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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAN 17 2003

MICHAEL W.
CLERK, U.S. DISTRICT COURT

UNITED STATES OF AMERICA, *ex rel* JOE CAPUTO,	)	
Relator,	)	Judge
v.	)	Case No.: 03C 0313
MPC, Products Corporation.; MPC International, Inc.; JOE ROBERTI; and Does 1-100	)	FILED IN CAMERA AND UNDER SEAL Complaint for Damages under the False Claims Act
Defendants.	)	Jury Trial Demanded

JUDGE KOCORAS

MAGISTRATE JUDGE BOBRICK

COMPLAINT

Jurisdiction, Venue and Procedural Prerequisites

1. This is an action to recover damages and civil penalties on behalf of the United States of America arising out of false claims presented by defendant to the Department of Defense. The action arises under the provisions of the False Claims Act, 31 U.S.C. §3729, *et. seq.*, and the Social Security Act.

2. Section 3729(a) of the Act provides in relevant part that "Any action under section 3730 may be brought in any judicial district in which any Defendant may be found to reside, or transact business, or in any district in which any proscribed act has occurred." Defendant transacts business within this judicial district. Additionally, some of the acts complained of herein occurred within this judicial district.

3. Under the Act, this Complaint is to be filed *in camera* and remain under seal for a period of at least sixty (60) days and shall not be served upon the Defendant until the Court so orders. The Government may elect to intervene and proceed with the action within sixty (60) days after it receives both the Complaint and the material evidence and information.

4. As required under the Act, Relator has furnished to the Attorney General of the United States and to the United States Attorney for the Northern District of Illinois, simultaneous with or prior to the filing of this Complaint, a statement of all material evidence and information related to the Complaint. This disclosure statement supports the existence of inflated progress payment billings under a government contract.

Parties to the Action

5. Relator Joe Caputo is a citizen and resident of the State of Illinois and brings this action on behalf of the United States of America. Hereinafter he shall be referred to as "Relator". He is has, prior to the filing of this action, met with federal prosecutors and law enforcement officers.

6. Defendants MPC Products Corporation, and MPC, International, Inc. are business incorporated in the State of Illinois and headquartered in Skokie, Illinois. It supplies aerospace components, including, *inter alia*, motors, position sensors, gearheads, actuation systems, command systems, and control servo-mechanisms.

7. Defendant Joe Roberti is a co-owner of MPC and is its President.

8. Defendant Vince Roberti is a co-owner of MPC.

9. At all times herein mentioned, each of the Defendants was an agent, servant or employee of each of the remaining Defendants, and was at all times acting within the purpose or scope of said agency or employment, and was acting with the express or implied knowledge, permission or consent of the remaining Defendants, and each of them.

FACTUAL ALLEGATIONS PERTAINING TO ALL CAUSES OF ACTION

10. Mr. Caputo was hired by MPC in 1990 as a pricing analyst. His job was to prepare Contract Pricing Proposal Cover Sheets (SF 1411 forms), which required that he conduct labor and material analysis, and make price recommend-ations. Mr. Caputo was also to track open orders with SF1411's looking for cost drivers. He was to determine the proper cost of product standards and negotiate with customers. He was not told at that time that he would be called upon to falsify data or certify costs he knew to be false. .

11. In the final months of 1990 he was told by Joe Roberti and others that he was to falsify costs/price justifications so that MPC could increase its profit margin on government contracts as a means of lowering its prices in bids for private sector business.

12. In the beginning the defective pricing to which Caputo was exposed by MPC was primarily limited to responses to Requests for Quotes (RGQs, or Form SF-18s) directly from the government or from the prime contractor. Caputo was required to review the RFQ for quantity, terms and conditions and other requirements. He would come up with what the items would actually cost using the correct quantity, the correct overheads rates and 12% profit. This would be the price that at maximum should have been quoted based upon FAR and DAR guidelines. Caputo would then bring this information along with the RFQ and an MPC internal report called the SPC (Standard Price Card) which gave the history showing the historical profitability of the item to either Joe Roberti, Vince Roberti, or Tony Trozzo, (MPC's former vice-President of Sales). One or more of them would review this information and decide on the price to quote. In the vast majority of the cases, the Robertis or Trozzo decided to quote prices that were

substantially higher than the true cost.

13. Once Trozzo or one of the Robertis decided upon the price, Caputo was expected to then provide (when required by government guidelines) the customer with backup documentation to support the price quoted. As the true cost/price was almost always substantially lower than the quoted cost/price, this documentation was falsified. In the early stages of Caputo's time at MPC, this documentation was created for him by personnel in the purchasing department, the accounting department and the Information Technology (IT) department.

Means of Submitting False Price Quotes to the Government

14. **Inflating MPC's Material Costs**

MPC's purchasing department would provide the pricing department with false quotations and false purchase order documentation. A false quotation would be entered into MPC's computer system and printed out as backup for the false price quote to be submitted to the government. MPC would use existing, legitimate purchase orders with the correct part number and vendor, but a falsely inflated price. After the purchase order was printed out, MPC personnel would restore the correct price in the computer system.

15. Mr. Caputo was instructed by Joe Roberti and Tom O'Connor (purchasing director) that if government auditors asked, he was o tell them that MPC was a paperless company and didn't save hard copies of purchase orders or quotes. Roberti and O'Connor told Caputo to explain that because of this, all he could give auditors

was"print screens" of the information. This was, in fact, false. All paper copies of invoices had been saved. From approximately 1998 forward, the Robertis instructed Caputo that to lessen the chance of getting detected, he should simply recreate the P.O. and quote "print screens" in an Excel Spreadsheet and just make up whatever he needed.

16. **Inflating Hours of Labor Needed to Fulfill Contracts**

From approximate 1990 through 1997, MPC's IT department would "make" the historical actual labor costs s fit the scenario to falsify a price quote. Mr. Caputo was instructed by Joe Roberti to tell the IT department what hours he needed to show the auditor in each category to support the pricing. The IT department would then falsely transfer in the required hours from other projects. Mr. Caputo would then print what appeared to be a genuine "report" detailing historical "actual" costs to use as the basis of estimate. These claimed "actual" costs were false.

17. **Inflating Labor Rates**

Labor rates were also falsified in advance of any government audits. Two methods were used. First, when an audit was scheduled, MPC's Accounting department would go into the payroll file and temporarily increase the pay rates on employees, print out the false payroll report, and then change the database back to its prior, "correct" state. The other method to increase labor rates for direct labor would be to temporarily reclassify lower paid direct charged individuals as overhead. This would also result in the "average actual" rate being higher than it truly was. These individuals would then be correctly reclassified once the supporting documentation was submitted to the government.

18. **Inflating Overhead Rates**

MPC's overhead reates were inflated by funneling charges into overhead that should not have been there. Some examples are:

(A) Charging material to overhead that should have been direct charged to customer jobs. Oftentimes when MPC engineering was building prototype assemblies under contract to a customer, they would charge the expenses to Research & Development, which was an overhead cost.

(B) Building a house for Joe Roberti's daughter and having the cost charged to MPC overhead.

(C) Charging labor that should have been charged directly to customer jobs to overhead instead. . These mischarges caused MPC overhead rates to be significantly higher than they should have been. The end result was that MPC would pass those costs on to the government.

Falsely Concealing Economies of Scale

19. Pursuant to 10 U.S.C. §2306a et. seq, the Truth in Negotiations Act, and the implementing regulations at 48 C.F.R. §15.801, MPC would sign a certificate of current cost and pricing. When signing such a certificate, MPC had a duty to disclose and update all cost or pricing data. Yet MPC would take advantage of

economies of scale and not pass these lower costs on to the government. MPC's production department would enter stock orders for products, based on the sales forecast.

MPC would often, for example, fill an order out of existing stock (which, because it was produced in relative bulk, had a lower per unit cost) MPC would, however, conceal the existence of this stock from the government, falsely claiming that the part had to be individually manufactured at a far greater cost.

MPC Would Inflation of Prices it Received From Vendors

20. MPC's procurement department routinely gave higher prices to its vendors on government procurements in exchange for lower prices on commercial procurements.

MPC Would Submit False Progress Billings to the Government

21. MPC would fraudulently bill the government for costs that were unrelated to the specific contract that was being billed. As a result MPC could mischarge costs from unrelated (usually commercial) contracts to government jobs and then use these inflated actuals as a basis for billing. When a contract was terminated, MPC had to certify, pursuant to 48 C.F.R. § 49.6 and §53.249 that its charges to the United States were "fair and reasonable". They were neither fair nor reasonable because of the cost shifting.

MPC Would Refurbish Scrapped or "Non-Repairable" Items and Re-sell Them to the Government as "New" Items

22. Under some of its government contracts, MPC would receive parts for inspection and possible repair. The company would then falsely claim that the part either needed to be overhauled or scrapped altogether. Thus, what should have been a negligible charge to the government for testing and evaluation of a part, with perhaps some minor repair, would mushroom into a significant overhaul charge. Additionally, MPC would falsely claim that the item wasBeyond Economical Repairs (BER), and would then refurbish the item for resale.

MPC Would Overcharge the Government on Teardown and Evaluation Charges.

23. MPC often charged the government 5 ½ times MPC's actual costs to take apart and evaluate a part. Costs to tear down a C-17 actuator, for example, were only $350 or $400. Despite this, the government was charged$1,957 per repair.

Using Lower Grade Parts in Assemblies Than Were Specified

24. MPC periodically used cheaper, non MILSTD (military standard) parts in fulfilling some of its government contracts.

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COUNT I

Submission of False Claims

25. In doing the things hereinabove alleged, defendants, and each of them knowingly presented or caused to be presented false or fraudulent claims for payment or approval to the United States.

26. By virtue of the false or fraudulent claims made by the defendant, the United States suffered damages and therefore is entitled to multiple damages under the False Claims Act, plus a civil penalty for each violation

COUNT II

Use of False Records or Statements

27. Defendants and each of them knowingly made, used, or caused to be made or used, false records or statements to get false or fraudulent claims paid or approved by the United States.

28. By virtue of the false records or statements made by the defendants, the United States suffered damages and therefore is entitled to multiple damages under the False Claims Act, to be determined at trial, plus a civil penalty for each violation.

COUNT III

Reverse False Claims

29. Defendants, and each of them knowingly made, used, or caused to be made or used, false records or statements to conceal, avoid, or decrease an obligation to pay or transmit money or property to the United States.

30. By virtue of the false records or statements made by the defendants, the United States suffered damages and therefore is entitled to multiple damages under the False Claims Act, to be determined at trial, plus a civil penalty for each violation

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WHEREFORE, Relator respectfully prays that:

FOR THE FIRST, SECOND and THIRD COUNTS

1. Judgement be ordered against the Defendant in an amount equal to three times the damages sustained by the United States as a result of Defendants' conduct;

2. A civil penalty be assessed of not less than five thousand, five hundred dollars ($5,500.00) and not more than eleven thousand dollars ($11,000.00) for each violation of 31 U.S.C. § 3729;

3. That Relators, as Qui Tam Plaintiffs, be awarded the maximum amount allowed pursuant to 31 U.S.C. §3730(d) and/or any other applicable provision of law;

4. Attorneys' fees and costs according to proof;

5. Such other and further relief as the Court deems just and proper.

JURY DEMAND

Relator demands trial by jury of all issues so triable.

Respectfully Submitted,

Mark Allen Kleiman, DRF

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DATED: January 14, 2003