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Largest 20 False Claims Act Qui Tam Cases

Below is a listing of the twenty largest Federal and State False Claims Act *qui tam* cases, which pay rewards to whistleblowers. The amounts also include criminal fines.

1. Pfizer (and its subsidiary, Pharmacia & Upjohn Company): \$2.3 billion

In August 2009, Pfizer agreed to pay the U.S. Government over \$2.3 billion to settle a series of False Claims Act cases alleging promotion of off-label use drugs. Off-label marketing occurs when a pharmaceutical company obtains FDA approval for a specific use of a new drug, but then asks doctors to prescribe it for other uses which it did not seek or obtain FDA approval. It includes \$1.3 billion criminal fine and \$1 billion will be paid to settle civil False Claims Act liabilities involving Bextra (an anti-inflammatory drug), Geodon (an anti-psychotic drug), Lipitor (a cholesterol drug), Norvasc (anti-hypertensive drug), Viagra (erectile dysfunction), Zithromax (antibiotic), Zyrtec (antihistamine), Zyvox (an antibiotic), Lyrica (an anti-epileptic drug), Relpax (anti-migraine drug), Celebrex (anti-inflammatory drug), and Depo-provera (birth control). Of the civil False Claims Act claims, \$668,514,830 is federal and \$331,485,170 is state claims. The whistleblowers received over \$102 million.

2. Tenet Healthcare: \$900 million

In July 2006, Tenet Healthcare, a large chain of hospitals, paid \$900 million to settle allegations that it committed fraud by manipulating of outlier payments to Medicare, paid kickbacks, upcoded DRG codes, and engaged in bill padding. The whistleblower received over \$150 million.

3. HCA: \$731 million

In December 2000, after changing its name to "HCA The Healthcare Company" (formerly known as Columbia HCA), the largest for-profit hospital chain in the United States, settled a second case by paying \$731,400,000 to resolve allegations, including billing for lab tests that were not medically necessary or not ordered by physicians, upcoding, billing the government for advertising under the guise of "community education," and billing for non-reimbursable costs incurred in the purchase of home health agencies around the country. (The whistleblowers received \$150 million.)

4. Serono: \$704,000,000

In October of 2005, Serono paid \$704 million to settle a fraud case involving Serostim, a human growth hormone product used to fight AIDS-related wasting. The fraud allegations included paying kickbacks to doctors and off-label marketing of the drug. (Off-label marketing occurs when a pharmaceutical

company obtains FDA approval for a specific use of a new drug, but then asks doctors to prescribe it for other uses which it did not seek or obtain FDA approval.) (The whistleblower received over \$50 million.)

5. Merck: \$671 million

In February 2008, Merck & Company has paid \$671 million to resolve allegations that it failed to pay proper “rebates” to Medicaid under the Best Price statute and that it paid kickbacks to doctors. Under the Medicaid best price statute or rebate program, a pharmaceutical company is required to give Medicaid the same discount it gives its best customers. The three drugs involved were Zocor, Vioxx, and Pepcid. (The whistleblowers are likely to receive over \$115 million.)

6. HCA: \$641 million

In June 2003, HCA Inc. (formerly known as Columbia HCA – The Healthcare Company) paid the United States \$631 million plus \$10 million in interest to settle allegations that it paid kickbacks to physicians and included unallowable cost in its annual cost reports. In this case, the whistleblowers received over \$115 million. (Combined with the December 2000 settlement, the government has recovered \$1.7 billion from HCA.)

7. TAP: \$540 million

In July 2009, the state of New York and New York City agreed to pay \$540 million to settle Medicaid fraud allegations that they submitted false claims relating to school-based health care services, including speech therapy and transportation. The whistleblower reported a portion of the fraud and received \$10 million.

8. AstraZeneca: \$520 million

AstraZeneca LP and AstraZeneca Pharmaceuticals LP agreed to pay \$520 million to resolve allegations that it illegally marketed the anti-psychotic drug Seroque. Of this amount, \$300 million was federal and the remainder was state False Claims Act claims. The whistleblower received \$45 million.

9. Bristol-Myers Squibb Company (BMS): \$515 million

In 2007, BMS and its wholly owned subsidiary, Apothecan, Inc., paid \$515 million to settle allegations that it paid kickbacks, promoted off-label use drugs, and violated Medicaid’s best price statute. Of this amount, \$328 million related to the civil False Claims Act and resolved allegations in 7 separate False Claims Act *qui tam* cases. The whistleblower likely received \$60 million.

10. Abbott Labs: \$400 million

In July of 2003, Abbott Laboratories, Inc. paid \$400 million to resolve fraud relating to the sale of “enteral” products, which pump food into the stomach of patients who cannot digest meals. (The whistleblower likely received \$70 million.)

11. Fresenius Medical Care of North America: \$385 million

In January of 2000, Fresenius Medical Care of North America paid \$385 million to resolve allegations that it committed fraud relating to fictitious blood testing claims by LifeChem, Inc., paying kickbacks to dialysis facilities to obtain blood testing contracts for LifeChem, and submitting fraudulent claims to Medicare for intradialytic parenteral nutrition (a nutritional therapy provided to patients while on kidney dialysis). (The whistleblower received \$65 million.)

12. National Medical Enterprises: \$379 million

In July 1994, NME paid \$379 million to settle criminal and civil False Claims Act claims relating to allegations that it paid kickbacks to psychiatric and substance abuse hospitals in more than 30 states. Of the settlement, \$324 million related to a civil False Claims Act *qui tam* case. The whistleblower received \$65 million. (This company later changed its name to Tenet, which also paid \$900 million in a July 2006 settlement described above.)

13. Schering-Plough: \$345 million

In July 2004, Schering-Plough, a pharmaceutical company, agreed to pay \$345 million, consisting of \$292,969,482 to resolve civil False Claims Act allegations and \$180 million in criminal fines to resolve Medicaid fraud allegations, including that it failed to report its best price for Claritin. The whistleblowers received over \$30 million.

14. SmithKline Beecham Clinical Laboratories Inc.: \$325 million

In March of 1997, SmithKline Beecham Clinical Laboratories Inc. paid \$325 million for allegations that it submitted false claims relating to lab tests which were either not medically needed or not performed, and that it paid kickbacks to doctors. (The whistleblower likely received \$60 million.)

15. HealthSouth: \$325 million

In December of 2004, HealthSouth Corporation paid \$325 million to settle allegations that it engaged in many schemes to defraud Medicare relating to providing rehabilitative medicine services. (The whistleblower likely received close to \$60 million.)

16. Hip and Knee Replacement Products: \$311 million

In 2007, four manufacturers of hip and knee surgical implant products (Zimmer, Inc., Depuy Orthopaedics, Inc., Biomet Inc., and Smith & Nephew, Inc.) agreed to pay \$311 million to resolve allegations that the companies used consulting agreements with orthopedic surgeons to induce the purchase of their devices. The whistleblower alleged that the companies paid surgeons hundreds of thousands of dollars a year for “consulting” contracts, which were disguised kickbacks. (The whistleblower likely received over \$50 million.)

17. Gambro Healthcare: \$310 million

In December 2004, Gambro Healthcare paid \$310 million to settle allegations that it paid kickbacks to doctors, made false statements related to unnecessary tests and services, and that Gambro Supply was a sham durable medical equipment company. (The whistleblower likely received over \$50 million.)

18. AstraZeneca Pharmaceuticals: \$266 million

In June 2003, AstraZeneca Pharmaceuticals LP paid \$266 million to resolve allegations that it engaged in giving doctors kickbacks and improperly marketed drugs, including Zoladex (a drug used in the treatment of prostate cancer). (The whistleblower received \$47 million.)

19. St. Barnabas Hospitals: \$265 million

In June 2006, St. Barnabas Healthcare, which is a non-profit chain of eight hospitals, paid \$265 million to settle claims that it committed fraud relating to “outlier” Medicare payments. (The whistleblower likely received \$45 million.)

20. Bayer Corporation: \$257 million

In April 2003, Bayer Corp. paid \$257 million to resolve allegations that it did not give Medicaid its best price for drugs. The allegations were based upon a scheme known as “lick and stick”, whereby a pharmaceutical company that sells a popular drug re-labels the product under a different name and then gives deep discounts to favorite customers, such as HMO chains, but does not report this discount to Medicaid. (The whistleblower received \$34 million.)

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