

California-Based Masonry Companies Pay Nearly \$1.9 Million to Settle Claims of Misrepresenting Disadvantaged Small Business Status in Connection with Military Contracts

Five California-based masonry subcontractors and two individuals paid the government nearly \$1.9 million to resolve allegations that they violated the False Claims Act by misrepresenting their disadvantaged small business status in connection with military construction contracts, the Department of Justice announced today. The defendants are Frazier Masonry Corp., F-Y Inc., CTI Concrete & Masonry Inc., Masonry Technology Inc., Masonry Works Inc., Russell Frazier and Robert Yowell.

“This settlement demonstrates our continuing vigilance to ensure that those doing business with the military do so legally and honestly and that taxpayer funds are not misused,” said Assistant Attorney General for the Justice Department’s Civil Division Stuart F. Delery. “Among the rules that military contractors and subcontractors must follow are those relating to the use and hiring of small businesses.”

The case involved contracts to construct facilities at Marine Corps bases at Camp Lejeune, N.C., and Camp Pendleton, Calif. Under the rules of the Small Business Administration, the contracts required that a certain percentage of the work be performed by disadvantaged small businesses. This contract requirement was intended to benefit small firms owned by women, minorities and other disadvantaged groups.

The government alleged that the defendant masonry subcontractors and their principals misrepresented to the prime contractors that they were small businesses, and that these misrepresentations caused the prime contractors to falsely certify that they had complied with the small business provisions of the contracts in claiming payment. Russell Frazier previously pleaded guilty in related criminal proceedings to causing false statements.

“This settlement demonstrates our commitment to protect taxpayer money and the integrity of the system set up to build military bases for our nation’s military personnel,” said U.S. Attorney for the Eastern District of North Carolina Thomas G. Walker.

“DCIS continues our aggressive investigative efforts, in partnership with other agencies, to ensure the integrity of all defense programs, to include military construction contracts, which ultimately benefit our dedicated Warfighters,” said John Khin, Special Agent in Charge, Southeast Field Office, Defense Criminal Investigative Service.

The settlement resolves allegations filed in two lawsuits by Rickey Howard, a former employee of Frazier Masonry Corp., in federal court in Raleigh, N.C. The lawsuits were filed under the *qui tam*, or whistleblower, provisions of the False Claims Act, which permit private individuals to sue on behalf of the government for false claims and to share in any recovery. The act also allows the

government to intervene and take over the action, as it did in this case. Howard will receive \$393,383.

The settlement was the result of a coordinated effort by the Civil Division of the Department of Justice, the U.S. Attorney's Office for the Eastern District of North Carolina, the Defense Criminal Investigative Service, the Naval Criminal Investigative Service, the Navy's Acquisition Integrity Office, the Naval Facilities Engineering Command (NAVFAC) and the Small Business Administration's Office of Inspector General and Office of General Counsel.

The cases are captioned *United States ex rel. Howard v. Harper Construction Co., et al.*, Case No. 7:12-CV-215-D (E.D.N.C.) and *United States ex rel. Howard v. RQ Construction LLC, et al.*, Case No. 7:13-CV-48-D (E.D.N.C.). The claims resolved by the settlement are allegations only; there has been no determination of liability.

14-357

Civil Division