

Whistleblower Suit Against DISH and Its Affiliates Unsealed in Federal District Court

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Washington, DC—The U.S. District Court for the District of Columbia today unsealed a False Claims Act lawsuit against DISH Network Corporation (DISH) and its controlling shareholders and affiliates, including Northstar Wireless LLC (Northstar) and SNR Wireless Licenseco LLC (SNR), filed on behalf of the United States by Vermont National Telephone Company (Vermont National). The action seeks to recover approximately \$3.3 billion in bidding credits wrongfully claimed by Northstar and SNR in the spectrum auction conducted by the Federal Communications Commission (FCC) of Advanced Wireless Services licenses in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands (AWS-3 Auction). The auction concluded in January 2015.

Under the rules of the AWS-3 Auction, “designated entities,”—i.e., qualifying “very small businesses”—would receive a 25% discount (or bidding credit) on the obligations to the United States incurred as a result of their successful bids. To obtain the “very small business” discount, an auction participant was required to represent and certify to the FCC, both before and after the auction, that the participant and any controlling entities, taken together, had average annual gross revenues of not more than \$15 million for the preceding three years. The complaint alleges that in an effort to obtain new spectrum at a massive discount, the defendants formed Northstar and SNR just weeks before the AWS-3 Auction to be DISH’s proxy bidders. These

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sham “designated entities” falsely claimed and certified, up to and through the point of payment, that they were independent “very small businesses” entitled to the 25% discount, when in fact they were under the de facto control of the DISH—a multibillion-dollar enterprise—and thus not entitled to the discount. The result was an approximately \$3.3 billion windfall, which Vermont National is now seeking to recover for the benefit of taxpayers.

Federal law provides a *qui tam* remedy to permit a private party to recover on behalf of the government the difference between an entity’s obligation to pay money to the government and the lesser amount that was actually paid by that entity. *Qui tam* claims can be brought by knowledgeable individuals or entities, acting as “private attorneys general.” Vermont National, which filed the complaint, participated in the AWS-3 Auction through its wholly owned subsidiary, VTel Wireless. Following an investigation, including consulting with an expert in bidding economics and game theory, Vermont National determined that the irregular bidding activity observed in the AWS-3 Auction by Northstar, SNR, and DISH could only be explained by DISH exercising control of Northstar and SNR, despite their false certifications to the contrary. Vermont National seeks an order requiring the defendants to disgorge their unlawfully obtained benefits and to incur the statutory penalties, including treble damages, applicable to their unlawful conduct.

The case is expected to go to trial in Federal District Court next year.

Wiley Rein LLP is serving as counsel for Vermont National. The Wiley Rein multi-practice team is comprised of partners Bert W. Rein, Bennett L. Ross, Stephen J. Obermeier, Michael L. Sturm, and Gregory M. Williams.

To view a copy of the complaint, please [click here](#).