

Kelley Drye Attorney David Frulla Secures False Claims Act Dismissal for PaL-Tech

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Washington, DC – In a summary judgment ruling issued this week, the United States District Court for the District of Columbia rejected claims under the False Claims Act against a public contractor who provided personnel support services to the government. A former employee of PaL-Tech, Inc. had claimed that the company committed procurement fraud by providing services that United States Agency for International Development (USAID) officials, including senior officials and contracting office representatives, had specifically requested.

"This ruling is good news for the businesses contracted to provide support services to the government," said David E. Frulla, Member of Kelley Drye who represented PaL-Tech in the case. "PaL-Tech worked diligently and with complete candor to assist USAID to respond to the short-staffed situation it found itself in."

In *Thomas E. Mossey v. Pal-Tech, Inc.*, Thomas E. Mossey sued Pal-Tech, Inc., his former employer, alleging that the company submitted false claims to USAID—a federal agency that finances and oversees development projects in foreign countries—in violation of the False Claims Act (FCA). Mossey contended that, although the work was actually performed and was billed correctly, PaL-Tech knowingly submitted false and fraudulent claims for payment at each invoice date because the work performed was allegedly outside the scope of the contract and violated regulations on so-called "personal service" contracts.

After reviewing extensive evidence from discovery, the Court concluded, "there is no evidence in the record to suggest that PaL-Tech knowingly deceived, or attempted to deceive, USAID about the work it performed under the contracts."

"If, in fact, PaL-Tech performed extra-contractual work as alleged ..., USAID not only knew about it; the agency requested it, on occasion, demanded it, and—by implication—ultimately approved it," the Court explained.

On September 30, 1996, PaL-Tech entered into a contract with USAID to provide staffing support services for "non-direct hire" personnel in several of its departments. The contract also contained a residual benefit for "direct-hire" personnel. At the time PaL-Tech entered into the contract, some of USAID's departments did not have enough direct hire support staff to meet its mission requirements. As a result, on several occasions, USAID asked for, and PaL-Tech supplied, support services not only for non-direct hire personnel, but also for its direct hire personnel. The Court also rejected Mossey's claims that PaL-Tech had committed fraud in connection with the award of a follow-on contract in 1998.

In a related decision, the Court ruled that Mossey violated the terms of the non-disclosure agreement he signed with PaL-Tech by retaining confidential documents after he left the company.

"Mr. Mossey kept PaL-Tech documents in direct violation of his non-disclosure agreement. It was no excuse for him to claim that he needed them from this case or that the documents were returned during the course of the lawsuit," explained Mr. Frulla.

About David E. Frulla

David E. Frulla is a Member of Kelley Drye's Litigation, Environmental Law, and Government Relations and Public Policy Practice Groups. Mr. Frulla has significant experience defending individuals, labor organizations and corporations in criminal, administrative, and legislative investigations and enforcement proceedings in matters involving white collar crime, environmental regulation, health care consumer protection, alleged fraud and abuse, and campaign finance and public integrity investigation and enforcement.

About Kelley Drye's Litigation Practice Group

Kelley Drye specializes in complex civil and criminal litigation and its skilled trial lawyers have been a principal foundation of the firm's success for more than forty years. The Litigation Practice Group's expertise regularly appears in judicial proceedings before federal and state courts across the country, including courts of appeals, the U.S. Supreme Court, and in administrative litigation before federal and state agencies. Kelley Drye's attorneys have extensive experience defending qui tam suits brought under the Civil False Claims Act.

About Kelley Drye

Kelley Drye's Washington, DC office solves competitive problems for Fortune 500 companies, privately held corporations, government entities, and trade associations in the US and abroad. The firm has over 100 attorneys and professionals practicing in the following areas: Advertising and Marketing, Antitrust and Competition, Business Strategies and Transactions, Technology, Environmental, Government Relations and Public Policy, Intellectual Property, International Trade, Litigation, and Trade Associations.