

Kuwaiti Agility/PWC and TSC Pay \$95 Million to U.S. Government and Give Up Claims To Settle Whistleblower Claims For Overcharging and Kickbacks for U.S. Soldiers' Food During Iraq Wars

Trump and DOJ, Under AG Jeff Sessions, Continue Hard Line on Military Contract Fraud and FCA Case Initiated Under Former AG Sally Yates

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CONTACT

Raymond Moss,

Moss & Gilmore LLP

(678) 381-8601

rlmoss@mossgilmorelaw.com

Moss & Gilmore LLP announced today on behalf of their client Kamal Al-Sultan, a Kuwaiti businessman and U.S. military contractor of base camp logistics and support, the settlement of a whistleblower lawsuit initiated by Mr. Al Sultan in 2005. The suit

alleged fraud on the part of publically traded Kuwaiti based Agility Public Warehousing Company ("PWC") and its affiliate, The Sultan Center ("TSC"). PWC was the prime vendor to feed U.S. and coalition troops in Iraq, Iran and Jordan from 2003–2010, pursuant to \$8.5 billion worth of prime-vendor food contracts.

As a result of Mr. Al Sultan's whistleblower suit, beginning in November 2009, the Department of Justice's Office in the Northern District of Georgia, under the leadership of then Acting U.S. Attorney Sally Yates, joined Mr. Al Sultan's whistleblower lawsuit (filed in November 2005 by his attorney Raymond L. Moss of Moss & Gilmore LLP) and criminally indicted PWC and TSC (<https://www.justice.gov/opa/pr/us-joins-false-claims-act-lawsuit-against-kuwait-based-companies-supplied-food-us-troops>). In 2010, the U.S. government suspended PWC and TSC and nearly 300 of their officers, directors, employees, subsidiaries and affiliates from contracting.

Under agreements finalized today, PWC has agreed to pay \$95 million and relinquish significant potential claims in pending litigation claims filed by PWC against the Defense Logistics Agency arising under the Contract Disputes Act related to additional payments due under these prime vendor contracts.

As part of the settlement, PWC agreed to enter a criminal guilty plea to a misdemeanor count of Theft of Government Property, in violation of Title 18 United States Code, Section 641. Defendants agreed to resolve the civil allegations against them without acknowledging any wrongdoing. The settlement and guilty plea are subject to Court approval by Judge Thomas Thrash, the Chief Judge of the Northern District of Georgia. (The civil complaint, selected pleadings, rulings by Judge Thrash, settlement agreement and criminal plea are available at <http://www.agilitytscusprimevendorlawsuit.com>.)

The settlement resolves other allegations as well, including PWC and TSC's deliberate violation of the False Claims Act and other federal laws by:

1. Inflating and falsely representing that affiliate TSC's invoice price for local market-ready items was the delivered price
2. Obtaining disguised "prompt payment" and other discounts and rebates from various vendors, including TSC, which it failed to disclose or pass along to the U.S. Government.

According to whistleblower Mr. Al Sultan, "Raymond Moss and his team at Moss & Gilmore were highly effective, skilled and tenacious advocates over this entire 13-year battle. They never took their foot off the gas and, with DOJ, went toe to toe against six of the largest and most powerful law firms in the country."

"This is one of the largest military procurement fraud cases in the history of the False Claims Act, passed by Abraham Lincoln to combat war profiteers and one of the largest whistleblower awards ever in a military-procurement fraud case," said Raymond Moss, Mr. Al Sultan's lawyer. "Mr. Al Sultan's unrelenting perseverance to see justice done for U.S. taxpayers and the troops who bravely fought in the two Iraq Wars to protect Kuwait, is awe inspiring and a classic David vs. Goliath story. This case proves the power and efficacy of the False Claims Act to right wrongs and expose and deter fraud anywhere in the world."

The filing of Mr. Al Sultan's lawsuit in 2005—and its resulting DOJ investigation—resulted in sweeping governmental changes in prime food vendor contracts to reflect greater pricing transparency, prohibitions on kickbacks and rebates and prompt payment discounts, saving the U.S. government and taxpayers billions of dollars.

Mr. Al Sultan's whistleblower lawsuit also spawned the initiation of other DOJ investigations, whistleblower lawsuits, prosecutions settlements and convictions against other prime vendors and their suppliers for similar conduct.

"As the great ancient Roman politician and lawyer Cicero once said, 'Any man can make a mistake, only a fool keeps making the same one,'" said Mr. Al Sultan.

The two criminal and civil cases were investigated by a joint team, including the

various branches of the Department of Justice, special agents of Defense Criminal Investigative Service, the Federal Bureau of Investigation, Army Criminal Investigative Command, auditors from the Defense Contract Audit Agency and the Department of Defense and the Office of Inspector General.

The government civil investigation and settlement of these allegations were jointly handled by the United States Attorney's Office in the Northern District of Georgia through Civil Chief Amy Berne and Assistant Branch Director Michael Tingle, and Assistant United States Attorneys Art Coulter and Patrick Klein of the Commercial Frauds Branch of the Civil Division, all in Washington, D.C.

The False Claims Act fosters a private-public partnership to fight fraud against the government. The law encourages whistleblowers to file civil lawsuits against companies that are defrauding the government by offering job protection against retaliation and a reward of 15 to 25 percent of the government's civil recovery if the government joins or intervenes in the case. Under the False Claims Act, the United States may recover three times the amount of losses, plus civil penalties.

About Moss & Gilmore LLP: *With offices in Atlanta and New York, Moss & Gilmore LLP represents whistleblowers in the U.S. and worldwide in federal and state false claim whistleblower and related retaliation cases, involving healthcare fraud and military procurement fraud. Moss & Gilmore LLP represents whistleblowers in cases under the False Claims Act and claims under the U.S. Securities and Exchange Commission, Commodity Futures Trading Commission involving securities and commodities fraud and IRS whistleblower reward programs. For more information, visit www.mossgilmorelaw.com.*

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