

SUMMARY OF  
TESTIMONY OF  
JAMES W. MOORMAN, PRESIDENT  
TAXPAYERS AGAINST FRAUD  
THE FALSE CLAIMS ACT LEGAL CENTER  
Before The  
SENATE SPECIAL COMMITTEE ON AGING  
JULY 26, 2001

Mr. Chairman and Members of the Committee, my name is Jim Moorman and I am appearing today on behalf of Taxpayers Against Fraud, The False Claims Act Legal Center (“TAF”). Taxpayers Against Fraud is a nonprofit public interest organization dedicated to combating fraud against the Federal Government through the promotion and use of the federal False Claims Act (“FCA”) and its *qui tam* provisions. *Qui tam* is a legal mechanism that allows persons and entities with evidence of fraud involving federal programs or contracts to sue wrongdoers on behalf of the Government. The *qui tam* provisions include strong incentives both to report fraud against the Government and to participate in the resulting litigation.

The False Claims Act is the primary tool of the Federal Government for fighting healthcare fraud. The Civil Division and the U.S. Attorneys Offices of the Department of Justice, together with the Office of the Inspector General of the Department of Health and Human Services, have recovered billions of dollars in FCA health care fraud cases. Most of these cases have been initiated by whistleblowers as FCA *qui tam* cases. When a whistleblower reveals a fraudulent scheme to the government, this then permits the government to undertake an investigation, win back the money stolen, plus penalties, and to deploy several other tools that enhance the effectiveness of anti-fraud efforts.

Many of the government's most fruitful FCA investigations are based on information received from private individuals (e.g., corporate whistleblowers or health program beneficiaries). Overall, *qui tam* actions have returned over \$6 billion to the Federal Government since 1986, when the modern FCA was created by Amendments adopted that year. A very substantial share of these recoveries have come from perpetrators of health care fraud through FCA judgments. From September 30, 1986 through September 30, 2000, the government recovered \$2.83 billion from defendants in health care related FCA cases. This figure does not include the \$745 million settlement with Columbia/HCA in December of 2000, and other recent health-related settlement, which push the recovery number well past \$3.5 billion. In 2000 80% of the government's civil fraud recoveries were from *qui tam* FCA cases.

There is evidence that the deterrent effect of the FCA is one of the significant causes in the noticeable tapering off of the rise in Medicare costs in recent years. FCA actions undoubtedly play a very large role in deterring fraud and saving the taxpayers money. FCA judgments change the attitude and actions of other providers, and encourage government efforts to correct systematic problems and thus create additional cost savings. The indirect savings of deterrence and government corrective activities are probably several times the amount recovered directly through case judgments and settlements. When direct FCA recoveries are combined with indirect cost savings attributable to the FCA, the taxpayers are receiving a very large benefit indeed.

## **Conclusion**

The False Claims Act, and its *qui tam* provisions, are a vital component in any

meaningful effort to curtail and deter fraudulent overbilling to Medicare and Medicaid. The fraudulent schemes uncovered by whistleblowers have saved the government billions of dollars. The majority of honest health care providers have nothing to fear from the False Claims Act because the FCA does not punish mere mistakes. But there is an important minority of bad actors in the health care industry who must be deterred by vigorous enforcement of the FCA. It is TAF's position that the Justice Department and the OIG should be more, not less, to be responsive to whistleblowers. Justice should join more *qui tam* cases and make a stronger effort to work closely and cooperatively with the whistleblowers that bring them the bulk of their important health care fraud cases. In summary, I urge the Committee to continue the tradition established by Senator Grassley to encourage the government to work with whistleblowers to uncover fraud and protect the public fisc.