IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *ex rel.* JOHN RAGGIO,

Plaintiff,

v.

JACINTOPORT INTERNATIONAL, LLC,

Defendant.

Civ. No. 1:10-cv-01908 (BJR)

UNITED STATES' OPPOSITION TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY ADJUDICATION THAT IT IS ELIGIBLE FOR REDUCED DAMAGES UNDER THE FALSE CLAIMS ACT

After learning that it had overcharged for stevedoring services in direct violation of its contract with the United States Agency for International Development ("USAID"), contract number TRN-C-00-07-00044-00 (the "Contract"), Jacintoport sent a cryptic letter to a USAID contracting official stating only that "an adjustment of certain charges could be due." Jacintoport further promised to conduct a "thorough review" and to "report to USAID within ninety (90) days on [its] findings." No report was made.

Based solely upon this empty letter, which was not addressed to individuals responsible for investigation of violations of the False Claims Act ("FCA"), Jacintoport seeks to evade the mandatory treble damages provision of the FCA. As discussed in more detail below, this attempt should be denied and this Court should rule that Jacintoport is instead subject to the mandatory treble damages provision of the FCA.

BACKGROUND

On or about March 1, 2010, Mr. John Raggio[1] called Mr. David Labbe[2] of Jacintoport and informed him that Jacintoport was overcharging for stevedoring services in violation of the Contract. *See* United States' Responsive Statement of Genuine Issues and Material Facts ("USSMF") at 6 ¶ 1 and Exhibit 5 C and E thereto. In response, Mr. Labbe contacted legal counsel, who purportedly took over Jacintoport's internal investigation and response to USAID. *Id.* at 6-7 ¶¶ 1,2. On or about March 10, 2010, Jacintoportsent a letter to Ms. Maureen A. Shauket,Senior Procurement Executive, Director of the Office of Acquisition and Assistance Bureau for Management for USAID. *Id.* at 7, ¶¶ 2,3. Ms. Shauket was not and is not a member of either the USAID Office of Inspector General ("USAID-OIG") or the Department of Justice. *Id.* The letter also copied Mr. John Abood, a Contracting Officer at USAID. *Id.* Like Ms. Shauket, Mr. Abood was not and is not a member of either the USAID-OIG or the Department of Justice. *Id.*

Importantly, Jacintoport's March 10, 2010 letter did not indicate that Jacintoport had overcharged for stevedoring services in violation of the Contract. *See* Exhibit F to USSMF. Instead, the letter merely stated that "we have undertaken a preliminary review of certain stevedoring charges under the contract, and it may be that an adjustment of certain charges could be due." *Id.* Further, the letter promised Jacintoport would conduct a "thorough review of the contract and [] stevedoring rates thereunder with the next thirty (30) to sixty (60) days, and hope to report to USAID within ninety (90) days on our findings." *Id.* There is no evidence such review was conducted and Jacintoport never made a report to USAID. USSMF at 6-7. Any

[1] Mr. Raggio is the relator in this action. He is also an employee of Sealift, Inc., an ocean carrier that does business with Jacintoport.
[2] Mr. Labbe is the Vice President of Seaboard Marine, Ltd., the corporate parent of Jacintoport. Mr. Labbe is responsible for overseeing Jacintoport's business.

further details regarding Jacintoport's response to Mr. Raggio's March 1, 2010 telephone call, including the circumstances surrounding the drafting of the March 10, 2010 letter, have been shielded by Jacintoport's express invocation of the attorney-client privilege. *See* Exhibit A to USSMF at 188-189 and Exhibit C to USSMF at 212.

ARGUMENT

Jacintoport claims its March 9, 2010 letter to USAID justifies an exception to the mandatory treble damages provided by the FCA. Jacintoport is mistaken. The undisputed facts show Jacintoport's purported disclosure was made to the wrong individuals and said so little of any substance as to be no disclosure at all. Accordingly, Jacintoport cannot properly invoke the FCA'sreduced damages provision and the statute's mandatory treble damages should apply. Moreover, there is a genuine dispute of material fact whether Jacintoport fully cooperated with the Government's investigation. Jacintoport's motion for summary adjudication should therefore be denied.

I. Legal Standard for Summary Judgment

Summary judgment is permitted only when "the movant shows there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The substantive law that defines each claim determines which facts are material. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). For a defendant to prevail on a motion for summary judgment, it must demonstrate that the plaintiff "fail[ed] to make a showing sufficient to establish the existence of an element essential to [the plaintiff's] case, and on which [the plaintiff] will bear the burden of proof at trial." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). "[S]ummary judgment will not lie . . . if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Maydak v. United States*, 630 F.3d 166, 181 (D.C. Cir. 2010) (quoting *Anderson*, 477 U.S. at 248). A court therefore must

draw all justifiable inferences in the nonmoving party's favor and accept the nonmoving party's evidence as true. *Anderson*, 477 U.S. at 255 ("The evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor."); *see also Matsushita Elec. Indus. Co. v. Zenith Radio*, 475 U.S. 574, 587 (1986) (on summary judgment the interferences to be drawn from the facts "must be viewed in the light most favorable" to the non-moving party). "[A]t the summary judgment stage the judge's function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." *Anderson,* 477 U.S. at 249.

II. The Undisputed Facts Show Jacintoport Does Not Qualify For Reduced Damages Under the False Claims Act

Where a person is found liable for violating the FCA, the statute mandates treble damages. 31 U.S.C. § 3729(a)(1). The FCA provides a single exception to the general rule of treble damages in those "presumably few" circumstances where a defendant voluntarily discloses information "concerning the violation before they have knowledge that an investigation is underway." *Vt. Agency of Natural Res. V. United States ex rel. Stevens*, 529 U.S. 765, 786 n.16 (2000). To qualify for such reduced damages, a court must find:

> (A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;
>
> (B) such person fully cooperated with any Government investigation of such violation; and
>
> (C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

31 U.S.C. § 3729(a)(2). "Because the provision is in derogation of the general rule requiring trebled damages, it appears appropriate to require the Defendant to bear the burden of proving that all three criteria are met . . . ." *United States ex rel. Maxwell v. Kerr-Mcgee Oil & Gas Corporation*, Civil Action No. 04-cv-01224-MSK-CBS 2010 U.S. Dist. LEXIS 97018 (D. Colo. September 16, 2010). Where the Defendant has satisfied its burden, the court is directed to award "*not less* than 2 times the amount of damages." 31 U.S.C. § 3720(a)(2) (emphasis added).

As discussed below, the undisputed facts show that Jacintoport did not make a disclosure of its misconduct to "officials of the United States responsible for investigating false claims violations." *Id.* § 3729(a)(2)(A). Moreover,, Jacintoport's letter was so devoid of any substance that it amounted to no disclosure at all, despite the fact that Jacintoport had specific knowledge about the nature of the FCA violations being alleged. It therefore failed to disclose "all information known . . . about the violation", as required by the FCA to qualify for reduced damages. *Id.* Jacintoport should not be allowed to evade the mandatory treble damages provision of the FCA with a tactically timed and placed letter that provided no meaningful information to the Government.

A. Jacintoport failed to make a disclosure to the appropriate "officials of the United States."

The FCA's reduced damages provision explicitly requires a disclosure to "officials of the United States responsible for investigating false claims violations." 31 U.S.C. § 3729 (a)(2)(A). The very next section of the Act explains that the Attorney General is the official of the United States responsible for investigating false claims act violations. 31 U.S.C.§ 3730(a)("[t]he Attorney General shall investigate a violation under section 3729,"). Thus, a plain reading of the FCA requires that, in order to qualify for the reduced damages provision, a disclosure must be made to the Attorney General.

This plain reading of the FCA was adopted by the court in *Maxwell*, the only case to squarely address this issue. In *Maxwell*, the defendant argued it was entitled to the reduced damages because it disclosed all evidence of its violation to the relevant federal agency, the Minerals Management Service or MMS. *Maxwell*, 2010 U.S. Dist. LEXIS 97018 at *6. The court rejected this argument and held that "in order to comply with § 3729(a)(2)(A), the Defendant must show that it furnished all the information it knew about the claim to the Attorney General or Department of Justice, not simply to the MMS." *Id.* at *8. In other words, the court held that "a violator must make full disclosure of the relevant facts to the Attorney General, not to the agency receiving the false claim." *Id.* at *7. The court observed that its plain reading of the FCA would provide "an incentive for violators to voluntarily come forward and reveal false claims that might otherwise have gone undiscovered by the agency, and ensures that the reduced multiplier is applied in those 'presumably few' cases where it is intended to have effect." *Id.* at *8.

Moreover, the plain reading of section 3729(a)(2) to require disclosure to the Attorney General is consistent with the other disclosure provision of FCA. In particular, section 3730(b) allows private parties to bring actions on behalf of the United States for violations of the FCA. When such a *qui tam* is filed, section 3730(b)(2) requires the relator to serve upon the United States a "written disclosure of substantially all material evidence and information the person possesses" in accordance with the procedure for serving the United States under the Federal Rules of Civil Procedure. The applicable Rule is now Fed. R. Civ. P. 4(i), which requires service upon both the "Attorney General of the United States at Washington, D.C." and upon the United States Attorney for the district where the case is filed. Fed. R. Civ. P. 4(i)(1)(A)-(B).

Here, there is no dispute that the Jacintoport did not provide its purported disclosure to the Attorney General and instead directed it to USAID contracting officials, Maureen Shauket and John Abood. *See* Exhibit F to USSMF. Under the plain text of the FCA, which was adopted by the court in *Maxwell*, Jacintoport does not qualify for reduced damages under section 3729(a)(2). As the court stated in *Maxwell*, "a violator must make full disclosure of the relevant facts to the Attorney General, not to the agency receiving the false claim." 2010 U.S. Dist. LEXIS 97018 at *7.

Notwithstanding this clear precedent, Jacintoport argues its disclosure to contracting staff at USAID, the very same agency receiving the false claims, is sufficient. *See* Jacintoport Motion at 8-11.. In so doing, Jacintoport asks the court to adopt a novel interpretation of the FCA and ignore other authorities that define the relative responsibilities and authority of government agencies for investigating allegations of fraud.

Principally, Jacintoport argues that one of the USAID contracting officials who received its claimed disclosure was an official "responsible for investigating false claims violations" because she had the authority to institute suspension and debarment actions. *Id.* at 8-9. This argument improperly conflates an FCA claim with an administrative suspension and debarment proceeding governed by the Federal Acquisition Regulation. Suspension and debarment is not a remedy for past fraudulent misconduct, but rather is designed to protect the Government's present and future interest in doing business only with contractors that are *presently responsible*. *See* 48 C.F.R. §§ 9.402 (suspension and debarment are sanctions to "be imposed only in the public interest for the Government's protection and not for purposes of punishment"), 9.406-1-406.5 (debarment), and 9.407-1-9.407-5 (suspension).

Fundamentally, Jacintoport does not and cannot argue that Ms. Shauket had the authority to "bring a civil action" under the FCA if she found that a "person has violated or is violating section 3729." 31 U.S.C. § 3730(a). In fact, under the Contract Disputes Act ("CDA"), 41 U.S.C. §§7101-7109 and the Federal Acquisition Regulation, Federal agencies lack authority to settle, compromise, pay or adjust any claim involving fraud. *See* 41 U.S.C. § 7103(c)(1) ("This section [of the Contract Disputes Act] does not authorize an agency head to settle, compromise, pay, or otherwise adjust any claim involving fraud."); 48 C.F.R. § 33.210 (contracting officer's "authority to decide or resolve claims does not extend to . . . [t]he settlement, compromise, payment or adjustment of any claim involving fraud"). Indeed, the applicable regulations vest exclusive authority to prosecute FCA violations with the Attorney General and the Department of Justice. *See* 28 U.S.C. § 516 (reserving conduct of litigation for the Department of Justice); 28 C.F.R. Part O, Subpart I. § 0.45(d) and Subpart Y (reserving the handling of civil claims arising from fraud to the Department of Justice); *see also Martin J. Simko Constr. v. United States*, 852 F. 2d 540, 544 (Fed. Cir. 1988) (CDA legislative history provides that "actions to enforce the Government's rights . . . would be solely the responsibility of the Department of Justice and would be instituted by the United States in a court of competent jurisdiction"). Since Ms. Shauket, a contracting employee of USAID, cannot actually enforce the FCA, it would be unreasonable and irrational to conclude she was "responsible for investigating false claims violations." 31 U.S.C. § 3730(a)(2)(A).

Moreover, a suspension or debarment action under the FAR has a fundamentally different purpose than a suit under the FCA. A suspension or debarment action is an administrative act designed to protect the Government from future harm. FAR 9.402 (providing that suspension and debarment should "be imposed only in the public interest for the Government's protection").

In contrast, the FCA, particularly its treble damages provision, was designed to act retrospectively "to enhance the Government's ability to recover losses sustained as a result of fraud." *Maxwell*, 2010 U.S. Dist. LEXIS 97018 at *8 *quoting* Senate Rep. 99-345, 1986 U.S.C.C.A.N. 5266, P.L. 99-562. As the FAR Council explained: "The damages provisions of the civil FCA address the Government's ability to recoup its loss as a result of a violation . . . . Suspension and debarment is concerned with the contractor's present responsibility." Federal Acquisition Regulation; FAR Case 2007-006, Contractor Business Ethics Compliance Program and Disclosure Requirements, 73 FR 67064, 67082 (Nov. 12, 2008).

Further, a suspension or debarment process is an administrative process subject to an agency's own procedures that are as "informal as is practicable" and subject to judicial review under the Administrative Procedure Act. FAR 9.406-3(b)(1) (governing debarment); FAR 9.407-3(b)(1) (governing suspension). Suspension and debarment is fundamentally different from an action under the FCA (*cf.* 31 U.S.C. §§ 3730-31 and FAR Subpart 9), and there is no logical reason that the suspension and debarment procedures should have any place in construing the application of the FCA's reduced damages provision.

Finally, even if the standards set forth in the FAR to avoid suspension and debarment had any application here, Jacintoport's alleged disclosure would still be inadequate. Specifically, effective as of December 2008, the FAR requires a contractor to disclose a violation of the FCA "in writing, to the agency Office of the Inspector General ("OIG"), with a copy to the Contracting Officer." FAR 52.203-13(b)(3)(ii). Here, Jacintoport submitted its disclosure only to the contracting office of the agency and not to the agency OIG. Thus, if Jacintoport was trying to disclose credible evidence of a violation of the FCA, Jacintoport's disclosure was not made to the proper officials even under the standards for suspension and debarment, let alone the

specific disclosure requirements of the reduced damages provision of the FCA. *See United States ex rel. Ervin and Associates, Inc. v. The Hamilton Securities Group, Inc.*, 370 F. Supp. 2d 18, 49 (D.D.C. 2005) (denying reduced damages because the defendant failed to disclose to the "Office of Inspector General or Department of Justice").

In addition to its principal argument, Jacintoport asserts a laundry list of unpersuasive reasons why it should be excused from complying with the explicit requirements of the FCA. First, Jacintoport argues it would somehow be "unfair" to Jacintoport for this Court to rely upon *Maxwell*, which was decided after Jacintoport's disclosure. *See* Jacintoport Motion at 9. This argument ignores the clear language of the FCA's reduced penalty provision. Indeed, section 3730 specifically assigns the responsibility to investigate FCA violations to the Attorney General. *Maxwell*, therefore, did not create some sort of novel and unforeseen construction of the FCA, but instead merely applied its plain and obvious meaning. Thus, the text of the FCA provided Jacintoport ample notice about what was necessary to qualify for reduced penalties under section 3729(a)(2), which was to send the disclosure to the Attorney General. Jacintoport could have, but did not, do this. It is not "unfair" to apply the clear consequences of Jacintoport's choice not to not follow the law. This is particularly true here given the paucity of information in Jacintoport's disclosure.

Second, Jacintoport contends that its disclosure was prepared in connection with the advice of outside counsel, and suggests that it relied on the advice of counsel in determining where to make its disclosure. *See* Jacintoport Motion at 9.. In advancing this argument, Jacintoport's improperly uses the attorney-client privilege as both a sword and shield. Jacintoport continues to assert the attorney-client privilege with respect to documents concerning its alleged disclosure. *See* Jacintoport's Objections and Response to the United States First Set

of Requests for the Production of Documents at 11, attached hereto (objecting to request for documents related to its disclosure on grounds that such documents are "protected by the attorney-client privilege or the work-product doctrine"); USSMF at 7; Exhibit A to USSMF at 188-189; and Exhibit C to USSMF at 212 (invoking the attorney-client privilege to direct a witness not to answer questions about the March 10, 2010 letter). Jacintoport cannot simultaneously assert the advice of counsel as a defense while refusing to disclose documents based upon an assertion of attorney-client privilege. *Koch v. Cox*, 489 F.3d 384, 390 (D.C. Cir. 2007) ("The prohibition against selective disclosure of confidential materials derives from the appropriate concern that parties do not employ privileges both as a sword and as a shield." (internal quotation marks and citations omitted), Jacintoport should not be permitted to rely on selective disclosures of advice it may have received from counsel while shielding other materials from discovery.

Third and fourth, Jacintoport argues that its failure to send the disclosure to the appropriate officials is excused by the fact it identified the document as a "Voluntary Disclosure" in the subject line and that it sent the letter by certified mail and hand delivery. *See* Jacintoport Motion at 9-10. These arguments do not address the fundamental defect in Jacintoport's ostensible disclosure, which was that it was not made to an individual "responsible for investigating false claims violations." 31 U.S.C. § 3730(a)(2)(A). The words "Voluntary Disclosure" are not shibboleth that cures this defect. Nor is the defect cured by the manner in which the disclosure was delivered.

Finally, Jacintoport argues that its failure to send the disclosure to the appropriate officials is excused by its offer to meet with Ms. Shauket at her convenience to answer any questions. This argument is meaningless. As discussed above, Ms. Shauket does not have the

statutory responsibility to investigate FCA allegations. Offering to meet with her does not change that fact. In short, Jacintoport's disclosure was not made to the appropriate officials for it to qualify for reduced damages under the FCA and this Court should rule as such.

B. Jacintoport failed to disclose "all information known . . . about the violation."

The FCA's reduced damages provision also requires disclosure of "all information known to such person about the violation." 31 U.S.C. § 3729(a)(2). Jacintoport's disclosure fell well below that standard because it failed to include the critical fact that Jacintoport had information it "overcharge[d]" for stevedoring services. According to Jacintoport, it first learned of an issue regarding its stevedoring charges by Mr. Raggio when he told Mr. Labbe that that Jacintoport had engaged in "stevedoring overcharges." *See* USSMF at 6-7 ¶ 1; Exhibit E to USSMF at 6 (specifically characterizing Mr. Raggio as raising the issue of "stevedoring overcharges"); Exhibit C to USSMF at 150. Jacintoport claims it heard this same information from Sealift's attorney on two other occasions. Exhibit E to USSMF at 6. Thus, Jacintoport concedes that it had information that it made "overcharges to the Federal Government" for stevedoring services. *Id.* This fact, however, was not revealed in Jacintoport's March 10, 2010 letter.

Instead, Jacintoport's disclosure merely stated that "we have undertaken a preliminary review of certain stevedoring charges under the contract, and it may be that an adjustment of certain charges could be due." *See* Exhibit F to USSMF. In using the phrase "an adjustment . . . could be due," Jacintoport does not disclose that it had evidence it overcharged for stevedoring services since an "adjustment" could just as accurately refer to an under-charging as an overcharging. Indeed, perhaps the most common form of "adjustment" in government contracts is invoked to increase the amount paid to the contractor. *See, e.g.*, FAR 52-243-1 (providing for

an "equitable adjustment" in the event of a change in the "cost of, or the time required for, performance of any part of the work under the contract"). Thus, Jacintoport never disclosed evidence that it engaged in "stevedoring overcharges."

The emptiness of Jacintoport's disclosure is compounded by the explicit representation that it would conduct a "thorough review of the contract and [] stevedoring rates thereunder with the next thirty (30) to sixty (60) days, and hope to report to USAID within ninety (90) days on our findings." *See* Exhibit F to USSMF. Jacintoport never made any such report to USAID regarding its stevedoring charges. USSMF at 7 ¶ 4; Exhibit E to USSMF at 8. Jacintoport thus never disclosed anything regarding its stevedoring charges, and in no way put the government on notice that the company had regularly exceeded the rate caps set forth in Schedule B of its Contract. Jacintoport's conduct falls well below the obligation to "reveal false claims that might otherwise have gone undiscovered by the agency," as to justify application of the FCA's reduced damages provision. *Maxwell*, 2010 U.S. Dist. LEXIS 97018 at *8; *see also United States ex rel. Saunders v. Unisys Corp.*, 2014 U.S. Dist. LEXIS 37830 at *14, Case No. 1:12-cv-00379 (E.D. Va. March 21, 2014) (holding a disclosure of "unethical billing" was insufficient to invoke the public disclosure bar of the FCA in part because the disclosure did not contain "the elements necessary to state a case of fraud").

C. Jacintoport did not "fully cooperate" with the government's investigation.

The FCA's reduced damages provision also requires the disclosing party to "fully cooperate[] with any Government investigation of such violation." 31 U.S.C. § 3729(a)(2)(B). Jacintoport argues it met this requirement because it responded to the subpoenas issued by the USAID OIG. *See* Jacintoport Motion at 10-11. Jacintoport fails to mention, however, its considerable procrastination in responding to the subpoenas. This raises,

at a minimum, a genuine dispute of material fact over whether Jacintoport "fully cooperated" with the Government's investigation.

Specifically, the first indication the Government received of Jacintoport's violation of the stevedoring rate caps in Schedule B was the filing of this *qui tam* on November 5, 2010. Notably, this was approximately eight months after Jacintoport's March 10, 2010 letter which, as discussed above, did not actually disclose any stevedoring overcharges. The *qui tam* also came approximately five months after Jacintoport was supposed to have reported to USAID the results of its "thorough review of the contract and [] stevedoring rates thereunder." *See* Exhibit F to USSMF.

After receiving the allegations in the *qui tam*, USAID-OIG issued a subpoena to Jacintoport on March 29, 2011, with a return date of April 19, 2011. *See* Exhibit D to USSMF at ¶¶ 2-3. Jacintoport contacted USAID-OIG and indicated it would fully respond to the subpoena by the return date, and produced a set of documents on April 19, 2011. *Id.* ¶ 5. Upon USAID-OIG's review of the documents, however, it became clear Jacintoport's production was incomplete. *Id.* ¶ 6. USAID-OIG then contacted Jacintoport about its deficiencies on May 20, 2011. *Id*. Jacintoport responded by producing an additional set of documents on June 6, 2011. *Id.* ¶ 7. This second production was still deficient. *Id.* ¶ 8. USAID-OIG issued a second subpoena on August 24, 2011, with a return date of September 13, 2011. *Id*. Jacintoport sought and received several extensions to respond to this second subpoena. *Id.* ¶¶ 9-13. Jacintoport ultimately produced a third set of documents on December 15, 2011, approximately seven months after the second subpoena was issued. *Id.* ¶ 13.

This pattern of lengthy delays and incomplete responses to administrative subpoenas is not consistent with full cooperation with the Government's investigation. The FAR, for

example, defines "full cooperation" to include "providing *timely and complete* response to Government auditors' and investigators' request for documents and access to employees with information." FAR 52.203-13 (a)(1) (emphasis added). Jacintoport's pattern of incomplete document productions and lengthy delays provide sufficient basis for a trier of fact to conclude that Jacintoport did not provide a "timely and complete" response to USAID OIG's subpoenas.

CONCLUSION

For the reasons discussed above, the Government respectfully requests this Court find Jacintoport does not qualify for reduced damages under the Section 3720(a)(2) of the FCA. In the alternative, the United States respectfully requests that the Court deny Jacintoport's Motion for Partial Summary Adjudication that it is entitled to reduced damages under Section 3720(a)(2) of the FCA.

Respectfully submitted,

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CERTIFICATE OF FILING

I hereby certify that on this 26th day of August 2014, I electronically filed the foregoing United States' Opposition To Defendant's Motion For Partial Summary Adjudication that it is Eligible for Reduced Damages under the False Claims Act with the Court using the CM/ECF system, and thereby sent notice to all registered counsel, including the following:

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