

IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA, *ex rel.*
[UNDER SEAL],

Qui Tam Plaintiff,

v.

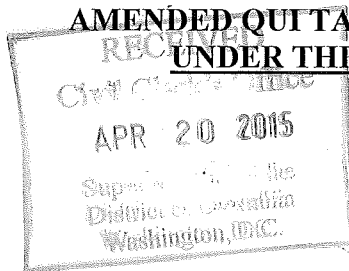
[UNDER SEAL],

Defendants.

2013 CAB SLD 0004624
Judge Judith Bartnoff

JURY TRIAL DEMANDED

AMENDED QUITTAM COMPLAINT FOR TREBLE DAMAGES
UNDER THE DISTRICT'S FALSE CLAIMS ACT



[FILED UNDER SEAL]

IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

DISTRICT OF COLUMBIA *ex rel.*
JEFFREY MILLS

2013 CAB SLD0004624
Judge Judith Bartnoff

BRINGING THIS ACTION ON BEHALF
OF THE DISTRICT OF COLUMBIA

JURY TRIAL DEMANDED

FILED UNDER SEAL

C/O KARL RACINE
ATTORNEY GENERAL,
DISTRICT OF COLUMBIA
441 4TH Street NW
Washington, DC 20001,

Plaintiffs,

v.

COMPASS GROUP NORTH AMERICA,
COMPASS GROUP USA, INC.,
CHARTWELLS
2400 Yorkmont Road
Charlotte, NC 28217,

and

THOMPSON HOSPITALITY SERVICES,
LLC
505 Huntmar Park Drive
Herndon VA

Defendants.

**AMENDED *QUI TAM* COMPLAINT FOR TREBLE DAMAGES FOR
VIOLATION OF THE DISTRICT'S FALSE CLAIMS ACT**

I. INTRODUCTION

1. This is an action to recover treble damages, civil penalties and costs on behalf of the District of Columbia arising from false and/or fraudulent records, statements and claims made, used, presented, and caused to be made, used or presented by Defendants and/or their agents, employees and co-conspirators, to the D.C. Public Schools ("DCPS") arising from two contracts for food services entered into between 2008 and 2015 ("2008 contract" and "2012 contract").

2. This action was filed on July 8, 2013 by *qui tam* Plaintiff Jeffrey Mills, former Executive Director of Food Services for the DC Public Schools, on behalf of the District of Columbia and served on the Attorney General for the District of Columbia. After an investigation, the District of Columbia filed a complaint in intervention on April 13, 2015 as authorized under the D.C. False Claims Act, D.C. Code § 2-381.03(b)(4)(A) and (B).

3. In light of the District of Columbia's intervention, *qui tam* plaintiff Jeffrey Mills, through his attorneys, hereby amends his Complaint against Defendants Compass Group North America, Compass Group USA, Chartwells, and Thompson Hospitality Services, LLC (collectively "Defendants" or "Chartwells").

II. Summary of Allegations

4. In 2010, then-Chancellor Michelle Rhee selected Mr. Jeffrey Mills ("*qui tam* plaintiff Mills" or "Mr. Mills") to serve as Director of the Office of Food and Nutrition Services (OFNS) for D.C. Public Schools (DCPS). Mr. Mills' signature achievement was development and execution of the most stringent food and nutritional requirements in the country for school food services.

5. Under Mr. Mills' leadership, DCPS created and operated path-breaking nutritional programs that were seen as national models including breakfast in the classroom, an after school supper program, secondary salad bar program, international food days, and other meal programs. During his tenure, the percentage of fresh, locally grown produce served in schools increased from 4 to 40%, and the District served 2 ½ million more meals annually to students.

6. Despite these improvements in quality and reimbursement for the DCPS school meal programs, during his tenure, *qui tam* plaintiff Mills, and his staff in OFNS became increasingly alarmed that the food services management company, Chartwells, was charging the DCPS inflated prices for food and non-food commodities and that Chartwells would not use vendors, some local, who could provide higher quality food at lower prices.

7. After an independent investigation, *qui tam* plaintiff Mills and his staff learned that Chartwells was charging far in excess of what Chartwells had projected when it submitted its bid for award of a privatized food service contract in 2008.

8. After a further investigation, *qui tam* plaintiff Mills and his staff discovered that Chartwells had knowingly misled, and fraudulently induced, the District into awarding a food service contract in 2008 to Chartwells that, through renewal of option years, has a value for Chartwells of approximately \$120 million.

9. Significantly, during the 2008 bid process and contract negotiations, Chartwells did not disclose to DCPS its relationship with its subsidiary, FoodBuy. FoodBuy serves as the primary purchasing agent for Chartwells' acquisition of food and non-food commodities for DCPS.

10. *Qui tam* plaintiff Mills and his staff learned that Chartwells, through FoodBuy, solicits and receives rebates, discounts and other payments from large processed food companies, including Kraft, General Mills, and Tysons Chicken. Chartwells uses the leverage of its bulk purchases on behalf of clients, including DCPS, to negotiate the largest rebate payments or volume discounts that are paid directly to Chartwells while passing along inflated prices on food and non-food commodities to the District.

11. Even if Chartwells remits rebate monies to DCPS, as it claims it has done, Chartwells' interest in collecting large rebates from vendors and manufacturers on all of its purchases is in direct conflict with Chartwells' obligation to purchase foods for DCPS students at the lowest price available consistent with maintaining quality (hereafter, "best price") as required under the 2008 contract. Instead, Chartwells, through FoodBuy, chooses its vendors and manufacturers, and which products to purchase for its clients, including DCPS, based on which vendors and manufacturers will pay to Chartwells favorable rebates on all of its purchases.

12. Chartwells made representations to DCPS about cost savings from the contract award that Chartwells knew would not materialize because of its own purchasing relationships.

13. As a result of Chartwells' fraudulent conduct, under the 2008 contract, the District was forced to pay higher prices on food of lower quality than what DCPS contracted to purchase for DC school children.

14. *Qui tam* plaintiff Mills and his staff also witnessed, on a daily basis, Chartwells' profoundly deficient performance under the 2008 contract. For example:

- Chartwells overstocked excessive food at the District's expense that went to waste;
- Chartwells served spoiled meals and meals that did not meet required nutritional standards under the D.C. Healthy Schools Act;
- Chartwells understaffed school cafeterias and failed to screen cafeteria staff for criminal backgrounds;
- Chartwells failed to maintain inventory as required;
- Chartwells allowed USDA donated commodities to go to waste;
- Chartwells failed to track the number of students eligible for free and reduced meals so that the District could obtain reimbursement under federal food programs;
- Chartwells overcharged DCPS for equipment purchased for DCPS kitchens.

15. Under the 2008 contract, Chartwells increased operating, administrative and management expenses even while the number of schools and number of meals served decreased.

16. In sum, DCPS paid \$48.3 million from District local funds to Chartwells over the course of the 2008 contract; \$26.3 million more in District local funds than Chartwells had represented DCPS would have to pay in Chartwells' 2008 Best and Final Offer ("BAFO").

17. DCPS paid more than double the projected subsidy of DC local funds, compared to the projections in its BAFO, even though Chartwells served 14 million fewer meals than projected by Chartwells in the BAFO submitted to DCPS during the

2008 bid process and serviced 23 schools less in the base year and 40 schools less in Option Years 2 and 3.

18. These huge cost overruns disrupted DCPS programs by requiring scarce resources to be allocated away from instructional programs to cover the extra costs assessed under the contract with Chartwells.

19. Recognizing that continued cost overruns under the 2008 cost-reimbursable contract were untenable, in 2012, DCPS issued requests for proposal for a firm fixed-price contract. Chartwells represented that it would provide meals meeting specified quality standards and that a firm-fixed price contract would control costs for the District.

20. These representations were false and fraudulent. Meals have not met quality standards and prices do not represent cost savings for the District.

21. Moreover, under the 2012 contract Chartwells' performance of the contract has declined precipitously, defrauding the District of many more millions in local taxpayer funds. For example:

- Chartwells charges DCPS for meals that do not meet the nutritional standards set forth in the contract;
- Chartwells understaffs cafeterias such that children are not served meals before returning to class;
- Chartwells has failed to use or credit DCPS for USDA-donated commodities as required by the 2012 contract;
- Chartwells has wrongfully retained rebates owed under the cost-reimbursable portions of the 2012 contract;

- Chartwells has not operated special programs as required under the contract including salad bars, reimbursable vending machines, special breakfast programs, specialty meal stations, and recycling education.

22. *Qui tam* plaintiff Mills incorporates by reference the substantive allegations about the 2008 and 2012 contracts under the District's False Claims Act set forth in the District's Complaint in Intervention at paragraphs 1-219.

23. *Qui tam* plaintiff Mills makes additional allegations of violations of the D.C. False Claims Act by Chartwells under the 2012 contract including that Chartwells fraudulently induced DCPS into award of the 2012 contract.

24. The pervasiveness and egregiousness of Chartwells' violations of express requirements under the 2012 contract including nutritional standards, coupled with the fact that these violations began upon commencement of the 2012 contract even though Chartwells had been providing the food service for several years already, is evidence that Chartwells had no intention to perform in accordance with the 2012 contract requirements.

25. Chartwells has demonstrated a knowing and deliberate strategy to cut costs in order to improve its bottom line at the expense of the District.

III. JURISDICTION, VENUE, AND PARTIES

26. Relator realleges and incorporates the allegations contained in paragraphs 15-28 of the District's Complaint in Intervention as if fully set forth herein.

27. Relator further alleges as follows:

28. The DC False Claims Act allows any person having information about a violation to bring an action in the name of the District of Columbia and to share in any

recovery. D.C. Code § 2-308.15(b) (1); D.C. Code § 2-381.03(b), § 2-381.03(f) (1) (A), (f) (2) (A). The complaint must be filed under seal for a minimum of six (6) months (without service on the defendant during that time) to allow the District time to conduct its own investigation and to determine whether to join the suit. D.C. Code § 2-308.15(b) (1), (2), (4); D.C. Code § 2-381.03(b) (1), (2), (4).

29. The Attorney General may elect to proceed with a *qui tam* action and shall have primary responsibility for prosecution of the action. D.C. Code § 2-308.15 (b) (4) (A); § 2-308.15 (d) (1); D.C. Code § 2-381.03(b) (4) (A); § 2-381.03(d) (1).

30. The *qui tam* plaintiff shall have the right to continue as a party to the action in which the District intervenes. *Id.*

31. Under the DC False Claims Act, there has been no statutorily relevant public disclosure of the “allegations or transactions” in this Complaint. *Id.* § 2-308.15 (c) (2) (A); *Id.* § 2-381.03(c-1).

32. Even if such a public disclosure had occurred, this Court would retain jurisdiction over this matter because the action is brought by the Attorney General, the District is opposed to dismissal of Relator, and Relator is an “original source” as defined under the D.C. False Claims Act. *Id.* § 381-03(c-1) (2); *see also id.* § 2-308.15(c) (2) (B); *Id.*

33. Mr. Mills has direct and independent knowledge of the information on which his allegations are based. *Id.* § 2-308.15 (c) (2) (B); *Id.* § 381-01 (10).

34. Mr. Mills has information that is independent of, and materially adds to the publicly disclosed allegations or transactions. *Id.*

35. Mr. Mills voluntarily provided information on which the allegations or

transactions in this Complaint are based to the District before any public disclosure and before filing this action. *Id.*

36. Mr. Mills' information was the basis or catalyst for DCPS to conduct an audit of its 2008 contract with Chartwells. D.C. Code § 2-308.15 (c) (2) (B).

37. Before bringing this suit, Mr. Mills, in good faith, exhausted internal procedures for reporting and seeking recovery of such falsely claimed sums through official channels, including notice to the Corporation Counsel through notice to counsel for DCPS. D.C. Code § 2-308.03(c) (4). Before July 2013, the District had failed to act on the information provided within a reasonable time. *Id.*

IV. THE DISTRICT'S FALSE CLAIMS ACT

38. The District's False Claims Act was enacted by the DC City Council in 2006, and further amended, most recently in 2013, to enhance the Government's ability to recover losses sustained as a result of fraud against the District of Columbia. The purpose of the law is to create incentives for individuals with knowledge of fraud against the District of Columbia to disclose that information without fear of reprisals or Government inaction, and to encourage the private bar to commit legal resources to prosecuting fraud on the District's behalf.

39 Relator realleges and incorporates the allegations contained in paragraphs 29-35 of the District's Complaint in Intervention as if fully set forth herein.

V. CHARTWELLS' CONTRACTS WITH DCPS

A. Chartwells' Relationship with FoodBuy

40. Relator realleges and incorporates the allegations contained in paragraphs 36-42 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

B. The Privatization of School Meals by DCPS

41. Relator realleges and incorporates the allegations contained in paragraphs 43-60 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

C. National School Lunch Programs

42. Relator realleges and incorporates the allegations contained in paragraphs 61-78 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

D. The 2008 Contract with Chartwells

43. Relator realleges and incorporates the allegations contained in paragraphs 79-114 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

E. Modifications to the 2008 Contract

44. Relator realleges and incorporates the allegations contained in paragraphs 115-116 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

F. The 2012 Contract with Chartwells

45. Relator realleges and incorporates the allegations contained in paragraphs 117-128 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

G. Performance of the 2008 Contract

46. Relator realleges and incorporates the allegations contained in paragraphs 129-146 and 150-186 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

47. Relator further alleges as follows:

48. In addition to the Notices to Cure set forth in the District's Complaint in

Intervention at Paragraphs 131 and 141-142, the District sent additional Notices to Cure to Chartwells in December 2011 and January, February, March, and May 2012.

49. On December 1, 2011, DCPS sent a Notice to Cure to Chartwells noting that “we have continued to struggle with daily problems that disrupt the rhythm of a regular school day” including late deliveries, missing food items, spoiled and non-compliant meals, insufficient number of meals, inadequate and poorly trained staff, misuse of point of sale (POS) machine, failure to implement inventory software, and failure to purchase commodities at the lowest possible price, among other difficulties.

50. On December 21, 2011, DCPS sent another Notice to Cure to Chartwells listing deficiencies and admonishing them to

- Comply with all requirements of the Healthy Schools Act
- Ensure that food is stored properly
- Provide compliant, fresh meals free of spoilage and track, record, and report all spoiled food to DCPS
- Maintain accurate production records
- Ensure that students take every required component of reimbursable meals
- Ensure that all staff are qualified and properly trained
- Ensure that point of sale (POS) machines are used properly and not misused
- Immediately remove from DCPS schools any employee that has not passed a background check
- Ensure that all employees meet the standards for employment in DCPS and have background checks conducted prior to providing service in any DCPS school or to any DCPS Student

51. On January 5, 2012, Chartwells responded to the December 21, 2011 Notice to Cure offering a modest refund of a few thousand dollars.

52. On January 19, 2012, DCPS sent another Notice to Cure to Chartwells identifying, once again, “significant performance deficiencies.”

53. On February 3, 14, and 29, 2012, DCPS sent additional Notices to Cure to

Chartwells documenting deficiencies with implementation of school food services including stockpiling food in the schools and overcharging DCPS under the cost-reimbursement contract.

54. By March 2012, Mr. Mills and his staff had concluded that significant amounts of money were owed by Chartwells to DCPS for non-compliance with the 2008 Contract.

55. Mr. Mills and his staff had observed repeated cases of overstocking of food at cafeterias operated by Chartwells. Constant overstocking had led to considerable waste of product that DCPS has had to pay for.

56. Mr. Mills and his staff had expressed "serious concerns" about the accuracy and completeness of Chartwells' tracking of inventory and waste. On numerous occasions, Mr. Mills and his staff directed Chartwells to implement the ordering and inventory software that is part of the Point-of-Sale system so they could accurately track what was being purchased and what was being sold. Use of this software is mandated by the contract but Chartwells refused on multiple occasions.

57. Overstocking and improperly documented waste would add considerable cost for DCPS especially since food costs represent roughly 40% of total expenses.

58. Mr. Mills and his staff were concerned that Chartwells' obligation to make a capital investment of \$4.3 million amortized for DCPS to pay on a monthly basis (2008 Contract, § B.20) had been mismanaged and that DCPS was owed money to offset against unamortized costs of the investment.

59. Mr. Mills and his staff were concerned that Chartwells had not performed its obligation to physically inventory and return all Government property in good

condition except for reasonable wear and tear depreciation. *Id.*, C.22.1; C.25.2 (9); C.25.2 (10).

60. Mr. Mills and his staff were concerned that Chartwells had not “purchase[d] all food and non-food commodities” at the “lowest price possible consistent with maintaining quality standards.” *Id.*, C.8.1. OFNS documented instances where Chartwells' prices were considerably higher than prices quoted by other vendors for the same item including the price of food (on average 10% higher for non-produce groceries and 17% higher for produce).

61. Mr. Mills and his staff were concerned that Chartwells was not properly crediting DCPS monthly for all discounts, rebates and allowances received from the purchase of good and services on behalf of DCPS or submitting documentation of the amount of each individual discount, rebate and credit on bills presented to DCPS. *Id.*, B.18.1; B.22.9.5; B.22.9.7. Food purchases for DCPS generate millions in rebate revenue for Chartwells each year with a typical range for rebates of 10-14% of customer spending.

62. Mr. Mills and his staff were concerned about discrepancies with reporting of cash sales and federal reimbursement by Chartwells and that Chartwells must be held accountable for all misuses of the Point of Sale system. *Id.*, C.2.1. This included tens of thousands of meals that were paid for by DCPS, and served by Chartwells, but were not submitted for reimbursement due to errors by Chartwells staff in the Point of Sale system.

63. Mr. Mills and his staff were concerned that Chartwells had passed on expenses not properly attributable to the 2008 Contract. They were aware of invoices submitted for repair work performed at schools not in the District. *Id.*, B.22.9.3; B.22.9.4;

C.20.5; C.20.6; C.20.8; C.30.1; C.30.2; H.1.1.

64. Mr. Mills and his staff were concerned that Chartwells had failed to implement its obligation to facilitate enrollments for eligible students in the federal Free and Reduced Meal programs. *Id.*, C.3.9.2.

65. Mr. Mills and his staff were concerned that Chartwells had served “spoiled or unwholesome meals” and should reimburse DCPS for the full cost of those meals. *Id.*, C.4.7.

66. Mr. Mills and his staff were concerned that Chartwells had not properly remitted the total amount owed to DCPS under the Guaranteed Minimized Loss provisions in breach of the contract. *Id.*, B.1.13.1.

67. Mr. Mills and his staff were concerned that Chartwells had failed to provide meal services on time, provide enough food for students, and had issues with its service that reduced student participation in the meals programs, and that Chartwells should pay for any losses attributable to these failures. C.2.2.

68. On May 17, 2012, DCPS sent a Notice to Cure for the 2008 Contract to Chartwells. The May 17, 2012 NTC lists “serious and repetitive breaches of Chartwells’ obligations under the Contract” and demands that they “must be immediately rectified.” The demanded remedies include “provide compliant, fresh meals free of spoilage and track, record and report all spoiled food to DCPS; comply with all requirements of the Healthy Schools Act; ensure only specified and approved menu items are served; properly dispose of expired or spoiled product; utilize and maintain proper storage practices; submit action plans to correct deficiencies in schools identified; reimburse funds depleted from the fresh vegetable fund; and, provide a corrective action plan to

correct food quality issues.”

69. Issues raised in the Notices to Cure were not cured by Chartwells.

H. 2012 Audit of Chartwells' Performance under the 2008 Contract

70. Relator realleges and incorporates the allegations contained in paragraphs 147-149 and 164-186 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

I. Performance of the 2012 Contract

71. Relator realleges and incorporates the allegations contained in paragraphs 187-189 of the District's Complaint in Intervention as if fully set forth herein.

72. Relator further alleges as follows:

73. Chartwells obtained the 2012 Contract through a fraudulent course of conduct by making representations to DCPS about cost savings to be achieved under the firm fixed-price per meal contract and that its meals would meet federal, state and contractual requirements for school meal programs.

74. Despite these representations, Chartwells has not delivered to DC school children food that meets the nutrition standards set forth in the contract.

75. From the outset of the contract, Chartwells' performance demonstrated that it never intended to perform the contract consistent with contractual terms.

76. On a regular basis, Chartwells has served meals to DC school children that do not comply with the nutritional requirements set forth in the contract including containing excessive sugar, serving juice instead of fresh fruit, serving foods that are not permitted, and failing to provide all components of a reimbursable meal.

77. In addition, Chartwells had made certain food substitutions because of

Chartwells' financial interests in obtaining large rebates from its usual vendors. An example of this would be Chartwells' decision in 2012, as reported by parents, school children and school employees, to stop serving DC school children Stonyfield yogurt and, instead, to switch to serving yogurt, with higher calories, sugar and carbohydrates and lower calcium and protein. At the same time, Chartwells continues to advertise Stonyfield's nutritional data on their DCPS menus.

78. Similarly, under the 2012 Contract, Chartwells switched away from serving all- natural antibiotic-free and hormone-free chicken nuggets. In these examples, Chartwells opted to serve DC public school children the foods sold by the vendors and manufacturers with whom Chartwells has rebate arrangements.

79. Chartwells was obligated to improve participation in school meal programs. However, under the 2012 Contract, participation in school meal programs has decreased significantly.

80. Chartwells has grossly understaffed school cafeterias and staffed school cafeterias with employees that do not have required background checks.

81. Chartwells has failed to provide school cafeterias with food of sufficient quantity or quality so that schools are running out of food leaving students hungry, meals are served late decreasing instructional time, and food that has expired or that is moldy or otherwise inedible has been served to students.

82. Chartwells has refused to operate contractually-required programs, including salad bars in elementary schools and reimbursable vending machines in certain high schools.

83. Chartwells has failed to use USDA commodities as required under the

contract.

84. Chartwells has failed to remit rebates on the cost-reimbursable portions of the 2012 Contract and failed to remit rebates associated with the Fresh Fruits and Vegetables program.

**VI. CHARTWELLS HAS KNOWINGLY SUBMITTED FALSE OR
FRAUDULENT CLAIMS**

85. Chartwells fraudulently induced award of the 2008 contract through false and misleading statements it made in the Determination and Findings and its Best and Final Offer. Chartwells knowingly projected net subsidies of District local funds substantially increasing unless DCPS privatized its school meal programs. Chartwells also projected (and guaranteed) lower net subsidies from local taxpayer funds with award of the 2008 contract to Chartwells.

86. Chartwells knew that it would not achieve the cost savings represented to DCPS. For the reasons set forth in Paragraphs 8-13, Chartwells did not intend to comply with the provision in the 2008 contract requiring Chartwells, serving as DCPS's agent, to purchase food at the lowest price consistent with maintaining quality. As a result of Chartwells' purchasing practices, claims with inflated prices for food and non-food commodities were presented to DCPS for payment.

87. Once the 2008 contract was executed, Chartwells caused DCPS to pay out subsidies from District local funds over and above the Guaranteed Minimum Losses promised under the contract.

88. Chartwells fraudulently induced award of the 2012 contract through false and misleading statements that it would serve DC school children with meals meeting

specified nutritional standards, adequate staffing and other programs set forth as contractual requirements.

89. Chartwells' egregious failures to perform the 2012 contract terms from inception support the inference that Chartwells never intended to perform the contract as represented during contract negotiations.

90. False and misleading statements made to induce award of a contract violate the DC False Claims Act. Each claim presented for payment to DCPS under the fraudulently-obtained contract is a false or fraudulent claim and not eligible for payment because of the fraudulent scheme that led to the contract award.

91. Claims presented for payment by Chartwells are false or fraudulent for the additional reason that Chartwells failed to perform many of the material terms for payment under its two food services contracts and presented claims for payments in which Chartwells overcharged DCPS as a result of its fraudulent course of conduct.

92. Chartwells has overcharged DCPS by failing to obtain best prices for food and supplies purchased under the contract and failing to administer inventories of materials and property owned by DCPS.

93. Chartwells has overcharged DCPS under the 2008 contract by stockpiling excess foods at the schools knowing that the food would spoil and still charging DCPS for the food.

94. Chartwells has overcharged DCPS by providing many meals that were non-compliant with standards specified under the 2008 and 2012 contracts.

95. Chartwells has overcharged DCPS by failing to maintain proper accounting of DCPS food services equipment in inventory as required under the 2008

contract.

96. Under the 2012 contract, Chartwells consistently failed to meet any reasonable expectations for performance by understaffing schools leading to long lines, hungry students, and students opting out of school meal services.

97. Every invoice that Chartwells has submitted to the District of Columbia for food services, and every claim based upon false and misleading information, constitutes a violation of the DC False Claims Act.

98. Chartwells' failure to disclose its misstatements and inadvertent payments and to refund DCPS constitutes a violation of the DC False Claims Act.

99. Chartwells has overcharged DCPS and failed to refund public funds to DCPS in the manner required by the 2008 and 2012 contracts and by federal regulations.

100. Each invoice that Chartwells presented to DCPS claiming reimbursement associated with implementation of the 2008 and 2012 contracts was an affirmative statement that such invoices were payable and each such statement therefore was to get a false claim paid or approved.

101. Chartwells presented these false and fraudulent claims to DCPS with the knowledge and intention that such claims would be paid or approved by DCPS.

102. Chartwells did so with actual knowledge of the falsity of each claim, reckless disregard for the truth and falsity of each claim, or deliberate indifference to the truth or falsity of each claim.

103. As a result of Chartwells' false and fraudulent claims and statements, DCPS paid substantially in excess of the amounts it owed under the 2008 and 2012 contracts.

104. The actions of Chartwells in knowingly disregarding obligations under the 2008 and 2012 contracts and federal regulations, and in making false statements to DCPS for the purpose of obtaining contract awards and increasing its revenues at the expense of DC local funds, violates the DC False Claims Act.

VII. DAMAGES TO THE DISTRICT

105. Relator realleges and incorporates the allegations contained in paragraphs 150-191 of the District of Columbia's Complaint in Intervention as if fully set forth herein.

106. Relator further alleges as follows:

107. Damages to the District from the violations under the 2008 contract as alleged in the District's Complaint in Intervention are in an amount to be determined at trial.

108. Damages from the fraudulent inducement claim, best price violations, and additional violations alleged by the District under the 2008 contract, exceed total contract value.

109. Damages to the District from the violations under the 2012 contract as alleged in the District's Complaint in Intervention and Relator's Amended Qui Tam Complaint are in an amount to be determined at trial.

110. Damages from the rebate violations alleged by the District under the 2012 contract, and additional violations under the 2012 contract alleged by Relator, including the fraudulent inducement of the 2012 contract, exceed total contract value.

COUNT I

(Against All Defendants)
Violation of DC Code Sections 2-381.02(a) (1)

111. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 110 of this Complaint.

112. This is a claim for treble damages and penalties under the DC False Claims Act, DC Code § 2-381.01 *et seq.*

113. By virtue of the acts described above, Defendants knowingly presented, or caused to be presented, false or fraudulent claims to the District of Columbia for payment or approval.

114. Relator cannot at this time identify all of the false and fraudulent claims that were caused by Defendants' conduct. Documentation of such claims is in the possession of the District of Columbia and the Defendants.

115. The District of Columbia, unaware of the falsity of the claims made or caused to be made by the Defendants, paid and continues to pay the claims that would not be paid but for Defendants' unlawful conduct.

116. By reason of Defendants' acts, the District of Columbia has been damaged, and continues to be damaged, in substantial amount to be determined at trial.

117. Additionally, the District of Columbia is entitled to the maximum penalty for each and every false and fraudulent claim made and caused to be made by Defendants arising from their unlawful conduct as described herein.

COUNT II

(Against All Defendants) Violation of DC Code Sections 2-381.02(a) (2)

118. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 110 of this Complaint.

119. This is a claim for treble damages and penalties under the DC False Claims Act, DC Code § 2-381.01 *et seq.*

120. By virtue of the acts described above, Defendants knowingly presented, or caused to be presented, false or fraudulent claims to the District of Columbia for payment or approval.

121. As described above, Defendants knowingly made, used or caused to be made or used, false records or statements material to a false or fraudulent claim paid or approved by the District of Columbia.

122. Relator cannot at this time identify all of the false and fraudulent claims that were caused by Defendants' conduct. Documentation of such claims is in the possession of the District of Columbia and the Defendants.

123. The District of Columbia, unaware of the falsity of the claims made or caused to be made by the Defendants, paid and continues to pay the claims that would not be paid but for Defendants' unlawful conduct.

124. By reason of Defendants' acts, the District of Columbia has been damaged, and continues to be damaged, in substantial amount to be determined at trial.

125. Additionally, the District of Columbia is entitled to the maximum penalty for each and every false and fraudulent claim made and caused to be made by Defendants arising from their unlawful conduct as described herein.

COUNT III

(Against All Defendants)
Violation of DC Code Sections 2-381.02(a) (6)

126. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 110 of this Complaint.

127. This is a claim for treble damages and penalties under the DC False Claims Act, D.C. Code § 2-381.01 *et seq.*

128. By virtue of the acts described above, Defendants knowingly presented, or caused to be presented, false or fraudulent claims to the District of Columbia for payment or approval.

129. As described above, Defendants knowingly made, used, or caused to be made and used, false records and statements material to an obligation to pay or transmit money or property to the District, or knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the District.

130. Relator cannot at this time identify all of the false and fraudulent claims that were caused by Defendants' conduct. Documentation of such claims is in the possession of the District of Columbia and the Defendants.

131. The District of Columbia, unaware of the falsity of the claims made or caused to be made by the Defendants, paid and continues to pay the claims that would not be paid but for Defendants' unlawful conduct.

132. By reason of Defendants' acts, the District of Columbia has been damaged, and continues to be damaged, in substantial amount to be determined at trial.

133. Additionally, the District of Columbia is entitled to the maximum

penalty for each and every false and fraudulent claim made and caused to be made by Defendants arising from their unlawful conduct as described herein.

COUNT IV

(Against All Defendants)
Violation of DC Code Sections 2-308.02(a) (9)

134. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 110 of this Complaint.

135. This is a claim for treble damages and penalties under the DC False Claims Act, DC Code § 2-381.01 *et seq.*

136. By virtue of the acts described above, Defendants knowingly presented, or caused to be presented, false or fraudulent claims to the District of Columbia for payment or approval.

137. As described above, Defendants are the beneficiaries of inadvertent payments or overpayments by the District of monies not due and Defendants have knowingly failed to repay the inadvertent payment of overpayment to the District.

138. Relator cannot at this time identify all of the false and fraudulent claims that were caused by Defendants' conduct. Documentation of such claims is in the possession of the District of Columbia and the Defendants.

139. The District of Columbia, unaware of the falsity of the claims made or caused to be made by the Defendants, paid and continues to pay the claims that would not be paid but for Defendants' unlawful conduct.

140. By reason of Defendants' acts, the District of Columbia has been damaged, and continues to be damaged, in substantial amount to be determined at trial.

141. Additionally, the District of Columbia is entitled to the maximum

penalty for each and every false and fraudulent claim made and caused to be made by Defendants arising from their unlawful conduct as described herein.

PRAYER


WHEREFORE, Relator prays for judgment against Defendants as follows:

1. That Defendants cease and desist from violating DC Code § 2-381.02, *et seq.*;
2. That this Court enter judgment against Defendants in an amount equal to three times the amount of damages the District of Columbia has sustained because of Defendants' actions, plus interest and a civil penalty of not less than \$5,000 and not more than \$11,000 for each violation of D.C. Code § 2-381.02;
3. That Relator be awarded the maximum amount allowed pursuant to DC Code § 2-381.03(f); ;
4. That Relator be awarded all costs of this action, including attorneys' fees and expenses; and
5. That Relator recovers such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Relator hereby demands trial by jury.

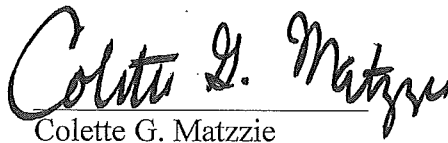
Dated: April 20, 2015


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VERIFICATION BY COUNSEL

I, Colette G. Matzzie, hereby declare, under penalty of perjury, that the foregoing allegations have been verified by me based upon a good faith inquiry and a reasonable investigation.

Dated: April 20, 2015


Colette G. Matzzie
DC Bar 451230

CERTIFICATE OF SERVICE

I hereby state that on April 20, 2015 a copy of the foregoing
**AMENDED QUI TAM COMPLAINT FOR TREBLE DAMAGES FOR
VIOLATION OF THE DISTRICT'S FALSE CLAIMS ACT**
was served on the District Columbia Office of the Attorney General by first-class United States mail, postage pre-paid, addressed as follows:

Jane Drummey
Assistant Attorney General
D.C. Office of the Attorney General
441 4th Street, N.W., Suite 630S
Washington, D.C. 20001


Colette G. Matzzie