

## False Statements and Trouble

Written by Nick Sanders

Wednesday, 21 October 2015 00:00

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We've mentioned the False Statements Act (18 U.S.C. § 1001) before, in numerous articles. It's kind of fundamental to the whole government contracting thing. If you don't know much about it, you should really consider doing some research before your first proposal submission or before your first government audit of said proposal submission.

We are not lawyers but our understanding of the statute's requirements can be summed up in one sentence: *you cannot lie to government personnel and you cannot create false or fictitious documents, or you will get fined and very likely go to jail*. (See, e.g., the *real* reason that Martha Stewart spent five months in a Federal Prison Camp.) Our blog has been rife with stories about deceit, lies, false certifications, false representations, and the like – most of which had some dire consequences for those who were found to have been engaging in such duplicitous activities.

Don't be those people.

Two more examples to add to the pile of object lessons today.

In the first story, which came to us from our trusted source of a Department of Justice [press release](#)

, we learned that the estate and trusts of Layton P. Stuart had settled False Claims Act litigation by agreeing to pay the U.S. Government \$4 million. In addition to that payment, another corporate "victim" will receive an additional \$6.9 million, bringing the final settlement tally to \$10.9 million.

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From the announcement, we learned that the origin of the FCA case had come from alleged false statements made by Mr. Stuart—“former owner and president of One Financial Corporation, and its subsidiary, One Bank & Trust N.A., both based in Little Rock, Arkansas.” According to that announcement—

The United States’ complaint, filed earlier this year, alleged that Stuart and One Financial violated the False Claims Act by making false statements about the financial condition of One Financial and One Bank to induce the Department of the Treasury to invest Troubled Asset Relief Program (TARP) funds in One Financial. ... In the lawsuit, the United States alleged that in 2009, Stuart, on behalf of One Financial, applied for a TARP investment. According to the United States, Stuart knowingly made false statements about the financial condition of One Financial and One Bank and about the intended use of the TARP funds. In particular, Stuart allegedly concealed serial frauds that he and other One Financial directors and One Bank executives had been committing, and intended to continue committing, on One Bank. The schemes involved Stuart’s diversion of One Bank funds for personal use, including Stuart’s purchase of luxury vehicles for his wife and children. Within two weeks of receiving the TARP funds, Stuart allegedly diverted \$2.185 million into his personal accounts. Stuart was terminated from One Bank in September 2012.

The DoJ press release notes that “The government’s False Claims Act lawsuit remains pending against One Financial. Separate criminal actions against several former One Financial and former One Bank executives also remain pending in the Eastern District of Arkansas.”

The second story also came courtesy of a DoJ [announcement](#), in which it was stated that Wayne Simmons, of Annapolis, Maryland, had been arrested “after being indicted by a federal grand jury on charges of major fraud against the United States, wire fraud, and making false statements to the government.” What makes Simmons’ case interesting (and what’s getting it so much play on Facebook and other sites) is that Simmons was a recurring guest analyst on Fox News—a purported terrorism expert. So Simmons’ victims include Fox News (and the public at large). But his alleged fraud against Fox News is the least of the charges he’s facing.

According to the DoJ press release—

According to the indictment, Simmons falsely claimed he worked as an ‘Outside Paramilitary

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Special Operations Officer' for the Central Intelligence Agency (CIA) from 1973 to 2000, and used that false claim in an attempt to obtain government security clearances and work as a defense contractor, including at one point successfully getting deployed overseas as an intelligence advisor to senior military personnel. According to the indictment, Simmons also falsely claimed on national security forms that his prior arrests and criminal convictions were directly related to his supposed intelligence work for the CIA, and that he had previously held a top secret security clearance. The indictment also alleges that Simmons defrauded an individual victim out of approximately \$125,000 in connection with a bogus real estate investment.

So, according to the indictment (which should not be confused with a finding of guilt), Simmons was pretty much a serial liar and con man, bilking news companies, corporations, and individuals alike. If convicted, he's looking at a maximum of 35 years in Federal prison (20 years on the wire fraud counts, 10 years on the major fraud against the U.S. counts, and 5 years on the false statements count.) That's a long time in the pen for a 62 year-old man.

Two stories of alleged lies and deceit. One expensive settlement and one potential very long prison sentence. You may want to think twice before you follow in these individual's footsteps.