



Abbott Labs Settlement Highlights Importance of Taking Employee Complaints Seriously

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A False Claims Bulletin

The U.S. Department of Justice recently announced that Abbott Laboratories Inc. agreed to pay \$1.5 billion to resolve its criminal and civil liability arising from the company's promotion of the drug Depakote for uses not approved as safe by the Food and Drug Administration.

The settlement resolves four lawsuits pending in federal court under the qui tam, or whistleblower, provisions of the False Claims Act, which allows private citizens to bring civil actions on behalf of the United States and share in any recovery. Four former Abbott Labs employees who informed the authorities of the improper marketing will split \$84 million of the settlement.

The False Claims Act was amended in 1986 to give whistleblowers more financial incentive to come forward. While this has resulted in some meritorious whistleblower actions against federal contractors, this is not always the case. As Bricker & Eckler attorney Richard Blake stated in a recent interview with the Columbus Dispatch, "These recent cases have spawned a cottage industry. There are instances where we've found (whistle-blowers) who go looking for weaknesses in organizations. They get themselves hired and then file a complaint. It is extremely lucrative for plaintiff counsel."

The Abbott Labs settlement reaffirms our previous discussions regarding the need for employers to take employee complaints seriously. Employers who are viewed as disregarding such complaints, and taking retaliatory actions against employees who expose potential billing irregularities, face significant challenges if an employee files a qui tam whistleblower action against them. Neither the government nor the federal courts look favorably on providers who maintain a corporate culture, however implicit, of punishing whistleblowers.



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