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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**COMPLAINT**

**False Claims Act**

**(31 U.S.C. §§3729-3733)**

**PACIFIC COAST MARITIME AGENCY,**

**PAUL SOGOTIS, Individually,**

**Defendants.**

The United States of America, for its complaint, alleges as follows:

**INTRODUCTION**

This is a civil action by the United States of America to recover treble damages and civil penalties under the False Claims Act, 31 U.S.C. §§ 3729-3733, arising from Defendant's use and

submittal of false and fraudulent claims and statements to the United States by knowingly engaging in systemic and fraudulent overstatement of services rendered to the United States Transportation Maritime Administration ("MARAD").

### **THE PARTIES**

1. The Plaintiff in this action is the United States of America. MARAD is an agency of the United States Department of Transportation dealing with waterborne transportation and the viability of the United States Merchant Marine.

2. Pacific Coast Maritime Agency (PCMA) is a corporation with its primary place of business in California. Paul Sogotis was at all times relevant the President of PCMA and a resident of California. PCMA conducts business along the sea ports of the Pacific Coast, including ports of Portland, Oregon.

### **JURISDICTION AND VENUE**

3. This action arises under the False Claims Act, 31 U.S.C. §§ 3729-3733. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1345. This Court has personal jurisdiction over the Defendants because the Defendants conducted business in the District of Oregon.

4. Venue is proper in this district under 28 U.S.C. § 1391. Defendants transacted business within the District of Oregon, including contracting for the services provided to the agency of the United States.

### **THE FALSE CLAIMS ACT**

5. Originally enacted in the 1860s to combat fraud against the Union Army during the Civil War, the False Claims Act, 31 U.S.C. §§ 3729-3733, is the primary tool with which the United States combats fraud against the Government and protects the federal fisc.

6. The False Claims Act, at 31 U.S.C. § 3729(a)(1)(A) (West 2010) (formerly § 3729(a)(1) (2006)), provides that a person is liable to the United States Government for each instance in which the person “knowingly presents, or causes to be presented, to an officer or employee of the United States Government . . . a false or fraudulent claim for payment or approval.”

7. As amended by the Fraud Enforcement and Recovery Act of 2009 (FERA), the false statements provision of the False Claims Act establishes liability for any person who “knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.” 31 U.S.C. § 3729(a)(1)(B) (West 2010). The prior version of the false statements provision of the False Claims Act makes liable any person who “knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government.” 31 U.S.C. § 3729(a)(2) (2006).

8. The False Claims Act defines “knowingly” at 31 U.S.C. § 3729(b) (2006) to mean that a person, with respect to information, “(1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information” and further provides that no proof of specific intent to defraud is required.

### **FACTS**

9. At all times relevant MARAD had an agreement with Interocean American Shipping (IAS) which designated IAS as a general agent for MARAD to manage the Pacific Collector and Pacific Tracker (vessels) operated by MARAD.

10. During 2009 through 2011 IAS contracted with Defendant PCMA to serve as a ship agent to obtain tug services for the vessels in the District of Oregon.

11. From 2009 through 2011 PCMA retained Shaver Transportation Company (Shaver) to provide services in the District of Oregon to the vessels. Shaver performed all services as requested and fully performed its obligations to Defendants as requested by Defendants.

12. Shaver submitted invoices to PCMA for services the services. PCMA altered the Shaver invoices by increasing certain charges and by deleting discounts provided by Shaver. The altered invoices were submitted by PCMA to IAS and MARAD for payment. MARAD paid the altered invoices resulting in an overpayment in excess of \$56,000 to PCMA.

13. Defendants submitted false invoices to the United States as set forth below:

Invoice Number	Invoice Date	Final Payment Date	Genuine Invoice Amt	Altered Invoice Amt	Difference
216326	09/02/2009	12/30/2009	\$5,076.00	\$7,153.00	\$2,077.00
216460	10/19/2009	12/30/2009	\$5,076.00	\$7,153.00	\$2,077.00
217757	04/30/2010	09/26/2010	\$5,741.84	\$7,217.00	\$1,475.16
217929	05/28/2010	10/28/2010	\$5,276.00	\$7,217.00	\$1,941.00
219441	01/24/2011	03/30/2011	\$5,690.08	\$7,217.00	\$1,526.92
219586	02/18/2011	05/05/2011	\$6,568.75	\$14,687.00	\$8,118.25
219587	02/18/2011	05/05/2011	\$35,672.09	\$55,198.75	\$19,526.66
219605	02/22/2011	05/05/2011	\$9,156.25	\$20,345.00	\$11,188.75
219606	02/22/2011	05/05/2011	\$9,801.08	\$10,812.60	\$1,011.25
219826	04/04/2011	08/31/2011	\$6,840.00	\$10,125.00	\$3,285.00
220215	05/31/2011	08/31/2011	\$6,947.09	\$11,643.75	\$4,695.91
Total			\$101,845.09	\$158,769.10	\$56,923.17

14. From 2009 through 2011, Defendants Pacific Coast Maritime Agency and Paul Sogotis, President, knowingly participated in a fraudulent scheme to falsely claim and receive payment from the United States for services rendered by knowingly and systemically creating and using false records and statements designed to enrich themselves at the expense of the public fisc.

15. Defendants knew of these fraudulent practices and false statements and nonetheless accepted, condoned, and used them to increase their own earnings and profits. Defendants' conduct resulted in a loss of money to the United States.

**COUNT I**  
**False Claims Act**  
**31 U.S.C. § 3729(a)(1) (2006)**  
**Against Pacific Coast Maritime Agency (PCMA) and Paul Sogotis**

16. The United States repeats and realleges the allegations contained in Paragraphs 1 through 15 above, as if fully set forth herein.

17. Defendants violated the False Claims Act, 31 U.S.C. § 3729(a)(1) (2006), by knowingly presenting or causing to be presented to MARAD false or fraudulent claims for payment and knowingly making or using a false record or statement material to a false or fraudulent claim.

18. The United States paid the false or fraudulent claims because of Defendant's acts and incurred damages as a result.

19. Pursuant to 31 U.S.C. § 3729(a), Defendants are liable to the United States Government for a civil penalty of not less than \$5,500 and not more than \$11,000, for each violation of the False Claims Act committed by Defendants.

20. Pursuant to 31 U.S.C. § 3729(a), Defendants are liable to the United States for three times the amount of damages sustained by the United States because of Defendant's conduct.

**PRAYER FOR RELIEF**

The United States respectfully requests that this court enter judgment against Defendants as follows:

- a. That the United States be awarded treble damages pursuant to 31 U.S.C. § 3729 *et. seq.*
- b. That civil penalties be imposed pursuant to 31 U.S.C. § 3729 *et. seq.*, up to the amount of \$11,000.00 per false claim.
- c. That interest be awarded.
- d. That this court award such other and further relief as it deems just and proper.

DATED this 29th day of December, 2015.

Respectfully submitted,

BILLY J. WILLIAMS  
United States Attorney

/s/ Neil J. Evans  
NEIL J. EVANS  
Assistant United States Attorney