IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA ex rel.,

KYLE HARRIS
14118 LAKE PRICE DRIVE
ORLANDO FL 32826

Plaintiff-Relator,

v.

ENTERPRISE TECHNOLOGY SOLUTIONS, INC.
9658 BALTIMORE AVENUE, SUITE 300
COLLEGE PARK, MD 20740

ZAHID SHEIKH
9502 BROOKE DRIVE
BETHESDA, MD 20817

SHAMEELA SHEIKH
9502 BROOKE DRIVE
BETHESDA, MD 20817

KHURSHEED AHMAD
323 WEST HUNTER COURT
FREMONT, CA 94539

Defendants.

Case: 1:21–cv–03220 JURY DEMAND
Assigned To : Friedrich, Dabney L.
Assign. Date : 11/19/2021
Description: Gen. Civil (E–DECK)

Case No. _____
Jury Trial Demanded
FILED UNDER SEAL

COMPLAINT

1. Relator Kyle Harris brings this action on behalf of himself and the United States of America against Defendants Enterprise Technology Solutions, Inc. ("ETS"), Zahid "Donny" Sheikh, Shameela Sheikh, and Khursheed "Mush" Ahmad, for violations of the federal False Claims Act, 31 U.S.C. §§ 3729 *et seq*., the "False Claims Act".

2. Relator, through his own research, has discovered a web of IT companies that appear to be defrauding the Small Business Administration.

3. Defendant ETS claims to be a Small Business Administration ("SBA") small business,

HUBZone business, Woman Owned Small Business, and Economically Disadvantaged Women Owned Small Business.

4. Upon information and belief founded in Relator's personal expertise with data, ETS is none of those things. Instead, its owners, husband and wife Donny and Shameela Sheikh, along with co-conspirator Mush Ahmad, use ETS as a front to make it appear that multiple other companies, based both in Pakistan and the U.S., qualify for these SBA programs. Accordingly, certifications and attestations of compliance with SBA regulations are knowingly false and violate the False Claims Act.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 31 U.S.C. § 3732(a) and 28 U.S.C. §§ 1331, 1345.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 31 U.S.C. § 3732(a), as Defendants transact business in this jurisdiction and violations of the False Claims Act described herein occurred in this district.

GOVERNMENT SET ASIDE PROGRAMS

Overview of Government Set Aside Programs

7. The U.S. Small Business Administration ("SBA") has stated a goal to help small businesses win at least 23% of all federal contracting dollars each year. In addition to helping them win a fair share of federal contracts, the SBA desires to teach these businesses how to qualify for exclusive set-aside and sole-source contracts; partner with established contractors to win other contracts; and get business monitoring and education in place, to learn how federal contracting works. Unto that end, the SBA has several contracting assistance programs to help small businesses win federal contracts.

8. Relevant here are the SBA's HUBZone Program, Women-Owned Small Businesses Program (WOSB), and Economically Disadvantaged Women-Owned Small Businesses Program (EDWOSB). Each of these three programs provide set-aside contracts to participating small businesses who qualify for the respective programs.

9. Businesses that falsely certify that they meet program requirements when they do not actually meet those requirements undermine the policy purpose of the programs. Whether or not the government receives the goods or services it contracted for from these fraudsters, the government is still damaged because the unique nature of set aside contracts show that the policy intent—to encourage and grow small businesses—has been thwarted.

HUBZone Program

10. The SBA's HUBZone Program is intended to fuel small business growth in historically underutilized business zones, with a goal of awarding at least 3% of federal contract dollars annually to HUBZone certified companies.

11. In addition to the opportunity to be awarded HUBZone Program specific set-aside contracts that are only for HUBZone companies, HUBZone companies also receive a 10% price evaluation preference in full and open federal contract competitions.

12. HUBZone certified businesses are also eligible to compete for contract awards under other SBA socio-economic programs for which they qualify.

13. Per 13 CFR § 126.200(a)-(d), to qualify for the HUBZone Program, a business must: (a) be a "small" business as defined by the program (see below); (b) be at least 51 percent owned and controlled by U.S. citizens, a Community Development Corporation, and agricultural cooperative, an Alaska Native corporation, a Native Hawaiian organization, or an Indian tribe; (c) have its principal office located in a HUBZone; and (d) have at least 35 percent of its

employees living in a HUBZone.

14. Whether a company qualifies as a "small" business depends on industry and product. SBA uses the North American Industry Classification System ("NAICS") to delineate the size standards for businesses in each industry, which is expressed by the number of employees or by annual receipts in millions of dollars.

15. Specifically, in order to qualify as a small business, a business must have fewer than the number of employees listed in the NAICS standard or have annual receipts less than the dollar amount listed in the NAICS standard, whichever is applicable for the industry.

16. A majority of contracts awarded to ETS were awarded under NAICS code 541519. However, since 2015, ETS received various contracts under the following other NAICS codes:

- 326111 (Plastics Bag and Pouch Manufacturing)
- 332994 (Small Arms, Ordinance, and Ordinance Accessories Manufacturing)
- 334111 (Electronic Computer Manufacturing)
- 334112 (Computer Storage Device Manufacturing)
- 334118 (Printed Circuit Assembly Manufacturing)
- 334210 (Telephone Apparatus Manufacturing)
- 334220 (Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing)
- 334290 (Other Communications Equipment Manufacturing)
- 334310 (Audio and Video Equipment Manufacturing)
- 334519 (Other Measuring and Controlling Device Manufacturing)
- 335999 (All Other Miscellaneous Electrical Equipment and Component

Manufacturing)

- 337214 (Office Furniture Manufacturing)
- 423410 (Photographic Equipment and Supplies Merchant Wholesalers)
- 423420 (Office Equipment Merchant Wholesalers)
- 423430 (Computer and Computer Peripheral Equipment and Software Merchant Wholesalers)
- 423490 (Other Professional Equipment and Supplies Merchant Wholesalers),
- 443142 (Electronic Stores)
- 511210 (Software Publishers)
- 517410 (Satellite Telecommunications)
- 541511 (Custom Computer Programming Services)
- 811212 (Computer and Office Machine Repair Maintenance).

17. As noted, however, the majority of ETS contracts have been awarded under NAICS code 541519, which corresponds to businesses who operate as information technology value added resellers.

18. The SBA size standard for federal contractors doing business with the federal government as information technology value added resellers under NAICS code 541519 is 150 employees.

19. Businesses that want to avail themselves of contracting opportunities specifically set-aside for SBA HUBZone certified companies apply with the SBA to become certified as a HUBZone small business.

20. Each year after a business is certified, an officer of the company is required to review, verify, and recertify that the business meets all HUBZone eligibility requirements as of the

anniversary date of its original certification.

21. HUBZone certified small businesses are permitted to have affiliates or sister companies, provided that the aggregate size of the HUBZone certified small business together with all of its affiliates meets the size standards identified in 13 CFR § 121.201.

22. Determining whether a small business has affiliates is a factual question to be answered by the SBA, based on factors such as whether the companies share employees, facilities, or equipment; whether the companies have the same or different customers or lines of business; and whether the HUBZone business receives significant contracts or financial assistance from the potential affiliate.

Women-Owned Small Businesses

23. The SBA's Women-Owned Small Business (WOSB) Program is intended to help level the playing field for women business owners. To do this, the government limits competition for certain contracts to businesses that participate in the WOSB Program, with a goal to award at least five percent of all federal contracting dollars to women-owned small businesses each year.

24. WOSB set-aside contracts are for specific industries in which WOSBs are underrepresented. SBA maintains a list of NAICS codes that qualify for the WOSB Program.

25. Per 13 CFR § 127.200(b), to qualify for the WOSB Program, a business must: (a) be a small business, as defined by the SBA for the industry; (b) be at least 51% owned and controlled by women who are U.S. citizens; and (c) have women who manage day-to-day operations and also make long-term decisions.

26. Determining a business's size for purposes of the WOSB Program qualification is the same as for other SBA programs.

27. Businesses that want to avail themselves of the SBA WOSB certified companies must

apply to become certified as a WOSB small business concern and, like HUBZone businesses, must annually recertify.

Economically Disadvantaged Women-Owned Small Businesses

28. Within the WOSB Program, a business can also further qualify as an Economically Disadvantaged Women-Owned Small Business (EDWOSB).

29. Like the WOSB Program, certain industries have set-aside contracts specifically for companies that are certified with SBA's EDWOSB Program.

30. Per 13 CFR § 127.200(a), to qualify as an SBA EDWOSB concern, a business must: (a) meet all the requirements of the WOSB Federal Contracting program; (b) be owned and controlled by one or more women, each with a personal net worth less than $750,000; (c) be owned and controlled by one or more women, each with $350,000 or less in adjusted gross income averaged over the previous three years; and (d) be owned and controlled by one or more women, each with $6 million or less in personal assets.

31. The same requirements for certification and recertification apply to EDWOSB businesses that apply to WOSB businesses.

PARTIES

32. Defendant ETS is a California registered corporation that acts as a value-added reseller of information technology ("IT") and office equipment.

33. ETS was incorporated in August 2007 and was awarded its first government contract in 2010.

34. To date, ETS has been awarded more than $127 million in federal contracts, with $90 million awarded in the past three years.

35. ETS's principal place of business as 9658 Baltimore Avenue, Suite 300, College Park, Maryland 20740.

36. ETS has two officers, Shameela Sheikh, Chief Executive Officer and Director, and Donny Sheikh, Secretary and Chief Financial Officer.

37. Since at least January 29, 2021, ETS has certified that it meets all qualifications to be a U.S. Small Business Administration HUBZone Program certified business.

38. Likewise, ETS has, since at least March 13, 2020, certified that it meets all qualifications to be certified as both a Women-Owned Small Business ("WOSB") and Economically Disadvantaged Women-Owned Small Business ("EDWOSB") certified business.

39. Despite ETS's contractual attestations, Donny is the owner and operator of ETS, not his wife.

40. Donny Sheikh is also the owner and operator of several other IT companies and is the CEO of sister company ETS Devices (Pvt.) Ltd., based in Lahore, Pakistan.

41. Upon information and belief, these sister companies are ETS business affiliates, and their employees should be considered ETS employees for purposes of determining the size of ETS under the federal set-aside programs.

42. Defendant Shameela Sheikh has little, if any, active role in ETS or any of the affiliate and sister companies to ETS.

43. Defendant Mush Ahmad is the owner and operator of several IT businesses that are similar to ETS.

44. Defendant Ahmad has made SBA contract certifications on behalf of ETS.

45. Property owned by Defendant Ahmad has been used as ETS's address and principal place of business in the past.

46. Upon information and belief, Defendant Ahmad is involved in some capacity with ETS' affiliate businesses.

47. Defendant Ahmad describes himself and Defendant Donny Sheikh as the "founders" of these related businesses.

48. Relator Kyle Harris is a Systems Engineer who uncovered the ETS fraud described herein through his expertise in data review.

FACTUAL ALLEGATIONS

A. Company Background for ETS

49. ETS was incorporated in California in 2007 by husband and wife, Donny and Shameela Sheikh.

50. At the time of its creation, ETS was based out of the Sheikh's home in Walnut Creek, California.

51. Since that time, ETS has listed a variety of addresses as its principal place of business. Until 2020, each of these addresses was either (a) the Sheikh's home address; (b) the home address of Defendant Ahmad; or (c) a commercial address in Freemont, California that is also owned by Defendant Ahmad.

52. Beginning in 2020, when ETS began to certify itself as both a WOSB and EDWOSB certified business, ETS received set-aside contracts for both programs.

53. Similarly, beginning in 2021, when ETS began to certify itself as a HUBZone certified business, ETS received set-aside contracts for HUBZone certified business concerns.

ETS' Business Affiliates and True Size

54. Upon information and belief, the Sheikhs, Ahmad, and Daniel Cutaneo, are the only U.S.-based employees of ETS.

55. However, upon information and belief, ETS has many employees located in Pakistan through affiliate companies.

56. Since 2015, at least $114,499,117 in federal contracts awarded to ETS were set aside contracts for SBA small businesses with fewer than 150 employees.

57. Donny Sheikh is the CEO of ETS Devices (Pvt.) Ltd. ("ETS Devices").

58. ETS Devices sells the same IT products and services as ETS.

59. ETS Devices is located in Lahore, Pakistan, and upon information and belief has at least sixty-four employees.

60. ETS and ETS Devices hold themselves out as related: both companies use the same logo; both companies host their websites on the same IP address; and both companies appear to share employees.

61. ETS Devices employees also hold themselves as ETS employees in interactions with the U.S. government by using email addresses from ETS's enterprisesol.com domain.

62. Upon information and belief, in addition to ETS Devices, ETS has other business affiliates.

63. Defendant Ahmad, who represented himself as a controlling executive of ETS in the past, has a number of other similar IT businesses who sell to the federal government, including Googoz.com, Inc., IT Devices Online, Inc., Sasim, Inc., and Facebookster.

64. The Sheikh Defendants own another IT business that sells to the federal government called Stratus, Inc. (a/k/a Zash Investment Holdings, and related to UK entity Zash Investment Limited), as well as one that sells IT equipment to foreign governments under several similarly-named entities called collectively "Digital Devices Group." All these entities use or have used

the same California address as a principal place of business: 44288 Freemont Blvd., Freemont, CA 94538, which is the property owned by Defendant Ahmad.

65. Additionally, Defendant Ahmad recorded video messages to employees of ETS, IT Devices, and Digital Devices Group as part of an annual "company-wide meeting" in 2016 and 2017. In this video, Defendant Ahmad discusses the affiliation of many of the above-described companies and thanks Defendant Donny Sheikh for starting the business with him in the U.S., further noting that the Pakistan center supports the business. Notably, the speech makes no mention of Shameela Sheikh, the supposed controlling manager.

66. When these affiliate entities are considered, ETS employee numbers exceed the 150 employees permissible under NAICS code 541519.

67. Since at least the third quarter of 2019, at least $74,664,121 in federal contracts awarded to ETS were set aside contracts for SBA small business concerns under 150 employees.

68. If ETS, through its numerous affiliates, does not meet the applicable SBA size standard, it would be ineligible for these set aside contracts.

69. Further, ETS has always certified that it is a small business with either full knowledge that it is not, or with reckless disregard based on the many identical businesses that the Sheikh Defendants and Defendant Ahmad operate and control.

B. HUBZone Fraud

70. As discussed below, based on the information herein, ETS does not qualify as an SBA HUBZone business. Therefore, the certifications by ETS that it is HUBZone qualified are false certifications and ETS was not eligible to receive HUBZone set-aside contracts.

71. First, as shown above, ETS with its affiliates likely exceeds the 50 employees permitted under any of the SBA programs for its NAICS code, including employees in Pakistan, the United Kingdom, UAE, and Costa Rica.

72. However, even if ETS is found to have fewer than 150 total employees, ETS fails to meet other HUBZone requirements.

73. Prior to moving its principal place of business to the current Maryland address, ETS has always operated and listed its principal office location as the Sheikh's home address, the home address of Defendant Ahmad, or the Freemont, California location which is also owned by Mush Ahmad.

74. The Sheikhs's Bethesda, Maryland home address is not located within a HUBZone and was ETS's principal office location from November 2018 until January 2020.

75. In January 2020, ETS changed its address to the HUBZone address in California. However, the Sheikhs continued to reside at the same address in Bethesda, Maryland, both before and after the eight-month period that ETS used the Freemont, California address, which was owned by Defendant Ahmad.

76. In September 2020, ETS changed its address to the HUBZone address in Maryland.

77. ETS' office suite in Maryland is managed by BLE Executive Suites and is marketed as a flexible shared and virtual office solution. BLE also specifically markets the location as an SBA HUBZone that provides support for HUBZone businesses.

78. Using a flexible/shared space office location as its principal place of business for the purposes of qualifying as an SBA certified HUBZone business is permitted under the regulations. However, to qualify as the principal place of business, the concern must conduct

business at the flexible space office location, and the flexible space office must be the location where the greatest number of the concern's employees at any one location perform their work.

79. If an employee works at multiple locations, the employee will be deemed to work at the location where they spend more than 50% of their time.

80. It is implausible that the Sheikhs performed any work at the California HUBZone address while continuing to live in Maryland, and certainly not 50% of their work time as required by HUBZone regulations.

81. Moreover, based on the number of employees at its affiliate, ETS Devices, ETS' principal place of business is most likely located in Pakistan, because ETS Devices has more than two to four employees and those employees are primarily located in Pakistan.

82. Thus, if ETS Devices is an affiliate of ETS, ETS has never actually had a principal place of business in a HUBZone, or even the United States at all.

83. As another failure to meet HUBZone requirements, even taking its own word for its number of employees, ETS does not meet the requirement that at least thirty-five percent of its employees must reside in the HUBZone.

84. ETS' SBA Profile indicates they have four employees as of September 1, 2021.

85. Those employees and their addresses are shown below:

Employee Name	**Home Address**	**Is Address HUBZone**
Zahid "Donny" Sheikh	9502 Brooke Dr, Bethesda, Maryland, 20817	No
Shameela "Meena" Sheikh	9502 Brooke Dr, Bethesda, Maryland, 20817	No
Khursheed "Mush" Ahmad	10 Alamo Ln, Alamo, CA 94507	No
Daniel Cutaneo	College Park, MD	Unknown

86. Thus, at most, one U.S. based employee of ETS lives within a HUBZone.

87. That conclusion can be reached absent any consideration to the Pakistan-based employees. Thus, ETS' certifications that they meet HUBZone Program qualifications are demonstrably false and are being done so knowingly.

88. In fact, ETS has never met this qualification, since the Sheikh Defendants have lived at the Bethesda, Maryland address from November 2018 through the present, and Daniel Cutaneo did not begin working for the company until January 2021 and of course would comprise only a quarter of the employees at most.

89. Accordingly, ETS appears to be in violation of each requirement for HUBZone eligibility.

C. Women-Owned Small Businesses Fraud

90. On March 13, 2020, ETS began certifying that it was eligible to participate in SBA's WOSB Program and was therefore eligible for specific set-aside contracts for program businesses.

91. ETS has received a minimum of $345,112.56 in WOSB set-aside contracts. To qualify for the program, ETS must be a small business, be 51% owned and controlled by women, and women must manage day-to-day operations and also make long-term decisions.

92. While Shameela Sheikh has always been listed as an owner of ETS, she was not listed as the CEO until ETS began certifying that it met WOSB program requirements.

93. ETS has represented in its federal contract certifications that ETS is a woman owned small business since April 1, 2013. But ETS did not apply for and become certified for the SBA's WOSB program until March 13, 2020.

94. Other than the WOSB certification, there is no other indication that Shameela Sheikh is an active owner or even involved with ETS.

95. Donny Sheikh registered ETS' website domain, enterprisesol.com, on August 15, 2005, listing himself as the point of contact.

96. Donny Sheikh was listed as the CEO of ETS from the company's formation in August of 2007 until March 11, 2021, when Shameela was substituted.

97. ETS' website (enterprisesol.com) has stated that Donny Sheikh is the CEO of ETS and since 2017 through present.

98. Shameela Sheikh has never made attestations or certifications on behalf of ETS in SAM.gov, only Donny Sheikh and Mush Ahmad have made such certifications on behalf of ETS.

99. Even though ETS began certifying eligibility with both WOSB and EDWOSB programs on March 13, 2020, on April 4, 2020, Donny Sheikh signed multiple amendments to ETS' NASA SWEP V contract, signing the amendments as "President."

100. Donny Sheikh also signed the original contract in 2015.

101. ETS Devices, the Pakistani affiliate, also names Donny Sheikh as the CEO.

102. Enterprise Technology Solutions Inc Limited, which appears to be the ETS UK affiliate, exclusively lists Donny Sheikh as the owner.

103. On March 12, 2017, ETS brought their Pakistan-based employees to a corporate event at the Avari Hotel in Lahore, Pakistan.

104. Donny Sheikh was present and gave a presentation.

105. Defendant Ahmad recorded a message and presentation that mentions starting the business with Donny Sheikh, but not Shameela Sheikh.

106. Accordingly, upon information and belief, Shameela Sheikh's involvement is a sham and that ETS has falsely certified its eligibility with the WOSB Program.

D. Economically Disadvantaged Women-Owned Small Businesses

107. ETS likewise began certifying that it was eligible to participate in SBA's EDWOSB Small Program on March 13, 2020. ETS has received a minimum of $125,200.80 worth of EDWOSB set-aside contracts.

108. In addition to failing to meet WOSB Program requirements, ETS does not meet the additional requirements necessary to qualify for the EDWOSB program.

109. To be eligible for EDWOSB set-aside contracts, a business must meet the requirements of the WOSB program, and all women owners must have a personal net worth of less than $750,000; an adjusted gross income of less than $350,000; and personal assets of less than $6,000,000.

110. First, even excluding her ownership interest in ETS and the primary (Bethesda) residence, Shameela Sheikh's personal net worth appears to be substantially more than $750,000. For example, in addition to their primary residence, the Sheikhs own multiple properties in California outright, with no mortgage.

111. Specifically, the Shameela Sheikh has an ownership interest not subject to a mortgage for the properties at 2590 Caballo Ranchero Rd, Diablo, CA 94528 and the adjacent property, 2592 Caballo Ranchero Rd., Diablo, CA 94528.

112. Second, Shameela likely has personal assets in excess of the $6,000,000 threshold. In addition to the non-primary residence real estate described above, the Sheik's primary residence in Bethesda was valued at $2,100,000 at the time ETS first began certifying its eligibility with the EDWOSB Program.

113. In addition to the real property, if we are to believe ETS's own contract certifications, Shameela must own at least 51% of ETS.

114. ETS has had yearly sales in excess of $30,000,000 per year for the last three years. As a defense contractor, ETS likely has a stock price to sales ratio of at least 1.5.

115. With the statutory minimum of 51% ownership in ETS, Shameela's ownership stock in ETS could be worth as much as $23,000,000. Even if that figure is inflated, together with her ownership in the real estate highlighted above, Shameela Shiekh's personal assets likely exceed the $6,000,000 threshold of the EDWOSB Program.

COUNT I
VIOLATIONS OF 31 U.S.C. § 3729 – FEDERAL FALSE CLAIMS ACT

116. Relator hereby incorporates and realleges herein all other paragraphs as if fully set forth herein.

117. As set forth above, Defendants knowingly presented or caused to be presented false or fraudulent claims for payment or approval, in violation of 31 U.S.C. § 3729(a)(1)(A).

118. As set forth above, Defendants knowingly made, used, or caused to be made or used, false records or statements material to false claims, in violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(B).

119. As set forth above, Defendants knowingly conspired to commit violations of the False Claims Act, in violation of 31 U.S.C. § 3729(a)(1)(C).

120. Due to Defendants' conduct, the United States Government has suffered substantial monetary damages and is entitled to recover treble damages and a civil penalty for each false claim. 31 U.S.C. § 3729.

121. Relator is entitled to reasonable attorneys' fees, costs, and expenses. 31 U.S.C. § 3730(d)(1).

PRAYER FOR RELIEF

WHEREFORE, Relator prays for judgment against Defendants:

(a) awarding the United States treble damages sustained by it for each of the false claims;

(b) awarding the United States the maximum civil penalty for each of the false claims, records, statements, and unlawful acts;

(c) awarding Relator the maximum share of the proceeds of this action and any alternate remedy or the settlement of any such claim;

(d) awarding Relator litigation costs, expenses, and reasonable attorneys' fees;

(e) granting such other relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Relator hereby respectfully demands trial by jury on all issues and counts triable as of right before a jury.

Respectfully submitted,

Nathan M. Peak
District of Columbia Bar No. 978215
BRACKER & MARCUS LLC
3355 Lenox Road, Suite 660
Atlanta, GA 30326
Tel. (770) 988-5035
Fax (678) 648-5544
Nathan@FCAcounsel.com