



Department of Justice

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GOVERNMENT FILES COMPLAINT AGAINST CA INC. **FOR FALSE CLAIMS ON GSA CONTRACT**

WASHINGTON - The government has filed a complaint against CA Inc. (CA) for violations of the False Claims Act in connection with a General Services Administration (GSA) contract, the Justice Department announced today. CA manufactures and sells information technology products and is headquartered in Islandia, New York.

“We expect companies that do business with the government to comply with their contractual obligations,” said Assistant Attorney General of the Justice Department’s Civil Division Stuart F. Delery. “As this case demonstrates, we will take action against those who seek to abuse the government’s procurement process.”

“Too many federal contractors think they can get away with overcharging the government,” said U.S. Attorney for the District of Columbia Ronald C. Machen Jr. “Our complaint alleges that CA broke its promise to give the government the same prices it was giving commercial customers. We look forward to vigorously pressing these claims in court and recovering every dollar that is owed to the American taxpayer.”

In September 2002, CA entered into a GSA contract to provide software licenses, software maintenance, training and consulting services to various government agencies. The government’s complaint alleges that, since at least 2006, CA knowingly overcharged the government for software licenses and maintenance in various ways. For example, the government alleges that CA provided incomplete and inaccurate information to GSA contracting officers during negotiation of contract extensions. At the time CA negotiated these extensions, applicable regulations and contract provisions required CA to fully and accurately disclose how it conducted business in the commercial marketplace, so GSA could use that information to negotiate a fair price for government customers. The government also alleges that CA failed to truthfully update its discounting practices during the life of the GSA contract. CA repeatedly certified to GSA that its discounting policies and practices had not changed, when in fact its discounts to commercial customers had increased.

The government’s complaint also alleges that, since 2002, CA failed to apply properly the contract’s price reduction clause. The contract required CA to monitor discounts to certain commercial customers, compare these discounts to the discounts given to the government and, if the commercial discounts were higher, pass on those higher discounts to the government. The government alleges that CA failed to make those comparisons or, when it did make such

comparisons, failed to do so correctly, resulting in the government overpaying for CA's information technology.

CA's contract is a Multiple Award Schedule (MAS) contract. Under the MAS program, GSA pre-negotiates prices and contract terms for subsequent orders by federal agencies. Agencies that purchase under CA's contract include the Department of Defense, the Department of Energy, the Department of Health and Human Services and the Department of Labor.

"Companies doing business with the federal government on a GSA schedule must disclose current, accurate, and complete commercial discounts, so that GSA can get the best prices on behalf of American taxpayers," said GSA Acting Inspector General Robert C. Erickson. "We will continue to investigate all allegations indicating that the federal government may have been overcharged by a contractor."

Some of the allegations that are the subject of the government's complaint were filed in a lawsuit originally brought by Dani Shemesh, a former employee of CA Israel Ltd., under the *qui tam*, or whistleblower, provisions of the False Claims Act, which permit private parties to sue on behalf of the government and to share in any recovery. The Act also authorizes the government to intervene and assume primary responsibility for litigating the lawsuit, as the government has done in this case. The government had previously notified the court that it intended to join in Shemesh's lawsuit and file its own complaint.

This investigation reflects a coordinated effort among the Commercial Litigation Branch of the Justice Department's Civil Division, the U.S. Attorney's Office for the District of Columbia and the GSA's Office of Inspector General.

The *qui tam* case is captioned United States ex rel. Dani Shemesh v. CA Inc., No. 09-1600 (D.D.C.). The complaint filed by the government contains allegations only; there has been no determination of liability.

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