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2nd Van Andel FCA Settlement Surprised Feds; New 'Foreign Components,' Contacts Revealed

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Settlement agreements between institutions and the Department of Justice (DOJ) over False Claims Act (FCA) allegations—particularly those involving foreign governments—are rare, with just a handful announced since 2018. That was the year when NIH Director Francis Collins told federal awardees to ensure all affiliations are appropriate and upfront, and to declare support or ties, particularly with foreign institutions or researchers.

The Van Andel Research Institute (VARI) agreement in December 2019^[1] for \$5.5 million was the first such settlement—and in something of a stunning development—the Grand Rapids institution recently paid the government *another* \$1.1 million to settle its second FCA case related to foreign entanglements that are connected to the 2019 case.^[2]

The fact that additional inappropriate activities and actions emerged in January 2020—just a month after the first settlement was signed—is “disappointing,” Adam Townshend, the assistant U.S. attorney who represented the government in both settlements, told RRC in a wide-ranging interview. In addition to the payments, VARI is also under new NIH-imposed terms and conditions and a corrective action plan that will last at least a year.^[3] Townshend also recommended ways for institutions to mitigate these kinds of issues.^[4]

The settlement comes on the heels of the sentencing of former Ohio State University (OSU) professor Song Guo Zheng, M.D., Ph.D., to 37 months in prison after pleading guilty to making false statements related to support from China.^[5] In contrast to VARI’s settlements, Zheng himself is required to pay back NIH \$3.4 million and OSU \$400,000.

Huaqiang (Eric) Xu, who left VARI as part of the first agreement, is the link between the two settlements. Not all of the arrangements at issue are entirely clear, and some occurred during the same time period of the first investigations but were not disclosed at the time.

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