Recently the Department of Justice announced, via a **press conference** , that it had recovered just a hair under $5 Billion from its GFY 2012 enforcement efforts related to the False Claims Act. That was “a new record for a single year,” according to the DOJ spokesperson. The spokesperson stated—

Since January 2009, we have obtained a total of $13.3 billion in False Claims Act cases, the largest four-year total in the Department’s history. That is more than a third of the total recoveries under the Act since it was amended a quarter of a century ago in 1986. … The False Claims Act is, quite simply, the most powerful tool that we have to deter and redress fraud.

Of the $5 Billion in FCA recoveries, about $3.3 Billion originated from *qui tam* relators filing suits. According to the DOJ spokesperson, in GFY 2012, nearly 650 qui tam cases were filed under the FCA—“more cases than ever before under the Act.”

The folks at the Project on Government Oversight (POGO) trumpeted this DOJ announcement, calling the recoveries testament “to the FCA’s versatility and far-reaching impact.”

So why does the Federal government think it needs to expand its arsenal of fraud-fighting weapons to include asset forfeitures under civil proceedings?

Hey! We're not lawyers. But we're confused here.

On one hand, we have the Feds crowing about how successful the FCA is at recovering illicit fraud-related gains. But on the other hand, we have those very same Feds using other statutes as the basis of asset forfeiture.

So which is it?

We refer you to **this DOJ press release** .

As you can see from perusing that press release—

Kentucky-based Lusk Mechanical Contractors and Commonwealth Technologies, and their owners, Harry Lusk and Wendell Goodman, have agreed to pay $6.25 million to resolve allegations that they submitted false statements to the Small Business Administration and false claims to the Army….

Their agreement resolved allegations made false statements to the SBA in order to be certified as a HUBZone company, which they then used to obtain Army contracts for work at Fort Knox. According to the press release—

The United States alleged that, using the falsely obtained HUBZone certification, the companies obtained contracts from the Army that had been restricted to qualified HUBZone companies, in violation of the False Claims Act and the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA).

More to our point, the settlement agreement called for the parties to pay $3.74 million and "to forfeit $2.5 million seized by federal agents from their bank accounts under a civil forfeiture action."

We checked, and this is a fairly unusual step for the Feds to take. Yes, FIRREA does have an asset forfeiture provision. But our information is that the Feds used an allegation of Wire Fraud, and not a FIRREA violation, as the basis of their asset forfeiture action.

You can Google “civil asset forfeiture” and you’ll get a number of articles about the topic—most of which condemn the practice. We’re not really qualified to know whether or not it’s justified, but we are confused as to why the Feds thought it was justified in these particular circumstances.

It seems to us that the False Statements Act and the False Claims Act provide plenty of statutory strength for the Federal government. Things appear to be going swimmingly, as $5 Billion in annual recoveries would seem to evidence. And yet, civil asset forfeiture was felt to be warranted in these circumstances.

We don’t get it.

But in any case, you have now been warned. If the Feds think you’ve violated the False Claims Act, they now have another tool in their toolkit, another weapon in their arsenal. And apparently, they are not reluctant to use it.