

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GERRY DALE; and)	
PATRICIA DALE in the name of)	
the UNITED STATES GOVERNMENT)	
pursuant to the False Claims Act,)	
31 U.S.C. § 3729 et seq;)	Civil Action
the STATE OF DELAWARE;)	No. 06-cv-04747
the DISTRICT OF COLUMBIA;)	
the STATE OF FLORIDA;)	
the STATE OF ILLINOIS;)	
the STATE OF INDIANA;)	
the STATE OF LOUISIANA;)	
the STATE OF NEW YORK;)	
the STATE OF TENNESSEE; and)	
the STATE OF VIRGINIA,)	
)	
Plaintiffs)	
)	
vs.)	
)	
ALAN ABESHAUS;)	
ERIC ABESHAUS;)	
MITCHELL KURLANDER; and)	
DAVID DRILL,)	
)	
Defendants)	

O R D E R

NOW, this 26th day of September, 2013, upon
consideration of the following documents:

- (1) The Abeshaus Parties' Motion to Dismiss the Fourth Amended and Restated *Qui Tam* Complaint, which motion was filed on September 10, 2012 (Document 91);
- (2) Defendant David Drill's Joinder of the Abeshaus Parties' Motion to Dismiss the Fourth Amended and Restated *Qui Tam* Complaint, which joinder was filed on September 19, 2012 (Document 93);

- (3) Plaintiffs' Response to Defendants Alan Abeshaus, Eric Abeshaus, Kurlander, and Drill's Motion to Dismiss the Fourth Complaint, which response was filed on November 01, 2012 (Document 95);
- (3) Reply Memorandum in Further Support of the Abeshaus Parties' Motion to Dismiss the Fourth Amended Complaint, which reply was filed on November 26, 2012 (Document 98);
- (5) Fourth Amended and Restated Qui Tam Complaint pursuant to Title 31 U.S.C. Title 3729 et seq., and claims under the State False Claims Acts filed on August 15, 2012 (Document 90)¹;

and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that the Clerk of Court remove this case from civil suspense.

IT IS FURTHER ORDERED that the Abeshaus Parties'² motion to dismiss (Document 91), and defendant Drill's joinder to the Abeshaus Parties' motion to dismiss (Document 93) are each granted in part and denied in part.

IT IS FURTHER ORDERED that defendants' motion to dismiss³ is granted to the extent it seeks dismissal of Count II of plaintiffs' Fourth Amended Complaint.

¹ I refer to plaintiffs' complaint as "Fourth Amended Complaint".

² The "Abeshaus Parties" refer to defendants Alan Abeshaus, Eric Abeshaus and Mitchell Kurlander.

³ I refer to the Abeshaus Parties' motion to dismiss and defendant Drill's joinder of that motion collectively as "defendants' motion to dismiss".

IT IS FURTHER ORDERED that Count II of plaintiffs' Fourth Amended Complaint is dismissed with prejudice.

IT IS FURTHER ORDERED that defendants' motion to dismiss is denied in all other respects.

IT IS FURTHER ORDERED that defendants shall have until October 23, 2013 to file an answer to Count I and Counts III through IX of plaintiffs' Fourth Amended Complaint.

BY THE COURT:

_/s/ James Knoll Gardner _
James Knoll Gardner
United States District Judge