a practice commonly referred to as "turbo-charging." (¶ 4)

. . .

- Beth Israel increased its outlier payments from Medicare starting in 1998 and continuing through August 7, 2003, for cases that either were not extraordinarily costly or were much less costly than Beth Israel made them appear to be. (¶ 7)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Beth Israel admits, acknowledges and accepts responsibility for the following conduct alleged in the Complaint:

(i) From February 21, 2002, and through August 7, 2003, as reflected in its Medicare cost reports, Beth Israel's Medicare charges increased faster than Beth Israel's Medicare costs increased during those same years.

(ii) From February 21, 2002, and through August 7, 2003, Beth Israel increased its charges to obtain more outlier payments than it would have otherwise received. Beth Israel did so in part by selectively increasing its charges for services that tended to contribute more to Medicare outlier payments.

(iii) As a result, Beth Israel received millions of dollars in Medicare outlier payments that it would not have received had it not increased its charges as substantially. (¶ F)

Link to Settlement

U.S. v. LENOX HILL HOSPITAL, 12 Civ. 3451 (NRB) (SDNY)

Settlement Date: May 4, 2012

Settlement Amount: $11.75 million

ALLEGATIONS (quoted from the complaint):

- [C]ivil health care fraud action under the False Claims Act ("FCA"), 31 U.S.C. §§ 3729-3733, to recover damages and civil penalties arising from Lenox Hill's submission to the United States of false or fraudulent claims for Medicare outlier payments. (¶ 1)

. . .

- Lenox Hill knew that Medicare outlier payments were intended and authorized by Congress to compensate hospitals only for treating inpatients whose care involves extraordinarily high costs. Lenox Hill nevertheless manufactured excessive outlier payments by intentionally manipulating its charge structure to make it appear as though its treatment of certain inpatients was extraordinarily costly, when in fact it was not. (¶ 3)

- To obtain excessive outlier payments, Lenox Hill increased its billed charges for providing medical care far in excess of any increase in the costs associated with that care, a practice commonly referred to as "turbo-charging." (¶ 4)

. . .

- Under the applicable statute of limitations, the earliest possible date for which the United States can seek a monetary recovery from Lenox Hill is February 21, 2002.

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When Lenox Hill billed for outlier payments during the time from February 21, 2002, to August 7, 2003, it knew that it was not entitled to claim millions of dollars of these outlier payments, or acted in deliberate ignorance or reckless disregard of the fact that it was not entitled to claim millions of dollars of these outlier payments. (¶ 9)

- Accordingly, the United States seeks damages and civil penalties for each claim for an outlier payment submitted by Lenox Hill to the Medicare program for inpatient stays with discharge dates from February 21, 2002 through August 7, 2003 (collectively, the "Damages Period"). (¶ 10)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Lenox Hill admits, acknowledges and accepts responsibility for the following conduct:

(i) From 2002 to 2003, to increase its revenue, Lenox Hill increased its inpatient charges based on revenue models that did not directly take into account the costs of the services provided. Lenox Hill increased its charges during this period to all third-party payors, and the charge increases had a larger impact on Medicare outlier payments as compared to any other single payor.

(ii) As a result, Lenox Hill received Medicare outlier payments that it would not have received if it had not implemented these charge increases. (¶ F)

Link to Settlement

U.S. ex rel. JOHN DOE v. WESTCHESTER COUNTY HEALTH CARE CORPORATION, 11 Civ. 5329 (CM) (SDNY)

Settlement Date: October 23, 2012

Settlement Amount: $7 million

ALLEGATIONS (quoted from the complaint):

- [C]omplaint under the False Claims Act, 31 U.S.C. §§ 3729-33, and common law, alleging that during the period from August 2001 through June 2010, Westchester County Health Care Corporation, doing business as Westchester Medical Center ("WCHCC" or "defendant"), a 600-bed hospital in Valhalla, New York, billed Medicaid for millions of dollars of outpatient services at its mental health center for which it lacked core documentation required by Medicaid regulations. *See* 14 NYCRR Parts 587, 588 and 592; 18 NYCRR § 505.25; 2 C.F.R. §225, App. A(C)(l)(c). Medicaid regulations expressly require mental health outpatient clinics to maintain certain critical documents, including progress notes and treatment plans, to ensure that services are provided as billed and in compliance with applicable regulations. In addition, Medicaid regulations require that mental health outpatient clinics meet certain requirements for the duration of therapy services, including group therapy services, in order for those services to be reimbursable by the Medicaid program. (¶ 1)

- Although WCHCC management knew for years that WCHCC's outpatient mental health clinic was missing documentation that was required to bill for services, WCHCC failed until at least June 2010 to take any but the most insignificant steps to address the problem and to conduct any systematic audit of the clinics' records. Nor did WCHCC return funds it received from the Medicaid program despite knowing it had been substantially overpaid as a result of having billed for services for which it lacked required documentation. As a result of this billing fraud, WCHCC was paid millions of dollars by the Medicaid program to which it was not entitled. (¶ 2)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Defendant admits, acknowledges, and accepts responsibility for the following during the period August 2001 through June 2010:

(i) In connection with submitting claims for reimbursement from Government Health Care Programs for outpatient services at its behavioral health center, WCHCC certified, but in many instances failed to achieve, compliance with certain of the Medicaid rules and regulations that

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govern the required level of documentation to support payment for those claims;

(ii) Required documentation related to outpatient services furnished at the behavioral health center and billed by WCHCC, including patient progress notes, treatment plans and treatment plan reviews, was often missing or incomplete, such as by failing to specify, or inaccurately stating, the duration of the services furnished;

(iii) The outpatient clinic of WCHCC's behavioral health center lacked a dedicated compliance program to monitor for the documentation required by Medicaid rules and regulations applicable to outpatient mental health services; and

(iv) For a portion of the relevant time period, WCHCC permitted a licensed nurse practitioner certified by the New York State Education Department in family health, and not psychiatry, to furnish psychiatric services at the behavioral health center's outpatient clinic, even though the nurse practitioner had not been credentialed by WCHCC to do so. (¶ 2)

Link to Settlement

U.S. ex rel. WOLFSON *v.* PARK AVENUE MEDICAL ASSOCIATES *et al.*, 11 Civ. 5107 (CM) (SDNY)

Settlement Date: July 17, 2013

Settlement Amount: $1 million

ALLEGATIONS (quoted from the complaint):

- [C]omplaint under the False Claims Act, 31 U.S.C. §§ 3729-33, and common law, alleging that during the period from January 1, 2001 through the present, Park Avenue Medical Associates, P.C. ("PAMA PC") billed Medicare for services that (i) were not medically necessary, (ii) were not documented in the medical record, and/or (iii) failed otherwise to comply with Medicare rules and regulations. (¶ 1)

- Park Avenue Medical Associates ("PAMA") is a multi-specialty group practice that, among other services, provides behavioral health services to thousands of elderly patients at hospitals and nursing homes in the New York area. These elderly patients, many with serious psychiatric problems, are among the most vulnerable patient populations. (¶ 2)

- PAMA and PAMA PC, the entity that submitted claims to Medicare on behalf of PAMA, took advantage of the extensive program of Medicare services available to this vulnerable patient population by billing for services that were unnecessary, such as psychotherapy services for patients who lacked the capacity to benefit from psychotherapy because they were suffering from severe dementia and/or other cognitive disorders. PAMA PC also billed Medicare for unnecessary and duplicative psychiatric diagnostic examinations that violated Medicare rules in that the PAMA doctor or other medical professional conducting the examination failed to (i) document the patient's medical and/or psychiatric history, (ii) conduct an adequate mental status test, (iii) coordinate with other health care professionals treating the patient, and/or (iv) otherwise comply with Medicare rules. In addition, PAMA PC billed for services without any documentation in the medical record to substantiate the services. (¶ 3)

- Moreover, PAMA incentivized the psychiatrists and psychologists it employed to perform unnecessary and duplicative services by compensating them based on how many services they provided and the level at which Medicare reimbursed for those services. At the same time, PAMA's compliance program was inadequate to counter those incentives by ensuring that unnecessary and duplicative services were not billed. (¶ 4)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Defendants admit, acknowledge, and accept responsibility for the following during the period:

(i) In many instances, Defendants billed Medicare for psychiatric diagnostic examinations without demonstrating that they had adequately documented the patient's medical and/or psychiatric history and/or mental status; and

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(ii) In many instances, Defendants billed Medicare for multiple psychiatric diagnostic examinations after receiving multiple orders for such, but without demonstrating that the examinations complied with certain applicable Medicare rules, including those that allow for multiple examinations only when there is a demonstrated hiatus in the condition of the patient or the beginning of a new spell of illness; and

(iii) In many instances, Defendants billed Medicare for psychotherapy services to patients who suffered from dementia or other cognitive disorders without demonstrating that the patients had the capacity to benefit from the psychotherapy. (¶ 2)

Link to Settlement

MORTGAGE FRAUD CASES

U.S. v. FLAGSTAR BANK, FSB, 12 Civ. 1392 (KBF) (SDNY)

Settlement Date: February 24, 2012

Settlement Amount: $132.8 million

ALLEGATIONS (quoted from the complaint):

- [C]ivil fraud lawsuit brought by the United States against Flagstar, one of the largest savings banks and originators of mortgage loans in the country. Over the last decade, Flagstar has improperly approved thousands of residential home mortgage loans for government insurance using unauthorized staff employees to conduct key underwriting functions in the loan approval process, setting daily quotas for these so-called "underwriting assistants" and paying them substantial incentive awards for exceeding their quotas. Moreover, during this period, Flagstar's actual underwriters submitted false certifications to the Federal Housing Administration (the "FHA") and the United States Department of Housing and Urban Development ("HUD") stating that they had personally reviewed all of the documents associated with the loans even though they had not. These false certifications misled the FHA and HUD into believing that the loans had been fully underwritten by registered and experienced underwriters when they had not. Flagstar's use of these unauthorized staff employees to perform key underwriting functions under this quota system encouraged reckless mortgage lending, and led to thousands of loans being approved for government insurance that did not qualify for such insurance. When the loans ultimately defaulted, HUD—which had insured the loans against default—was left to cover the losses. (¶ 1)

. . .

- Notwithstanding the importance of DE underwriters to the DEL program, since at least January 1, 2002, Flagstar has been delegating key underwriting responsibilities to its so-called "underwriting assistants." These individuals lack the qualifications necessary to be DE underwriters. At Flagstar, DE underwriters conduct an initial review of all loans and approve a subset of loans for FHA insurance with conditions. These conditions—which relate to all aspects of the loans, including the borrower's income, assets and credit—must be satisfied before the loans can close and be endorsed for FHA insurance consistent with HUD's underwriting rules. After a loan has been approved with conditions, however, Flagstar routinely assigns underwriting assistants to review and sign off on (i.e., "clear") many of the conditions. Contrary to the requirements of the DEL program, these underwriting assistants make the final decision as to whether the conditions they review have been satisfied. Once all of the conditions on a loan have been cleared, a DE underwriter endorses the loan for FHA insurance, without reviewing the work performed by the underwriting assistants in clearing conditions. In fact, for years, Flagstar has expressly instructed its DE underwriters not to review the work performed by the underwriting assistants in clearing conditions or the documents on which the underwriting assistants relied in clearing the conditions. The vast majority of the loans that Flagstar has approved for FHA insurance since January 1, 2002 had conditions that were cleared by underwriting assistants. (¶ 6)

- In addition to allowing underwriting assistants to clear conditions on its FHA loans in violation of DEL program rules, Flagstar gives these underwriting assistants a powerful incentive to prioritize volume over quality in reviewing conditions. Flagstar pays underwriting assistants substantial incentive awards based on the volume of conditions they review per day. Flagstar assigns

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underwriting assistants a specific number of loans to process per day (*i.e.*, a daily quota). To satisfy this daily quota, underwriting assistants must review all of the conditions associated with these loans. If an underwriting assistant exceeds this daily quota, the underwriting assistant is paid a fixed dollar amount for each additional loan whose conditions he or she reviews above this quota. Underwriting assistants thus have a strong incentive to review as many conditions as possible as quickly as possible. And this is precisely what they have done. For example, in 2010, incentive compensation comprised more than 20% of the total annual salary of at least 10 underwriting assistants, with individual incentive compensation awards exceeding $15,000. (¶ 7)

- Similarly, Flagstar pays its DE underwriters substantial incentive awards based primarily on the number of loans they underwrite per day. This compensation system gives Flagstar's DE underwriters a powerful incentive to underwrite as many loans as possible as quickly as possible, which is what they have done. For example, in 2010, incentive compensation comprised more than 40% of the total annual salary of at least 10 DE underwriters, with individual incentive compensation awards exceeding $90,000. (¶ 8)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Flagstar hereby admits, acknowledges, and accepts responsibility for the conduct alleged in the Complaint to the extent set forth below:

a. During the period January 1, 2002, to the present (the "Covered Period"), for every mortgage loan that Flagstar endorsed for FHA insurance pursuant to the Direct Endorsement Lender program, a Direct Endorsement Underwriter ("DE Underwriter") employed by Flagstar submitted a certification to the FHA and HUD ("loan-level certification");

b. For each loan underwritten manually, the loan-level certification stated that the DE Underwriter had "personally reviewed the appraisal report (if applicable), credit application, and all associated documents," and that the loan was eligible for mortgage insurance under the Direct Endorsement Lender program;

c. For each loan underwritten using an automated underwriting system, the loan level certification stated that the loan was eligible for mortgage insurance under the Direct Endorsement Lender program;

d. Under Flagstar's manual underwriting process (the "Manual Underwriting Process"), Flagstar utilized employees who were not DE Underwriters, called Underwriting Assistants, to review and clear conditions on loans. These conditions had to be satisfied in order for the loans to close. Flagstar did not require DE Underwriters to approve the work performed by the Underwriting Assistants in clearing conditions or to review the documentation examined by the Underwriting Assistants in clearing conditions;

e. As a result of the Manual Underwriting Process, notwithstanding loan-level certifications to the contrary, a Flagstar DE Underwriter did not in every instance "personally review" "all associated documents" for the loans that Flagstar manually underwrote and endorsed for FHA insurance during the Covered Period;

f. In a number of instances, Underwriting Assistants (who were not DE Underwriters) reviewed—and were the only ones to review—documents associated with material conditions on the loans that Flagstar manually underwrote and approved for FHA insurance during the Covered Period;

g. Additionally, in a number of instances, Underwriting Assistants cleared material conditions—without DE Underwriter supervision—relating to the borrower's income, assets and credit;

h. In a number of instances, notwithstanding loan-level certifications to the contrary, loans that Flagstar underwrote and approved for FHA insurance during the Covered Period, and for which HUD has paid insurance claims, did not comply with certain underwriting requirements contained in HUD's handbooks and Mortgagee Letters and therefore were not eligible for

mortgage insurance under the Direct Endorsement Lender program; and

i. As a result of the conduct described above in this Paragraph, Flagstar made false loan-level certifications on loans that (i) induced the FHA to accept for Government insurance loans that were not eligible for such insurance and that the FHA otherwise would not have insured, and (ii) resulted in losses to HUD when the loans defaulted. (¶ 2)

Link to Settlement

U.S. and STATE OF COLORADO ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL v. BELLA HOMES, et al., 12 Civ. 00390-JLK-MEH (COLORADO)

Settlement Date: March 19, 2012
Settlement Amount: "$497,500 plus surrender of $707,726.58 in funds held in trust by the State of Colorado."

ALLEGATIONS (quoted from the complaint):

- [C]ivil action [by the United States] to recover civil penalties under the Financial Institutions Reform, Recovery and Enforcement Act, 12 U.S.C. § 1833a, and for injunctive relief under the Fraud Injunction Statute, 18 U.S.C. § 1345, arising from Defendants' ongoing scheme to defraud distressed homeowners nationwide. (¶ 1)

- [A]ction [by the State of Colorado]...under the Colorado Consumer Protection Act (CCPA), §§ 6-1-101 to 6-1-115, Colorado Revised Statutes (Colo. Rev. Stat.) (2011), and under the Mortgage Assistance Relief Services Rule (MARS Rule), effective December 29, 2010, the ban on advance fees, effective January 31, 2011, for preliminary and permanent injunctive relief and for penalties, disgorgement, restitution, and attorney fees. *See* Final Rule at 75 FR 75092 (Dec. 1, 2010), codified at 16 C.F.R. Part 322. (¶ 2)

. . .

- Beginning in or around March 2010 through the present, Defendants have been engaged in an ongoing foreclosure-rescue scheme to defraud distressed homeowners nationwide through the operation of Bella Homes, LLC (Bella Homes). Bella Homes claims to be a company "committed to helping homeowners remain in their homes and secure them for long time use." Rather than helping homeowners remain in their homes long term, as promised, Bella Homes preys upon distressed homeowners, duping them into paying thousands of dollars based on false promises and false representations, yet provides no meaningful assistance to prevent foreclosure or to allow homeowners to remain in their home for the time period promised by Bella Homes. (¶ 4)

- Bella Homes has fraudulently obtained approximately $3,000,000 from over 450 homeowners across the nation, and is rapidly expanding its fraudulent operations. In the last two months of 2011 alone, it has fraudulently obtained approximately $1,000,000 from homeowners. (¶ 5)

- As part of the scheme, Defendants solicit distressed homeowners to convey title to their home to Bella Homes for no consideration and to enter into purported three-, five-, or seven-year lease agreements under which the homeowner pays Bella Homes monthly "rent." Bella Homes also collects an advance fee from the homeowner of three-months' "rent" upon transferring title and signing the lease. Despite Bella Homes taking title to and collecting "rent" for the property, it does not pay the homeowner for the property and it does not pay off or assume the existing mortgage. Nor does Bella Homes make any of the mortgage payments or pay any of the taxes or insurance for the property. (¶ 6))

Link to Complaint

ADMISSIONS (quoted from the consent judgment):

Defendant Bella Homes, LLC admits the allegations in the Complaint and acknowledges its role in defrauding homeowners who signed over title to their homes to Bella Homes. Bella Homes has admitted that all deed transactions into which it entered should be deemed void *ab initio*. (¶ 1-2)

The individual Defendants confess liability to counts six and seven of the complaint. (¶ 2)

Link to Stipulated Consent Judgment

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U.S. v. BUY-A-HOME, LLC, et al., 10 CIV. 9280 (PKC) (SDNY)

CAMBRIDGE HOME CAPITAL, LLC

Settlement Date: December 1, 2011

Settlement Amount: $1.2 million

WILLIAM BUCKLEY

Settlement Date: March 23, 2012

Settlement Amount: $250,000

FIRST RESIDENTIAL MORTGAGE SERVICES CORPORATION AND SANDRA SCHANKS

Settlement Date: October 18, 2011

Settlement Amount: $7,500

ALLEGATIONS (quoted from the complaint):

- [C]ivil action by the United States against residential property sellers, mortgage lenders, and appraisers who participated in a series of mortgage fraud schemes to orchestrate at least seventeen flip sales of homes, located in Bronx, Westchester, and other counties in the New York area, at inflated prices and to buyers who could not afford such homes. (¶ 1)

- To obtain mortgage financing for those fraudulent flip sales, defendants created false documents and inflated appraisals and submitted these false records to the United States Department of Housing and Urban Development ("HUD") and to subsidiaries of two financial institutions. (¶ 1)

- [A]ction seeks civil penalties under the Financial Institutions Reform, Recovery and Enforcement Act, 12 U.S.C. § 1833a ("FIRREA"); treble damages and civil penalties under the False Claims Act ("FCA"), 31 U.S.C. §§ 3729-33; and injunctive relief under the Fraud Injunction Statute, 18 U.S.C. § 1345. (¶ 1)

- Defendants' frauds operated by abusing the positions of trust that HUD direct endorser lenders, such as defendant Cambridge Home Capital, LLC ("Cambridge"), and HUD Roster Appraisers, such as defendant James J. Goldberg, occupied within HUD's mortgage insurance program. (¶ 2)

. . .

- Defendants' mortgage fraud scheme typically proceeded in four steps. First, defendant Mitchell Cohen, the mastermind behind the schemes, bought up properties for resale, using three entities he controlled—defendants Buy a Home, LLC ("Buy-a-Home"), Gramercy Funding Ltd. ("Gramercy"), and Metropolitan Housing, LLC ("Metropolitan"). But, instead of paying for renovations that would enhance the value of these properties, Cohen directed sales efforts at inexperienced homebuyers, convincing them to buy the properties from him at inflated prices—frequently 60% or more above what Cohen had paid just two or three months prior. (¶ 3)

- Cohen relied on three means to induce the buyers to accept his inflated prices. First, Cohen misled buyers into underestimating the true costs of home ownership... Second, to induce buyers to purchase his properties, Cohen also paid off their personal debts or promised to make mortgage payments on their behalf....Third, Cohen invariably induced buyers to purchase his properties at inflated prices by arranging to pay almost all of the down payment and closing costs. (¶ 4)

- As step two in defendants' frauds, i.e., after Cohen had duped inexperienced buyers into agreeing to purchase a home from him at an inflated price, Cambridge, a HUD-approved direct endorser, arranged financing for buyers to consummate the fraudulent flip sale. (¶ 5)

. . .

- Third, Defendants' fraud also required participation by appraisers. To obtain HUD insurance, Cambridge and Cohen had to procure appraisal reports that "hit the numbers," *i.e.*, fraudulently valued homes at or above the inflated prices set by Cohen. Here, three appraisers—defendants Goldberg, William Buckley, and Robert Micheline (collectively, the "Appraiser Defendants")—filled that role. To ensure that they would continue to receive appraisal business from Cohen and Cambridge, the Appraiser Defendants conspired with Cohen and Cambridge to issue fraudulent appraisals that "hit the numbers." (¶ 7)

. . .

- Buckley likewise conspired with Cohen and the lenders that worked with Cohen, including Cambridge, in order to "hit the number." (¶ 7)

. . .

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- Cohen and Cambridge were involved in the fourth step in defendants' fraud. Specifically, after securing the false records and inflated appraisals, Cambridge obtained HUD insurance for the mortgage loans for financing Cohen's fraudulent flip sales by submitting those false documents to HUD, along with Cambridge's false certifications regarding compliance with HUD requirements. *See,* e.g.*, infra* at ¶¶ 94-105, 174–185. (¶ 8)

Link to Complaint

ADMISSIONS (quoted from the consent order):[1]

CAMBRIDGE HOME CAPITAL, LLC

The Cambridge Defendants admit the following facts with respect to certain of the mortgage loans identified in the Complaint:

a. Cambridge submitted to HUD records that overstated the mortgagors' incomes and/or understated their liabilities;

b. Cambridge submitted to HUD certifications stating that Cambridge had satisfied its duties as a direct endorsement lender, when Cambridge in fact had not done so;

c. Cambridge made payments to creditors of mortgagors to pay off the mortgagors' personal debts. (¶ 3)

Link to Consent Order (Cambridge)

WILLIAM BUCKLEY

Buckley and Buckley Consulting/Premier admit, acknowledge, and accept responsibility for the following facts:

a. In 2007, and in connection with the sale of certain residential properties by Cohen that involved FHA-insured mortgage loans, Premier issued FHA appraisals at the behest of Cohen, and certain of these appraisals overstated the value of the properties;

b. In 2010, Buckley and Premier issued additional FHA appraisals in connection with the flip sale of residential properties by Cohen involving FHA-insured mortgage loans;

c. As part of these appraisals, Buckley certified that he did not have any present or prospective interest in the property or any present or prospective interest in or bias to the participants in the transaction;

d. In 2010, Buckley, through IDU Renovations, Inc. ("IDU"), contracted with Cohen to make renovations to a number of residential properties that Cohen sold in flip sales involving FHA-insured mortgage loans; and

e. Buckley issued an FHA appraisal in 2010 for a property sold by Cohen that Buckley also renovated through IDU. (¶ 3)

Link to Consent Order (Buckley)

FIRST RESIDENTIAL MORTGAGE SERVICES CORPORATION AND SANDRA SCHANKS

First Residential Mortgage Services Corporation and Sandra Schanks hereby stipulate to and acknowledge the following facts:

1. During all relevant times, First Residential has been a direct endorsement lender authorized to participate in FHA's mortgage insurance program. *See* 24 C.F.R. Part 203.

2. In 2010 and prior to the entry of the Injunction, First Residential originated more than 30 FHA-insured mortgage loans insured for Buy-a-Home customers.

3. In 2010, Schanks was a vice president at First Residential, and was the loan officer responsible for originating the FHA-insured mortgage loans for Buy-a Home customers.

4. Shortly after the initiation of this Action, First Residential and Schanks were made aware that the Government alleged that Cohen and Buy-a-Home had fraudulently given prospective home-buyers inducements to purchase in the forms of (i) providing funds to the buyers'

1 Additional defendant(s) in this case also made admissions in civil settlement(s) in conjunction with or following criminal prosecution.

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family members to make purported gifts to the buyers for down payments and (ii) paying off the buyers' debts to "repair" their credit scores.

5. On or about December 14, 2010, First Residential became aware of the entry of a temporary restraining order against Cohen and Buy-a-Home, and issued an e-mail to its employees, directing them not to originate mortgage loans for Cohen or Buy-a-Home.

6. On or about December 30, 2010, First Residential and Schanks received actual notice of the entry of the Injunction.

7. Upon receipt of the Injunction, First Residential provided a copy to Schanks, and reiterated to its employees to cease any and all business with Cohen and Buy-a-Home. First Residential did not implement any additional policy or procedure to require its loans officers and underwriters to scrutinize applications for FHA-insured loans to determine whether Cohen, Buy-a-Home, or individuals or entities acting in concert with Cohen or Buy-a-Home, participated in the underlying sales transactions.

8. From December 2010 to June 2011, First Residential did not have a firm-wide policy on e-mail retention, including e-mails relating to FHA-insured loans.

9. In late April 2011, Mohammed Ibrahim, a sales agent who worked at Buy-a Home in 2010, contacted Schanks and asked her to meet with a prospective homebuyer at Y-Rent's offices to evaluate whether the buyer qualified for an FHA insured mortgage. On the following day, Schanks met with the prospective buyer and Kaufman at Y-Rent's offices, and learned that Kaufman operated Y-Rent.

10. In April 2011, Schanks knew that Kaufman was married to Cohen.

11. In connection with referring customers to First Residential for obtaining FHA-insured mortgage loans, Kaufman told Schanks that Kaufman was the owner and operator of Y-Rent, and Cohen was not involved with Y-Rent. Schanks did not ask Kaufman about, or make any independent investigation into, whether Cohen participated in Y-Rent's real estate transactions or solicited business from any prospective home-buyers on behalf of Y-Rent.

12. From late April 2011 to June 1, 2011, Schanks received a number of applications for FHA-insured mortgage loans for prospective home-buyers referred by Y-Rent, and regularly visited Y-Rent's offices.

13. In May 2011, Schanks learned from Gregg Star, Cohen's former partner at Buy-aHome, that Cohen maintained an office in the basement of Y-Rent's offices. Schanks shared with other senior executives at First Residential the information that Star provided concerning Cohen's maintaining an office in the basement of Y-Rent's offices. In response, First Residential directed Schanks to be careful.

14. After learning that Cohen maintained an office in the basement of Y-Rent's offices, Schanks did not further inquire into whether Cohen participated in YRent's sales of residential properties involving FHA-insured mortgage loans or solicited business from prospective buyers interested in such transactions.

15. After learning of Cohen's presence at Y-Rent's offices, Schanks continued to receive applications for FHA-insured loans for prospective home-buyers referred by Y-Rent, and processed at least one such loan application.

16. On May 27, 2011 , Schanks received an e-mail from a Y-Rent employee, stating that while Y-Rent did not yet have a record for a property on East 180th Street being sold to a buyer seeking a FHA-insured mortgage loan, "Mitch [Cohen] says we will have [the record] next Tuesday or Wednesday."

17. After receiving the May 27, 2011 e-mail mentioning Cohen, Schanks returned to Y-Rent on May 31, 2011, to process the loan application for the sale transaction involving the East 180th Street property. Specifically, Schanks did not make any inquiry into whether Cohen was complying with the Injunction.

18. On or about June 1, 2011, First Residential became aware that Cohen was involved in the business operations of

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Y-Rent, and stopped processing any loan application that it had received from Y-Rent. (WHEREAS Clause)

Link to Consent Order (First Residential Mortgage)

U.S. v. DEUTSCHE BANK AG, DB STRUCTURED PRODUCTS, INC., DEUTSCHE BANK SECURITIES, INC., and MORTGAGEIT, INC., 11 Civ. 2976 (LAK) (SDNY)

Settlement Date: May 10, 2012

Settlement Amount: $202.3 million

ALLEGATIONS (quoted from the complaint):

- [C]ivil mortgage fraud lawsuit brought by the United States against Deutsche Bank and MortgageIT. As set forth below, Deutsche Bank and MortgageIT repeatedly lied to be included in a Government program to select mortgages for insurance by the Government. Once in that program, they recklessly selected mortgages that violated program rules in blatant disregard of whether borrowers could make mortgage payments. While Deutsche Bank and MortgageIT profited from the resale of these Government-insured mortgages, thousands of American homeowners have faced default and eviction, and the Government has paid hundreds of millions of dollars in insurance claims, with hundreds of millions of dollars more expected to be paid in the future. The Government brings this action seeking damages and penalties for the past and future claims that violate the False Claims Act, 31 U.S.C. §§ 3729 *et seq*., and the common law. (¶ 1)

. . .

- Between 1999 and 2009, MortgageIT was an approved Direct Endorsement Lender. During that time period, MortgageIT endorsed more than 39,000 mortgages for FHA insurance, totaling more than $5 billion in underlying principal obligations. These FHA-insured mortgages were highly marketable for resale to investors because they were insured by the full faith and credit of the United States. MortgageIT and Deutsche Bank, which acquired MortgageIT in 2007, made substantial profits through the resale of these endorsed FHA-insured mortgages. (¶ 7)

- Deutsche Bank and MortgageIT had powerful financial incentives to invest resources into generating as many FHA-insured mortgages as quickly as possible for resale to investors. By contrast, Deutsche Bank and MortgageIT had few financial incentives to invest resources into ensuring the quality of its FHA-insured mortgages through the maintenance of the mandatory quality control program, or into ensuring that MortgageIT limited its endorsement of mortgages to those loans that were eligible for FHA insurance under HUD rules. (¶ 8)

- Deutsche Bank and MortgageIT repeatedly lied to HUD to obtain and maintain MortgageIT's Direct Endorsement Lender status. Deutsche Bank and MortgageIT failed to implement the quality control procedures required by HUD, and their violations of HUD rules were egregious. For instance, Deutsche Bank and MortgageIT failed to audit all early payment defaults, despite the requirement that this be done; Deutsche Bank and MortgageIT made it impossible for their few quality control employees to conduct the required quality control by grossly understaffing their quality control units; Deutsche Bank and MortgageIT repeatedly failed to address dysfunctions in the quality control system, which were reported to upper management; after its acquisition by Deutsche Bank, MortgageIT took the only staff member dedicated to auditing FHA-insured mortgages, and reassigned him to increase production instead; and when an outside auditor provided findings to MortgageIT revealing serious problems, those findings were literally stuffed in a closet and left unread and unopened. (¶ 9)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

MortgageIT admits, acknowledges, and accepts responsibility for the following conduct alleged in the Government's Complaint:

(a) As a Direct Endorsement Lender, MortgageIT was required to comply with certain HUD-FHA requirements.

(b) During the Covered Period, on an annual basis, MortgageIT submitted certifications to HUD on a Title II

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Yearly Verification Report or equivalent form (the "annual certifications").

(c) The annual certifications required the signatory to certify, among other things, that he or she "kn[e]w, or [wa]s in a position to know, whether the operations of [MortgageIT] conform[ed] to HUD-FHA regulations, handbooks, and policies," and that to the best of the signatory's knowledge, MortgageIT "conform[ed] to all HUD-FHA regulations necessary to maintain its HUD-FHA approval." The annual certifications were signed by officers or authorized representatives of MortgageIT.

(d) During the Covered Period, HUD-FHA rules required all Direct Endorsement Lenders, among other things, to

  (i) maintain a quality control program that complied with HUD-FHA requirements; and

  (ii) conduct a full review of all early payment defaults ("EPDs") on loans endorsed for FHA insurance. MortgageIT failed to conform fully to either of these requirements.

(e) As a result of the conduct described above, contrary to the representations in MortgageIT's annual certifications, MortgageIT did not conform to all applicable HUD-FHA regulations during the Covered Period.

(f) For every mortgage loan that MortgageIT endorsed for FHA mortgage insurance pursuant to the DEL Program, MortgageIT submitted a Form HUD 92900-A, or an equivalent form, to HUD-FHA ("loan-level certifications").

(g) In each loan-level certification, MortgageIT certified to HUD-FHA that the loan was eligible for FHA insurance under the DEL Program.

(h) During the Covered Period, MortgageIT endorsed for FHA mortgage insurance pursuant to the DEL Program certain loans that did not meet all underwriting requirements contained in HUD's handbooks and mortgagee letters, and therefore were not eligible for FHA mortgage insurance under the DEL Program.

(i) As a result, MortgageIT submitted to HUD-FHA certifications stating that certain loans were eligible for FHA mortgage insurance when in fact they were not; FHA insured certain loans endorsed by MortgageIT that were not eligible for FHA mortgage insurance; and HUD consequently incurred losses when some of those MortgageIT loans defaulted.

(j) MortgageIT became a wholly-owned indirect subsidiary of DBSP and DBAG in January 2007. During the period when MortgageIT was a wholly-owned, indirect subsidiary of DBSP and DBAG, one or more of the annual certifications was signed by an individual who was also an officer of certain of the DB defendants. (¶ 2)

The DB Defendants admit, acknowledge, and accept responsibility for the fact that after MortgageIT became a wholly-owned, indirect subsidiary of DBSP and DBAG in January 2007, the DB Defendants were in a position to know that the operations of MortgageIT did not conform fully to all of HUD-FHA's regulations, policies, and handbooks; that one or more of the annual certifications was signed by an individual who was also an officer of certain of the DB Defendants; and that, contrary to the representations in MortgageIT's annual certifications, MortgageIT did not conform to all applicable HUD-FHA regulations. (¶ 3)

Link to Settlement

CONSTRUCTION FRAUD CASES

U.S. v. DRAGADOS/JUDLAU, A JOINT VENTURE, JUDLAU CONTRACTING, INC., and DRAGADOS USA, INC., 12 Civ. 2563 (LTS) (SDNY)

Settlement Date: April 4, 2012

Settlement Amount: $7.5 million

ALLEGATIONS (quoted from the complaint):

- [C]ivil complaint to recover damages and penalties from defendants Judlau Contracting, Inc., Dragados USA, Inc., and Dragados/Judlau, JV (the "Joint Venture") (collectively, "Defendants") under the False Claims Act and common law arising from defendants' fraudulent

scheme designed to avoid their obligation to hire disadvantaged business enterprises ("DBEs") to perform work on a federally-funded project. Rather than actually hire DBEs for legitimate work, as required by United States Department of Transportation's ("DOT") regulations designed to ensure the participation of DBEs in DOT-assisted contracts, Defendants engaged in lies and subterfuge to make it appear that they had subcontracted work to DBEs, while they had in fact arranged for the work to be performed by non-DBE subcontractors. (¶ 1)

- As described more fully below, Defendants repeatedly and falsely represented that they were paying millions of dollars to DBEs to perform work, even though they knew that the work was in fact not performed by the DBEs and that the money it was paying was being passed on to non-DBEs. (¶ 2)

- As a result of the fraud, Defendants procured and continued to be engaged in a contract worth millions of dollars. (¶ 3)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

The Joint Venture admits, acknowledges, and accepts responsibility for the fact that, between 2006 and 2008, monthly requisition forms and progress reports were submitted to the MTA by representatives of the Joint Venture acting on its behalf that represented that certain DBEs were performing certain work and being paid a certain amount under the East Side Access Contract when, in fact, payment was made to certain DBEs for participation as DBEs in instances and under circumstances where these firms did not qualify for consideration as DBEs for which the Joint Venture could claim credit, in violation of the Contract and the DBE Regulations. (¶ 4)

Link to Settlement

U.S. v. KLEINBERG ELECTRIC INC., 13 Civ. 3979 (SDNY)

Settlement Date: June 11, 2013
Settlement Amount: $936,000

ALLEGATIONS (quoted from the complaint):

- [C]ivil complaint to recover damages and penalties from Defendant Kleinberg Electric Inc. ("Kleinberg" or "Defendant") under the False Claims Act and common law arising from Defendant's false representations that work on a federally-funded construction project had been performed, consistent with federal regulations, by a disadvantaged business enterprise ("DBE"). Rather than hire a DBE to perform actual work on the project as required by United States Department of Transportation ("DOT") regulations designed to ensure the participation of DBEs in DOT-assisted contracts, Defendant fraudulently used a DBE as a pass-through to obtain a subcontract worth hundreds of thousands of dollars for electrical work on the Dey Street Concourse at the Fulton Street Transit Center. (¶ 1)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Defendant admits, acknowledges and accepts responsibility for causing false statements to be made by another in violation of federal regulations designed to encourage the participation of disadvantaged business enterprises in a federally-funded construction project. Specifically, Defendant caused false certifications by another to be submitted to the MTA representing that J&R Rey, which had a certification as a disadvantaged business enterprise, performed certain work and received certain payments, whereas J&R never performed any work and received a commission from Defendant for the fraudulent use of its DBE status. (¶ 2)

Link to Settlement

U.S. v. CROSSBORO CONTRACTING, 12 Civ. 6908 (GBD) (SDNY)

Settlement Date: September 13, 2012
Settlement Amount: $355,164

ALLEGATIONS (quoted from the complaint):

- [C]ivil complaint to recover damages and penalties from Defendants Crossboro Contracting Co., Inc. and Michael

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Paletta (“Crossboro” or “Defendants”) under the False Claims Act and common law arising from false representations, caused by Defendants, that work on federally-funded construction projects had been performed by a disadvantaged business enterprise (“DBE”), when in fact Defendants themselves performed the work. Defendants used the DBE as a pass-through to obtain contracts for road-striping work on sites including Grand Concourse, Brooklyn Bridge, 145th Street, Manhattan Bridge, Willis Avenue Bridge, LaGuardia Airport, and JFK International Airport. As a result of the fraud, Defendants fraudulently received tens of thousands of dollars of federal funds. (¶ 1)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Defendants admit, acknowledge, and accept responsibility for causing false statements to be made in violation of federal regulations designed to encourage the participation of disadvantaged business enterprises in federally-funded construction projects. Specifically, defendants caused false certifications to be presented that reflected that MS Construction Co., which had a certification as a disadvantaged business enterprise, performed certain work and received certain payments, whereas in fact the work was performed by Crossboro and the payments were retained by defendants, except for a commission paid to MS for the fraudulent use of its DBE status. (¶ 2)

Link to Settlement

EDUCATION FRAUD CASES

U.S. ex rel. JANE DOE, v. EDUCATION HOLDINGS 1 INC., f/k/a THE PRINCETON REVIEW, INC. and STEPHEN GREEN, 09 Civ. 6876 (BSJ) (SDNY)

PRINCETON REVIEW, INC.

Settlement Date: December 19, 2012

Settlement Amount: $10 million

GREEN

Settlement Date: January 29, 2013

Settlement Amount: $3.2 million

ALLEGATIONS (quoted from the complaint):

- [C]ivil fraud suit brought by the United States against Princeton Review, a leading provider of educational products and services, and Ana Azocar, a former employee of Princeton Review, for Princeton Review’s billing and obtaining Government funds for thousands of hours of tutoring services that Princeton Review never in fact provided. Between 2006 and 2010 (the “Covered Period”), Princeton Review was paid tens of millions of dollars—in federal funds pursuant to the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001—for purportedly providing tutoring services to underprivileged students. In fact, however, Princeton Review was repeatedly billing for students who never received these services. Many of the Princeton Review employees who were responsible for overseeing the day-to-day operations of Princeton Review’s tutoring program routinely falsified student attendance records to make it appear as though more students had attended the program than had actually attended. These employees did this because they were pressured by their supervisors to maintain high daily student attendance. Moreover, some of these employees falsified student attendance records at the direction and/or urging of Azocar. During the Covered Period, and as a result of these falsified attendance records, Princeton Review submitted false certifications to the New York City Department of Education (the “NYC DOE”) stating that the invoices it was submitting for its tutoring services were “true and accurate” even though they were not. These false certifications misled the NYC DOE into paying Princeton Review millions of dollars for tutoring services that Princeton Review had not in fact provided. (¶ 1)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):[2]

2 Additional defendant(s) in this case also made admissions in civil settlement(s) in conjunction with or following criminal prosecution.

PRINCETON REVIEW, INC.

Defendant hereby admits, acknowledges, and accepts responsibility for the following conduct related to its SES program in New York City, all of which occurred during the Covered Period while Defendant was doing business as The Princeton Review, Inc.:

a. Princeton Review was required to record daily attendance at each of its SES tutoring classes, including having each student who attended sign a standard attendance sheet ("daily student attendance sheet"). To receive payment for its SES tutoring, Princeton Review was required to certify that its daily attendance records were "true and accurate."

b. Throughout the Covered Period, Princeton Review engaged in fraudulent and wrongful conduct in connection with its New York City SES program, including:

   i. Many of the individuals who were responsible for the day-to-day operations of Princeton Review's SES tutoring program ("Site Managers") routinely falsified entries on daily student attendance sheets, including by forging student signatures, to make it appear that more students had attended Princeton Review's SES tutoring classes than had actually attended.

   ii Site Managers were repeatedly told by their supervisors ("Directors") to meet daily quotas for student attendance, and were pressured by their Directors to meet such quotas and maintain high daily student attendance, with some being terminated or subjected to pay cuts for failing to maintain high daily student attendance.

   iii. Directors were incentivized to pressure their Site Managers to report high attendance through a bonus program under which Directors received thousands of dollars in bonuses when the Site Managers they supervised reported average daily student attendance of 60% or more of total enrollees in the Site Managers' SES classes.

   iv. Additionally, a then-Vice President in charge of Princeton Review's New York City SES program, Robert Stephen Green, was put on notice of the above-described falsifications of student attendance, failed to take adequate remedial action, and, through this and other conduct, allowed the falsifications to continue.

   v. Princeton Review's daily student attendance sheets from the Covered Period are replete with falsifications, and report that many more students had attended Princeton Review's SES tutoring classes than had actually attended.

c. Princeton Review used the above-referenced falsified daily student attendance sheets to prepare invoices that it then submitted in connection with its SES tutoring program. Each of these invoices falsely certified that the information on the invoice was "true and accurate." These invoices ultimately resulted in the payment to Princeton Review of millions of dollars in federal funds for thousands of hours of SES tutoring that Princeton Review never in fact provided. (¶ 2)

   Link to Settlement

GREEN

Green hereby admits, acknowledges, and accepts responsibility for the following conduct related to Princeton Review's SES program in New York City, all of which occurred during the Covered Period:

a. Princeton Review was required to record attendance at each of its SES tutoring classes on a daily basis, including having each student who attended sign a standard attendance sheet ("daily student attendance sheet"). To receive payment for its SES tutoring, Princeton Review was required to certify that its daily attendance records were accurate.

b. During the 2006/2007 academic year, Green was employed by Princeton Review as a Director. Thereafter, during the 2007/2008 academic year and a portion of the 2008/2009 academic year, Green was the Vice President in charge of Princeton Review's New York City SES program. As a Director, Green supervised a group of Site Managers, who, in turn, managed the day-to-day operations of Princeton Review's SES tutoring program at various New York City public schools. As Vice

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President, Green supervised all of the Directors, and had ultimate responsibility for the New York City SES program.

c. When Green was a Director, he gave the Site Managers he supervised a daily quota for student attendance (specifically, 70%-90% of total enrolled students), and pressured the Site Managers to meet the quota, including by threatening to fire them or lower their pay if they reported low attendance. Green also texted or called the Site Managers on a daily basis demanding that they continually report higher attendance, stating (in substance) such things as: "find 15 more students"; "get more students"; "make it happen, I don't want any excuses"; "this is non-negotiable"; and "this is not an option, you're going to get fired." In response, the Site Managers regularly falsified entries on the daily student attendance sheets to make it appear that many more students had attended Princeton Review's SES tutoring classes than had actually attended.

d. When Green was Vice President, he told the Directors to give the Site Managers they supervised a daily quota for student attendance (again, 70%-90% of total enrolled students), and to pressure the Site Managers to meet the quota. Green threatened to fire the Directors or lower their pay if the Site Managers reported low attendance. In response, the Directors instructed and/or encouraged the Site Managers they supervised to falsify entries on the daily student attendance sheets.

e. Green received annual bonus payments from Princeton Review that were based, in part, on the reported attendance for the New York City SES program. For the 2006/2007 academic year and the 2007/2008 academic year, Green received bonuses of $75,000 and $38,029, respectively.

f. While Green was a Director and Vice President, he was repeatedly put on notice that Site Managers were in fact falsifying entries on the daily student attendance sheets. On several occasions, Green visited SES classes and saw that actual student attendance for the classes was lower than the reported attendance. On other occasions, Green instructed Site Managers to "find" more students minutes before the start of SES classes, and, after the classes, Green learned that the Site Managers' final reported attendance for the classes was substantially higher than it was minutes before the start of the classes. In addition, in March 2008, a Site Manager told Green that she had been falsifying entries on the daily student attendance sheets at the direction of her Director. Green thereafter terminated the Site Manager and took no action against the Director, with the result that the Director continued to instruct her Site Managers to falsify entries on the daily student attendance sheets.

g. As a result of Green's above-described conduct, Princeton Review billed and was paid millions of dollars in federal funds for thousands of hours of SES tutoring that Princeton Review never in fact provided. (¶ 2)

Link to Settlement (Green)

U.S. ex rel. KALYANARAM v. NEW YORK INSTITUTE OF TECHNOLOGY, ELLIS COLLEGE OF NEW YORK INSTITUTE OF TECHNOLOGY, CARDEAN LEARNING GROUP, INC., UNEXT, INC. and UNEXT.COM LLC f/k/a UNEXT LLC., 07 Civ. 9307 (JFK) (SDNY)

NEW YORK INSTITUTE OF TECHNOLOGY

Settlement Date: December 20, 2012

Settlement Amount: $2.5 million

CARDEAN LEARNING GROUP, LLC

Settlement Date: December 26, 2012

Settlement Amount: $1.5 million

ALLEGATIONS (quoted from the complaint):

- In 2003, NYIT contracted with Cardean, a for-profit provider of on-line education, to permit students of Ellis College, an on-line school, to use NYIT's eligibility for federal student loan and grant funding and to receive degrees issued by NYIT in exchange for a percentage of Cardean's revenue. Under the arrangement, students who enrolled and completed courses of study at Ellis College were awarded degrees issued by NYIT even though Ellis College students could not take NYIT courses. To attract students to Ellis College, Cardean used recruiters who were paid incentive compensation

based on the number of students they enrolled in Ellis College. Critical to the success of the arrangement between NYIT and Cardean, the students who attended Ellis College's on-line courses had access to federal funding, including Federal Pell Grants and Stafford Loans, through NYIT's eligibility for federal student financial aid funding, which Ellis College students would not otherwise have had. Meanwhile, the contractual arrangement was a huge boon to NYIT. By 2007, 3,200 students out of NYIT's total enrollment of 14,500 [] NYIT students consisted of Ellis College students. That same year, NYIT administered over $107 million in federal financial aid, of which $17 million was for Ellis College students. (¶ 1)

- The incentive compensation payments that underlay this arrangement between NYIT and Cardean were in blatant violation of federal law and regulations prohibiting recipients of Title IV funds from paying recruiters based solely on the number of student enrollments they achieve. (¶ 2)

. . .

- In direct violation of this incentive compensation ban, the salaries of recruiters for Ellis College fluctuated widely from period to period based on the number of students they enrolled. Recruiters received bonuses of as much as 150% of their base salary based on productivity with no consideration of other factors, such as providing high quality enrollment services to students. In an effort to disguise the illegal nature of the incentive compensation arrangements, Ellis College recruiters' salaries included purported "quality" considerations that were mere window-dressing. (¶ 3)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

NEW YORK INSTITUTE OF TECHNOLOGY

NYIT admits the following facts with respect to the Covered Conduct:

a. NYIT entered into three Program Participation Agreements ("PPAs") with USED for the periods 2000-2006, 2006-2009, and 2009-2012. The PPAs were signed by NYIT on December 8, 2000, August 22, 2006, and January 19, 2010, respectively.

b. As part of the PPAs, NYIT agreed, *inter alia*, that it would comply with the rules of the Incentive Compensation Ban and its implementing regulations, 34 C.F.R. §668.14(b)(22) and that it would not contract with a third party that violated the Incentive Compensation Ban;

c. In 2003, NYIT contracted with Cardean to provide recruitment and other services with respect to Ellis College; and

d. From September 2003 to August 2008, NYIT failed to perform adequate due diligence and/or exercise adequate oversight over Cardean's practices with respect to compensating Ellis College recruiters. (¶ 2)

Link to Settlement (NYIT)

CARDEAN LEARNING GROUP, LLC

Cardean Learning Group, LLC admits, acknowledges and accepts responsibility for the following conduct alleged in the Federal Complaint:

a. During the relevant time period, NYIT was a Title IV funding recipient eligible to receive USED funding, including student grants and loans;

b. As part of NYIT's obligations as a Title IV funding recipient, NYIT agreed, *inter alia*, that it would not provide, or contract with any entity that provides, any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admissions activities or in making decisions with regard to the awarding of student financial assistance;

c. In 2003, Cardean Learning Group, LLC entered into a contract with NYIT to provide, *inter alia*, recruitment services with respect to Ellis College, including compliance with the Incentive Compensation Ban;

d. From September 2003 to August 2008, Cardean Learning Group, LLC used recruiter compensation plans that included incentive compensation in the form of salary adjustments more than two times in a twelve month period, for certain employees providing recruiting services for Ellis College, and

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e. From September 2003 to August 2008, Cardean Learning Group, LLC on certain occasions compensated certain Ellis College recruiters with incentive payments in addition to their regular salaries for, among other things, securing student enrollments for Ellis College. (¶ 2)

Link to Settlement (Cardean)

U.S. ex rel. STEVEN CABALLERO AND CARMEN SKRINE v. TESTQUEST, INC. et al., 12 Civ. 4626 (LLS) (SDNY)

Settlement Date: August 8, 2013

Settlement Amount: $1.725 million

ALLEGATIONS (quoted from the complaint):

- From the 2005/2006 academic year through the 2011/2012 academic year (the "Covered Period"), TestQuest was paid tens of millions of dollars in federal funds for providing after-school tutoring to students attending underperforming public schools in New York City. For two schools in particular—the Monroe Academy of Business and Law/High School of World Cultures located at 1300 Boynton Avenue in the Bronx, New York ("Monroe"), and the Global Enterprise Academy/Christopher Columbus High School located at 925 Astor Avenue in the Bronx, New York ("GEA")—TestQuest was paid more than $2.3 million during the Covered Period. But for these two schools, TestQuest repeatedly billed for students who never received tutoring services. Indeed, many of the TestQuest employees who were responsible for the day-to-day operations of TestQuest's tutoring program at Monroe and GEA—including Allen, Brathwaite and Gittens, who were employed by TestQuest as tutors—routinely falsified, or caused others to falsify, student attendance records to make it appear that more students had attended TestQuest's tutoring program than had actually attended. These employees did this at the direction of Logan, who was responsible for managing TestQuest's tutoring program at Monroe and GEA throughout the Covered Period. As a result of these falsified attendance records, TestQuest submitted false certifications to the New York City Department of Education (the "NYC DOE") stating that the invoices it was submitting for its tutoring services at Monroe and GEA were "true and accurate" even though they were not. These false certifications misled the NYC DOE into paying TestQuest for tutoring services that TestQuest had not in fact provided. (¶ 1)

. . .

- Logan recruited teachers and substitute teachers from Monroe and GEA to serve as the tutors for TestQuest's SES program (the "tutors"), and recent graduates of these schools to help him run the program (the "aides"). The tutors included Allen, Brathwaite and Gittens. Yet, rather than having these tutors and aides run a legitimate tutoring program, Logan directed them to assist him in carrying out a scheme to fraudulently inflate the daily student attendance numbers for TestQuest's SES classes at Monroe and GEA. For example, Logan instructed the aides to find students who were not receiving SES tutoring and to have those students sign the daily student attendance forms, thus making it appear that the students had received SES tutoring when they had not. In addition, Logan told the aides that if they could not find students to sign the daily student attendance forms, the aides should forge student signatures on the forms. Logan threatened to fire or to withhold pay from the aides if they did not follow his instructions. (¶ 5)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):[3]

TestQuest hereby admits, acknowledges, and accepts responsibility for the following conduct related to its SES program at Monroe and GEA, all of which occurred during the Covered Period:

a. TestQuest was required to record daily attendance at each of its SES tutoring classes, including having each student who attended sign a standard attendance sheet (the "daily student attendance sheet"). To receive payment for its SES tutoring, TestQuest was required to certify that its daily attendance records were "true and accurate."

3 Additional defendant(s) in this case also made admissions in civil settlement(s) in conjunction with or following criminal prosecution.

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b. Throughout the Covered Period, TestQuest employed Michael Logan ("Logan") to manage its SES program at Monroe and GEA. Logan, in turn, recruited teachers and substitute teachers from Monroe and GEA to serve as tutors for TestQuest's SES program at those schools ("tutors"), and recent graduates of Monroe and GEA to help him run the program ("aides").

c. Throughout the Covered Period, Logan and many of the tutors and aides engaged in fraudulent conduct in connection with TestQuest's SES program at Monroe and GEA. For example, in response to instructions from Logan:

   (1) aides prompted students to sign the daily student attendance sheets for SES classes that the students had not attended, including by bringing the daily student attendance sheets to other after-school activities, such as baseball and basketball practice, and instructing students attending those activities to sign the sheets;

   (2) aides forged student signatures on the daily student attendance sheets;

   (3) tutors assisted the aides in prompting students to sign the daily student attendance sheets for classes that the students had not attended, including by accompanying the aides to the Monroe cafeteria and instructing students who were in the cafeteria, but who had not received any SES tutoring, to sign the daily student attendance sheets; and

   (4) tutors signed the instructor certifications on the daily student attendance sheets—and thereby certified that they had provided SES tutoring to all of the students whose signatures appeared on the sheets—even though they had not provided SES tutoring to some or all of those students.

d. TestQuest's daily student attendance sheets from the Covered Period are replete with falsifications, and report that many more students had attended its SES tutoring classes than had actually attended.

e. In one instance, TestQuest's President and CEO, Tiffany Hott, saw a daily student attendance sheet from GEA on which all of the students' signatures appeared to have been written by the same person. When Hott questioned Logan about the sheet, Logan assured her that it would never happen again. Hott did not further investigate the matter.

f. TestQuest used the above-referenced falsified daily student attendance sheets to prepare invoices that it then submitted in connection with its SES tutoring program. Many of these invoices falsely certified that the information on the invoice was "true and accurate." These invoices ultimately resulted in TestQuest being paid federal funds for SES tutoring that it never provided. (¶ 2)

Link to Settlement

CAREER ASSISTANCE FRAUD

U.S. ex rel. JOHN DOE v. STRUCTURED EMPLOYMENT ECONOMIC DEVELOPMENT CORP. [SEEDCO], ALEX SAAVEDRA, SHOMARI GREENE, ALAN KATZ, TAGEWATEE CHANDARPAUL, SHANDELL SANTIAGO-VELEZ, MITCHELL MCCLINTON, and MONIQUE TARRY, 11 Civ. 6425 (AKH) (SDNY)

SEEDCO

Settlement Date: December 17, 2012

Settlement Amount: $1.725 million

SANTIAGO-VELEZ

Settlement Date: January 23, 2013

Settlement Amount: $15,000

TARRY

Settlement Date: January 11, 2013

Settlement Amount: $1,000

ALLEGATIONS (quoted from the complaint):

- [C]ivil fraud action brought by the United States of America against Structured Employment Economic Development Corporation ("SEEDCO") and its former employees Alex Saavedra, Shomari "Rick" Greene,

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Alan Katz, Tagewatee Chandarpaul, Shandell Santiago-Velez, Mitchell McClinton, and Monique Tarry (collectively, the "Individual Defendants"), for defrauding the United States by making misrepresentations about job candidates being placed in jobs purportedly with the assistance of the federally funded career centers they operated. Instead of reporting actual job placements for which SEEDCO could legitimately take credit, Defendants reported false placements, often by claiming credit for a job the candidate already had on arrival at the center or a job the candidate held in the past. SEEDCO Workforce1 directors and supervisors, namely defendants Saavedra, Greene, Katz, McClinton, Chandarpaul, Santiago-Velez, and Tarry, directly instructed clerical staff members to enter as job placements into the governmental reporting database a job candidate's current or prior employment obtained before any involvement with SEEDCO, despite knowing that information was false. (¶ 1)

- SEEDCO and certain of the Individual Defendants also instructed SEEDCO employees to report that employees of other companies had been placed directly in their positions by SEEDCO, when those individuals had never even been job candidates at SEEDCO. In addition, SEEDCO and certain of the Individual Defendants instructed SEEDCO employees to have their own family and friends fill out SEEDCO's intake forms so that their family members' employment could be falsely reported as placements achieved by SEEDCO. (¶ 2)

- SEEDCO and the Individual Defendants engaged in this fraudulent scheme in an attempt to maintain SEEDCO's contract in connection with SEEDCO's career center, known as the Workforce1 Career Center, in Upper Manhattan, to acquire its more recent contract to operate a WorkForce1 Career Center in the Bronx, and to maintain and increase its compensation in connection with both centers. SEEDCO caused false and inflated placement figures to be reported through New York City and New York State to the United States Department of Labor, in order to receive federal subsidies for its job program under the Workforce Investment Act of 1998 ("WIA"), 29 U.S.C. § 2801 *et seq*. During the period of defendants' fraud, SEEDCO received more than $8 million in federal funds for its operation of Workforce1 Career Centers, a portion of which related to, and was intended for, the provision of job placement services. (¶ 3)

- This misconduct constitutes violations of the False Claims Act, 31 U.S.C. §§ 3729 *et seq*., and states common law claims of fraud, unjust enrichment, and payment under mistake of fact. (¶ 4)

Link to Complaint

ADMISSIONS (quoted from the settlement document):

SEEDCO

SEEDCO admits, acknowledges, and accepts responsibility for the fact that, beginning in at least 2009 and ending in 2011, its Workforce1 Career Centers submitted reports to the City of New York representing that job candidates had been placed in jobs by or with the involvement of SEEDCO when they had not, including by falsely reporting that current or prior employment had been obtained by or with the involvement of SEEDCO. (¶ 3)

Link to Settlement

SANTIAGO-VELEZ

Ms. Santiago-Velez admits, acknowledges, and accepts responsibility for her involvement in SEEDCO's submission of reports to the City of New York falsely representing that job candidates had been placed in jobs by or with the assistance of SEEDCO. (¶ 3)

Link to Consent Decree (Santiago-Velez)

TARRY

Tarry admits, acknowledges, and accepts responsibility for her involvement in SEEDCO's submission of reports to the City of New York falsely representing that job candidates had been placed in jobs by or with the assistance of SEEDCO. (¶ 3)

Link to Consent Decree (Tarry)

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CUSTOMS FRAUD

U.S. ex rel. KARLIN v. NOBLE JEWELRY HOLDINGS LTD., et al., 08 Civ. 7826 (JGK) (SDNY)

Settlement Date: August 28, 2011

Settlement Amount: $3.85 million

ALLEGATIONS (quoted from the complaint):

- Complaint-In-Intervention seeking damages and penalties against Defendants under the False Claims Act, 31 U.S.C. §§ 3729 *et seq*., and under the common law based on Defendants' knowing and fraudulent evasion of more than one million dollars of customs duties owed on jewelry imported over the past decade. To defraud the United States of customs duties, Defendants manufactured bogus invoices and customs documents that fraudulently understated the value of the imported jewelry. Defendants submitted these bogus records to the Government along with declarations falsely attesting that the bogus invoices were accurate. Defendants kept a second set of invoices that accurately stated the value of the jewelry, but, to avoid detection, Defendants never disclosed those true invoices to the Government. (¶ 1)

  Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Defendants hereby stipulate and acknowledge as true:

a. that during the Covered Period Defendants repeatedly presented to the Government invoices for jewelry being imported into the United States that understated the value of the goods imported;

b. that Defendants maintained, for their own commercial use, separate invoices, which accurately listed the value of the jewelry being imported;

c. that Defendants shared the accurate invoices amongst themselves, by electronic mail or other private means;

d. that Defendants failed to disclose the accurate invoices and the values listed on those invoices to the Government;

e. that, instead, Defendants disclosed only the understated invoices to the Government for use in the assessment of customs duties;

f. that, in order to avoid detection, Defendants packaged only the understated invoices with the jewelry being imported into the United States;

g. that Defendants' use of understated invoices for the assessment of customs duties led to the under-assessment of hundreds of thousands of dollars in duties owed by Defendants to the Government;

h. that, through their conduct, Defendants deprived the Government of hundreds of thousands of dollars of customs duties; and

i. that Defendants accept responsibility for the conduct acknowledged above, regret that conduct, and promise to act in good faith in their dealings with the Government going forward. (¶ 2)

   Link to Settlement

SOCIAL SECURITY FRAUD

U.S. v. MENDOZA, 11 Civ. 8620 (VB) (SDNY)

Settlement Date: December 1, 2011

Settlement Amount: $178,128.97

ALLEGATIONS (quoted from the complaint):

- [C]ivil fraud action brought by the United States of America, on behalf of its agency the Social Security Administration ("SSA"), under the False Claims Act, 31 U.S.C. § 3729 *et seq*, and common law theories of conversion, payment by mistake of fact, and unjust enrichment. (¶ 1)

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- This case arises from Supplemental Security Income ("SSI") payments wrongfully retained by Lauro Mendoza and Juanita Mendoza (collectively the "Defendants" or "the Mendozas"). (¶ 2)

- The Mendozas, who shared a bank account with their parents, had access to SSI funds paid to their parents after their parents had died. Instead of informing SSA that their parents had died, the Mendozas continued to collect and misappropriate their deceased parents' SSI payments, which amounted to approximately $123,163.77, for many years. By retaining these SSI payments, the Mendozas violated Section 3729(a)(l)(G) of the False Claims Act. Moreover, equity requires that these payments be returned to the United States. (¶ 3)

  Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Defendants acknowledge that they retained SSI payments made to their parents after the parents were deceased and that retaining these SSI payments was wrongful. (WHEREAS clause)

Link to Settlement

SECURITIES FRAUD CASES

U.S. ex rel. HARRIS v. ALTERNET SECURITIES, INC., 07 Civ. 3532 (BSJ) (SDNY)

Settlement Date: May 14, 2012

Settlement Amount: $195,000

COMPLAINT NOT PUBLICLY FILED.

ADMISSIONS (quoted from the settlement agreement):

AlterNet acknowledges that:

a. NASD Rule 4632 (superseded by FINRA Rule 6380A) defines a "riskless principal transaction" as two related trades. In the first, a broker-dealer receives an order from a customer to buy (or sell) a security, and enters the market to buy (or sell) that security for the broker-dealer's own account at a particular price. In the second, the broker-dealer then sells that security to (or buys that security from) the customer at the same price as the first trade. *See* NASD Rule 4632. Notice to Members 99-65 (a copy of which is attached to the US Complaint) and subsequent FINRA guidance specify that for two related trades to be deemed a riskless principal transaction, the prices of the initial trade and the second offsetting trade must be the same when the markup or markdown, commission equivalent, or other fee is excluded from the trade prices. Only the first trade of a single riskless principal transaction is reported to NASD/FINRA for inclusion on the Consolidated Tape, which results in the imposition of a Section 31 fee, while the second trade is exempt from Section 31 fees.

b. If the price of the second trade (when excluding the markup, markdown, commission equivalent, or other fee) is different from the reported execution price of the first trade, the two trades may not constitute a riskless principal transaction. If the two trades are not part of a riskless principal transaction, each trade must be reported to NASD/FINRA separately, and each trade is subject to Section 31 fees.

c. Following the publication of Notice to Members 99-65, when handling customer orders, AlterNet would from time to time embed the commission it had agreed upon with the customer in the price of the second trade. Nevertheless, AlterNet reported some such related trades as riskless principal transactions to the FINRA Trade Reporting Facility for clearing purposes only, thereby reducing the aggregate dollar amount of covered sales that were subject to Section 31 fees. (¶ 3)

   Link to Settlement

U.S. ex rel. BRADLEY HARRIS v. GFI SECURITIES, INC., 07 Civ. 2912 (RPP) (SNY)

Settlement Date: May 3, 2012

Settlement Amount: $311,708

ALLEGATIONS (quoted from the complaint):

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- [C]ivil fraud action seeking damages and penalties against GFI under the False Claims Act, 31 U.S.C. §§ 3729 *et seq.* (the "FCA"), and, in the alternative, under the common law for fraud and unjust enrichment. From at least 2001 through 2007, GFI failed to correctly report transactions relating to American Depositary Receipts ("ADRs") to the National Association of Securities Dealers, Inc. ("NASD"), now known as the Financial Industry Regulatory Authority ("FINRA"). As a result of GFI's incorrect reporting of these transactions, the Securities & Exchange Commission ("SEC") was deprived of fees to which it was entitled under Section 31 of the Securities Exchange Act, 15 U.S.C. § 78ee(a). (¶ 1)

  Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

GFI acknowledges that:

a. An American Depositary Receipt ("ADR") is a negotiable certificate that represents a specific number of foreign ordinary equity securities (commonly known as "ordinaries"). During the period in question, GFI engaged in the business of "swapping" ADRs for ordinaries (and vice versa) at their clients' request. For example, a client could present GFI with a particular number of ADRs and GFI would, for a fee, find a second client interested in exchanging ordinary shares that it owns for an equivalent number of ADRs. GFI would buy ADRs from the first client and sell them to the second client, while simultaneously buying ordinaries from the second client and selling them to the first client (or vice versa).

b. GFI's sales of ADRs to clients constitute "covered sales" under Section 31. GFI was required to report ADR sales to NASD/FINRA, but in some cases failed to do so in the appropriate manner, causing NASD/FINRA, in turn, to underreport the aggregate dollar amount of covered sales to the SEC. Because NASD/FINRA is required to pay Section 31 fees in the amount of its aggregate dollar amount of covered sales multiplied by the applicable fee rate, this underreporting of NASD/FINRA's aggregate dollar amount of its covered sales caused it to underpay Section 31 fees.

c. On Apri1 20, 2007, FINRA published Notice to Members 07-25 (the "Notice"), reiterating its position that sales of ADRs in connection with ADR-ordinary swaps are required to be reported. In the Notice, FDRA also confirmed that transactions in foreign ordinary shares were not subject to prompt last sale reporting. Transactions in securities not subject to prompt last sale reporting are not "covered sales" under Section 31. (¶ 3)

   Link to Settlement

PROCUREMENT FRAUD

U.S. v. ELECTRICAL & ELECTRONIC CONTROLS, INC., 13 Civ. 1840 (WHP) (SDNY)

Settlement Date: April 11, 2013

Settlement Amount: $250,000

ALLEGATIONS (quoted from the complaint):

- Complaint seeking damages and penalties against Defendant under the False Claims Act, 31 U.S.C. §§ 3729 *et seq*., based on Defendant's defrauding the United States Department of Defense ("DoD") of hundreds of thousands of dollars as a result of knowingly substituting non-conforming electrical and other parts critical to weapons performance and operation. After entering into contracts with the DoD to supply products from specific, DoD-approved sources, Defendant repeatedly purchased products from unapproved sources and supplied those products, many of which turned out to be defective, to DoD. (¶ 1)

  Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

Defendant hereby stipulates and acknowledges as true:

a. that during the Covered Period, Defendant repeatedly entered into contracts with the DoD that required it to supply parts from specific, DoD approved sources;

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b. that Defendant received payment pursuant to DoD contracts for parts from specific, DoD-approved sources;

c. that Defendant repeatedly substituted less expensive parts from unapproved sources and supplied those substituted parts to the DoD;

d. that Defendant misrepresented the source of the parts it supplied to DoD;

e. that, through its conduct, Defendant supplied DoD with hundreds of thousands of dollars' worth of defective and unserviceable parts; and

f. that Defendant accepts responsibility for the conduct acknowledged above, regrets that conduct, and promises to act in good faith in any dealings with the Government going forward. (¶ 2)

Link to Settlement

CIVIL RIGHTS CASES

U.S. v. GFI MORTGAGE BANKERS, INC., 12 Civ. 2502 (KBF) (FM) (SDNY)

Settlement Date: August 27, 2012

Settlement Amount: $3.555 million

ALLEGATIONS (quoted from the complaint):

- [A]ction...brought by the United States to enforce the provisions of the Fair Housing Act, 42 U.S.C. §§ 3601-3619 ("FHA"), and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f ("ECOA"). (¶ 1)
- From 2005 through at least 2009, defendant GFI Mortgage Bankers, Inc. ("GFI") engaged in a pattern or practice of discrimination on the basis of race and national origin by charging African-American and Hispanic borrowers higher interest rates and fees on home mortgage loans compared to the rates and fees GFI charged to similarly-situated non-Hispanic white borrowers ("white borrowers"). In hundreds of instances, an African-American or Hispanic borrower with a similar credit and risk profile as a white borrower, entering into the same type of home mortgage loan with GFI, paid higher interest rates and fees because of his or her race or national origin. (¶ 2)

Link to Complaint

ADMISSIONS (quoted from the consent order):

GFI agrees, admits, and accepts responsibility for the following facts, as alleged in the Complaint:

a. In June of 2007, the United States Department of Housing and Urban Development ("HUD'') began an investigation of GFI for possible discrimination in residential mortgage lending against African-American and Hispanic borrowers. In January of 2010, HUD concluded that there was sufficient evidence that discriminatory lending practices had occurred at GFI in 2005 and 2006 to refer the matter to the Department of Justice for appropriate action.

b. From 2005 through at least 2009, a statistical analysis of the available data shows that GFI charged higher note interest rates on loans it originated to qualified African-American and Hispanic borrowers than it did to non-Hispanic white borrowers. Measured on a yearly basis, those note interest rate disparities ranged between 19 and 41 basis points higher for African-American borrowers and between 20 and 23 basis points higher for Hispanic borrowers, when compared to similarly-situated non-Hispanic white borrowers.[4] These interest rate disparities between non-Hispanic white borrowers on the one hand, and African-American and Hispanic borrowers on the other, are statistically significant, and they cannot be explained by objective credit characteristics of the borrowers or loan product features.

c. From 2005 through at least 2009, a statistical analysis of the available data shows that GFI charged higher fees on loans it originated to the average African-American and Hispanic borrower than it did to the average

4 A basis point is 1/100 of a percentage point, with 100 basis points equaling 1%.

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non-Hispanic white borrower. On average, measured on a yearly basis, those fee disparities ranged between 73 and 105 basis points higher for African-American borrowers and between 27 and 56 basis points higher for Hispanic borrowers, when compared to non-Hispanic white borrowers. These fee disparities between non-Hispanic white borrowers on the one hand, and African-American and Hispanic borrowers on the other, are statistically significant, and they cannot be explained by objective credit characteristics of the borrowers or loan product features.

d. From 2005 through at least 2009, GFI had policies and practices that allowed its loan officers to make subjective and unguided pricing adjustments to home mortgage loans that were not based on a borrower's objective credit characteristics. GFI's policies and practices permitted loan officers to exercise discretion, based on factors other than a borrower's creditworthiness, to increase or decrease interest rates on loans offered to any borrower from par or rate sheet prices, to assign fees to borrowers in connection with loan originations, and to select loan products to offer borrowers.

e. From 2005 through at least 2009, GFI provided a financial incentive to its loan officers to charge higher interest rates and fees to borrowers generally by including as part of their compensation a share of any higher interest rates and fees the loan officers could obtain from a borrower.

f. From 2005 through at least 2009, GFI did not have fair lending training and monitoring programs in place to prevent the pricing disparities described above. (¶ 4)

Link to Consent Order

U.S. v. LOVENTHAL SILVER RIVERDALE LLC, GOODMAN MANAGEMENT CO., JESUS VELASCO, 11 Civ. 6713 (BSJ) (SDNY)

Settlement Date: October 15, 2012

Settlement Amount: $75,000

ALLEGATIONS (quoted from the complaint):

- [C]ivil rights action for declaratory relief, injunctive relief, monetary damages and civil penalties under the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (the "Fair Housing Act"), 42 U.S.C. §§ 3601, *et seq.*, to redress discrimination on the basis of race and color. (¶ 1)

- As alleged more fully below, defendants Loventhal Silver Riverdale LLC ("Loventhal") and Goodman Management Company ("Goodman Management"), the owner and management company of a residential apartment complex located at 3800 Independence Avenue in the Bronx, New York (the "Apartment Complex"), and defendant Jesus Velasco ("Velasco," and collectively with Loventhal and Goodman Management, "Defendants"), the superintendent of the Apartment Complex, have engaged in a pattern or practice of unlawfully discriminating against African-Americans based on their race and color by (a) failing to inform African-Americans about available apartments, or telling such persons that certain apartments are not available, while telling similarly situated Caucasian persons about the availability of such apartments; (b) failing to show African-Americans available apartments, or negotiate for the rental of such apartments, while at the same time showing similarly situated Caucasian persons available apartments, and negotiating for the rental of such apartments; (c) failing to give African-Americans rental applications, while providing similarly situated Caucasian persons with rental applications; (d) failing to provide the contact information for Goodman Management to African-Americans, while providing such information to similarly situated Caucasian persons; and (e) failing to quote the same discounted rent prices to African-Americans offered to similarly situated Caucasian persons. (¶ 2)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

WHEREAS defendant Velasco admits, acknowledges and accepts responsibility for the following conduct in the Government's complaint:

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(a) On April 29, 2009, the superintendent of the Independence Avenue Building informed an African-American tester that there were no available apartments but informed a Caucasian tester the same day, that there were available apartments in the building;

(b) On May 8, 2009, the superintendent of the Independence Avenue Building informed an African-American tester that there were no available apartments but informed a Caucasian tester the same day, that there were available apartments in the building;

(c) On November 18, 2009, the superintendent of the Independence Avenue Building informed an African-American tester that there were no available apartments but informed a Caucasian tester the same day, that there were available apartments in the building.…(WHEREAS clause)

Link to Consent Decree

CONTROLLED SUBSTANCES FRAUD

U.S. v. FLEURCHEM, INC., 12 Civ. 2630 (ER) (SDNY)

Settlement Date: April 5, 2012

Settlement Amount: $420,000

ALLEGATIONS (quoted from the complaint):

- During the period June 2, 2010 to September 2, 2010, DEA agents conducted inspections and audits of Fleurchem (the "Investigation") into Fleurchem's compliance with the [Controlled Substances] Act and its implementing regulations. (¶ 15)
- This Investigation was a follow up to a previous investigation DEA conducted in 2007, in which DEA documented at least 15 occasions when Fleurchem had failed to comply with the requirements of the Act. On June 11, 2007, DEA sent Fleurchem a Letter of Admonition, which documented these violations. On July 10,2007, Fleurchem's then-CEO acknowledged receipt of the Letter of Admonition, responding that "[i]n [the] future DEA Form 486 will be filed no later than 15 days prior [to] exportation." (¶ 16)
- Notwithstanding that assurance, on dozens of occasions between June 1, 2008 and October 27, 2010, Fleurchem again exported List I chemicals without properly notifying DEA. (¶ 17)
- The Investigation further revealed that Fleurchem failed to alert DEA to the sale and exportation of these listed chemicals through the provision of a DEA Form 486, at least 15 days before they were sold, as required by law. (¶ 18)

Link to Complaint

ADMISSIONS (quoted from the consent order):

Defendant admits, acknowledges, and accepts responsibility for the following conduct alleged in the Complaint:

a. On dozens of occasions between June 1, 2008 and May 19, 20 11, Fleurchem failed to notify the Attorney General, through the DEA, that it exported List I chemicals in quantities that met or exceeded threshold quantities identified in 21 C.F.R. § 131 0.04(f), within 15 days prior to exportation;

b. On those same occasions between June 1, 2008 and May 19, 2011, Fleurchem failed to complete DEA Form 486 within 15 days prior to the exportation of listed chemicals that met or exceeded the threshold quantities identified in 21 C.F.R. § 1310.04(f);

c. Fleurchem also failed to make, keep, or furnish DEA Form 486; and that,

d. Fleurchem committed the violations of the CSA and its implementing regulations as set forth in the Complaint, and these violations were wrongful. (¶ 1)

Link to Consent Order

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UNION FUND FRAUD

U.S. v. DISTRICT COUNCIL 1707, et. al.
11 Civ. 1287 (WHP) (SDNY)

Settlement Date: July 26, 2012

Settlement Amount: $4,814,022.98

ALLEGATIONS (quoted from the complaint):

- [C]ivil fraud lawsuit by the United States to recover damages and penalties from defendant District Council 1707, Local 95 Head Start Employees Welfare Fund ("Defendant" or the "Fund") under the False Claims Act and common law arising from Defendant's fraudulent practice of seeking reimbursement for certain insurance costs at a higher amount than it actually paid for those insurance costs. (¶ 1)

- As described more fully below, the Fund administers hospitalization insurance for employees who work on Head Start programs. Head Start is a federal program that provides grants to local public and private nonprofit and for-profit agencies to provide comprehensive child development services to economically disadvantaged children and families. As a part of administering the hospitalization insurance, Defendant negotiates premium rates with Empire Blue Cross Blue Shield ("Empire"). After receiving Empire's invoices each month, the Fund seeks reimbursement for the premium amounts from the New York City Administration for Children's Services ("ACS"), which pays the Fund using Head Start grant money. (¶ 2)

- During the relevant time period, Defendant repeatedly and falsely represented to ACS that it was paying 100% of hospitalization insurance premium costs when, in actuality and after subsequent settlements with Empire, it only paid approximately 95% of these costs. Accordingly, ACS forwarded more Head Start grant money for hospitalization insurance than the Fund actually paid to the insurance carrier, with the Fund improperly retaining the difference. (¶ 3)

Link to Complaint

ADMISSIONS (quoted from the settlement agreement):

The Fund admits, acknowledges, and accepts responsibility for the following facts alleged in the Federal Complaint:

a. During the relevant time period, the Fund submitted invoices to ACS for reimbursement of hospitalization insurance premiums;

b. The invoices that the Fund submitted to ACS for reimbursement of hospitalization insurance were for a higher amount than the Fund actually paid pursuant to its agreement with Empire Blue Cross Blue Shield during certain business cycles over the relevant time period; and

c. The Fund did not reimburse ACS or the United States the difference between what it charged and what it paid for hospitalization insurance premiums for the relevant time period. (¶ 2)

Link to Settlement

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