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Compliance Today - September 2018
Meet Michael D. Granston

an interview by Gabriel L. Imperato

This interview with Director **Granston** was conducted in July by SCCE & HCCA board member **Gabriel L. Imperato**, Esq.(gimperato@broadandcassel.com), Managing Partner, Fort Lauderdale office of Nelson Mullins Broad and Cassel LLP.

GI: Please tell our readers about your background and how you became Director of the Civil Fraud Section of the Department of Justice (DOJ).

MG: Following law school and clerkships at both the district and appellate court levels, I worked as an associate at the Washington DC law firm Covington & Burling. At the firm, I had the opportunity to work on a diverse array of civil and criminal cases. These matters included both white-collar fraud investigations as well as a variety of healthcare issues, and the intersection of these areas of responsibility sparked my interest in healthcare fraud. Thus, in 1997, I took advantage of the opportunity to join the Civil Fraud Section of the Justice Department, due to its responsibility for bringing False Claims Act (FCA) cases and its growing focus on healthcare fraud enforcement. I had the subsequent good fortune to learn from a tremendous array of extremely talented and committed public servants, and in 2013, I became the director of the office. In that capacity, I have attempted to continue the Fraud Section's legacy of active but judicious enforcement of the FCA to protect taxpayer funds against fraud and abuse.

GI: I know that you have taken an active role in participating in the Health Care Compliance Association (HCCA) conferences and have spoken about FCA enforcement and legal developments at the annual Compliance Institutes. Why is it important to you and the DOJ to participate in the HCCA conferences?

MG: I have always valued the opportunity to participate in HCCA events, because of the unique, and uniquely important, role played by the Association's members. To rid our healthcare system of fraud and abuse, we need to do more than just pursue fraud after it occurs. We need to stop it before it happens. The key to such a result is the efforts of those on the front lines who help ensure the day-to-day compliance of our nation's healthcare providers. The Association's events provide an important forum for DOJ attorneys to share their views and findings with these compliance professionals and, in turn, to hear the concerns and needs of those in the field. This type of exchange helps strengthen the relationship between DOJ attorneys and compliance professionals, which in turn enhances the ability of both groups to protect the integrity of our healthcare system.

GI: Explain to our readers the difference between when the DOJ declines to intervene in a case and the dismissal of the case. If DOJ has made a decision to decline a case, why not dismiss it instead?

MG: The number of whistleblower or qui tam suits has grown considerably since 1986, and the DOJ now routinely receives between 600 and 700 per year. As a result, the DOJ does not have the resources to pursue every meritorious qui tam case, and the fact that the DOJ declines to intervene in a case does not necessarily mean that it lacks merit. At the same time, the DOJ unquestionably does decline to pursue some qui tam cases due to the absence of any apparent legal or factual support. In these latter circumstances, the DOJ will consider whether it should exercise the dismissal authority granted by Congress to advance the interests of the United States. As set forth in recent guidance issued by the DOJ, those interests may include avoiding the time and resources needed to

monitor the case; the burden placed on government agencies of responding to discovery requests; the expense imposed on the defendant, which in some circumstances may be charged back by government contractors to the United States; and the risk that a meritless case may lead to bad case law.