

The U. S. Department of Justice last month **announced a \$45 million settlement** of a False Claims Act case filed in the U.S. District Court for the Western District of North Carolina. Japanese-based Toyo Inc. and various affiliated companies have agreed to pay \$45 million to settle claims that they violated the False Claims Act by knowingly failing to pay anti-dumping and countervailing duties which are assessed by the U.S. Department of Commerce. The anti-dumping and countervailing duties are designed to protect United States businesses by offsetting unfair foreign pricing and government subsidies. The duties are collected by U.S. Customs, an agency of the Department of Homeland Security. The import duties vary depending on a product's country of origin, which is identified by determining the last country in which the product underwent a substantial transformation.

The False Claims Act suit alleged that Toyo Inc. knowingly misrepresented the country of origin on documents presented to U.S. Customs to avoid paying duties, particularly anti-dumping and countervailing duties on imports of the colorant carbazole violet pigment number 23 (CVP-23) between April 2002 and March 2010. Specifically, the government alleged that Toyo Inc. misrepresented Japan and Mexico as the countries of origin for its CVP-23 imports, rather than China and India which were the company's sources for raw CVP-23. There are no duties on imports of CVP-23 from Japan or Mexico, but such imports from China and India have been subject to those duties since 2004.

The whistleblower lawsuit was filed under the False Claims Act by the president of a domestic producer of CVP-23. The False Claims Act suit was filed in the United States District Court for the Western District of North Carolina under the caption of United States ex rel. Dickson v. Toyo Inc. Manufacturing Company, Ltd., et al., No. 09-CV-438 (WDNC). The investigation of the qui tam ("whistleblower") suit was handled by the Justice Department's Civil Division, the U.S. Attorney's Office for the Western District of North Carolina, the Department of Homeland Security's U.S. Customs and Border Protection, and the Department of Commerce's International Trade Administration.

Under the False Claims Act, a private citizen can sue on behalf of the United States and share in any recovery. The whistleblower in the case against Toyo, John Dickson, will receive more than \$7,875,000 as his share of the government's recovery.