

Whistle-blower gets lawyer's aid recouping

But for all he's lost, ex-pharmaceutical insider regrets telling

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By JEREMY ROEBUCK / Special Contributor to The Dallas Morning News



TOM FOX/DMN

Park Cities attorney Sam Boyd (above) hopes to bring whistle-blower Ed Bogart a share of the \$124 million Medicaid fraud settlement the government reached with King Pharmaceuticals.

After accusing his former employer of fleecing the government, Ed Bogart lost his career and his wife, and he's in danger of losing his home.

Sam Boyd has a soft spot for a good underdog story, as evidenced by the successful law practice he built primarily on whistle-blower cases.

A Medicaid fraud suit brought the men together. Now they'll return to court seeking a share of a landmark \$124 million settlement between state governments and King Pharmaceuticals. "There just aren't enough people willing to suffer the consequences of being a whistle-blower," the Park Cities lawyer said. "If no one comes forward, it's like a faucet with tax dollars rushing into the hands of the people that are trying to cheat us."

But Mr. Bogart, a former vice president at King, has learned firsthand the downside of becoming a government witness. After testifying that his company

cheated the government out of millions of dollars by overstating to Medicaid the cost of its drugs, almost all his job prospects dried up, his marriage began to crumble and his home was nearly foreclosed.

"I have lost my ability to work in this industry," he said. "Now, I just try to keep a really low profile." The Jonesborough, Tenn., resident found his way to Mr. Boyd's law firm after making his first disclosure to the government.

"I got into law because I liked the idea of representing individuals against a power structure," Mr. Boyd said. The Medicaid Drug Rebate Program requires all pharmaceutical companies that sell to the program to report the lowest prices at which they sell to private-sector customers. Drug companies often offer deep discounts through pharmacy benefit managers to hospitals, HMOs and large pharmacy chains.

From 1994 to 2002, King, maker of the heart disease drug Altace and the thyroid hormone Levoxyl, sold its products to Medicaid at the supposed lowest price but then offered further rebates to pharmacy benefit managers, Mr. Bogart testified. The prices the company reported to the government were often 35 to 50 percent greater than the final prices King's best customers paid. Company officials described the reporting error as unintentional.

The company, based in Tennessee, agreed to pay \$124 million to 50 states and the District of Columbia in November under a settlement coordinated by Mr. Boyd, Mr. Androphy, the U.S. attorney's office in Philadelphia and the Justice Department.

Mr. Boyd is seeking part of that for Mr. Bogart under the Lincoln-era False Claims Act, which rewards people who come forward with insider knowledge of fraudulent billing of government programs such as Medicaid.

He will argue Mr. Bogart's contribution to the case and the suffering he endured. Mr. Bogart says that if he had it to do again, he wouldn't. But he has found some hope in Mr. Boyd's ethics and drive for accountability.

"Working with Sam has been kind of refreshing."

Jeremy Roebuck is a Dallas-based freelance writer.