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Pursuing Civil Remedies Against Co-Conspirators in Government Corruption Cases

In recent years, state and federal prosecutors have aggressively pursued public corruption claims against public officials, as well as the people and companies with whom they did “business.” Public corruption can take many forms, including bribery, extortion, embezzlement, illegal kickbacks, tax evasion, and money laundering.

While these criminal matters often seek punishment for the wrongdoers, and restitution for the victims, payments from convicted defendants often do not make the victims whole. Indeed, by the time criminal defendants are subject to restitution orders – despite having received large kickbacks – the money is often long gone.

In addition, not every party involved in a kickback, bribery, or similar scheme is charged criminally. Recently, U.S. Attorney Barbara McQuade told the *Detroit Free Press*: “[s]ometimes it’s hard for us to assess – when you’ve got these companies who are involved in bribes and extortions – where they fall on the spectrum of victim to co-conspirator.” Thus, in some cases, prosecutors cannot – or will not – charge parties who paid bribes with a crime.

Nevertheless, governmental units victimized by kickback schemes are seldom satisfied until they have recovered all of their damages. Fortunately, there is a way to recover additional

funds from parties involved in a corruption matter, even if such parties are not charged criminally. The non-indicted co-conspirators can be held *civilly* liable for their part in a criminal conspiracy. Civil litigation, with its different statutes and lower standard of proof, can often reach into the deep pockets of those who paid kickbacks.

Unindicted co-conspirators can, under the right circumstances, be pursued civilly through sophisticated theories, including unjust enrichment, aiding and abetting, conspiracy, and civil RICO. Through these approaches, public coffers can be replenished with funds from the co-conspirators and their insurance carriers.



If you’d like to learn more about recovering damages from those who conspired to pay bribes, please call our office.

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The United States Attorney’s office in Detroit reported to *Crain’s Detroit Business* that it collected approximately \$46.2 million in fines and restitution from criminal defendants this past year.

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