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Unisys Settles \$13M Army Global-Radio FCA Spat

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Law360, San Diego (January 06, 2015, 5:53 PM ET) -- A Virginia federal judge on Monday signed off on a settlement ending a False Claims Act suit accusing [Unisys Corp.](#) of overbilling the [U.S. Army](#) more than \$13 million on a global radio frequency network support contract, less than a month after the company said it would pay \$170,000 in penalties.

U.S. District Judge Gerald Bruce Lee granted a stipulated dismissal request, though the order didn't detail terms of Unisys' settlement. Judge Lee had granted Unisys and prosecutors' request on Dec. 15 to pay whistleblower Michael Saunders about \$46,000, or 27 percent of the government's penalties, which were described as the “government's part of the settlement.”

The federal government had not intervened in Saunder's suit. A trial scheduled for Dec. 2 was scuttled after the parties said they settled in early November.

Unisys had sought to [get the suit tossed](#) in October, arguing there was no proof of the alleged wrongdoing. Although an amended complaint alleged that Unisys knowingly overbilled the Army from 2008 to 2010 and fired Saunders for highlighting the issues, Unisys maintained that the case was a “suit in search of a wrong, rather than a wrong in search of a verdict” and requested summary judgment.

Saunders alleged that Unisys discovered the overbilling and that another employee developed a “clarification” to the company's billing practices. But Unisys said that finding was never binding on the company and that there were other modifications on the contract superseding the suggestion.

Unisys noted that some of Saunders' FCA liability theories — including his belief that the so-called Neff clarification was binding on Unisys' billing practices — weren't supported by the relator's expert witness.

Saunders — a former partner for the federal systems division of Unisys who said the company

terminated him after he criticized it for concealing the overbilling — brought two claims under the FCA: one for the fraudulent overbilling and one alleging retaliation. Unisys moved last year to dismiss the complaint, arguing that the overbilling claim was precluded by the FCA's disclosure bar and the second cause of action failed to state a claim. But Judge Lee [rejected the motion to dismiss](#) in March.

Saunders first sued in April 2012 then later amended the complaint to address an earlier motion to dismiss brought by Unisys and to request treble damages for the alleged \$13 million in overbilling.

Saunders said that Unisys overcharged the Army for contracts for installing, supporting and monitoring its worldwide radio frequency identification, or RFID, network — from February 2008 until May 2010 by unlawfully inflating the bills, according to court documents.

But Unisys maintained that it was never obligated to submit pricing or cost data to the government under the terms of the radio frequency network support contract, and it told the court the contracting officer made that clear by not requiring a Truth in Negotiations Act certificate.

Saunders also alleged that Unisys lied about the number of RFID sites it was maintaining, but the company said the government was fully aware of that information.

The field service engineers who worked on the system were instructed by Unisys to apply an artificially designed charging methodology to bill the contracts for their activity without regard to what the engineers were actually doing. The formula was in conflict with the contract terms designating certain tasks to be charged, and it did not reflect actual engineer time on the invoices Unisys submitted, the complaint alleged.

When the corrupt practice was reported, Saunders alleged, the company conducted an internal investigation that led to the admission of wrongful conduct. But those disclosures were materially false and denied the \$13,474,000 in overcharges caused by the activities, according to the suit.

Attorneys for the parties did not immediately respond Tuesday to requests for comment.

The U.S. is represented by U.S. Attorney Dana J. Boente and Assistant U.S. Attorney Richard W. Sponseller. Saunders is represented by Max Maccoby and James F. Gehrke of [Butzel Long PC](#).

Unisys is represented by Charles F.B. McAleer Jr., Adam P. Feinberg, James A. Bensfield, Mark J. Rochon and Addy R. Schmitt of [Miller & Chevalier Chtd.](#); and Jason N. Workmaster of [McKenna Long & Aldridge LLP](#).

The case is U.S. ex rel. Saunders v. Unisys Corp., case number [1:12-cv-00379](#), in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Erica Teichert. Editing by Edrienne Su.

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