
US Justice Department Announces First-Ever Settlement of False Claims Act and Antitrust Claims Based on Bid-Rigging in Bureau of Land Management Mineral Rights Lease Auctions

2012-02-21

Ending what the US Justice Department describes as its "first . . . challenge to an anticompetitive bidding agreement for Bureau of Land Management [BLM] mineral rights leases," the Department announced on February 15 that it had reached a settlement with Gunnison Energy Corporation (GEC), SG Interests I Ltd., and SG Interests VII Ltd. (jointly, SGI) to resolve antitrust and False Claims Act claims based on an alleged agreement not to compete in bidding for four natural gas leases sold at auction by BLM. The federal investigation resulted from a lawsuit filed under the *qui tam* provisions of the False Claims Act in 2009. The *qui tam* complaint alleged that GEC and SGI made false statements to the government through an allegedly false certification by SGI that its winning bid was not the product of collusion with another bidder.

Summary of the Settlement

In a follow-on antitrust complaint, the Department joined the *qui tam* relator in alleging that in 2005 and 2006 GEC and SGI had agreed that only SGI would bid at certain BLM auctions for natural gas leases and that SGI would then assign an interest in the acquired leases to GEC. As a result of the agreement, the United States alleged, it had received less revenue from the sale of the four leases than it would have had GEC and SGI competed at the auctions.

The proposed settlement provides that GEC and SGI will pay a total of \$550,000 to the United States as well as \$50,000 in relator's attorney's fees. Neither company admitted liability.

Other Theories of FCA Liability Related to Federal Mineral Rights Leases

The bid-rigging allegations at issue in this case differ significantly from recent FCA settlements announced by the Justice Department in the context of mineral rights and federal leases, which have typically concerned the underreporting of royalties. In *United States ex rel. Wright v. Chevron USA, Inc. et al.*, 5:03-CV-264 (E.D. Tex.), the Justice Department has collected more than \$250 million in settlements since 2009 from at least nine oil companies. These settlements resolve allegations that each of the companies systematically underreported the value of natural gas they took from federal and Indian leases.

Implications of the Settlement

The settlement announced on February 15 suggests increased coordination between the Justice Department's civil fraud and antitrust enforcement arms, on the one hand, and the Bureau of Land Management, on the other. It also reflects *qui tam* relators' and the government's increasing use of false certification theories of liability under the False Claims Act—theories whose permissible scope remains a source of debate in the lower courts and seems likely to reach the Supreme Court in the near future.

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