

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

|                           |   |                               |
|---------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA, | ) | CASE NO 5:99CV1257            |
| ex rel. Robert Smith      | ) |                               |
|                           | ) | JUDGE GWIN                    |
|                           | ) |                               |
| Plaintiff                 | ) | <u>SECOND AMENDED</u>         |
| vs.                       | ) | <u>COMPLAINT FOR DAMAGES</u>  |
|                           | ) | <u>AND OTHER RELIEF UNDER</u> |
| MICHAEL LAMPERS           | ) | <u>THE FALSE CLAIMS ACT</u>   |
|                           | ) |                               |
| Defendant                 | ) | JURY DEMAND ENDORSED          |
|                           | ) | HEREON                        |
|                           | ) |                               |

INTRODUCTION

This is an action by qui tam relator Robert Smith, in the name of the United States Government, to recover damages and penalties arising from grant fraud committed by Michael Lampers. Other defendants have previously settled with the United States Government or been dismissed. Michael Lampers is the sole remaining defendant.

THE PARTIES

1. Qui Tam relator Robert Smith is a citizen of the United States of America and the State of Ohio and brings this action on behalf of the United States of America.

2. Defendant Michael Lampers is a Summit County businessman engaged in the purchase and sale of real estate.

JURISDICTION AND VENUE

3. This action arises under the False Claims Act, 31 U.S.C. Section 3729 et seq.,

which provides that the United States District Court shall have exclusive jurisdiction over actions brought under that Act.

4. Jurisdiction over Count I of this action is conferred on this Court by 31 U.S.C. Section 3732(a) and 28 U.S.C. Section 1331 because this civil action arises under the laws of the United States.

5. Venue is proper in the Northern District of Ohio, Eastern Division, under 28 U.S.C. 1391(b) and (c) and 31 U.S.C. 3732(a) because Defendant transacts business and is located in this District.

6. Under the False Claims Act, the initial complaint was filed in camera and remained under seal for a period exceeding sixty (60) days. The initial Complaint and the first Amended Complaint have since been unsealed and were served on the Defendants including Michael Lampers. The Government elected not to intervene against defendant Michael Lampers despite being previously served with the Complaint and the material evidence and information against him.

### THE CLAIMS

7. Plaintiff Robert Smith is a property developer and a past City of Akron Employee.

8. Defendant Michael Lampers received Federal Community Development Block Grant Program (CDBG) funds and the HOME Investment Partnership program funds pursuant to a scheme to misrepresent money received by home sellers under the CDBG and HOME programs and unduly profit.

9. Defendant knowingly induced prior defendants Midland Commerce Group and Roger McKay to misrepresent that statements contained on HUD I settlement documents were correct and which were signed under penalty of perjury.

10. Defendant knowingly or recklessly induced the placement of false statements

on deeds and transfer documents.

11. Through false representations, Defendant induced City of Akron employees to assist him to violate Office of Management and Budget cost principles that guide these federal programs that require:

- a) behaving as a reasonably prudent person under the circumstances when determining whether or not a cost is reasonable,
- b) using sound business practices,
- c) engaging in arms length bargaining,
- d) obeying Federal and State laws and regulations, and
- e) obeying the terms and conditions of the grant.

12. Tens of purchases of abandoned and dilapidated housing have been unreasonable and significant deviations from the established property acquisition guidelines under the CDBG and HOME programs unjustifiably increasing cost to the Federal Government and to all U.S. taxpayers.

13. Through false representations, Defendant induced City of Akron employees and East Akron Neighborhood Development Corporation (EANDC) and/or other local non-profits to improperly pay him federal funds on the following properties located in the City of Akron on or about the dates indicated and for such amounts if indicated:

1. 1235 Andrus Street, City of Akron check no. 1857, 11-12-1997, \$19,000.
2. 1246 and 1252 Andrus Street, City of Akron check no. 1932, 5-18-1998.
3. 1295 Andrus Street, City of Akron check no. 1910, 3-17-1998, \$19,000.
4. 1132 Marcy Street, City of Akron check no. 1924, 4-24, 1998.
5. 1203 Marcy Street, City of Akron check no. 1933, 5-18-1998.
6. 1232 Marcy Street, City of Akron check no. 1883, 1-23-1998, \$19,000.
7. 1368 and 1372 Marcy Street, City of Akron check no 1934, 5-18-1998.
8. 634 East Avenue, 3-16-1998, \$19,000.

9. 339 Eastland Avenue, 4-3-1998, \$19,000.
10. 1172 Marcy Street, 4-7-1998, \$19,000.
11. 402 and 406 Fuller Street, October 1998, from EANDC, EANDC paid \$6000, the actual price was not listed on the deed.
12. 479, 475, and lot on Alexander Street, 10-26-1998, EANDC paid \$4000, deed price was \$1500.
13. 405 and 408 Vincent Street, 9-22-1997, EANDC paid \$10000, deed price was 7500.
14. 1143 Bellows Street and 1278 Andrus Street, 8-20-1997, EANDC paid \$27500 and \$19000 respectively, deed price was \$30000.
15. 1226 and 1222 Andrus Street , 1-1-1998, EANDC paid \$18500, deed price was \$2500.
16. 1270 Andrus Street, 6-23-1997, EANDC paid \$30000, combined deed price was \$27000.
17. 343 and 351 Turner Street, 3-4-1998, EANDC paid \$12000, combined deed price was \$3000.
18. 305 and 335 Turner Street, 11-18-1998, EANDC paid \$50000, deed prices combined were \$12000.
19. 1266 5<sup>th</sup> Avenue, 9-22-1998, EANDC paid \$6000, deed price was \$3000.
20. 794 Bellows, 10-13-1998, EANDC, paid \$7000, deed price was \$5000.
21. 1283 Andrus Street, 9-19-1997, EANDC paid \$22500, deed price was \$17500.
22. 1287 Andrus Street, 9-19-1997, EANDC paid \$22500, deed price was \$17500.
23. 1262 Curtis Avenue, 7-23-1997, EANDC paid \$16000, deed price was \$13000.

24. 1345 Sweitzer Ave, 7-18-1997, EANDC paid \$18000, deed price was \$13000.

### COUNT I

14. The allegations of the preceding paragraphs are realleged as if fully set forth below.

15. Defendant knowingly made, used, or caused to be made or used, false records or statements in order to receive CDBG and HOME grant money for the above property sales.

16. Based on the false claims described above, Defendant directly or indirectly obtained payment from the United States Government for activities prohibited by the Federal Government under the CDBG and HOME grant programs.

17. The United States Government has sustained damages because of the acts of the Defendant as a result of Defendant's violations of the False Claims Act, 31 U.S.C. 3729.

18. As set forth in the preceding paragraphs Defendant recklessly or knowingly violated 31 U.S.C. 3729 and damaged the United States Government by his actions in an amount to be determined at trial.

19. Relator requests this Court to grant him such relief as is appropriate under the provisions of 31 U.S.C. Section 3730(d) and 3730(h)

### PRAYER FOR RELIEF

Relator, on his own behalf and on behalf of the United States Government, prays:

a) That this Court order Defendant cease and desist from violating 31 U.S.C. Section 3729 et seq.;

b) That this Court enter judgment against Defendant in an amount of triple the damages the United States Government has sustained because of Defendant's actions,

plus a civil penalty of \$5,000 to \$10,000 for each violation of 31 U.S.C. Section 3729 et seq., and the costs of this action, with interest, including the costs of the United States Government for its expenses related to this action;

c) That Relator be awarded all costs incurred, including reasonable attorneys fees;

d) That since the United States Government has elected not to proceed with this action, Relator be awarded an amount that the Court decides is reasonable for collecting the civil penalty and damages, which shall not be less than 25 percent or more than 30 percent of the proceeds of the action or settlement of the claim, as outlined in 28 U.S.C. Section 3730(d)(2);

e) That a trial by jury be held on all issues;

f) The United States Government and the Relator receive any other relief, both at law and at equity, to which they may reasonably appear entitled.

Respectfully submitted,

/s/Warner Mendenhall  
Warner Mendenhall (0070165)  
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Attorney for the Relator

#### JURY DEMAND

Plaintiff requests a jury trial on all issues herein.

/s/Warner Mendenhall  
Warner Mendenhall (0070165)  
Attorney for the Relator

## CERTIFICATE OF SERVICE

The undersigned certifies that on August 25, 2003 a copy of the foregoing was provided all parties pursuant to this Courts ECF system additionally a copy was mailed via regular mail to:

Bruce Wilson  
1225 west Market St  
Akron, OH 44313

/s/Warner Mendenhall  
Warner Mendenhall (0070165)  
Attorney for the Relator