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For Immediate Release
Tuesday, Dec. 17, 2002

Grassley Praises Latest Tally of False Claims Act Recoveries

WASHINGTON – Sen. Chuck Grassley, incoming chairman of the Committee on Finance, today praised the latest tally showing False Claims Act recoveries have exceeded \$10 billion since 1986, when he was the Senate author of successful amendments to strengthen the act.

“At the time, we had several fights on our hands,” Grassley said. “The Defense Department was too cozy with its contractors, and defended them to the fraud-prosecuting Justice Department. The defense industry fought hard against our changes. Probably 10 different senators had holds on our bill at any one time. Then the law faced and withstood a constitutional challenge.

“I’m glad our side prevailed. Not only has the False Claims Act been a valuable tool in prosecuting fraud, it’s also become much more of a fraud deterrent than I ever anticipated. I’m glad the Justice Department continues to find the False Claims Act so useful, and I look forward to even more aggressive fraud prosecutions under the False Claims Act. As part of my congressional oversight, I’m watching to make sure nothing happens to undermine the utility and strength of the False Claims Act.”

Yesterday’s Justice Department news release on False Claims Act recoveries follows.

FOR IMMEDIATE RELEASE CIV
MONDAY, DECEMBER 16, 2002 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT RECOVERS OVER \$1 BILLION IN FY 2002

False Claims Act Recoveries Exceed \$10 Billion Since 1986

WASHINGTON, D.C. -- Recoveries in suits and investigations of fraud against the federal government for the fiscal year ending September 30, 2002 exceeded a billion dollars for the third year in a row, the Justice Department announced today. False Claims Act recoveries since the law was substantially amended in 1986 have now topped \$10 billion - over \$6 billion of which was recovered under the so-called whistleblowers provisions of the Act.

"The success of this statute is a tribute to the vision of its sponsors, Senator Charles Grassley of Iowa and Representative Howard L. Berman of California, as well as the thousands of private citizens who have reported fraud by filing suit under the Act," said Robert D. McCallum, Jr.,

Assistant Attorney General for the Civil Division. "This success could not have been achieved without the tireless efforts of the many public servants involved in prosecuting fraud claims—from the government's lawyers in the Civil Division in Washington, D.C. and in the U.S. Attorneys' offices throughout the country, to the Department's Criminal Division attorneys, as well as agency investigators, auditors and countless others throughout the government."

In fiscal year 2002, the government's recoveries in civil fraud claims reached nearly \$1.2 billion -- a sum that includes investigations initiated by the government as well as suits filed by whistleblowers. Health care fraud again accounted for the overwhelming majority of recoveries, totaling more than \$980 million. Recoveries associated with suits brought by whistleblowers, including non-whistleblower claims resolved at the same time, accounted for almost \$1.1 billion in settlements and judgments during the fiscal year.

The whistleblower or "qui tam" provisions of the False Claims Act allow individuals, known as "relators," to file suit on behalf of the United States against those who have falsely or fraudulently claimed federal funds, including Medicare, Medicaid, disaster assistance and other benefits, subsidies, grants, loans and contract payments. Persons who file qui tam suits can recover from 15 to 25 percent of any settlement or judgment reached in a case if the United States intervenes in the action, or up to 30 percent if they pursue it on their own. In the fiscal year just ended, relators recovered more than \$160 million.

The 1986 amendments to the False Claims Act enhanced the qui tam provisions, increasing the financial incentives and reducing the jurisdictional hurdles to filing such suits. Relators filed 33 cases in the year following the amendments with the number of such suits peaking in 1997 with 533 suits filed. It appears to have leveled off in recent years to the 300s annually. In all, 4,000 qui tam suits have been filed, resulting in the \$6 billion recovered since 1986. Recoveries in suits pursued by the government account for \$5.9 billion of the total, compared to the \$260 million recovered in suits pursued by the relator alone. During the same period, the United States recovered an additional \$4 billion in government-initiated claims, for a total of \$10 billion.

Among the Department's largest recoveries in fiscal year 2002 are:

- * \$568 million from TAP Pharmaceuticals, a joint venture between Abbott Laboratories and Takeda Chemical Company. TAP allegedly conspired with doctors to bill Medicare for samples of the drug Lupron in violation of the Prescription Drug Marketing Act, paid kickbacks to providers to increase sales of Lupron, and inflated its pricing of the drug to further a scheme in which TAP and its provider customers overcharged Medicare and Medicaid.

- * \$87.3 million from PacifiCare Health Systems. The United States alleged that PacifiCare's subsidiaries submitted false claims under contracts with the Office of Personnel Management to provide health care benefits to federal employees under the Federal Employees Health Benefits Program. PacifiCare allegedly failed to charge OPM the most favorable rates charged to its commercial customers, as required under the contracts, and to disclose downward rate adjustments due OPM.

- * \$76 million from General American Life Insurance Company. General American was a Medicare Part B carrier in Missouri until December 31, 1998. Carriers process Medicare claims under contract with the Department of Health and Human Service's Centers for Medicare and Medicaid Services (formerly known as the Health Care Financing Administration). The United States alleged that General American improperly approved claims for federal Medicare funds and manipulated its quality assurance data to conceal its failure to process claims properly. In addition to the monetary settlement, General American agreed to stay out of the Medicare program for five years.

- * \$73.3 million from the State of California and the County of Los Angeles. The United States alleged that California and Los Angeles billed Medicaid for services provided to persons not eligible for Medicaid because they didn't meet the required standard of need.

- * \$29 million from Lifemark Hospitals of Florida, a subsidiary of Tenet Healthcare Corporation.

Tenet and its subsidiary allegedly participated in a host of schemes including submitting false Medicare claims for home health services; for hospital services not rendered; for services provided by unskilled, unlicensed, or uncertified personnel; for services not ordered by a physician; and for services inadequately documented as required under the program.

* In another settlement, 139 hospitals owned and operated by Tenet paid the United States \$17 million to resolve false claims allegations spanning several federally insured health care programs, including Medicare, Medicaid, TRICARE (covering military personnel and their families), and the Federal Employees Health Benefits Program.

* \$21.5 million from Union Oil Company of California (Unocal) for allegedly underpaying the Department of Interior royalties owed for oil extracted from federal lands. Unocal was the last of 16 major oil companies to settle claims in four related qui tam actions in which more than \$430 million was recovered by the federal government, plus an additional \$10 million on behalf of Native Americans for similar losses suffered on tribal lands.

* \$8.7 million from Intertek Testing Services Environmental Testing Laboratories. Intertek held contracts with the Air Force, Navy, Army Corps of Engineers, and Environmental Protection Agency to test air, liquid, and soil samples for hazardous substances. The settlement resolved claims that Intertek failed to perform tests as required by its contracts.

* \$7.3 million from Lockheed Martin in two settlements. In the first, Lockheed Martin and BAE Systems Controls paid the United States \$6.2 million to resolve allegations that Lockheed Martin, BAE, and their predecessors delivered over 1,300 accelerometer sensor assemblies that did not comply with contract specifications. The assemblies were components installed in the Navy F/A18 Hornet in the 80s and 90s to control the aircraft's rudder. The second settlement for \$2.1 million resolved claims that the company's Tactical Systems Division, when still owned by Unisys, charged the government for unallowable bid and proposal costs on a series of defense contracts for the Trident Missile program.

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