

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (“Agreement”) is entered into among: (i) the United States of America, acting through the United States Department of Justice and on behalf of the United States Air Force (“the United States”); (ii) The Boeing Company (“Boeing”); and (iii) James Thomas Webb, Jr. (the “Relator”), (hereafter jointly referred to as “the Parties”), through their authorized representatives.

II. PREAMBLE

A. Boeing is a corporation organized under the laws of Delaware, headquartered in Chicago, Illinois.

B. Relator James Thomas Webb, Jr. is a resident of California. On January 31, 2013, Relator filed a qui tam action in the United States District Court for the Central District of California, captioned *United States of America ex rel. James Thomas Webb, Jr. v. The Boeing Company*, CV13-00694 (hereinafter “the Civil Action”).

C. Boeing operated the Long Beach Depot Center (the “Long Beach Depot”) in Long Beach, California. During calendar years 2006 through 2013, Boeing performed maintenance at the Long Beach Depot on the C-17 Globemaster aircraft as specified in the Globemaster Sustainment Partnership contract (FA8614-04-C-2004) and the Globemaster Integrated Sustainment Partnership contract (FA8526-12-D-0001) (together, the “Globemaster Contracts”).

D. The United States contends that from 2006 to 2013, Boeing submitted claims for 8-hour shifts for work performed by its employees at its Long Beach Depot under the Globemaster Contracts, knowing that the claims were false in that the 8 hours included time spent at lunch and on other breaks that was not reimbursable under the contracts. The United

States contends that it has certain civil claims against Boeing arising from the conduct described in this Paragraph D. That conduct is referred to below as the Covered Conduct.

E. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Agreement and to Relator's reasonable expenses, attorneys' fees and costs.

F. This Agreement is neither an admission of liability by Boeing nor a concession by the United States that its claims are not well founded.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

III. TERMS AND CONDITIONS

1. Boeing agrees to pay to the United States \$18,000,000.00 (the "Settlement Amount"). Boeing further agrees to pay Relator \$115,000 for expenses and attorneys' fees and costs ("Attorneys' Fees"). These payments shall be made as follows:

a. Boeing agrees to pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice. Boeing agrees to make this electronic funds transfer no later than 20 days after the Effective Date of this Agreement; and

b. Boeing agrees to pay the Attorneys' Fees by electronic funds transfer pursuant to written instructions to be provided by Relator's counsel Mark Schlein. Boeing agrees to make this electronic funds transfer no later than 20 days after the Effective Date of this Agreement.

c. Conditioned upon the United States receiving the Settlement Amount from Boeing and as soon as feasible after receipt, the United States shall pay \$3,060,000 to Relator by electronic funds transfer pursuant to written instructions provided by Relator's counsel.

2. Subject to the exceptions set forth in Section III, Paragraph 4 below (concerning excluded claims), in consideration of the obligations of Boeing set forth in Section III, Paragraph 1 above, and conditioned upon the payment in full by Boeing of the Settlement Amount, the United States agrees to release Boeing, including all of its present and former directors, officers, employees, agents, affiliates, parents, divisions, subsidiaries, business groups, business units, predecessors, and successors, from any civil or administrative monetary claims the United States has, or may have, for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Contract Disputes Act, 41 U.S.C. § 7103(c); the Truth in Negotiations Act, 10 U.S.C. § 2306(f); and the common-law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Subject to the exceptions in Section III, Paragraph 4 below (concerning excluded claims), in consideration of the obligations of Boeing set forth in Section III, Paragraph 1 above, and conditioned upon the payment in full by Boeing of the Settlement Amount, Relator, for himself and his heirs, successors, attorneys, agents, and assigns, releases Boeing from any civil monetary claim Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, and any claims the Relator may have under 31 U.S.C. § 3730(h).

4. Notwithstanding any term of this Agreement, the following claims of the United States are specifically reserved and not released:

a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);

- b. Any criminal liability;
- c. Except as specifically stated in the Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based on such obligations as are created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- g. Any liability for failure to deliver goods or services due; and
- h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

5. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agrees and confirms that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of the payment described in Section III, Paragraph 1(c) above, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally releases, waives, and forever discharges the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

6. Conditioned upon Boeing's payment of the Attorneys' Fees pursuant to Section III, Paragraph 1(b) above, Relator, for himself and for his heirs, successors, attorneys, agents and

assigns, fully and finally releases Boeing (as defined in Section III, Paragraph 2 above) from all claims for attorneys' fees and expenses under 31 U.S.C. § 3730(d).

7. Boeing waives and shall not assert any defense Boeing may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole, or in part, on any contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue law, Title 26 of the United States Code.

8. Boeing fully and finally releases the United States, its agencies, officers, employees, servants, and agents, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Boeing has asserted, could have asserted, or may assert in the future against the United States, and its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation thereof.

9. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Boeing, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Boeing's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s)

in connection with the matters covered by this Agreement
(including attorney's fees);

- (4) the negotiation and performance of this Agreement; and
- (5) the payment Boeing makes to the United States pursuant to this Agreement and any payments that Boeing may make to Relator, including costs and attorneys fees,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by Boeing, and Boeing shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, Boeing shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Boeing or any of its subsidiaries or affiliates from the United States. Boeing agrees that the United States, at a minimum, shall be entitled to recoup from Boeing any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Boeing's books and records and to disagree with any calculations submitted by Boeing or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Boeing, or the effect of any such Unallowable Costs on the amount of such payments.

10. This Agreement is intended to be for the benefit of the Parties only.
11. Except as expressly provided to the contrary in this Agreement, each party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
12. Within twenty days of receipt of the Settlement Amount and Attorneys' Fees described in Section III, Paragraph 1 above, the United States shall file a Notice of Intervention for the Purposes of Settlement and the Parties shall sign and file in the Civil Action a Joint Stipulation of Dismissal pursuant to Federal Rule of Civil Procedure 41(a). The dismissal shall be with prejudice as to Relator. As to the United States, the dismissal shall be with prejudice as to the Covered Conduct released in the Settlement Agreement, and without prejudice as to all other claims.
13. Each party and signatory to this Agreement represents that it freely and voluntarily entered into this Agreement without any degree of duress or compulsion.
14. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Central District of California.
15. For purposes of construction, this Agreement shall be deemed to have been drafted by all Parties to the Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.
16. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.
17. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

18. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

19. This Agreement is binding on Boeing's successors, transferees, and assigns and on Relator's successors, transferees, heirs, and assigns.

20. Notices regarding this Agreement shall be sent to:

If to the Department of Justice:

John W. Black
United States Department of Justice
P.O. Box 261
Ben Franklin Station
Washington, DC 20044
john.w.black@usdoj.gov

If to Boeing:

Brian M. Russ
2201 Seal Beach Blvd., MC 110-SB37
Seal Beach, CA 90740-5603

cc: Geoffrey M. T. Sturr
Osborn Maledon, P.A.
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85012

If to Relator:

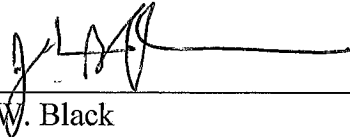
Mark Schlein
Baum Hedlund Aristei & Goldman, P.C.
12100 Wilshire Blvd., Suite 950
Los Angeles, CA 90025

21. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

22. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date of this Agreement"). Facsimiles, electronic and PDF copies of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

[SIGNATURES FOLLOW]

THE UNITED STATES OF AMERICA:



Dated: 9/22/15

By: John W. Black
Trial Attorney, Civil Fraud Section
United States Department of Justice
P.O. Box 261
Ben Franklin Station
Washington, DC 20044

BOEING:

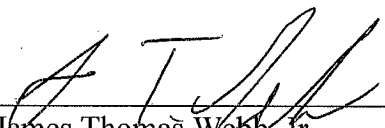


Dated: 9/21/15

By: Brian M. Russ

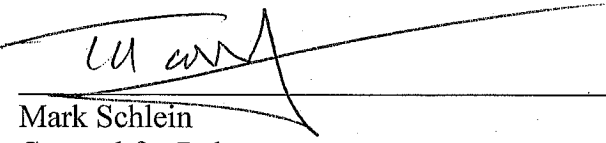
Its: Senior Counsel, Litigation + Investigations

RELATOR:



James Thomas Webb, Jr.

Dated: 9/21/15



Mark Schlein
Counsel for Relator

Dated: 9/21/15