

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

-----X	)	<b><u>JURY TRIAL DEMANDED</u></b>
UNITED STATES OF AMERICA,	)	<b><u>COMPLAINT</u></b>
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	
AHMAD JBAWI,	)	
	)	
Defendant.	)	
-----X	)	

Plaintiff, the UNITED STATES OF AMERICA, by its attorney PETER F. NERONHA, United States Attorney for the District of Rhode Island, Zachary A. Cunha, Assistant United States Attorney, of counsel, for its complaint in the above-entitled action, alleges upon information and belief as follows:

**PRELIMINARY STATEMENT**

1. This is an action seeking civil penalties and treble damages pursuant to the False Claims Act, 31 U.S.C. §§ 3729 - 3733, as amended, or, in the alternative, damages for common law fraud, payment by mistake, and/or unjust enrichment. Specifically, this action seeks to recover federal funds paid to Defendant by virtue of false or fraudulent claims for unemployment insurance benefits, or statements made in support of such claims, and penalties for the submission of such claims.

**JURISDICTION AND VENUE**

2. This action arises under the False Claims Act (FCA), 31 U.S.C. §§ 3729 - 3733, as amended, and the common law. This Court has subject matter jurisdiction over this action under 31 U.S.C. § 3730(a) and 28 U.S.C. § 1345.

3. Venue is proper in the District of Rhode Island pursuant to 31 U.S.C. 3732(a), 28 U.S.C. § 1391(b) and 28 U.S.C. § 1395(a), because, *inter alia*, Defendant resides in this District and/or a substantial portion of the events giving rise to this Complaint occurred in this District.

### **PARTIES**

4. Plaintiff, the United States of America, is a sovereign and body politic. The United States Department of Labor is a Cabinet level executive department of the United States.

5. Defendant, Ahmad Jbawi is a resident and domiciliary of the State of Rhode Island, and resides at 10 United Street, North Providence, Rhode Island, 02904.

### **APPLICABLE LAW AND REGULATIONS**

6. The federal False Claims Act provides, *inter alia*, that any person who, with actual knowledge, or in reckless disregard or deliberate ignorance of the truth, submits or causes to be submitted, a false or fraudulent claim to the United States Government for payment may be held liable to the Government for a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each claim, and up to three times the amount of damages sustained by the Government because of the false claim. 31 U.S.C. §§ 3729 (a)(1), (b).

7. The False Claims Act expressly defines “claim” to include “any request or demand . . . for money or property . . . made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest, and if the United States Government provides or has provided any portion of the money . . . requested or demanded; or . . . will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded[.]” 31 U.S.C. § 3729 (b)(2)(A)(ii).

**FACTUAL ALLEGATIONS**

**A. Rhode Island's Unemployment Insurance Program and Its Receipt of Federal Funds**

8. The State of Rhode Island and Providence Plantations, like each of the fifty states of the Union, as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, operates an unemployment insurance program to provide monetary benefits, from a state-administered fund, to qualified individuals who are involuntarily separated from employment without cause (the "Unemployment Insurance Program"). R.I.G.L. §28-42 *et seq.*

9. In Rhode Island, the Unemployment Insurance Program is administered by the Rhode Island Department of Labor and Training, and its operation, disbursements, and eligibility determinations are governed by both state law and regulation.

10. In addition, the State of Rhode Island has agreed by statute to accept federal conditions and requirements relative to the administration of the state's Unemployment Insurance Program.

11. On or about June 30, 2008, the President of the United States signed into law the Supplemental Appropriation Act, 2008, Public Law 110-252.

12. Title IV of this statute provided, *inter alia*, for the funding of an Emergency Unemployment Compensation, 2008 (EUC08) program, which made available an additional thirteen weeks of unemployment benefits to eligible individuals in all states, fully paid for by the federal government. The earliest eligibility date for claims under EUOC 08 was July 6, 2008.

13. The State of Rhode Island duly entered into an agreement with the Department of Labor, and received funds under EUC08.

14. Subsequent extensions of the Emergency Unemployment Compensation (EUC) program were authorized by statute through January 2, 2013, and the State of Rhode Island duly received federal funding under each extension. These extensions provided federal funds to extend

benefits to eligible individuals enrolled as qualified recipients of Unemployment Insurance Program benefits in Rhode Island.

15. Through these and other statutory and inter-governmental means, the Rhode Island Department of Labor and Training received federal funds to disburse to recipients of Unemployment Insurance Program benefits, in both the form of stimulus payments, and in unemployment insurance extension payments.

**B. The Rhode Island Unemployment Insurance Program Benefits Application and Claim Submission Process**

16. The Rhode Island Department of Labor and Training accepts applications for Unemployment Insurance Program benefits on paper, over the telephone through a largely automated call distribution system, and via the Internet.

17. As referenced above the Rhode Island Department of Labor and Training maintains an automated interactive electronic telephone response system (the “Tele-Serve System”) through which individuals may apply for Unemployment Insurance Program benefits, check the status of their benefit applications, and submit periodic re-certifications of eligibility and requests for benefits; it also accepts claims and inquires via a web-based internet system.

18. With respect to certifications of eligibility and requests for funds, the Tele-Serve System utilizes a pre-programmed list of questions to determine eligibility, or continued eligibility, for Unemployment Insurance Program benefits.

19. Users of the Tele-Serve System provide answers using the keypad of their telephone, in response to electronic prompts.

20. When an applicant uses the Tele-Serve System to claim or certify eligibility for ongoing benefits, it first asks if the claimant is claiming benefits for a specific time period.

21. If the answer to that question is yes, the Tele-Serve System asks the claimant: “[w]ere you able and available for full time work last week?”

22. The answer to this question is material to the eligibility of the claimant for payment, and an affirmative answer is needed to receive benefits.

23. The Tele-Serve System also queries claimants whether they were self-employed during the week for which they are claiming benefits, whether they returned to work full time, or whether they worked part time during the period for which they claim benefits.

24. The answer to these questions is material to the eligibility of the claimant for payment and/or the amount of payment.

25. Whatever the mechanism by which a claimant submits claims or re-certifications of eligibility for receipt of Unemployment Insurance Program benefits, that claimant must certify that they were able and available for work during the period for which they are seeking benefits.

26. The answer to this question is material to the eligibility of the claimant for payment, and an affirmative answer is needed to receive benefits.

**C. Jbawi’s Initial Claim For Unemployment Insurance Benefits**

27. In January of 2009, Plaintiff was notified that he was to lose his employment at Circuit City, owing to the company’s bankruptcy and closure.

28. On or about January 30, 2009, Jbawi applied for benefits from the Unemployment Insurance Program, with an effective date of January 18, 2009. Jbawi’s initial application was submitted by telephone.

29. On or about March 5, 2009, and again on or about April 20, 2010, Jbawi submitted paper filings in further support of his claim for benefits under the Unemployment Insurance Program.

30. Each of these paper filings was signed by Jbawi, and each bore the following legend immediately above the signature block: “I am claiming Employment Security Benefits and registering with the Employment Service under the provisions of the Employment Security Act of the State of Rhode Island. I understand that any claim made by me, or any information furnished by me that is false, is punishable by law.”

31. Jbawi did not file for or collect benefits between December 19, 2009 and March 20, 2010; other than that period, he collected benefits continuously for the period between January 18, 2009 and April 16, 2011.

32. Jbawi was advised orally and/or in writing that to qualify for benefits, he was required to be able and available for work, and actively seeking full-time employment.

**D. Jbawi’s Self-Employment or Unreported Independent Work**

33. On or about February 20, 2009, Jbawi served as one of two incorporators of a business named “KJ Security Corp.,” a domestic profit corporation registered with the Rhode Island Secretary of State.

34. From or about February 2009 and throughout the periods in which he received Unemployment Insurance Program benefits, Jbawi was engaged in running or participating in the operation of a business enterprise: KJ Security.

35. KJ Security, or a business operating under that name, also operated in Syria.

36. Throughout the time that Jbawi was receiving Unemployment Insurance Program benefits, he was working for, or on the business of, KJ Security or other affiliated entities, individuals, or companies.

37. Jbawi never informed the Department of Labor and Training of his self or independent employment during the time he received Unemployment Insurance Program benefits.

**E. Jbawi's Lengthy Absences From Rhode Island And The United States**

38. On or about March 19, 2009, Jbawi departed the United States by air from Boston Logan International Airport.

39. Jbawi did not return to the United States until August 13, 2009, one-hundred-and-forty seven days, or four months, twenty-five days, later.

40. On or about September 15, 2009, Jbawi departed the United States by air from New York's John F. Kennedy International Airport.

41. Jbawi did not return to the United States until April 8, 2010, two-hundred-and-five days, or six months, twenty-four days, later.

42. On or about April 25, 2010, Jbawi departed the United States by air from Boston Logan International Airport.

43. Jbawi did not return to the United States until September 5, 2010, one-hundred-and-thirty-nine days, or four months, seventeen days, later.

44. On or about November 15, 2010, Jbawi departed the United States by air from Boston Logan International Airport.

45. Jbawi did not return to the United States until December 15, 2010, thirty days later.

46. Thus, Jbawi was in Syria or otherwise outside of the United States for approximately 50% of the time during which he received Unemployment Insurance Program benefits.

47. Jbawi never advised the Department of Labor and Training that he was out of the country during these time periods, nor did he do so at any point during the time he received Unemployment Insurance Program benefits; had Jbawi done so, his absences would have effected or eliminated his eligibility for benefits.

**F. Jbawi's False Claims For Unemployment Insurance Benefits**

*i. False Statements Regarding Self-or-other Employment Status*

48. On multiple occasions, including but not limited to March 15, 2010, June 13, 2010, July 7, 2010, and January 4, 2011, Jbawi used the internet, and/or the Tele-Serve System to submit claims for Unemployment Insurance Program benefits; when doing so, he answered "no" to electronic questions as to whether he was self-employed.

49. Had Jbawi indicated that he was self-employed, he would have been asked additional questions regarding that employment that would have effected or eliminated his eligibility for benefits as of the date he became self-employed.

50. At the time of his statements and at all material times throughout his receipt of benefits, Jbawi was self or otherwise employed within the meaning of the applicable law, regulations, and program requirements.

*ii. Jbawi's Unavailability for Work Owing to Absences from the United States*

51. On multiple occasions, Jbawi placed calls to the Tele-Serve System to submit claims for Unemployment Insurance Program benefits; when doing so, he answered "yes" to electronic questions posed by the Tele-Serve System as to whether he was able and available for work.

52. In so doing, Jbawi made false statements to the Rhode Island State Department of Labor and Training that he was able and available for work, including but not limited to on the following dates and in the following manner:

[Paragraph Continued on Next Page]

**YEAR 2009****YEAR 2010**

<b><u>DATE</u></b>	<b><u>MANNER OF CLAIM</u></b>	<b><u>DATE</u></b>	<b><u>MANNER OF CLAIM</u></b>
03/29/09	Tele-Serve Claim	03/22/10	Tele-Serve Claim
04/05/09	Tele-Serve Claim	03/28/10	Tele-Serve Claim
04/12/09	Tele-Serve Claim	04/04/10	Tele-Serve Claim
04/19/09	Tele-Serve Claim	05/05/10	Tele-Serve Claim
04/26/09	Tele-Serve Claim	05/09/10	Tele-Serve Claim
05/03/09	Tele-Serve Claim	05/16/10	Tele-Serve Claim
05/10/09	Tele-Serve Claim	05/23/10	Tele-Serve Claim
05/17/09	Tele-Serve Claim	05/30/10	Tele-Serve Claim
05/24/09	Tele-Serve Claim	06/06/10	Tele-Serve Claim
05/31/09	Tele-Serve Claim	06/13/10	Tele-Serve Claim
06/07/09	Tele-Serve Claim	06/20/10	Tele-Serve Claim
06/14/09	Tele-Serve Claim	06/27/10	Tele-Serve Claim
06/21/09	Tele-Serve Claim	07/11/10	Tele-Serve Claim
06/28/09	Tele-Serve Claim	07/18/10	Tele-Serve Claim
07/04/10	Tele-Serve Claim	07/23/10	Tele-Serve Claim
07/05/09	Tele-Serve Claim	07/25/10	Tele-Serve Claim
07/12/09	Tele-Serve Claim	08/01/10	Tele-Serve Claim
07/19/09	Tele-Serve Claim	08/08/10	Tele-Serve Claim
07/26/09	Tele-Serve Claim	08/15/10	Tele-Serve Claim
09/27/09	Tele-Serve Claim	08/22/10	Tele-Serve Claim
10/04/09	Tele-Serve Claim	08/29/10	Tele-Serve Claim
10/11/09	Tele-Serve Claim	09/05/10	Tele-Serve Claim
10/18/09	Tele-Serve Claim	11/27/10	Unknown-Manually Processed
10/25/09	Tele-Serve Claim	12/11/10	Unknown-Manually Processed
11/01/09	Tele-Serve Claim		
11/08/09	Tele-Serve Claim		
11/15/09	Tele-Serve Claim		
11/22/09	Tele-Serve Claim		
11/29/09	Tele-Serve Claim		
12/06/09	Tele-Serve Claim		
12/13/09	Tele-Serve Claim		
12/20/09	Tele-Serve Claim		

53. At the time of his statements and at all material times throughout his receipt of benefits, Jbawi was not able and available for work within the meaning of the applicable law, regulations, and program requirements.

54. Jbawi was not able and available for work within the meaning of applicable law and regulations during the periods that he was outside the United States, because, *inter alia*, he was absent from the local or relevant labor market, lacked sufficient connections to the local or relevant labor market, and/or lacked the ability to promptly and meaningfully participate in or avail himself of employment opportunities in Rhode Island.

55. Concurrently or in the alternative, Jbawi was not able and available for work during the periods that he was receiving benefits because, *inter alia* he was devoting substantial time to work for KJ Security or other companies, individuals, or concerns, sufficient to render him unavailable to look for other work as required by the Unemployment Insurance Program.

56. Jbawi knew, or was deliberately ignorant or in reckless disregard, of the fact that he was ineligible to receive Unemployment Insurance benefits during these periods because he was not able or available for work.

57. But for Jbawi's false statements and claims, he would not have received Unemployment Insurance Program benefits between January 16, 2009 and April 16, 2011, and his statements and claims were material to the decision to pay the funds, and/or his eligibility to receive or retain the funds.

58. As a result of Jbawi's false statements that he was able and available for work, and/or that he was not engaged in self or outside employment, the Rhode Island State Department of Labor and Training paid out federal funds to Jbawi to which Jabwi was not entitled, specifically:

- a. By virtue of Jbawi's false statements, between March 5, 2009 and December 17, 2010, Jbawi received \$1,925.00 in federal stimulus money, paid through the Unemployment Insurance Program.
- b. By virtue of Jbawi's false statements, between August 14, 2009 and December 20, 2009, Jbawi received \$10,560.00 in federal First Tier unemployment extension funds, paid through the Unemployment Insurance Program.

- c. By virtue of Jbawi's false statements, between March 22, 2010 and October 3, 2010, Jbawi received \$7,392.00 in federal Second Tier unemployment extension funds, paid through the Unemployment Insurance Program.
- d. By virtue of Jbawi's false statements, between December 17, 2010 and January 2, 2011, Jbawi received \$6,864.00 in federal Third Tier unemployment extension funds, paid through the Unemployment Insurance Program.
- e. By virtue of Jbawi's false statements, between January 9, 2011 and February 6, 2011, Jbawi received \$2,640.00 in federal Fourth Tier unemployment extension funds, paid through the Unemployment Insurance Program.
- f. In total, by virtue of his false statements as alleged above, Jbawi received a total of \$34,015.00 in federal funds for which he was not eligible and to which he was not entitled.

59. In consequence thereof, the United States has been damaged in the amount of \$34,290.00.

**COUNT I**  
**(Presentation of False or Fraudulent Claims**  
**in Violation of the False Claims Act, 31 U.S.C. §§ 3729-3733)**

60. The United States repeats and incorporates by reference the allegations contained in paragraphs 1 through 59 as if fully set forth fully herein.

61. The Rhode Island Department of Labor and Training is a "grantee, or other recipient" within the meaning of 31 U.S.C. § 3729(b)(2)(A)(ii) because it received one or more grants from the United States Government under the EUOC08 Program and its extensions and disbursed that money on behalf of, or to advance, a Government program or interest.

62. By virtue of the acts described above, Jbawi knowingly presented, or caused others to present, to the Rhode Island Department of Labor and Training, false or fraudulent claims to obtain payment or approval in violation of the False Claims Act, within the meaning of 31 U.S.C. §§ 3729(a)(1)(A) and 3729(b)(2), or, in the alternative, made false statements material to the payment of a claim in violation of 31 U.S.C § 3729(a)(1)(B).

63. As used in this count, the term “knowingly” means that a person, with respect to information, (a) has actual knowledge of the information; (b) acts in deliberate ignorance of the truth or falsity of the information; or (c) acts in reckless disregard of the truth or falsity of the information.

64. Jbawi’s claims were false or fraudulent within the meaning of 31 U.S.C. §§ 3729(a)(1)(A) and (B) because they sought payment for Unemployment Insurance Benefits to which Jbawi was not legally entitled, or for which he was ineligible.

65. The Rhode Island Department of Labor and Training paid the false or fraudulent claims because of the acts of Jbawi and, as a result, the United States has incurred actual damages in the amount of \$34,290.00, exclusive of interest and costs.

66. As a result of Jbawi’s false or fraudulent claims and/or statements, the United States Government suffered damages.

67. In the alternative, by virtue of his unavailability for work, Jbawi knew or should have known that he was retaining funds to which he was not entitled, in violation of 31 U.S.C. § 3729(a)(1)(G), and the United States is entitled to recover.

68. Pursuant to the False Claims Act, 31 U.S.C. § 3729(a)(1), as amended, Jbawi is liable to the United States under the treble damage and civil penalty provision of the False Claims Act for a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each of the false or fraudulent claims herein, and up to three times the amount of damages which it has sustained because of Jbawi’s actions.

**COUNT II**  
**(Payment by Mistake)**

69. The United States repeats and incorporates by reference the allegations contained in paragraphs 1 through 59 as if fully set forth fully herein.

70. The Rhode Island Department of Labor and Training made payments on behalf of the United States on the claims submitted by Jbawi under the erroneous belief that the claims for payment were based upon representations which were factually accurate and which represented actual dates on which Jbawi was neither employed nor able and available for work.

71. This erroneous belief was material to the payments made on behalf of the United States to Jbawi.

72. Because of these mistakes of fact, Jbawi has received federal funds to which he is not entitled.

73. By reason of the overpayments resulting from the mistakes of fact described above, the United States is entitled to damages in the amount of at least \$34,290.00. Wherefore, plaintiff, United States, requests that judgment be entered in its favor and against defendant, for single damages, pre- and post- judgment interest and any such further relief as the Court deems just and proper.

**COUNT III**  
**(Unjust Enrichment)**

74. The United States repeats and incorporates by reference the allegations contained in paragraphs 1 through 59 as if fully set forth fully herein.

75. Because of Jbawi's conduct, Jbawi has been unjustly enriched with federal monies which in good conscience he should not be allowed to retain.

76. Jbawi has been unjustly enriched to the detriment of the United States in the amount of \$34,290.00.

**JURY DEMAND**

77. The United States demands trial by jury on all issues so triable in this action.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff, the United States of America, requests that judgment be entered in its favor and against Defendant, Ahmad Jbawi, as follows:

- a. On Count I, for treble damages, penalties, pre- and post- judgment interest as allowed by law;
- b. On Count II, for the amount of federal funds paid to Defendant by mistake, together with pre- and post- judgment interest as allowed by law;
- c. On Count II, for the amount of federal funds by which Defendant has been unjustly enriched, together with pre- and post- judgment interest as allowed by law;
- d. For such other and further relief as the Court deems just and proper.

Dated: Providence, Rhode Island  
September 8, 2014

Respectfully submitted,

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Providence, RI 02903

BY: /s/ Zachary A. Cunha [Electronically Signed]  
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