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Law Firm Helps People Do The Right Thing

Levy Phillips & Konigsberg wins \$14.7 million award for *qui tam* client who sparked federal investigation into alleged Medicaid fraud scheme.

By Andrew W. Bagley, Esq. Published Dec 11, 2011 [ShareThis](#)

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From left: Alan J. Konigsberg, Theresa A. Vitello.

(Photo: Statia Grossman)

D Gabriel Ethan Feldman's quest to do the right thing took more than mere persistence. The double board-certified physician complained for years about Medicaid fraud committed by New York City against the federal government, but no one would listen to him until the law firm of Levy Phillips & Konigsberg got involved.

Ultimately, Dr. Feldman's efforts as a whistle-blower paid off in more ways than one. In October, he was awarded \$14.7 million for his role in helping taxpayers recover \$70 million.

"This is frankly the largest case that I've been involved in," says founding firm partner Alan J. Konigsberg.

The settlement resulted from a *qui tam* complaint filed under the federal False Claims Act, which permits whistleblowers to sue on behalf of the government to recover money and earn a 15 to 25 percent reward. Konigsberg and associate Theresa A. Vitello filed a lawsuit on behalf of Dr. Feldman, which resulted in a federal investigation into the extensive fraud.

"Dr. Feldman was not only instrumental in bringing the case to the attention of the federal government but he was also extremely valuable in providing ongoing information to the government," Konigsberg says.

The case stemmed from a personal care service program New York City operated on behalf of New York State using federal Medicaid dollars. Dr. Feldman's job tasked him with reviewing the records of applicants to the program, and he became concerned that patients who did not meet the program's regulatory requirements were being admitted anyway. His concerns were ignored repeatedly, permitting the fraud to continue.

"The program was costing the taxpayers much more money than it should," Konigsberg says. "Dr.

Feldman was instrumental in bringing the case to the federal government.”

Dr. Feldman tried to stop the fraud as early as the 1990s, but his complaints fell on deaf ears. He even went so far as to testify before the New York City Council. However, there was never any action.

“We have a reputation for handling large and complex cases of all kinds...we take on the tough cases.” —Alan J. Konigsberg

Dr. Feldman eventually moved away from New York City for many years and returned in 2006, only to realize that the Medicaid fraud remained rampant. This time, he turned to Levy Phillips & Konigsberg, who decided to pursue his cause.

“We have a reputation for handling large and complex cases of all kinds, and I think that’s probably what attracted him to us,” Konigsberg says. “We take on the tough cases.”

After diligent preparation, the case was filed in federal court in November 2009. Dr. Feldman’s case was completed relatively quickly, almost two years to the date after it was filed in court. Konigsberg credits the court and the government for handling the case in an expeditious manner and the firm for preparing the case as if it were going to trial.

“Our philosophy is that if you prepare the cases for trial in the best possible way, then you will get the best possible result if the case settles,” Konigsberg says.

The 26-year-old law firm has been involved in many *qui tam* cases throughout the country during the past five years. In addition to the federal False Claims Act, many cities and states have their own laws to reward citizens who know that the government has been defrauded. Both New York City and the state of New York reward citizens who bring actions to expose fraud against the government.

Konigsberg notes that whistle-blower cases are particularly stressful for the client because they often have to speak out against their own coworkers. Therefore, Levy Phillips & Konigsberg gives special attention to their clients’ well-being and nonlegal needs when pursuing a case.

The firm has been involved in domestic and international liability cases involving many topics, including asbestos, lead poisoning, airplane and automobile designs, pension funds, class actions, medical devices and birth defects.

Konigsberg himself has been a litigator for more than 40 years and finds his work rewarding, especially his cases on behalf of children who suffer from lead poisoning.

“Those cases are very rewarding,” Konigsberg says. “The funds we obtain in these cases really do make a significant difference in these children’s lives.”

The firm is dedicated to representing people in all sorts of complex litigation situations but is highly selective in the cases it takes. However, Konigsberg says, “Once we accept a case, we are all in.”

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