



U.S. SENATE COMMITTEE ON

# Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

## MEMORANDUM

To: Reporters and Editors  
Re: False Claims Act case in Iraq  
Da: Thursday, March 9, 2006

A jury has found contractor Custer Battles and its owners, Scott Custer and Michael Battles, liable for fraud in the first Iraq contracting case under the False Claims Act. The jury found that all of the U.S. funds spent under the contract were fraudulently billed. In addition, the jury found more than 30 separate fraudulent acts, each one of which is subject to an \$11,000 penalty. The jury also awarded Pete Baldwin \$230,000 for being demoted and constructively discharged. The total settlement in this case is in excess of \$10 million. This is the first Iraq contract case litigated using the False Claims Act and sets a precedent for other cases involving contractors operating in Iraq.

Sen. Chuck Grassley, chairman of the Senate Committee on Finance, is an ardent supporter of the False Claims Act. He was author of the 1986 amendments to the False Claims Act that substantially increased the ability of private citizens to seek recoveries on behalf of the federal government for fraud, waste, or abuse. Each Congress, Grassley introduces legislation requiring the Justice Department to disclose why it did not intervene in a False Claims Act case. Grassley sent a letter to Attorney General Gonzales regarding the Iraq case in February 2005, the text of which follows here. Grassley issued the following comment on the verdict:

“Today’s verdict is yet another win for the American taxpayer brought to us by the False Claims Act, and sadly, another reminder that fraud knows no bounds. The jurors in this case listened to the arguments and sent back a strong statement of intolerance for fraud, waste, and abuse of taxpayer dollars. I remain concerned as to why the Justice Department chose not to join this case, and if the legislation I’ve introduced is taken up and passed, we’d have some insight into why the Justice Department decided not to intervene. War profiteering is what led President Lincoln to support the original False Claims Act. With this verdict, Lincoln’s vision remains as useful as ever.”

February 17, 2005

The Honorable Alberto Gonzales  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20535

Dear Attorney General Gonzales:

As a long-standing and outspoken critic of waste, fraud and abuse in the United States Government, and as a committed supporter of the False Claims Act (“FCA”), I want to bring to your attention a matter involving fraud, waste and abuse that may have occurred during the reconstruction of Iraq. Specifically, it has come to my attention that the United States Government has been invited to address an important issue regarding the FCA in the U.S. District Court for the Eastern District of Virginia.

In an order dated December 21, 2004, United States District Court Judge T.S. Ellis, III invited the United States Government to brief the court by January 21, 2005 (subsequently continued by additional orders, to February 18, 2005), on its position regarding the application of the FCA to contracts administered under the purview of the Coalition Provisional Authority (“CPA”) in the matter of *United States ex rel. DRC, Inc. et al. v. Custer Battles, LLC*, Case No.1:04cv199 (E.D. Va.). This is the first case to be unsealed that relates to fraudulent contracting during the reconstruction of Iraq. Accordingly, I request that you keep me advised as to whether or not the Department of Justice (Department) intends to file a brief on behalf of the U.S. Government in this seminal matter.

As the American public continues to bankroll a vast majority of reconstruction and stabilization projects in Iraq, billions of taxpayer dollars are at stake. If the FCA is found not to apply to any contract entered into by the CPA, any recovery for fraud, waste and abuse of taxpayer dollars under the FCA would be prohibited. In addition, I would like to remind you of the potential danger that a negative precedent in this matter would create for the future claims filed under the FCA.

In closing, I thank you for the commitment you gave me at your confirmation hearing to ensure that the FCA is protected. In working to root out waste, fraud and abuse of taxpayer dollars I have found no tool more helpful than that of the FCA. As the Senate author of the 1986 amendments to the FCA, I have fought long and hard to strengthen that law and I continue to believe that it is instrumental in preventing wasteful spending in all government programs.

As the deadline for filing a brief on this matter is February 18, 2005, I would appreciate a status update on this matter before the filing deadline passes.

Sincerely,

Charles E. Grassley  
United States Senator