

UNITED STATES of America, Plaintiff,

v.

The INCORPORATED VILLAGE OF ISLAND PARK, Jacqueline Papatsos, in her capacity as Mayor of the Incorporated Village of Island Park, Charlotte Kikkert, in her capacity as Trustee of the Incorporated Village of Island Park, Philip Taglianetti, in his capacity as Trustee of the Incorporated Village of Island Park, James Fallon, in his capacity as Trustee of the Incorporated Village of Island Park, Michael A. Parente, James G. Brady, Francis R. McGinty, Michael Masone, Geraldine McGann, Daniel McGann, Eileen McGann, Anthony Ciccimarro, Janet Ciccimarro, Joseph Ruocco, Mary Ellen Guerin, Dennis Guerin, Joseph DiDomenico, Maria DiDomenico, Donna Moore and Kenneth Moore, Defendants.

[No. 90-CV-0992.](#)

United States District Court, E.D. New York.

May 17, 1995.

The provisions of the False Claims Act are to be read broadly and "reaches beyond `claims' which might be legally enforced, to all fraudulent attempts to cause the Government to pay out sums of money." [United States v. McLeod, 721 F.2d 282, 284 \(9th Cir.1983\)](#) (quoting [United States v. Neifert-White Co., 390 U.S. 228, 233, 88 S.Ct. 959, 962, 19 L.Ed.2d 1061 \(1968\)](#)). Thus, the statute is violated not only by a person who makes a false statement or a false record to get the government to pay a claim, but also by one who engages in a fraudulent course of conduct that causes the government to pay a claim for money. See [Scolnick v. United States, 331 F.2d 598, 599 \(1st Cir.1964\)](#), finding liability under the False Claims Act for cashing a check mistakenly issued to defendant for an obligation that had been satisfied; [United States v. McLeod, 721 F.2d at 283-284](#), finding liability for presenting for payment a check which the defendant knows he is not entitled to. The legislative history indicates that the False Claims Act was intended to cover "each and every claim submitted ... by means of false statements, or other corrupt or fraudulent conduct, or in violation of any statute or applicable regulation ..." S.Rep. No. 345 at 9, *reprinted* in 1986 U.S.Code Cong. and Admin.News, 5266, 5274.

A bid-rigging scheme, in which contractors who are supposed to compete against each other to submit the lowest bid conspire to artificially fix the low bid and the bidder who will be awarded the contract is a fraudulent course of conduct which can give rise to False Claims Act violations. [United States ex. rel. Marcus v. Hess, 317 U.S. 537, 63 S.Ct. 379, 87 L.Ed. 443 \(1943\)](#). Thus, claims for payment submitted under the rigged contract constitute false claims within the meaning of the False Claims Act. See [United States v. CFW Construction Co., Inc., 649 F.Supp. 616, 618 \(D.S.C.1986\)](#), *dismissed*, 819 F.2d 1139 (4th Cir.1987).

Kreindler adopts the Ninth Circuit's interpretation of *Bornstein*, quoting the very language which compels the conclusion that the Village Defendants are liable for a separate False Claims Act violation for each claim for a mortgage subsidy which the innocent mortgagee submitted as a result of the Village's fraudulent conduct, notwithstanding the Village Defendants' attempt to recharacterize those claims as "contracts." February 11, 1993 Letter, p. 4.

Furthermore, under *Kreindler*, "as to each such claim [for payment of a mortgage subsidy], the six-year statute of limitations period of § 3731(b)(1) `begins to run on the date the claim is made, or, if the claim is paid, on the date of payment.'" *Supra*, at 1157 (quoting [Blusal Meats, Inc. v. United States, 638 F.Supp. 824, 829 \(S.D.N.Y.1986\)](#), *aff'd* [817 F.2d 1007 \(2d Cir.1987\)](#)). Thus, the government's claims under the False Claims Act are timely with respect to each claim for a mortgage subsidy payment, and each payment *442 of CDBG funds to the Village, after March 22, 1984.