U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney for the District of Columbia

Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20530

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For Information Contact:
Public Affairs
(202) 252-6933
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FedEx Corporation to Pay United States $8 Million To Settle False Claims Act Allegations

- Payment Settles Lawsuit Over Billing Practices -

WASHINGTON – FedEx Corporation has agreed to pay the United States $8 million to settle a whistleblower lawsuit that alleged the company and its affiliates violated the federal False Claims Act, U.S. Attorney Ronald C. Machen Jr. announced today.

The lawsuit was filed in the U.S. District Court for the District of Columbia by a FedEx employee who, in the wake of the 2001 terrorist attacks in New York and Washington, D.C., observed the company's couriers using "delivery exception codes" to reflect that increased security measures at government facilities were causing delays in the timely delivery of overnight FedEx packages. The lawsuit alleges that, even after heightened security measures subsided or became routine procedures for entering government locations, FedEx couriers continued to use the security-delay exception code in order to excuse their own failures to deliver Priority Overnight packages by the specified commit time of 10:30 a.m. and to avoid the obligation to reimburse government customers under the company's Money Back Guarantee.

FedEx has agreed to pay the United States $8 million to resolve the allegations that it violated the federal False Claims Act by submitting invoices that reflected misuses of the security delay and other delivery exception codes and therefore precluded the government from seeking its money back on late-delivered packages.

The False Claims Act permits private individuals, called relators, to bring whistleblower lawsuits on behalf of the United States and receive a portion of the proceeds of a settlement or judgment awarded against a defendant. As a result of this settlement, the relator, Mary Garofolo, will receive $1.44 million as her share of the government's recovery.

The case is captioned *U.S. ex rel Garofolo v. Federal Express, et al.,* Civ. No. 06-0815 (EGS). The settlement agreement was unsealed and made public today.

The settlement was the result of a coordinated effort by the U.S. Attorney's Office for the District of Columbia, the Inspector General's Office for the Department of Justice, the Inspector General's Office for the General Services Administration, and the Inspector General's Office for the Department of Agriculture. Assistance also was provided by the Naval Criminal Investigative Service (NCIS).

"Companies that commit to provide services to the United States are expected to meet their commitment and not 'game the system' to take advantage of their government customers for the benefit of their own bottom line," said U.S. Attorney Machen. "This Office takes seriously its responsibility to protect the public and to recover funds that were obtained through misrepresentations, fraud, and abuse."

"Companies contracting with the government must be held accountable for the misconduct of their employees," said Cynthia A. Schnedar, Acting Inspector General for the Department of Justice. "We will ensure that the government funds are spent wisely and in accordance with negotiated contracts and procedures."

"We cannot let companies cheat the government by failing to live up to their contractual responsibilities and concealing their improper conduct," said Brian D. Miller, Inspector General for the General Services Administration.

In announcing the settlement, U.S. Attorney Machen thanked the agents and investigators who worked on the case, as well as Assistant U.S. Attorneys Laurie Weinstein and Jennifer A. Short, who represented the government during the legal proceedings.

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