Use of the False Claims Act to Impose Penalties on US Imports

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Customs duty; Importers; Private enforcement; Tax evasion; United States

Abstract

In recent years, the False Claims Act (FCA)[1] has become increasingly used to punish both US importers, and in some instances their US customers, for the importer's failure to pay the proper amount of duties owed on imported merchandise. The FCA allows private parties to initiate a lawsuit (on behalf of the US Government) against companies and individuals who are believed to have defrauded the US Government, such as by not paying proper customs duties. An FCA action may lead to civil penalties plus treble damages being imposed for its violation. Moreover, the private party initiating the action is awarded a portion of the recovered proceeds, which encourages insiders and competitors to expose customs duty evasion.

Overview of the FCA

FCA

In 1863, Congress enacted the FCA to fight fraud by suppliers of goods to the Union Army during the Civil War. The FCA essentially provides that any person who knowingly defrauds the US Government through the submission of false claims or avoidance of obligations to pay is liable for a civil penalty plus three times (treble) the amount of the Government's damages. Importantly, lawsuits for imposition of a penalty and recovery of damages may be filed by either the US Government or a private party. The FCA has been used for many years to address fraud on the US Government in various areas such as health care, defence and national security, food safety and inspection, federally insured loans and mortgages, highway funds, small business contracts, agricultural subsidies, disaster assistance, and more recently import tariffs.

The FCA punishes any person who knowingly submits a false claim, or causes another to submit a false claim to the US Government, or knowingly makes, uses,

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[1] 31 USC §§3729–3733.

or causes to be made or used, a false record or statement material to a false claim, or is part of a conspiracy to commit such acts.[2] The FCA also imposes liability for knowingly and improperly failing to pay money to the US Government, known as the "reverse false claims" provision.[3] Thus, the FCA applies not only to knowingly overcharging, but also knowingly failing to pay the proper amount to, the US Government, such as evasion of customs duties in import transactions. Knowingly means (1) having actual knowledge; (2) deliberate ignorance of the truth or falsity of the information; or (3) reckless disregard of the truth or falsity of the information.[4]

The FCA imposes a civil penalty for each FCA violation. The minimum and maximum amounts of the civil penalty depend on when the FCA violation occurred and when the civil penalty is assessed because the amounts are adjusted annually under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015[5] in accordance with the inflation calculated based on the Consumer Price Index.[6] Table 1 provides the civil penalty amounts currently in effect for each violation:

Table 1: Civil penalty amounts for FCA violations

	Violation occurred on or before 2 November 2015	**Violation occurred after 2 November 2015**			
		Assessed on or before 1 August 2016	**Assessed after 1 August 2016**	**Assessed after 3 February 2017**	**Assessed after 29 January 29, 2018**
Amount of civil penalty	Min. $5,500		Min. $10,781	Min. $10,957	Min. $11,181
	Max. $11,000		Max. $21,563	Max. $21,916	Max. $22,363

While the US Government may bring FCA actions directly, as mentioned above, the FCA is unique in that it encourages a private person (known as a "relator") to file a lawsuit on behalf of the US Government; such relator-initiated FCA actions are known as *qui tam* actions.[7] A *qui tam* action is filed under seal and remains confidential for at least 60 days, so filing is not immediately known to the public, including the target. [8] At the same time the action is filed, a copy of the complaint and written disclosure of substantially all material evidence and information are served on the US Government. Before the complaint is unsealed, the US Government investigates the allegations in the complaint and intervenes in and proceeds with the action, declines to take over the action but allows the relator to proceed in the Government's name, or moves to dismiss the action. When the US Government intervenes, it has the primary responsibility for prosecuting the action.[9]

[2] 31 USC §§3729(a)(1)(A)–(C).

[3] 31 USC §3729(a)(1)(G).

[4] 31 USC §3729(b)(1). In other words, a grossly negligent failure to pay proper duties would appear to be a knowing violation under the FCA.

[5] Section 701 of the Bipartisan Budget Act of 2015, Pub. L. No. 114-74, H.R. 1314, 129 Stat. 584; 28 USC §2461 note.

[6] See *Civil Monetary Penalties Inflation Adjustment*, 83 F.R. 3944 (29 January 2018).

[7] *Qui tam* is an abbreviation of the Latin phrase *qui tam pro domino rege quam pro se ipso in hac parte sequitur*, meaning "[he] who sues in this matter for the king as well as for himself".

[8] Some relators also file the complaint as "John Doe", further hiding their identity.

[9] 31 USC §§3730(b), (c).

A relator in a successful lawsuit may be awarded between 15 and 30%[10] of the amount recovered by the Government.[11] This reward can be significant, with awards to relators in excess of $100 million in some past cases. The availability of such a reward strongly incentivises private parties to proactively expose FCA violations that were unknown to the Government.[12] Numerous *qui tam* actions have been filed by current or former executives or employees, business partners and competitors who had knowledge of possible FCA violations.

Recent FCA statistics

As shown in Fig.1, the number of new FCA matters increased significantly in 2010, and has remained at a high level since then. There have been over 700 FCA actions initiated annually between 2010 and 2017.

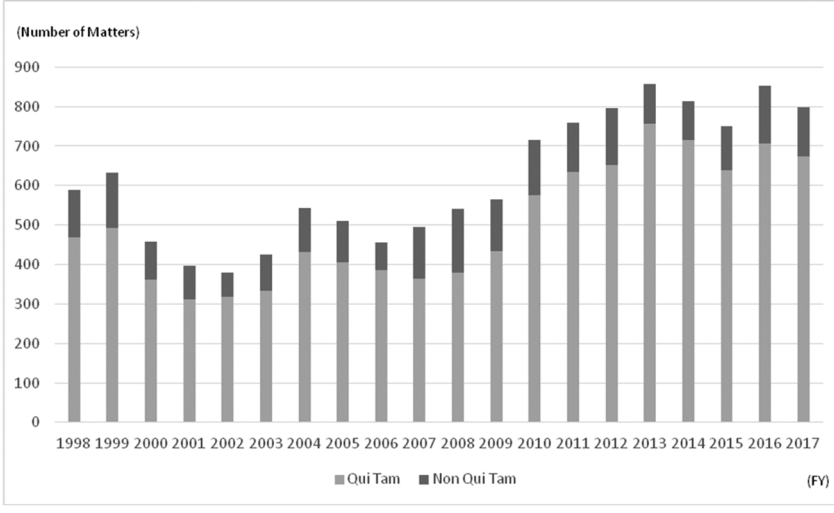

Figure 1: Annual number of new FCA matters (FY 1998 – 2017)[13]

Figure 2 shows that proceeds from FCA actions have also increased significantly since 2010. The annual total amount of FCA proceeds has been over $3 billion for the last eight consecutive years.

[10] If the Government intervenes in the *qui tam* action, the relator is entitled to receive between 15 and 25% of the amount recovered by the Government through the *qui tam* action. If the Government declines to intervene in the action, the relator's share is increased to 25 to 30%. The actual amount of the reward is determined by the court or by the parties in a negotiated settlement based on the contributions of the relator to the case in prosecuting the action and in collecting the civil penalties and damages.

[11] 31 USC §§3730(d)(1), (2). If the court finds that the action is based primarily on disclosures of specific information (other than information provided by the relator) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award no more than 10% of the proceeds. Also, if the court finds the relator planned and initiated the violation, the court may reduce the reward. Moreover, if the relator is convicted of criminal conduct arising from his or her role in the violation, the relator is dismissed from the action and does not receive any reward. 31 USC §§3730(d)(1), (3).

[12] Indeed, in the *Victaulic* case currently in court, the relator is Customs Fraud Investigations LLC, a company that conducts research and analysis on potential customs fraud. The relator alleges that Victaulic imported improperly marked pipe fittings, which was not discovered by customs officials. *United States ex rel. Customs Fraud Investigations, LLC v Victaulic Co*, No.13–cv–2983, 2015 WL 1608455, at *1 (E.D. Pa. 10 April 2015). See Appendix Chart 3, Case No.5.

[13] *Data source:* US Department of Justice, *Fraud Statistics - Overview* (19 December 2017)

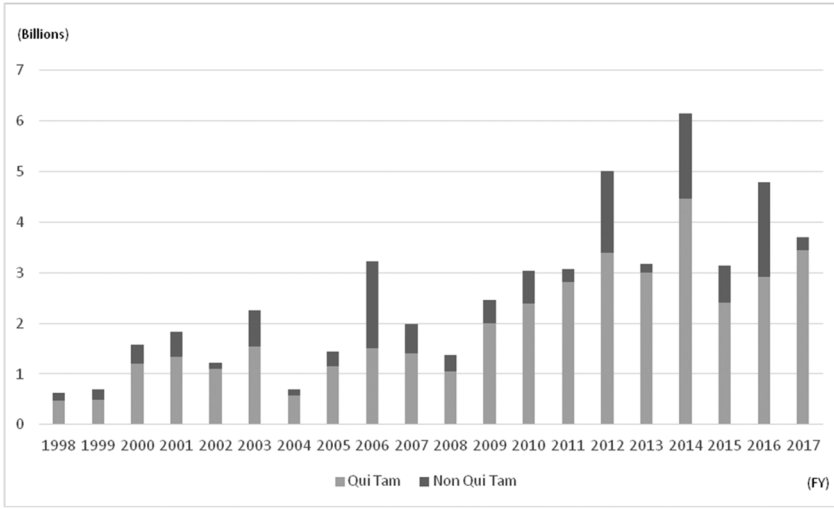

Figure 2: Annual amount of FCA proceeds (FY 1998 – 2017)[14]

In addition, as shown in Fig.3, between 2010 and 2017 there were 6,343 new FCA matters and the total amount of FCA proceeds was over $32 billion. On average, 793 new matters were filed and over $4 billion was recovered annually.

The prevalence of *qui tam* actions (actions initiated by relators) in fighting fraud on the US Government is especially worth noting. The number of new *qui tam* actions totalled 5,352 during 2010–2017, resulting in over $24.8 billion in proceeds. On average, 669 new *qui tam* actions were filed and more than $3.1 billion was recovered from *qui tam* actions annually. *Qui tam* actions accounted for 84.4% of all new FCA matters during the eight-year period and proceeds from *qui tam* actions accounted for 77.5% of all FCA proceeds in the same period, as shown by Fig.3.

[14] *Data source:* US Department of Justice, *Fraud Statistics – Overview* (19 December 2017)

Fiscal year (October-September)	New FCA (new *qui tam* actions)	Proportions of new *qui tam* actions to all FCA actions	Proceeds (proceeds from *qui tam* actions) (US$)	Proportions of proceeds from *qui tam* actions to all FCA Proceeds	Relator share of FCA awards (US$)
2010	716 (576)	80.4%	$3,037,540,230 ($2,390,156,737)	78.7%	$401,772,542
2011	759 (634)	83.5%	$3,063,807,112 ($2,822,441,117)	92.1%	$559,917,069
2012	796 (652)	81.9%	$4,997,839,706 ($3,389,726,844)	67.8%	$448,837,485
2013	857 (756)	88.2%	$3,164,994,190 ($2,995,867,418)	94.7%	$558,761,955
2014	813 (715)	87.9%	$6,144,268,085 ($4,467,703,859)	72.7%	$711,636,578
2015	750 (639)	85.2%	$3,141,272,467 ($2,408,840,181)	76.7%	$482,039,295
2016	853 (706)	82.8%	$4,778,268,567 ($2,921,939,136)	61.2%	$526,799,613
2017	799 (674)	84.4%	$3,702,620,187 ($3,437,037,099)	92.8%	$392,959,388
Total	**6,343 (5,352)**		**$32,030,610,544 ($24,833,712,391)**		**$4,082,723,925**
Average per Year	**793 (669)**	**84.4%**	**$4,003,826,318 ($3,104,214,049)**	**77.5%**	**$510,340,491**

Figure 3: Annual detailed figures of FCA matters (FY 2010 – 2017)[15]

As shown by the above statistics, there is a significant financial incentive for private parties to take action under the FCA. As the information in Fig.3 shows, relators received about 16% of recoveries in *qui tam* actions.[16] Figure 4 shows that the amount of relator awards increased in 2010 and has remained at over $390 million annually for eight consecutive years, 2010–2017. In addition, Fig.3 shows that the total amount of relator awards was about $4.1 billion and on average, over $510 million annually from 2010 to 2017.

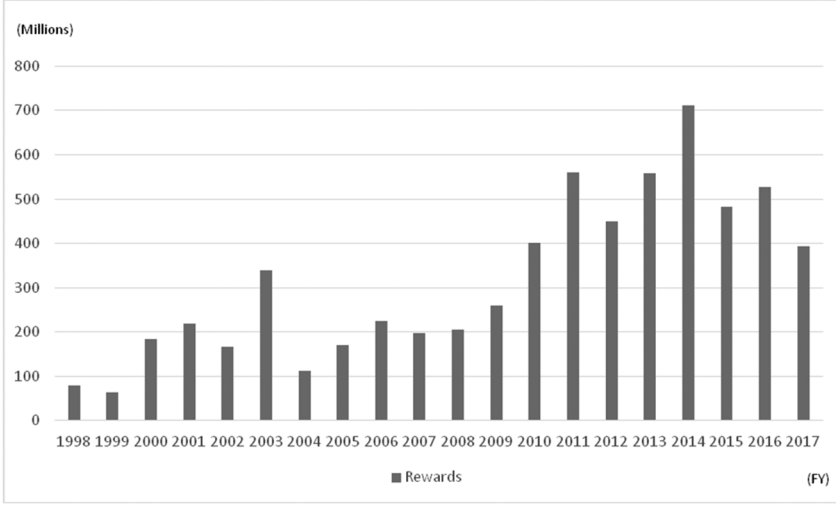

Figure 4: Annual amount of relator awards (FY 1998 – 2017)[17]

Private parties have been handsomely rewarded for bringing *qui tam* actions, providing strong incentives to expose fraud against the US Government.

[15] *Data source:* US Department of Justice, *Fraud Statistics – Overview* (19 December 2017)
[16] Relators were paid $4,082,723,925 on recoveries of $24,833,712,391 in actions where there were realtors.
[17] *Data source:* US Department of Justice, *Fraud Statistics – Overview* (19 December 2017)

Application of the FCA to imports

Traditionally, the FCA has been applied in various areas such as healthcare and government procurement, situations where the US Government is reimbursing or paying private parties. It has also been applied in the reverse situation where the US Government has not been properly paid. In 2009 the FCA was amended to broaden its scope in reverse actions. Since the 2009 amendments, FCA claims in the international trade area have increased, in cases of evasion of both normal customs duties and those duties imposed as a result of trade remedy proceedings.

Customs penalty statutes

Not paying customs duties has been illegal and strictly prohibited by laws and regulations for the history of the US.[18] Traditionally the US Government has enforced customs laws using the customs civil penalty provision, currently s.592 of The Tariff Act of 1930, as amended.[19] Under s.592:

> "no person, by fraud, gross negligence, or negligence—
> (A) may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of—
> (i) any document or electronically transmitted data or information, written or oral statement, or act which is material and false, or
> (ii) any omission which is material, or
> (B) may aid or abet any other person to violate subparagraph (A)."[20]

A violation of s.592 is punishable by a civil penalty in an amount not to exceed the following[21]:

1. In the case of a fraudulent violation, the "domestic value" of the imported merchandise.
2. In the case of a grossly negligent violation, the lesser of the domestic value of the merchandise or four times the evaded duties, or if there was no duty loss, 40% of the dutiable value of the merchandise.
3. In the case of a negligent violation, the lesser of the domestic value of the merchandise, or two times the evaded duties, or if there was no duty loss, 20% of the dutiable value of the merchandise.

The importer also has to pay the duties owed.[22]

Section 592 actions are brought and prosecuted only by US Customs and Border Protection (CBP).[23] An informant in a successful s.592 action may be awarded up to $250,000.[24]

In addition, in certain circumstances merchandise imported contrary to law may be seized and forfeited.[25] Furthermore, evading customs duties can lead to criminal

[18] Tariff Act of 4 July 1789, Ch.2, 1 Stat.24.
[19] 19 USC §1592.
[20] 19 USC §1592(a)(1).
[21] 19 USC §§1592(c)(1)–(3).
[22] 19 USC §1592(d).
[23] 19 USC §1592; 19 CFR §165.15.
[24] 19 USC §§1619(a), (c).
[25] 19 USC §1592(c)(11). See also 19 USC §§ 1594, 1595a, 1602–1613, 1613b, 1614, 1616a.

prosecution[26] and criminal fines of up to $250,000 in the case of an individual and up to $500,000 in the case of a corporation, or if the defendant derives pecuniary gain from the offence or if the offence results in pecuniary loss to a person other than the defendant, the defendant may be fined up to twice the gross gain, or twice the gross loss.[27] Moreover, an individual defendant can be imprisoned up to 20 years.[28]

In sum, there have always been both significant civil and criminal penalties for violations of law in the importation of merchandise, including not paying normal customs duties as well as those imposed as a result of trade remedy proceedings.

Making the FCA apply to all customs duties—the 2009 amendments

The FCA was amended in 2009 by the Fraud Enforcement and Recovery Act of 2009 (FERA).[29] The 2009 amendments, among other items, clarified and broadened the scope of the FCA for the failure to fulfil an obligation to pay money to the US Government.[30] This change made the FCA a viable option for use against import violations.

Prior to 2009, the FCA "reverse" false claims provision imposed liability on any person who, inter alia,

> "knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government".[31]

However, the Sixth Circuit Court of Appeals in *American Textile Manufacturers Institute Inc v The Limited Inc* narrowly construed the term "obligation" so that a reverse false claim could apply only in the case of fixed obligations, and not to false statements made by importers to avoid paying customs duties for mismarking the country of origin.[32]

The 2009 amendments closed this loophole in the FCA by defining the term "obligation" to mean an established responsibility to pay,

> "whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar

[26] For example, 18 USC §541 (entry of goods falsely classified); 18 USC §542 (Entry of goods by means of false statements); 18 USC §545 (smuggling goods into the US); 18 USC;1001 (statements or entries generally), 18 USC §1519 (destruction, alteration, or falsification of records in federal investigations); 18 USC §1341 (mail fraud); 18 USC § 1343 (wire fraud); 18 USC § 371 (conspiracy) can be the basis for criminal liabilities in cases of customs duties evasion.

[27] 18 USC §§3571(b)–(d).

[28] See 18 USC §§545, 1519.

[29] Pub. L. No.111-21, S. 386, 123 Stat. 1617.

[30] The reverse false claims provision was amended by FERA in two ways:

1. Imposing liability for actions to conceal, avoid, or decrease an obligation even if false records or statements were not made: 31 USC §3729(a)(1)(G).
2. Defining the term "obligation": 31 USC §3729(b)(3).

[31] 31 USC §3729(a)(7)(2000). This provision was analogous to the FCA provision prohibiting making "false records or statements to get false or fraudulent claims paid or approved": 31 USC §3729(a)(2)(2000). Under the 2009 amendments, reverse liability can now attach even absent the existence of false records or statements: 31 USC §3729(a)(1)(G).

[32] *American Textile Manufacturers Institute Inc v The Limited Inc* 190 F. 3d 729 (6th Cir. 1999).

> relationship, from statute or regulation, or from the retention of any overpayment".[33]

Initially the amendments specifically named customs marking duties as an obligation subject to the FCA.[34] This language was eventually removed, as the Committee on the Judiciary made it clear that all customs duties clearly fell within the new definition of the term "obligation" and an express reference to customs marking duties was unnecessary.[35] Thus, the 2009 amendments overturned *American Textile Manufacturers Institute* and made it clear that evading all customs duties may be in violation of the FCA.

Importance of the FCA in the customs law area

Although civil and criminal penalties have applied throughout the history of the US for violations of its customs law, the FCA has become an important enforcement tool in import transactions. There are a number of reasons the FCA is increasingly being used to punish knowing errors in importing merchandise into the US.

First, the 2009 amendments of the FCA clarified that it applies to knowing evasion of all customs duties. This broad scope was demonstrated in the recent *Victaulic* decision, where the Third Circuit Court of Appeals found, in line with the 2009 amendments, that reverse false claims liability may attach as a result of avoiding paying marking duties.[36] The Third Circuit found that if Victaulic knowingly failed to disclose to CBP the fact that its goods were unmarked or improperly marked and the goods escaped detection and were released by CBP into the US,[37] Victaulic could be liable under the FCA because the failure to notify CBP of the marking violation concealed information needed by CBP to determine both whether to release Victaulic's goods from customs custody and to assess 10% marking duties.[38]

Secondly, there is a significant financial benefit to relators. Under s.592 the maximum moiety payment is $250,000. [39] The FCA has no maximum reward and generally penalties including treble damages are larger than those under s.592. See Appendix for rewards in international trade FCA cases.

Thirdly, because a relator can initiate an FCA case without government action, there is a greater likelihood that duty evasion will be caught and punished. Section 592 proceedings may be initiated only by CBP and investigated by Immigration and Customs Enforcement (ICE). ICE has multiple responsibilities in addition to customs duty collection such as immigration and security. Moreover, today's duty rates are generally much lower, meaning less risk to the revenue of the US. As a result, the focus of CBP and ICE has been on other issues and not simple customs

[33] 31 USC §3729(b)(3).

[34] Specifically, it applied to "customs duties for mismarking country of origin". See S. Rep. No.110-507 at 34 (2008).

[35] S. Rep. No.111-10 at 14 (2009); S. Rep. No.110-507 at 17–18 (2008).

[36] *United States ex rel. Customs Fraud Investigations LLC v Victaulic Co* 839 F. 3d 242 (3d Cir. 2016), cert. denied, 138 S. Ct 107 (2017).

[37] Only a very small percentage of imported merchandise is actually inspected by CBP at the time of entry. Most merchandise is released under bond immediately upon arrival and filing of a customs entry. Among other things, the bond requires compliance with US laws, including the customs marking statute.

[38] *Victaulic* 839 F. 3d 242, 253–256 (3d Cir. 2016).

[39] 19 USC §§1619(a), (c).

duty fraud. The FCA fills this gap in enforcement by allowing private parties to take action.

Fourthly, FCA actions have a broader reach potentially to include third parties to import transactions, such as US purchasers. Section 592 penalties are rarely, if ever, imposed on third parties or US purchasers. While s.592 covers aiding or abetting a violation of s.592, this has been found to apply only where the action was fraudulent, not merely grossly negligent or negligent.[40] However, as the FCA applies to causing a violation by another and to conspiracies, it has been applied to punish US purchasers of imported merchandise even though they were not the importer.[41]

On the other hand, the FCA only covers knowing violations. In contrast, s.592 also penalises negligent errors in importing; both statutes would appear to cover both grossly negligent and fraudulent failures to pay the appropriate amount of duty. In other words, the FCA would not apply when the importer merely makes a negligent mistake, although such a mistake could lead to s.592 civil penalties.

FCA actions are judicial in nature, making them potentially more costly and burdensome than a s.592 action. A relator must initially spend money to initiate a judicial action; the alternative is to inform CBP and ICE of a potential s.592 issue. However, the FCA provides certainty that the matter will be initiated and the potential significant monetary reward encourages whistleblowers to spend the money to begin the FCA action. Moreover, a defendant in an FCA action faces significant litigation costs including discovery, and a potential significant civil penalty and damages, plus the recovery of attorney's fees. Not surprisingly, many FCA cases settle.

Recent FCA cases on customs duty evasion

The FCA and especially *qui tam* actions have become one of the enforcement tools against fraudulent customs law violations especially since the FCA was amended in 2009. The FCA has been used to address various types of customs duty evasion. Past FCA cases fall into three types:

1. **Misclassification (Appendix Chart 1):**

   Tariff rates can differ based on the tariff classification of the imported merchandise. Also, CBP's enforcement of antidumping and countervailing duty orders is initially based on the tariff classification of the imported merchandise. Consequently, importers may misclassify their goods to underpay normal duties or to avoid paying antidumping or countervailing duties. Appendix Chart 1 below summarises FCA cases involving knowing misclassifications.

2. **Undervaluation (Appendix Chart 2):**

   Customs duties are normally stated as a percentage of the value of the goods, so-called *ad valorem* duties. Importers may knowingly

[40] *United States v Hitachi America Ltd* 172 F. 3d 1319, 1336–1338 (Fed.Cir.1999).
[41] See the *Notations* case (Appendix Chart 2, Case No.8).

undervalue imported goods to pay less duty. Appendix Chart 2 summarises FCA actions arising from knowing undervaluation.

3. **Misrepresenting the country of origin (Appendix Chart 3):**

Antidumping and countervailing duties are imposed on goods from specific countries. Accordingly, importers may misrepresent the country of origin of the imported goods in order to avoid antidumping and/or countervailing duties. Also failure to properly mark a product with its country of origin exposes the import to 10% marking duties. Appendix Chart 3 below summarises FCA actions for knowing misrepresentation of origin.

The Charts in the Appendix explain the facts as to the basis of the violations and the outcomes.

The *Victaulic* case mentioned above was brought for the failure to properly mark imported merchandise in violation of the customs country of origin marking statute.[42] The statute provides, among other things, for imposition of 10% marking duties on improperly marked imported merchandise. In *Victaulic* the Third Circuit decided that non-payment of marking duties was subject to a reverse FCA lawsuit.[43] This decision is significant in that CBP generally does not apply 10% marking duties because, if CBP discovers mismarked merchandise, it prohibits its entry. The application of the FCA in this context makes correct country of origin marking more important than ever before, as marking violations can be more readily found out by private parties buying imported merchandise than by CBP, as imported merchandise is generally not inspected. And the private party can then bring a lawsuit, without any CBP action. Indeed, the *Victaulic* case was brought by Customs Fraud Investigations LLC, which appears to be a business entity designed to conduct research and analysis on potential customs fraud including the country of origin marking issues and bring FCA lawsuits.

As shown in Appendix Charts 1–3, *qui tam* actions for duties have been brought by many different types of relators, including current or former executives and employees, business partners and competitors. In some instances, although stated to be a *qui tam* action, there is no relator listed because the actual relator's name has been kept confidential.

In addition, these charts show examples where entities or individuals not importers, but otherwise involved in the import transactions were named as defendants for causing another to commit a violation or conspiring to commit a violation. See Appendix Chart 1, Case Nos 2, 3, 5, 6; Chart 2, Case Nos 4, 8; and Chart 3, Case Nos 1, 3, 4. For example, in the *Notations* case (Chart 2, Case No.8), Notations was a US purchaser of women's apparel manufactured in China and imported to the US by an unrelated company. Nonetheless, Notations was named as one of the defendants in the FCA action because it allegedly "caused" the goods to be undervalued or "conspired" with the importer to defraud the Government from proper customs duties. As part of its $1 million settlement, Notations admitted responsibility for its failure to act on multiple warning signs that its business

[42] See 19 USC §1304(c).
[43] *Victaulic* 839 F. 3d 242, 253–256 (3d Cir. 2016).

partners were undervaluing their imported goods and underpaying duties. Acting US Attorney Joon H. Kim said:

> "As this settlement makes evident, companies purchasing imported goods cannot turn a blind eye to fraud committed by their business partners. We will be vigilant in holding accountable all parties who engage in or contribute to fraudulent conduct."

In addition, several FCA cases involving evasion of customs duties have led to criminal prosecutions against related parties including individuals (see Appendix Chart 1, Case Nos 1, 3, 4; and Chart 3, Case No.4). For instance, in the *ESM* case (Chart 1, Case No.4), where ESM avoided paying antidumping duties on ultrafine magnesium powder from China, the former president of ESM and four other individuals involved in the scheme were criminally charged and pleaded guilty. All of the individuals had to pay significant fines and restitution, and were put on probation for one to two years. Two were sentenced for up to 18 months in prison.[44]

Furthermore, the Appendix Charts show that settlements are common as defendants do not want to face significant litigation costs and the risk of losing the lawsuit, even when they believe that their conduct was not illegal. In fact, all of the cases in Charts 1–3, except the pending *Victaulic* case (Chart 3, Case No.5), resulted in settlements. After the settlement of the action for allegedly avoiding paying antidumping and countervailing duties (the *Toyo Ink* case, Chart 3, Case No.1), Toyo Ink, which had not admitted the allegations in the settlement, publicly stated that it remained convinced that there were no facts constituting a violation of the FCA, but after careful deliberation of the relevant factors including the litigation costs in the US, had decided to accept the settlement.[45]

Conclusion

All parties involved with US imports face increased scrutiny of their actions. The FCA is only one of the new considerations. The top priorities of the Trump administration are to reduce trade deficits and to foster US industry. President Trump issued Executive Order 13785 on March 2017 to promote enhanced measures to collect antidumping and countervailing duties, and to counteract trade violations.[46] Congress passed s.421 of the Trade Facilitation and Trade Enforcement Act of 2015,[47] commonly referred to as the Enforce and Protect Act (EAPA),[48] to allow third parties to submit allegations of antidumping and countervailing duties evasion to CBP via an online portal and to require these allegations be considered.

[44] Press Release of US Immigration and Customs Enforcement, "Former Company President Pleads Guilty to Conspiring to Smuggle Magnesium Powder into US" (13 March 2012); Press Release of the US Attorney's Office for the Western District of New York, "Father and Son Plead Guilty in Chinese Magnesium Scheme" (12 January 2015); "Former Corporate President Sentenced for Conspiring to Smuggle Magnesium Powder into The United States" (3 June 2015); "Father and Son Sentenced for Defrauding the United States" (8 September 2015); "Orchard Park Man Sentenced for Defrauding the Government out of Millions In Lost Duties" (9 September 2015).

[45] Press Release of Toyo Ink SC Holdings Co Ltd, "Notice Regarding Settlement with the US Government" (18 December 2012). It is mentioned in the press release of the Department of Justice as well that the claims settled by the agreement were allegations only, and that there was no determination of liability. See Press Release of the Department of Justice, "Japanese-Based Toyo Ink and Affiliates in New Jersey and Illinois Settle False Claims Allegation for $45 Million" (17 December 2012).

[46] Establishing Enhanced Collection and Enforcement of Antidumping and Countervailing Duties and Violations of Trade and Customs Laws, Exec. Order 13,785, 82 F.R. 16719 (31 March 2017).

[47] Pub. L. No. 114-125, H.R. 644, 130 Stat. 122.

[48] Tariff Act of 1930 s.517; 19 USC §1517.

Formerly, an importer's main concern was that CBP would catch an importing error and, if that error were significant, would initiate a penalty action. In many instances, CBP did not catch errors, even intentional ones. Also, CBP lacks the resources needed to address all import violations; and its focus has been on security issues. Now, however, parties in an import transaction must also be concerned that private parties might file an action to address perceived import violations. Moreover, there are significant financial incentives under the FCA for private parties to take action and become prosecutors. Today not only CBP, but also your employees, your competitors and even business entities created for such purposes, will be able to bring *qui tam* actions to impose penalties and damages for the failure to properly pay all duties owed (or for falsely requesting refunds of too much duty). All parties in US import transactions must recognise this heightened risk of significant costs that makes compliance procedures and programmes critical.

Appendix

Chart 1 FCA cases on customs evasion—misclassification

	Date	Defendants	Qui tam action or not/Relators	Government's allegations	Payment by defendants/Rewards for relators (US$)
1[49]	8 June 2012	CMAI Industries, LLC; China Metal Products Co Ltd; and their related entities (manufacturers and sellers of automotive parts in China, Taiwan and the US) Shiuh-Lung Chiang (president of CMAI) Ho Ming-Shiann (founder and chairman of China Metal Products Co Ltd)	*Qui tam* Relator: Theodore Ludlow (former sales account manager of CMAI)	The companies and the named individuals knowingly misclassified auto manifolds to obtain a duty rate of zero, while charging its customers the correct duty of 2.5%, and retaining as "profit" the duty that should have been paid to CBP. Between June 2004 and June 2011, they evaded $2,549,000 worth of duties on 706 entries involving manifolds valued at $102,000,000. * In a related criminal prosecution, CMAI entered a guilty plea to federal charges of entry of goods by means of false statement and was sentenced to two years' probation and ordered to pay a $25,000 fine.	Settlement $6,300,000 Reward $1,200,000

[49] Press Release of the US Immigration and Customs Enforcement, "$6.3 million settlement reached in False Claims Act case" (8 June 2012).

	Date	Defendants	Qui tam action or not/Relators	Government's allegations	Payment by defendants/Rewards for relators (US$)
2[50]	21 December 2015	University Furnishings LP (Seller of furniture for student housing) Freedom Furniture Group Inc (General partner of University Furnishings)	*Qui tam* Relator: University Loft Co (Supplier of wooden bedroom furniture to the student housing industry)	Between 2009 and mid-2012, University Furnishings knowingly misclassified or conspired with others to misclassify wooden bedroom furniture on documents presented to CBP to avoid paying antidumping duties on imports of wooden bedroom furniture manufactured in China. Specifically, University Furnishings allegedly classified the furniture as office and other types of furniture not subject to duties while selling the furniture in the student housing market for use in dormitory bedrooms.	Settlement $15,000,000 Reward $2,250,000

[50] Press Release of the Department of Justice, "Texas-Based Importers Agree to Pay $15 Million to Settle False Claims Act Suit for Alleged Evasion of Customs Duties" (21 December 2015); US Customs and Border Protection, "Texas-Based Importers Agree to Pay $15 Million to Settle False Claims Act Suit for Alleged Evasion of Customs Duties, Antidumping and Countervailing Duties" (AD/CVD) Update (December 2015).

	Date	Defendants	Qui tam action or not/Relators	Government's allegations	Payment by defendants/Rewards for relators (US$)
3[51]	22 February 2016	Ameri-Source International Inc; Ameri-Source Specialty Products Inc.; Ameri-Source Holdings Inc.; and SMC Machining LLC (Domestic importers) Ajay Goel and Thomas Diener (owners of Ameri-Source)	*Qui tam* Relator: Graphite Electrode Sales Inc (importer of small diameter graphite electrodes)	Ameri-Source International evaded antidumping duties on 15 shipments of small-diameter graphite electrodes from China from December 2009 to March 2012. The US contended that Ameri-Source International misclassified the size of the electrodes to avoid paying the duties as there are no antidumping duties on larger diameter graphite electrodes. Goel, Diener and the other companies caused and conspired in the misrepresentation to evade duties. * In a related criminal prosecution, Ameri-Source International also pleaded guilty to two counts of smuggling goods into the US. Ameri-Source International admitted that on 27 April 2011 and 9 June 2011, the company falsely declared imported cargo from China as being graphite rods greater than 16 inches in diameter. Ameri-Source International was sentenced to pay a $250,000 criminal fine.	Settlement $3,000,000 Reward Approximately $480,000

[51] Press Release of the Department of Justice, "Four Pennsylvania-Based Companies and Two Individuals Agree to Pay $3 Million to Settle False Claims Act Suit Alleging Evaded Customs Duties" (22 February 2016); Press Release of the US Immigration and Customs Enforcement, "4 Pennsylvania import companies, owners settle criminal charges for evading customs duties" (22 February 2016).

	Date	Defendants	Qui tam action or not/Relators	Government's allegations	Payment by defendants/Rewards for relators (US$)
4[52]	28 March 2016	Kilgore Flares Co (Domestic manufacturer and seller of electronics and energetic products) ESM Group Inc (sub-contractor of Kilgore)	*Qui tam* Relator: Reade Manufacturing Co (Domestic manufacturer of magnesium powder)	From July 2003 through May 2005, ESM knowingly misrepresented the content of ultrafine magnesium powder imported from China in order to avoid paying antidumping duties owed to the US. At the time of the imports alleged in this case, ultrafine magnesium powder from China was subject to a 305% antidumping duty. From March 2005 to August 2006, Kilgore used the illegally imported Chinese magnesium powder purchased from ESM in the flares it sold to the US Army. The Chinese magnesium powder allegedly violated both the requirement for domestically produced powder and the engineering specifications required by the contracts. * In a related criminal prosecution, prior to the civil settlements with Kilgore and ESM, five former employees and agents of ESM pleaded guilty to criminal offenses related to the magnesium importation scheme, including ESM's former president. The criminal defendants were ordered to pay more than $14 million in restitution.	Settlement Kilgore: $6,000,000 ESM: $2,000,000 Reward $400,000 (as part of the settlement with ESM as relator only sued ESM)

[52] Press Release of the Department of Justice, "Tennessee and New York-Based Defense Contractors Agree to Pay $8 Million to Settle False Claims Act Allegations Involving Defective Countermeasure Flares Sold to the U.S. Army" (28 March 2016); US Customs and Border Protection, "Defense Contractors Agree to Pay $8 Million to Settle False Claims Act Allegations, Antidumping and Countervailing Duties (AD/CVD)", Update (April/May 2016).

	Date	Defendants	Qui tam action or not/Relators	Government's allegations	Payment by defendants/Rewards for relators (US$)
5[53]	27 April 2016	Z Gallerie LLC (Domestic seller of furniture)	*Qui tam* Relator: Kelly Wells (e-commerce retailer of furniture)	Z Gallerie evaded antidumping duties on wooden bedroom furniture imported from China from 2007 to 2014, by misclassifying, or conspiring with others to misclassify, the imported furniture as pieces intended for non-bedroom use on documents presented to CBP. For example, Z Gallerie allegedly sold certain Bassett Mirror Co products, including a six-drawer dresser and three-drawer chest, as part of a bedroom collection; however, these goods were misidentified on CBP documents, using descriptions such as "grand chests" and "hall chests," in order to avoid paying antidumping duties on wooden bedroom furniture.	Settlement $15,000,000 Reward $2,400,000
6[54]	30 September 2016	Ecologic Industries LLC (seller of furniture for student housing) OMNI SCM LLC (procurement and supply chain services; Importer of record for Ecologic) Daniel Scott Goldman (person who controlled both entities)	*Qui tam* Relator: Matthew L. Bissanti, Jr. (former president and director of OMNI)	Between February 2012 and December 2014, Ecologic, OMNI and Goldman knowingly misclassified or conspired with others to misclassify wooden bedroom furniture on documents presented to CBP to avoid paying antidumping duties on imports of wooden bedroom furniture manufactured in China. Specifically, Goldman and his companies allegedly classified the furniture as office and other types of furniture not subject to duties while selling the furniture in the student housing market for use in dormitory bedrooms.	Settlement $1,525,000 Reward $228,750

[53] Press Release of the Department of Justice, "California-Based Z Gallerie LLC Agrees to Pay $15 Million to Settle False Claims Act Suit Alleging Evaded Customs Duties" (27 April 2016); Press Release of the US Attorney's Office for the Southern District of Georgia, "California-Based Z Gallerie LLC Agrees To Pay $15 Million To Settle False Claims Act Suit Alleging Evaded Customs Duties" (27 April 2016); US Customs and Border Protection, "California-Based Z Gallerie, LLC, Agrees to Pay $15 Million to Settle False Claims Act for Allegedly Evading Antidumping Duties", CBP Trade Enforcement Bulletin (October 2016).

[54] Press Release of the US Attorney's Office for the Western District of Texas, "Illinois Furniture Importer and Manager Agree to Pay $1,525,000 to Resolve False Claims Act Allegations Under Civil Settlement with United States" (30 September 2016).

	Date	Defendants	Qui tam action or not/Relators	Government's allegations	Payment by defendants/Rewards for relators (US$)
7[55]	1 May 2017	Import Merchandising Concepts LP (Importer of furniture) Glen Michaels (IMC executive) Alan Lewis (IMC agent)	Unknown	IMC, led by Glen Michaels and Alan Lewis, evaded antidumping duties on wooden bedroom furniture imported from China between 2009 and 2014, by misclassifying the furniture as non-bedroom furniture on its official import documents. Wooden bedroom furniture from China was subject to a 216% antidumping duty; non-bedroom furniture was not subject to any antidumping duties.	Settlement $275,000 Reward Not published
8[56]	11 January 2018	American Dawn Inc (Textile importer) Habib Rawjee and Mahmud Rawjee (executives of American Dawn)	*Qui tam* Relator: Andrew Feldman (former employee of American Dawn)	American Dawn had misclassified several categories of goods. These misclassifications resulted in American Dawn paying lower than appropriate tariffs on numerous imports.	Settlement $2,338,879 Reward Approximately $400,000
9[57]	16 January 2018	Bassett Mirror Co (Virginia-based home furnishings company)	*Qui tam* Relator: Kelly Wells (e-commerce retailer of furniture)	Between January 2009 and February 2014, Bassett Mirror evaded antidumping duties owed on wooden bedroom furniture that the company imported from China by knowingly misclassifying the furniture as non-bedroom furniture on its official import documents. Wooden bedroom furniture from China was subject to a 216% antidumping duty; non-bedroom furniture was not subject to an antidumping duty.	Settlement $10,500,000 Reward Approximately $1,900,000

[55] Press Release of the Department of Justice, "Import Merchandising Concepts L.P. and Two Individuals Agree to Pay $275,000 to Settle False Claims Act Liability for Evading Customs Duties" (1 May 2017).

[56] Press Release of the US Attorney's Office for the Northern District of Georgia, "Textile importer resolves False Claims Act allegations" (11 January 2018).

[57] Press Release of the Department of Justice, "Bassett Mirror Company Agrees to Pay $10.5 Million to Settle False Claims Act Allegations Relating to Evaded Customs Duties" (16 January 2018).

	Date	Defendants	Qui tam action or not/Relators	Government's allegations	Payment by defendants/Rewards for relators (US$)
10[58]	6 February 2018	Home Furnishings Resource Group Inc (HFRG) (Tennessee-based importer of bedroom furniture)	*Qui tam* Relator: University Loft Co (Supplier of wooden bedroom furniture to the student housing industry)	HFRG evaded antidumping duties owed on wooden bedroom furniture that the company imported from China between 2009 and 2014, by misclassifying the furniture as non-bedroom furniture on its official import documents. Wooden bedroom furniture from China was subject to a 216% antidumping duty; non-bedroom furniture was not subject to any antidumping duty.	Settlement $500,000 Reward $75,000

Chart 2 FCA cases on customs evasion—undervaluation

	Date	Defendants	Qui tam Action or Not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
1[59]	31 August 2011	Noble Jewelry (international jewelry company in Hong Kong) Noble Jewelry Ltd; and Chad Allison Corpo (related corporations of Noble Jewelry in the US)	*Qui tam* Relator: Kenneth Karlin (former general manager of a subsidiary of the Noble Holding Co)	From approximately 1998 to 2010, the Noble Jewelry companies engaged in a fraudulent scheme to avoid the payment of customs duties by presenting to CBP bogus invoices, which significantly understated the value of the imported jewellery. These bogus invoices were used to calculate customs duties. The Noble Jewelry companies maintained a second set of books with accurate invoices, but they were withheld from CBP. Through this fraud, they avoided paying more than $1 million in customs duties. * The Noble Jewelry Companies has admitted wrongdoing.	Settlement $3,850,000 Reward $726,982.98

[58] Press Release of the Department of Justice, "Home Furnishings Resource Group Inc. Agrees to Pay $500,000 to Settle False Claims Act Allegations Relating to Evaded Customs Duties" (6 February 2018).

[59] Press Release of the US Immigration and Customs Enforcement, "HSI Settles a Civil Lawsuit against a Jewelry Company Engaged in a Customs Fraud Scheme" (31 August 2011).

	Date	Defendants	Qui tam Action or Not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
2[60]	12 March 2014	Bizlink Technology Inc (BTI) (domestic importer of computer cable assemblies)	*Qui tam* Relator: Zhonghui Tu (former manager of BTI)	From 2006 to 2008, BTI underpaid customs duties on goods that BTI imported into the US from Bizlink International Electronics Co Ltd, a factory in Shenzhen, China. BTI allegedly obtained two sets of invoices for each shipment from the Chinese factory: one true invoice that BTI paid, and a second invoice falsely stating a lower cost. The false invoices were allegedly used to calculate the customs duties that BTI paid on the imported goods, resulting in substantial underpayments.	Settlement $1,200,000 Reward $252,000
3[61]	9 April 2014	Dana Kay Inc; and Siouni & Zar Corp (domestic importers of women's apparel)	*Qui tam* Relator: Michael Krigstein (Employee of Dana Kay)	From approximately 2003 to 2012, Dana Kay and Siouni & Zar engaged in a fraudulent scheme to avoid the payment of customs duties by presenting to CBP invoices that significantly understated the value of the imported apparel. The defendants paid their overseas manufacturers the full value of the apparel, but deducted a flat fee per garment set before calculating the duty on the apparel. The defendants then recorded only the lower value on the entry forms presented to CBP. Through this fraud, the defendants avoided paying millions of dollars in customs duties. * Dana Kay and Siouni & Zar admitted, acknowledged, and accepted responsibility.	Settlement $10,000,000 Reward $2,095,817.48

[60] Press Release of the US Attorney's Office for the Northern District of California, "United States Settles False Claims Act Allegations Against Importer" (12 March 2014).

[61] Press Release of the US Attorney's Office for the Southern District of New York, "Manhattan U.S. Attorney Settles Civil Fraud Lawsuit against Clothing Importers Engaged in a Scheme to Avoid Payment of Customs Duties" (9 April 2016); Press Release of the US Immigration and Customs Enforcement, "Clothing Importers to Pay $10 Million Settlement in Customs Fraud Case" (15 May 2014).

	Date	Defendants	Qui tam Action or Not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
4[62]	21 April 2014	OtterBox (domestic seller of protective cases for smartphones and tablets)	*Qui tam* Relator: Bonnie M. Jimenez (former employee of OtterBox)	From 1 January 2006 to 31 December 2011, OtterBox knowingly omitted the value of "assists" from the dutiable value OtterBox declared to CBP on entry documents for imported products. OtterBox knowingly made or caused to be made false statements in other documents submitted to CBP concerning the value of assists, and the customs duties OtterBox owed on the value of those assists, for products that OtterBox imported between 1 January 2006 and 31 December 2011. As a result of OtterBox's omissions and false statements concerning the value of assists for its imported products, OtterBox knowingly underpaid customs duties it owed to the US.	Settlement $4,300,000 Reward $830,000
5[63]	6 January 2015	Green Bag Co Inc (domestic importer of reusable shopping bags)	*Qui tam* Relator: Trever Knoflick (Former president of Green Bag)	From July 2007 through October 2009, Green Bag underpaid customs duties on goods imported into the US from China. Green Bag allegedly used two sets of invoices for each shipment: one true invoice that Green Bag paid, and a second invoice falsely stating a lower cost. The false invoices were used to calculate the customs duties that Green Bag paid on the imported goods, resulting in substantial underpayments.	Settlement $500,000 Reward $100,000
6[64]	18 April 2016	Winds Enterprises, Inc (domestic importer of sportswear; and California division of Winds Enterprises Ltd, a Hong Kong corporation)	*Qui tam* Relator: David Dickhudt (former CFO of Winds Group)	From 2010 to 2014, Winds was undervaluing shipments to the US and therefore paying lower duties on the shipments than authorised pursuant to applicable laws and regulations.	Settlement $1,500,000 Reward $300,000

[62] Press Release of the US Attorney's Office for the District of Colorado, "United States Settles False Claims Act Allegations Against Otterbox for $4,300,000" (21 April 2014).

[63] Press Release of the US Attorney's Office for the Northern District of California, "United States Settles False Claims Act Allegations against Importer" (6 January 2015).

[64] Press Release of the US Attorney's Office for the Western District of Washington, "California Company Settles Allegations it Underpaid Import Fees" (18 April 2016).

	Date	Defendants	Qui tam Action or Not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
7[65]	13 July 2016	Motives Inc; Motives Far East; and Motives China Ltd (domestic manufacturers and importers of apparel into the US)	*Qui tam* (Relator's information is under seal)	From approximately 2009 to 2013, Motives conspired with clothing wholesalers fraudulently to underpay customs duties owed by making false representations in entry documents filed with CBP about the value of the imported merchandise. Pursuant to the scheme, Motives created and/or used two sets of invoices: one that undervalued the garments and was presented to CBP for calculation of the appropriate duty, and the second that reflected the actual value of the garments. * Motives admitted, acknowledged and accepted responsibility.	Settlement $13,375,000 Reward $2,188,000

[65] Press Release of the US Attorney's Office for the Southern District of New York, "Manhattan U.S. Attorney Settles Civil Fraud Lawsuit against Clothing Importer and Manufacturers for Evading Customs Duties" (13 July 2016); Press Release of the US Immigration and Customs Enforcement, "Clothing Importer, Manufacturer to pay $13 Million Fine for Evading Customs Duties"(14 July 2016).

	Date	Defendants	Qui tam Action or Not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
8[66]	3 October 2017	Notations Inc (domestic wholesaler of imported garments)	*Qui Tam* Relator: Xing Wei (resident of Australia and the mother of a former employee of Yingshun)	Yingshun Garments Inc (Yinghsun), an importer of women's apparel manufactured in China, and Import Global Designs Inc "Import Global) and Olgrem LLC (Olgrem), successor entities to Yingshun, and Marie Rogers, an owner and/or officer of each entity, engaged in a double-invoice scheme whereby Yingshun (and later Import Global and Olgrem) presented false and fraudulent invoices to CBP, showing prices for imported garments that were discounted by 75% or more, for the purpose of avoiding customs duties on the garments. Notations, which was Yingshun's biggest customer, aided the fraudulent scheme by ignoring warning signs that Yingshuns irregular business practices were highly suggestive of fraud. * Notations admitted and accepted responsibility for its failure to take action in response to multiple warning signs that Yingshun, Import Global, and Olgrem were undervaluing their imported goods and therefore paying less in import duties than they should have been paying. * The Government's claims against Yingshun, Import Global, Olgrem, and Marie Rogers remain pending.	Settlement $1,000,000 Reward Not published

[66] Press Release of the US Attorney's Office for the Southern District of New York, "Manhattan U.S. Attorney Sues Garment Wholesaler, Garment Importers, and Executive for Scheme to Avoid Paying Millions in Import Duties on Garments" (23 September 2016); Press Release of the US Immigration and Customs Enforcement, "New York Apparel Businesses Charged in Double-Invoice Scheme" (23 September 2016); Press Release of the US Attorney's Office for the Southern District of New York, "Acting Manhattan U.S. Attorney Announces Settlement of Civil Fraud Claims against Garment Wholesaler in Scheme to Avoid Paying Customs Duties" (3 October 2017); Press Release of the US Immigration and Customs Enforcement, "Notations Inc settles $1 Million Civil Suit for Falsifying Invoices" (3 October 2017).

Chart 3 FCA cases on customs evasion—misrepresenting country of origin

	Date	Defendants	Qui Tam Action or not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
1[67]	17 December 2012	Toyo Ink SC Holdings Co Ltd (Japan-based manufacturer of printing ink) Various affiliated entities of Toyo Ink in Japan and in the US.	*Qui tam* Relator: John Dickson (president of a domestic producer of CVP-23)	Toyo Ink knowingly misrepresented, or caused to be misrepresented, the country of origin on documents presented to CBP to avoid paying duties, particularly antidumping and countervailing duties, on imports of the colorant carbazole violet pigment number 23 (CVP-23) between April 2002 and March 2010. Specifically, Toyo Ink misrepresented Japan and Mexico as the countries of origin for its CVP-23 imports, rather than China and India, which were the company's sources for raw CVP-23. Imports of CVP-23 from China and India were subject to these duties; there were no such duties on imports from Japan or Mexico.	Settlement $45,000,000 plus interest Reward $7,875,000
2[6869]	14 November 2013	Basco Manufacturing Co (domestic importer of aluminum extrusions)	*Qui tam* Relator: James F. Valenti Jr	Basco, C.R. Laurence Co Inc, Southeastern Aluminum Products Inc and Waterfall Group LLC made false declarations to CBP to avoid paying antidumping and countervailing duties on aluminum extrusions imported from manufacturer Tai Shan Golden Gain Aluminum Products Ltd in China. These companies misrepresented that the aluminum extrusions were from Malaysia.	Settlement $1,100,000 Reward Not published

[67] Press Release of the Department of Justice, "US Intervenes in False Claims Lawsuit Alleging Knowing Failure to Pay Import Duties by Japanese and US Companies" (24 April 2012); Press Release of the Department of Justice, "Japanese-Based Toyo Ink and Affiliates in New Jersey and Illinois Settle False Claims Allegation for $45 Million" (17 December 2012).

[68] Press Release of the Department of Justice, "Ohio-Based Basco Manufacturing Co. to Pay $1.1 Million for Allegedly Falsifying Customs Documents to Evade Import Duties on Chinese Products" (14 November 2013).

[69] Settlements Nos 2–4 are derived from the same case: *United States ex rel. Valenti v Tai Shan Golden Gain Aluminum Products Ltd* , Case No.11-cv-368 (M.D. Fla.).

	Date	Defendants	Qui Tam Action or not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
3[70]	12 February 2015	C.R. Laurence Co Inc; Southeastern Aluminum Products In.; and Waterfall Group LLC (importers of aluminum extrusions)	*Qui tam* Relator: James F. Valenti Jr	C.R. Laurence, Southeastern and Waterfall made false declarations to CBP to avoid paying antidumping and countervailing duties on aluminum extrusions imported from manufacturer Tai Shan Golden Gain Aluminum Products Ltd in China. They misrepresented that the "country of origin" of the aluminum extrusions was Malaysia, when the goods were manufactured in China and merely shipped through Malaysia. C.R. Laurence, Southeastern and Waterfall also purchased China-made aluminum extrusions imported by other domestic companies and caused or conspired with those importers to make false declarations to CBP to evade duties.	Settlement C.R. Laurence: $2,300,000 Southeastern: $650,000 Waterfall: $100,000 Reward $555,100

[70] Press Release of the Department of Justice, "Three Importers to Pay over $3 Million to Settle False Claims Act Suit Alleging Evaded Customs Duties" (12 February 2015).

	Date	Defendants	Qui Tam Action or not/Relators	Government's allegations	Payments by defendants/Rewards for relators (US$)
4[71]	4 September 2015	Robert Wingfield (US sales representative for Tai Shan Golden Gain Aluminum Products Ltd, the Chinese company that exported the aluminum extrusions) Bill Ma (person who formed Northeastern Aluminum Corp)	*Qui tam* Relator: James F. Valenti Jr	Imports of China-manufactured aluminum extrusions are subject to antidumping and countervailing duties. Wingfield conspired with domestic importers to submit false information to CBP to evade duties. Ma later formed Northeastern to act as the importer of record for the goods in an attempt to shield the real importers from liability. As the ostensible importer of record, Northeastern, through Ma, allegedly misrepresented the country of origin of the goods as Malaysia, when the goods were actually manufactured in China and merely shipped through Malaysia, a country without duties on such items. * In a related criminal prosecution, Wingfield pleaded guilty to one count of using false statements to import goods into the US.	Settlement Wingfield: $385,000 Ma: $50,000 Reward Approximately $79,000
5	Not yet decided. (US District Court, E.D. Pennsylvania)	Victaulic Co (global manufacturer and distributor of pipe fittings)	*Qui tam* Relator: Customs Fraud Investigations LLC (company that conducts research and analysis on potential customs fraud)	Victaulic has, over the past decade, imported millions of pounds of improperly marked pipe fittings without disclosing that the fittings were improperly marked. Since this improper marking was not discovered by CBP officials, Victaulic avoided paying marking duties on these fittings.	Ongoing

[71] Press Release of the Department of Justice, "Two Individuals Agree to Pay $435,000 to Settle False Claims Act Suit Alleging Evaded Customs Duties" (4 September 2015); US Customs and Border Protection, "Two Individuals Agree to Pay $435,000 to Settle False Claims Act Suit Alleging Evaded Customs Duties, Antidumping and Countervailing Duties (AD/CVD) Update" (September 2015).