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US Settles \$723M FCA Whistleblower Suit With Shipping Cos.

By **Rebecca McCray**

Law360, New York (March 02, 2015, 5:31 PM ET) -- A South Carolina federal judge on Monday approved the settlement of a False Claims Act suit launched by the government and two whistleblowers against two shipping companies for allegedly padding their \$723 million bill for relocating military personnel by lying about shipment weights.

The order said the parties reached an agreement in the dispute, which alleged Alabama-based Covan World-Wide Moving Inc. and Coleman American Moving Services Inc., or the Covan Carrier Group, repeatedly forged documents or "whited out" portions of documents to inflate its charges for relocating military personnel in violation of the FCA, according to court documents.

The amount of the settlement agreement was not disclosed in the order on Monday.

The parties have sparred since a pair of whistleblowers who worked at a Covan Carrier Group warehouse in Augusta, Georgia, filed suit **in November 2013**. The government intervened one month later, corroborating the former employees' allegations.

Relators Mario Humberto Figueroa and his son Elmer Arnulfo Figueroa testified that they had personally witnessed managers falsifying weight tickets for shipments to increase the bills the companies then submitted to the government. The shipments were part of contracts Covan Carrier Group had with the U.S. Department of Defense to pack and ship DOD personnel's belongings as they are deployed at home and abroad, according to court documents.

On Jan. 20, 2015, the movers filed for summary judgment in the suit, asking the court to dismiss any charges outside of 58 specific invoices originating in the Augusta warehouse.

"It is undisputed that the government has not found any evidence of the company-wide 'weight bumping' scheme alleged in the intervenor complaint and that the plaintiff-relators have no knowledge of alleged fraudulent conduct outside of the Augusta facility," the motion said.

In reply, the relators contended that numerous high-level managers were aware of the weight-bumping practice and trained employees at facilities beyond the Augusta location, suggesting their practices of falsification traveled with them.

The Figueroa family also said that there was a systemic pressure from executives to falsify weight tickets.

The **government's audit** revealed widespread instances of faked and altered weight documents. For example, military officials in Pearl Harbor, Hawaii, determined that the

Covan Carrier Group consistently says its shipments there weigh about 10 percent more than they actually do, the government said in its intervening complaint.

The scheme has been going on since at least 2007, and since 2009, the companies have billed \$723 million to the federal government for shipping and relocation services for military personnel, the government claimed.

Counsel for the parties did not immediately respond to requests for comment.

The government is represented by William N. Nettles, Stanley D. Ragsdale and Frances C. Trapp of the U.S. Attorney's Office.

Mario and Elmer Figueroa are represented by Richard A. Harpootlian and Christopher P. Kenney of Richard A. Harpootlian PA and Herbert W. Louthian of Louthian Law Firm PA.

The shipping companies are represented by Gregory P. Harris of Harris & Gasser LLC and James R. Wyrsh and J. Justin Johnston of Wyrsh Hobbs & Mirakian PC.

The case is U.S. ex rel. Mario Humberto Figueroa et al. v. Covan World-Wide Moving Inc. et al., case number 3:12-cv-01144, in the U.S. District Court for the District of South Carolina.

--Additional reporting by Erica Teichert and Eric Hornbeck. Editing by Christine Chun.

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