

United States Senate
WASHINGTON, DC 20510

May 9, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

Dear Attorney General Garland:

On March 6, 2024, I wrote you requesting information and statistics concerning Justice Department dismissals of False Claims Act *qui tam* cases.¹ The Justice Department failed to respond by the March 20 deadline. Since then, the Government Accountability Office (GAO) published a report titled, *Fraud Risk Management: 2018-2022 Data Show Federal Government Loses an Estimated \$233 Billion to \$521 Billion Annually to Fraud, Based on Various Risk Environments*, which illustrates the importance of whistleblowers coming forward to assist the government in recovering taxpayer dollars lost to fraud.²

According to GAO, an estimated \$233 billion to \$521 billion in taxpayer money was lost to fraud **each year** between Fiscal Years (FY) 2018 and 2022.³ GAO found that the hundreds of billions of taxpayer dollars reflects losses associated with direct federal spending and doesn't include fraud losses associated with government fees and other sources of revenue.⁴ GAO stated that the estimated losses due to fraudsters represents about 3-7 percent of the average federal obligations between FY 2018 and FY 2022.⁵ When put in perspective, GAO calculated that the "lower range of the estimate—\$233 billion—is greater than fiscal year 2022 obligation levels for all but the eight largest agencies. There are five agencies with total annual obligations greater than the upper range of \$521 billion, based on fiscal year 2022."⁶ GAO reported that the "direct annual financial losses due to fraud reflects significant financial impacts to the federal

¹ Letter from Charles E. Grassley to Attorney General Garland (Mar. 6, 2024)

https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj - false claims act.pdf.

² Government Accountability Office, *Fraud Risk Management: 2018-2022 Data Show Federal Government Loses an Estimated \$233 Billion to \$521 Billion Annually to Fraud, Based on Various Risk Environments*, GAO-24-105833, (Apr. 16, 2024) <https://www.gao.gov/products/gao-24-105833>.

³ *Id.* at 18.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 19.

government.”⁷ GAO also found that undetected fraud may be significant, and due to the hidden nature of fraud, a certain portion will go undetected.⁸

Fraud isn’t the cost of doing business. The False Claims Act and whistleblowers are a valuable resource to return fraudulently obtained money back to the taxpayers. In many instances, whistleblowers are the sole source of information and knowledge about the fraudulent conduct which would likely go undetected if not for them coming forward.⁹ The Justice Department’s FY 2023 False Claims Act case statistics are textbook examples of this point. In FY 2023, there were 712 False Claims Act cases filed under the *qui tam* provision as compared to 500 non-*qui tam* actions filed by the Justice Department.¹⁰ In FY 2023, settlements and judgements under the False Claims Act exceeded \$2.68 billion, and whistleblowers, through *qui tam* lawsuits, were responsible for helping recover \$2.3 billion of that amount.¹¹ In addition, countless more taxpayer dollars were saved by the False Claims Act deterring would be fraudsters.¹²

Given the trillions of dollars in government spending, the hundreds of billions of taxpayer dollars subjected to fraud each year, and the difficulty in detecting fraud against the government, it’s critically important that *qui tam* cases be allowed to continue when the facts and circumstances indicate the case is strong.¹³ The Justice Department should do all it can to encourage and promote more whistleblowers to bring more *qui tam* actions to return money back to the taxpayers rather than dismiss them for reasons unrelated to the merits of the case, particularly when the Justice Department declines to initially intervene.¹⁴ As said by Principal Deputy Assistant Attorney General Boynton, the head of the Justice Department’s Civil Division, we should be grateful for the “hard work and courage of whistleblowers who play a critical role in identifying fraud, often at substantial risk to themselves.”¹⁵ Accordingly, I urge the Justice Department to respond to my March 6 letter expeditiously.

⁷ *Id.*

⁸ *Id.* at 34.

⁹ The National Whistleblower Center, *The False Claims Act: The False Claims Act (FCA) is one of the strongest whistleblower laws in the United States*, <https://www.whistleblowers.org/protect-the-false-claims-act/>.

¹⁰ *Id.*

¹¹ Department of Justice, *False Claims Act Settlements and Judgments Exceed \$2.68 Billion in Fiscal Year 2023*, Press Release, (Feb. 22, 2024) <https://www.justice.gov/opa/pr/false-claims-act-settlements-and-judgments-exceed-268-billion-fiscal-year-2023>.

¹² Courtney Finerty-Stelzner, *Fraud is Not a Cost of Doing Business: Deterring Fraud Through the False Claims Act’s Trebling Provision*, TAF Coalition (Apr. 3, 2024) <https://www.taf.org/deterring-fraud-false-claims-act/>.

¹³ See Grassley Redlines President Biden’s Budget Proposal, Press Release (Mar. 11, 2024)

<https://www.grassley.senate.gov/news/news-releases/grassley-redlines-president-bidens-budget-proposal>.

¹⁴ Geoff Schweller, *SCOTUS Rules to Not Curb DOJ’s Dismissals of Qui Tam Whistleblower Suits*, Whistleblower News Network (Jun. 16, 2023) <https://whistleblowersblog.org/false-claims-qui-tam-news/scotus-rules-to-not-curb-doj-s-dismissals-of-qui-tam-whistleblower-suits/>.

¹⁵ Justice Department False Claims Act Settlements *supra* note 12.

Thank you for your prompt review and responses. If you have any questions, please contact Brian Randolph on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget