

Opening Statement of Chairman Jim Jordan

We have convened this joint hearing to examine the importance of whistleblowers to good government. These brave individuals shed light on waste, fraud, and abuse, often at great personal or professional risk, and make what we do in Congress a whole lot easier. We should always be grateful for the sacrifice these individuals make and proud of their contributions to our Nation.

Perhaps the most important tools that whistleblowers have are the *qui tam* provisions of the False Claims Act. Senator Grassley, who we will hear from shortly, was instrumental in amending the False Claims Act in 1986 to ensure whistleblowers are protected. This year, of the \$4.9 billion of False Claims Act recoveries, \$3.3 billion came from whistleblower suits – a record.

It is within this setting that I am so troubled by the *quid pro quo* between the Department of Justice and the City of St. Paul. In 2009 Fredrick Newell brought a whistleblower complaint alleging that the City of St. Paul, Minnesota, had fraudulently received millions in federal dollars. Career DOJ and HUD attorneys investigated his case for almost three years, and by November 2011, the United States government was poised to join the case on Mr. Newell's behalf. These career attorneys told Mr. Newell that the United States strongly supports his case and would intervene on his behalf.

Documents support this impression that the case was strong. In a memo from November 2011, the career attorneys wrote: "The City repeatedly and falsely told HUD and others it was in compliance. The City knowingly submitted false claims in order to obtain federal funds." The career attorneys also wrote: "We believe this is a particularly egregious example of false certifications given by a City that was repeatedly shown what it had to do, but repeatedly failed to do it." These attorneys recommended that the United States intervene in the case.

Then, Assistant Attorney General Thomas Perez stepped in and executed a *quid pro quo* with St. Paul to ensure that the United States Supreme Court did not consider an unrelated appeal concerning a controversial theory under the Fair Housing Act. To prevent the appeal from getting before the Court, Perez leveraged Mr. Newell's whistleblower case. He promised St. Paul that the United States would not intervene in the case in exchange for St. Paul withdrawing the Supreme Court appeal.

Mr. Perez was successful. In a closed-door meeting in the St. Paul City Hall, he convinced the City to agree to the deal. The next week, the Department of Justice declined to intervene in Mr. Newell's case. The day following day, the City withdrew its Supreme Court appeal. The *quid pro quo* was complete.

This *quid pro quo* effectively killed Mr. Newell's case, as St. Paul was able to dismiss the case on grounds that would not have been available if DOJ had joined the case. As a result, federal taxpayers lost the chance to recover up to \$200 million. In addition, however, residents of St. Paul lost the chance to better their community and improve their economic opportunities.

More alarming about this *quid pro quo* is the precedent that this case sets for future whistleblowers who bring claims of waste, fraud, and abuse, only to be thrown under the bus for political purposes. I applaud Mr. Newell for his courage in appearing here today to tell his story and for his work in identifying misspent federal funds. I look forward to hearing his testimony today.