

## LAW REVIEW 1186

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### Whistleblower Suit Against Big Banks

By Captain Samuel F. Wright, JAGC, USN (Ret.)

#### 9.0- Miscellaneous

Two mortgage broker “whistleblowers” filed suit against several major financial institutions (including Bank of America, Wells Fargo, J.P. Morgan Chase, and GMAC Mortgage) in the United States District Court for the Northern District of Georgia. This is a *qui tam* lawsuit. The two plaintiffs are not claiming that they personally lost money in the alleged fraud.<sup>[1]</sup> They are alleging that the Federal Government and thousands of individual veterans were ripped off. If the Federal Government recovers money as a result of this lawsuit, the two “whistleblowers” stand to get a substantial percentage of the recovery, as a reward for their efforts, under a Civil War era law that provides for such lawsuits.

The alleged fraud relates to home loans for veterans, guaranteed by the Department of Veterans Affairs (DVA). Under DVA rules, the veteran can be charged for title examination fees (to ensure that the seller has clear title to sell), recording fees, credit report fees, and certain other customary fees. The lender is not permitted to charge for attorney’s fees or settlement closing fees. The two whistleblowers allege that the banks charged impermissible fees by disguising them as permissible fees, thus ripping off the veterans who were buying homes and also increasing the amount that DVA is guaranteeing in the home loan transaction.

The amount of the fraud in any one transaction is small, but you add up tens of thousands of transactions and you have really big bucks. The two plaintiffs allege that big banks *routinely* break the rules to receive fees to which they are not entitled by law and regulation.

I know some lawyers who make really big bucks in such *qui tam* lawsuits. It seems to me that this is a most inefficient way to ferret out fraud, waste, and abuse affecting federal operations, but at least this is a way.

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[1] The two plaintiffs apparently learned of the alleged fraud through their work in the mortgage industry.