

Breaking Legal NEWS

False Claims Act

Qui Tam Whistleblower

For Immediate Release

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**Award-Winning Paving Contractor Settles Whistleblower Allegations,
Pays Total \$1.25 Million; Curran Contracting Billed for Materials Never Used,
Retaliated Against Long-Time Employee, Complaint Alleges; Third Major
Recent Whistleblower Case for Chicago Attorney Michael I. Behn**

CHICAGO, May 17, 2005 B A paving contractor which claims to be the "...Most Capable, Conscientious and Cost Effective Asphalt Paving Contractor,"¹ in Eastern Illinois settled whistleblower-sparked allegations of billing for materials it never used in a Lake County paving project, then retaliating against the long-time employee who launched the case. Curran Contracting, Inc., ("Curran"), of Crystal Lake, agreed to pay \$500,000 to settle the false claims case that began five years ago when Chicago whistleblower attorney Michael I. Behn, a former federal prosecutor, was retained to bring fraud allegations to Illinois and the federal government. With this settlement, Curran has now paid \$1.25 million to settle state and federal charges, Behn said.

Curran, which received the 2003 Contractor of the Year Award from the Illinois Toll Highway Authority, and was nominated for the same award in 2001, violated federal and Illinois False Claims Acts ("FCA") and their anti-retaliation statutes, according to a four-count federal civil Complaint unsealed with the settlement. In addition to the \$500,000 payment, Curran agreed to be supervised under a three-year corporate integrity agreement monitored by the U.S. Department of Transportation, Behn said.

For clients of Behn, who represents whistleblowers at the Chicago law firm of Futterman & Howard, Chartered, the Curran settlement is the third major whistleblower case milestone in the past three months:

- ! In March, the federal government and Behn=s clients settled the largest False Claims Act settlement ever achieved in Chicago, a 15-year effort for which Northrop Grumman Corp. reported paying a total of \$134 million; and
- ! In April, Illinois Attorney General Lisa Madigan intervened to prosecute a health care whistleblower case brought by Behn's client, a former employee of AmeriGroup, one of the largest Medicaid HMOs in Illinois. That qui tam case alleges that the HMO routinely excluded pregnant women and other seriously ill persons from Medicaid-covered services in order to increase its bottom line.

¹ www.currancontracting.com visited May, 2005

Yesterday, acting on information provided by Behn's client, former Curran employee Betty Bill, the government charged Curran with billing for materials it never used in building a frontage road for Route 41 in Lake County, according to the Complaint. Also alleged was similar conduct in numerous other state and federal projects.

Curran was barred from Illinois road construction in 2001, as allegations brought under seal by Behn on Bill's behalf were being investigated. After an October 2002 settlement with the state and Curran's payment of \$750,000, the ban was lifted. Approximately \$650,000 went to the State, with the balance paid to Bill for bringing the case to the attention of authorities, according to Behn.

Curran Construction's parent, a Delaware Corporation, employs a total of 1,200 persons in Illinois, Texas and Tennessee. In addition to its Crystal Lake headquarters it operates Illinois paving plant locations in DeKalb, Grayslake, Lake Bluff and McHenry.

"Betty Bill's courage under enormous pressure has been vindicated. First came the 2002 settlement with Illinois, and now the federal settlement." Behn said. "In doing her job and doing it well, she uncovered pervasive false billing practices and worked with the government to recover taxpayer funds. This recovery could only have been accomplished with Betty's tenacity and expertise."

This ends the private qui tam action Behn filed on behalf of Bill who, legally, is termed the Relator." A Qui tam is a term derived from English Common Law meaning "he who sues on behalf of the king as well as himself."

Under the FCA, qui tam actions allow private citizens with knowledge of fraud to help the Government recover ill-gotten gains and additional civil penalties. The FCA allows the Government to collect up to three times the amount it was defrauded, in addition to civil penalties of \$5,500 to \$11,000 per false claim. Behn noted that whistleblowers can receive between 15 and 25 percent of the governments' recovery, when the government intervenes to take the case.

In the Curran case, Bill will receive 25 percent of the paving contractor's settlement payments - the maximum amount available - for bringing the matter to the Government's attention. Under the Settlement Agreement, Curran will also pay relator's expenses, attorney fees and costs.

The U.S. Attorney's Office for the Northern District of Illinois, under the direction of U.S. Attorney Patrick J. Fitzgerald, is represented by Assistant U.S. Attorney Linda A. Wawzenski, deputy chief of the office's Civil Division. The investigation was handled by the Federal Bureau of Investigation, the U.S. Department of Transportation, and the Illinois Department of Transportation.

In executing the Settlement Agreement, Curran did not admit liability, wrongdoing or improper conduct. Curran was represented in the Settlement Agreement by Ron Safer, Esq., of Schiff Hardin LLP, Chicago.

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