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June 8, 2009

VIA U.S. MAIL AND EMAIL

Jerry V. Leaphart, Esq.
Jerry V. Leaphart & Assoc., P.C.
8 West Street, Suite 203
Danbury, CT 06810

Re: *Wood v. Applied Research Associates, Inc.*
Docket No.: 08-3799-CV

Dear Jerry:

I am in receipt of your email of June 6, 2009 and take issue with your allegation that our Opposition to your Motion for an Enlargement of Time contains “a factual misstatement.” As you are aware, you raised three (3) issues in your appeal of the above-referenced case:

I. Does the submissions of a Request for Correction (RFC) to the National Institute of Standards and Technology (NIST) by Dr. Judy Wood challenging as fraudulent a document prepared by NIST purporting to demonstrated “why and how the Twin Towers were destroyed” but which resulted in an admission by NIST that it “did not investigate the actual collapse” of the Towers overcome the public disclosure bar of under [sic] 31 U.S.C. § 3730 (e)(4)(A) (Because she disclosed the information) or constitute “original source” information for qui tam relator purposes per 31 U.S.C. §3730(e)(4)(B); and under the edict of Rockwell v. US, 549 U.S. 457; 127 S. Ct. 1397 (2007)?

II. Does the submission of payment claims for professional services rendered in connection NIST’s [sic] preparation of NCSTAR I which is shown by Dr. Wood, the qui tam relator, to have been purposefully fraudulent in not fulfilling the mandated objective constitute a false or fraudulent claim by the appellees under the False Claims Act, 31 U.S.C. § 3729(a)(1)?

III. Did the lower court err by not mentioning or considering the actual information upon which Dr. Wood’s status as a qui tam relator such that, at a minimum, remand for further proceedings in the court below is required?



In fact, none of these issues are even remotely impacted by the one portion of the recent amendments to the False Claims Act that has a retroactive application.

As I am sure you are aware, pursuant to § 4(f)(B) of the amendments, the only section of the False Claims Act as to which there is a retroactive application of the amendments is 31 U.S.C. § 3729 (a)(1)(B), formerly § 3729 (a)(2). In its decision, the District Court made no mention of this section of the FCA. Similarly, you did not raise any issues with respect to this section in your appeal.

As the article you so kindly sent me indicates, one impact of the amendments to this section was to overrule the one portion of the Supreme Court's decision in the *Allison Engine Co. v. United States ex rel. Sanders* that a subcontractor defendant only violated the False Claims Act if it "intended that the false statement result in *the government* paying a false claim." This clarification is completely irrelevant to your current appeal. The Supreme Court's position was not relevant to the District Court's decision (and was not cited therein) and was similarly not an issue in any of the three issues you have raised on appeal.

Accordingly, as the recent amendments have no impact on the issues raised in this appeal, we will not be withdrawing our Opposition.

Sincerely,

Gail D. Zirkelbach
*Counsel for Applied Research Associates, Inc.
Writing on behalf of Appellees Applied Research Associates, Inc., Science Applications International Corp., Hughes Associates, Inc., Rolf Jensen & Associates, Inc., Skidmore Owings & Merrill, LLP, Underwriters Laboratories, Inc., and Wiss Janney Elstner Associates, Inc.*

GDZ/

Cc: **VIA EMAIL ONLY**

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