

ORIGINAL

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

FILED

AUG 1 2014

U.S. COURT OF FEDERAL CLAIMS

ANTHONY PISZEL,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

CIVIL ACTION NO:

14-691C

COMPLAINT

Plaintiff Anthony Pizsel, by his undersigned counsel, alleges upon personal knowledge as to himself, and upon information and belief as to all other matters, the following:

NATURE OF THE ACTION

1. Mr. Pizsel formerly served as the Chief Financial Officer (“CFO”) of the Federal Home Loan Mortgage Corporation (“Freddie Mac”). He was an exemplary employee who consistently received strong performance reviews and achieved each of the objectives that were assigned to him when he was hired.

2. Freddie Mac recruited Mr. Pizsel from his CFO position at his former employer, where Mr. Pizsel also was considered a strong performer. Indeed, Mr. Pizsel was recognized as the CFO of the year in the healthcare sector for 2005.

3. While recruiting Mr. Pizsel, Freddie Mac was aware that he had accrued but not yet received more than \$8 million of compensation from his former employer. Nonetheless, Freddie Mac asked Mr. Pizsel to forgo receiving that compensation and to leave his family in California to join Freddie Mac in Virginia to help Freddie Mac return to timely financial reporting and register with the SEC.

4. In return, Freddie Mac agreed to provide Mr. Pizsel with certain benefits if he was terminated “without cause” within the first four years of his employment. Specifically, Mr. Pizsel’s employment agreement provides that if he was terminated “without cause” in the first four years of his employment at Freddie Mac, he would receive a lump-sum cash payment equal to two-times his current annualized base salary at Freddie Mac, and the restricted stock unit awards granted to him as a signing bonus would continue to vest. This agreement was intended to make Mr. Pizsel whole for the compensation that he had earned at his former employer, but would be forfeiting by leaving for Freddie Mac.

5. The Government reviewed and approved those provisions of Mr. Pizsel’s employment agreement before it was executed.

6. During Mr. Pizsel’s tenure and under his leadership, Freddie Mac returned to timely financial reporting and registered with the SEC.

7. On September 7, 2008, the Government announced that it had imposed a conservatorship over Freddie Mac and the Federal National Mortgage Association (“Fannie Mae”).

8. Two weeks later, notwithstanding that Mr. Pizsel had accomplished the goals for which he was hired as Freddie Mac’s CFO and had not been accused of any wrongdoing, the Government “determined” that he should be terminated “without case” and should not receive any of the benefits set forth in his employment contract.

9. The Government’s actions constitute a taking of Mr. Pizsel’s private property and property rights without just compensation, in violation of the Fifth Amendment of the United States Constitution. Alternatively, the Government’s actions constitute an unlawful exaction of Mr. Pizsel’s private property and property rights, in contravention of the Housing and Economic

Recovery Act of 2008, and its implementing regulations, and the Fifth Amendment of the United States Constitution.

THE PARTIES

10. Plaintiff Anthony Pizel is a natural person who resides in Morris County, New Jersey. From November 13, 2006 until September 22, 2008, Mr. Pizel served as Freddie Mac's Executive Vice President and CFO.

11. Defendant United States of America includes the Federal Housing Finance Agency ("FHFA"), its predecessor, the Office of Federal Housing Enterprise Oversight ("OFHEO"), and their agents acting at their direction. OFHEO was established by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to ensure the capital adequacy and financial safety and soundness of Freddie Mac and Fannie Mae. On July 30, 2008, the Housing and Economic Recovery Act of 2008 (together with its implementing regulations, "HERA") combined OFHEO and another government agency to form the FHFA. The FHFA is an independent regulatory agency that oversees Freddie Mac and Fannie Mae.

JURISDICTION AND VENUE

12. Jurisdiction and venue are proper in this Court pursuant to 28 U.S.C. § 1491(a).

CONSTITUTIONAL PROVISION

13. Plaintiff's claims are governed by the Fifth Amendment to the United States Constitution, which provides that no person shall "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation".

MR. PISZEL'S FORMER EMPLOYMENT

14. In August 2004, Mr. Pizsel began working as the Executive Vice President and CFO of an SEC-reporting public healthcare company located in California. As a result of Mr. Pizsel's leadership, the company significantly improved its operating margins and grew its business.

15. Indeed, during Mr. Pizsel's tenure, the company's stock price more than doubled, its stock was the fifteenth best performing stock in the S&P, and it was the seventh fastest grower of earnings in 2005. Mr. Pizsel was recognized in *Institutional Investor* as the CFO of the year in the healthcare sector for 2005.

16. Freddie Mac began recruiting Mr. Pizsel in the fall of 2006. At the time Freddie Mac began recruiting him, Mr. Pizsel had \$8.1 million of earned and accrued compensation at his former employer. Specifically, he earned deferred compensation of 250,000 in-the-money stock options worth \$5,625,000 and 37,500 shares of restricted stock units worth \$1,725,000. Mr. Pizsel also expected to receive an end-of-the-year cash bonus of \$750,000 for 2006 based on his performance. Additionally, Mr. Pizsel had an established and secure position as CFO of a growing and respected company that was close to his home and family in California.

FREDDIE MAC'S PRIOR ACCOUNTING PROBLEMS

17. Freddie Mac was in need of someone with Mr. Pizsel's skills. In January 2003, Freddie Mac announced the need to restate its financial results, and on November 21, 2003, it announced the results of its restatement of previously issued consolidated financial statements for the years 2000 through 2002. The net cumulative effect of the restatement through December 31, 2002 was an increase to the company's net income of \$5.0 billion and an increase in the company's regulatory core capital of \$5.2 billion.

18. As a result of the accounting issues that led to the restatements, Freddie Mac committed to ensuring the integrity of Freddie Mac's financial reporting, returning Freddie Mac to timely reporting, and completing Freddie Mac's voluntary registration with the SEC. In addition, Freddie Mac's CEO and CFO resigned.

MR. PISZEL'S EMPLOYMENT AGREEMENT WITH FREDDIE MAC

19. As of the fall of 2006, Freddie Mac still had not accomplished its earlier-stated objectives of returning to timely reporting or registering with the SEC. Freddie Mac began recruiting Mr. Pizsel to become its CFO to achieve those goals and to restore financial reporting credibility to Freddie Mac.

20. Freddie Mac and Mr. Pizsel engaged in detailed negotiations, during which Freddie Mac learned that Mr. Pizsel had earned and accrued \$8.1 million in deferred compensation at his former employer, including in-the-money stock options worth \$5,625,000, restricted stock units worth \$1,725,000, and an expected \$750,000 year-end bonus for 2006.

21. Freddie Mac and its then-regulator OFHEO acknowledged that Mr. Pizsel's accrued and ongoing compensation was reasonable and comparable with the compensation of similarly situated CFOs at publicly traded companies listed on the New York Stock Exchange.

22. To induce Mr. Pizsel to leave his secure position at his former employer and forgo receiving his earned and accrued compensation, and anticipated bonus, Freddie Mac agreed to provide to Mr. Pizsel certain contractual benefits if he were terminated "without cause" within the first four years of his employment at Freddie Mac. These contractual benefits were intended to make Mr. Pizsel whole for the earned and accrued compensation, and anticipated bonus, from his former employer that he would be forfeiting to join Freddie Mac.

23. Specifically, Mr. Pizsel's employment agreement with Freddie Mac contains a "Termination of Employment Payment" section that was negotiated and agreed to by the parties. That section provides that if Freddie Mac terminated Mr. Pizsel "without cause" in his first four years at Freddie Mac, "then you will receive a lump-sum cash payment equal to two-times your annualized base salary in effect at the time of termination." At the time of Mr. Pizsel's termination, his annual base salary was \$650,000.

24. Mr. Pizsel's employment agreement further provides that he would receive a one-time sign-on bonus of, among other things, \$5 million in the form of Freddie Mac restricted stock units that would vest over four years. Like the termination payment provision, the contract provides that if Freddie Mac terminated Mr. Pizsel in his first four years at Freddie Mac "for any reason other than 'Cause'", the restricted stock units "shall continue to vest pursuant to the vesting schedule set forth in the grant agreement".

25. Mr. Pizsel's employment agreement also provides that he would receive long-term performance-based incentive compensation in a combination of restricted stock units and stock options. The target amount for this incentive was \$3 million, and Freddie Mac agreed that the long-term performance-based incentive granted in calendar year 2007 "will be no less than \$3,000,000". In or about March 2007 and March 2008, Freddie Mac granted Mr. Pizsel restricted stock units worth approximately \$3 million each year that would vest in the future.

26. James B. Lockhart III, acting in his capacity as Director of OFHEO, specifically approved the negotiated contractual terms that provided for the (i) termination payment, and (ii) further vesting of restricted stock units that were granted to Mr. Pizsel as a signing bonus, each of which were payable upon Mr. Pizsel's termination "without cause".

27. If Mr. Lockhart had not approved these terms, on which Mr. Pizsel ultimately relied to his detriment, Mr. Pizsel would not have left his stable position at his former employer, and he would not have forfeited \$8.1 million in earned and accrued compensation, and anticipated bonus, to join Freddie Mac.

28. Freddie Mac and OFHEO recognized in negotiating these terms that they are standard in executive employment agreements designed to induce an executive to leave a stable position and forfeit compensation earned at that position.

MR. PISZEL'S "EXCELLENT PERFORMANCE" AT FREDDIE MAC

29. When Mr. Pizsel joined Freddie Mac in November 2006, Freddie Mac's Board of Directors and its then-acting CEO established two priorities for Mr. Pizsel, which were of critical importance to Freddie Mac after its accounting restatement in 2003: (i) return Freddie Mac to timely financial reporting, and (ii) register Freddie Mac with the SEC.

30. Mr. Pizsel had achieved both goals by the summer of 2008, shortly before he was terminated "without cause".

31. Mr. Pizsel also played a role in other significant improvements at Freddie Mac, including upgrading Freddie Mac's financial leadership team, hiring a new head of operations and systems, improving Freddie Mac's accounting policies, and remediating all of Freddie Mac's material weaknesses and most of its significant deficiencies that were identified by the company's outside auditors in early 2007.

32. In Mr. Pizsel's performance evaluation for 2007, Freddie Mac's then-acting CEO summed up Mr. Pizsel's performance as follows: "Buddy, you have had an excellent performance year during a difficult and challenging period. You have been an extraordinarily valuable addition to the team on a number of dimensions."

33. The then-acting CEO further commended Mr. Pizsel's "decisive and courageous actions" and on returning the company to timely financial reporting, which he described as Mr. Pizsel's "highest priority". He also noted Mr. Pizsel's "success in quickly developing a plan for SEC registration and beginning to execute that plan."

34. In short, Mr. Pizsel was described as a "strong leader" and was thanked for his "significant contributions in 2007, and [his] invaluable leadership as a member of" Freddie Mac's Senior Executive Team.

35. Given this performance, Mr. Pizsel was considered the best performing executive on the Freddie Mac team in 2007, and his bonus percentage of base salary was the highest, as were his base salary increase and target bonus increase for 2008.

THE GOVERNMENT'S NEW AUTHORITY UNDER HERA

36. On July 24, 2008 – nearly two years *after* Mr. Pizsel executed his employment agreement with Freddie Mac, and *after* OFHEO reviewed and approved the terms of that agreement providing for the payment of certain benefits to Mr. Pizsel upon his termination "without cause" – Congress enacted HERA, which replaced OFHEO with the FHFA.

37. HERA gave the Government much greater regulatory authority over Freddie Mac and Fannie Mae than had previously been authorized.

38. As an example, the FHFA was provided with expanded authority to place Freddie Mac and Fannie Mae into conservatorship.

39. In addition, HERA provided that the FHFA's Director could "prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment." 12 U.S.C § 4518(e)(1).

40. HERA defined “Golden parachute payment” to include any payment “in the nature of compensation by any regulated entity for the benefit of any affiliated party pursuant to an obligation of such regulated entity that is contingent on the termination of such party’s affiliation with the regulated entity; and is received on or after the date on which any conservator or receiver is appointed for such regulated entity”. 12 U.S.C § 4518(e)(4)(A).

41. The new “golden parachute” provision further provided that the FHFA’s Director “shall prescribe, by regulation, the factors to be considered by the Director in taking any action” to prohibit or limit “golden parachute payments”. 12 U.S.C. § 4518(e)(2). The statute provided that the factors to be considered may include:

- a. whether there is a reasonable basis to believe that the affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the regulated entity that has had a material effect on the financial condition of the regulated entity;
- b. whether there is a reasonable basis to believe that the affiliated party is substantially responsible for the insolvency of the regulated entity, the appointment of a conservator or receiver for the regulated entity, or the troubled condition of the regulated entity (as defined in regulations prescribed by the Director);
- c. whether there is a reasonable basis to believe that the affiliated party has materially violated any applicable provision of Federal or State law or regulation that has had a material effect on the financial condition of the regulated entity;
- d. whether the affiliated party was in a position of managerial or fiduciary responsibility; and

- e. the length of time that the party was affiliated with the regulated entity, and the degree to which –
 - i. the payment reasonably reflects compensation earned over the period of employment; and
 - ii. the compensation involved represents a reasonable payment for services rendered.

42. The new provision also made clear that “any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Director determines, by regulation or order, to be permissible” is not included in the definition of “golden parachute payment”. 12 U.S.C. § 4518(e)(4)(C)(ii).

43. Finally, HERA provided that when the Director disaffirms or repudiates any contract that was entered into before the conservatorship – such as Mr. Pizel’s employment agreement – Mr. Pizel is entitled to recover “actual direct compensatory damages”. 12 U.S.C. § 4617(d)(3)(A).

44. On September 16, 2008, the FHFA’s Director issued a regulation to implement HERA’s new “golden parachute” provision. 12 C.F.R. § 1231.

45. The regulation provided that no regulated entity shall make any “golden parachute” payment, the definition of which was substantively identical to the definition set forth in HERA’s “golden parachute” provision. 12 C.F.R. § 1231.2 (“Golden parachute payment” definition).

46. In determining whether the FHFA’s Director may permit “golden parachute” payments, the regulation provides that the Director may consider:

- a. whether, and to what degree, the entity-affiliated party was in a position of managerial or fiduciary responsibility;
- b. the length of time the entity-affiliated party was affiliated with the regulated entity or the Office of Finance, and the degree to which the proposed payment represents a reasonable payment for services rendered over the period of employment; and
- c. any other factor the Director determines relevant to the facts and circumstances surrounding the golden parachute payment, including any fraudulent act or omission, breach of fiduciary duty, violation of law, rule, regulation, order, or written agreement, and the level of willful misconduct, breach of fiduciary duty, and malfeasance on the part of the entity-affiliated party. 12 C.F.R. § 1231.3(b)(2).

47. The regulation also provides that the term “golden parachute payment” shall not include any payment made pursuant to a “bona fide deferred compensation plan or arrangement”. 12 C.F.R. § 1231.2 (“Golden parachute payment” definition).

THE GOVERNMENT PLACES FREDDIE MAC INTO CONSERVATORSHIP

48. On September 7, 2008, the Government announced that it had imposed a conservatorship over Freddie Mac and Fannie Mae.

49. According to the FHFA’s website, the conservatorship “was in response to a substantial deterioration in the housing markets that severely damaged Fannie Mae and Freddie Mac’s financial condition and left them unable to fulfill their mission without government intervention.”

50. Freddie Mac's mission – which was mandated by the Government – was to provide liquidity and stability to the mortgage market by, among other things, purchasing and guaranteeing loans in the secondary mortgage market. The mission was intended to benefit the United States economy as a whole. Indeed, in discussing the conservatorship, Treasury Secretary Henry Paulson stated that, if Freddie Mac failed, it “would be harmful to economic growth and job creation” in the United States.

51. In imposing the conservatorship, the Government sought to preserve Freddie Mac's assets for the benefit of the general public so that Freddie Mac could continue fulfilling its Government-mandated mission. For example, after imposing the conservatorship, the Government eliminated Freddie Mac's dividends on common and preferred shares, halted the company's lobbying and political activities, began a review of the company's charitable activities, and committed to provide capital to Freddie Mac as needed in an amount originally up to \$100 billion.

**THE GOVERNMENT'S TAKING OF MR. PISZEL'S PROPERTY
AND PROPERTY RIGHTS WITHOUT ANY COMPENSATION**

52. On September 22, 2008 – about two weeks after placing Freddie Mac into a conservatorship – Mr. Lockhart, acting in his capacity and under his authority as Director of the FHFA and Freddie Mac's regulator, sent a letter to Freddie Mac's then-CEO stating that he “determined that Anthony ‘Buddy’ Pizel should be terminated effective close of business today ‘without cause.’”

53. The letter further provided that Mr. Lockhart “determined that providing Mr. Pizel with severance payments should not occur.” Mr. Lockhart made clear that his “directive specifically applies to any salary beyond the date of the cessation of Mr. Pizel's employment, any annual bonus for 2008 and any further vesting of stock grants.”

54. Mr. Lockhart purported to rely on the newly enacted “golden parachute” provision of HERA. Specifically, he stated in the letter that the payments contemplated in Mr. Pizsel’s employment agreement – which the Government authorized and approved – “are golden parachute payments within the meaning of 12 U.S.C. § 4518(e)(4) and its implementing regulation and should not be paid to Mr. Pizsel.”

55. As a result of Mr. Lockhart’s “directive”, Freddie Mac promptly terminated Mr. Pizsel and refused to provide him with any of the benefits to which he was contractually entitled under his employment agreement, including his \$1.3 million termination payment and the remainder of the restricted stock units that were granted to him as a signing bonus and were required to continue vesting after his termination.

56. As of the date that Mr. Pizsel was terminated, only 19,735 of the 78,940 restricted stock units that were granted to him as a signing bonus had vested, and Mr. Pizsel received no compensation for the remaining unvested 59,205 restricted stock units that were contractually required to continue vesting under his employment agreement with Freddie Mac.

57. Freddie Mac also refused to pay Mr. Pizsel the long-term performance-based incentive compensation to which he was contractually entitled. Specifically, pursuant to his employment agreement, Mr. Pizsel was granted Freddie Mac restricted stock units in or about March 2007 and March 2008 worth approximately \$3 million each year. Freddie Mac refused to pay Mr. Pizsel the unvested portions of those awards after he was terminated “without cause”.

58. In directing Freddie Mac not to pay Mr. Pizsel his contractually-required benefits, the Government sought to preserve Freddie Mac’s assets for a public use and public purpose, so that Freddie Mac could continue fulfilling its Government-mandated mission and benefiting the United States economy as a whole.

59. The Government's actions constitute a taking of Mr. Pizsel's private property and property rights without just compensation in violation of the Fifth Amendment.

**THE GOVERNMENT'S EXACTION OF MR. PISZEL'S PROPERTY
AND PROPERTY RIGHTS WITHOUT ANY COMPENSATION**

60. Alternatively, by categorizing the benefits set forth in Mr. Pizsel's employment agreement as "golden parachute" payments and directing Freddie Mac to terminate Mr. Pizsel "without cause" without paying him those benefits and without any due process, the Government exceeded and contravened its constitutional, statutory, and regulatory authority and unlawfully exacted Mr. Pizsel's private property and property rights.

61. The benefits to which Mr. Pizsel was contractually entitled were not "golden parachute payments", as defined under HERA. Rather, they were payments "made pursuant to a bona fide deferred compensation plan or arrangement", which are excluded from the definition of "golden parachute payment". Specifically, they were negotiated deferred compensation payments – which the Government reviewed and approved – that were intended to induce Mr. Pizsel to leave his secure position at his former employer and to make him whole for the \$8.1 million that he had earned and accrued there, including his anticipated bonus, which he forfeited to join Freddie Mac. Further, the factors to be considered in determining whether payments should be prohibited do not favor precluding Mr. Pizsel from receiving the benefits to which he is contractually entitled.

62. Specifically, Mr. Pizsel was not responsible for the operations of Freddie Mac's Single-Family Portfolio or Retained Portfolio, and no court, regulator, or government agency has found that Mr. Pizsel committed any wrongdoing or violated any law while at Freddie Mac, or that Mr. Pizsel was otherwise responsible for Freddie Mac's financial condition or the conservatorship.

63. To the contrary, the FHFA publicly acknowledged that it “investigated but ‘uncovered no evidence sufficient to demonstrate that any of [Freddie Mac’s] current or former officers or directors engaged in willful misconduct, a knowing violation of criminal law or of any federal or state securities law, or any acts from which they derived improper personal benefit, including in connection with [Freddie Mac’s] acceptance and management of credit risk from 2004 through 2007.’”

64. As a result of those findings, the FHFA “moved to dismiss all claims against former Freddie Mac officers”, including Mr. Pizel, “in [two] pending derivative actions, and the courts granted the motions to dismiss.”

65. The Government’s actions constitute an unlawful exaction of Mr. Pizel’s property and property rights in violation of HERA and the Due Process Clause of the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT ONE (TAKING AND/OR EXACTION IN VIOLATION OF THE UNITED STATES CONSTITUTION AND HERA)

66. Plaintiff repeats and incorporates the allegations set forth in Paragraphs 1 through 65 herein.

67. Mr. Pizel had a legally cognizable property interest in his employment agreement with Freddie Mac, and the benefits to which he was entitled under that agreement, including his termination payment, the further vesting of the restricted stock units that were awarded to him as a signing bonus when he executed the agreement, and the long-term performance-based restricted stock units that were granted to him in or about March 2007 and March 2008. Mr.

Piszel executed his employment agreement – and his contractual rights therefore vested – long before HERA or its implementing regulation were enacted.

68. The termination payment constitutes a specific and separately identifiable sum of money that Mr. Piszel was entitled to receive if he was terminated “without cause” within the first four years of his employment at Freddie Mac. Specifically, the employment agreement explicitly provides that Mr. Piszel “will receive a lump-sum cash payment equal to two-times [his] annualized base salary in effect at the time of termination”, which equaled \$1.3 million.

69. The FHFA’s actions, taken by Mr. Lockhart in his capacity and under his authority as the FHFA’s Director and Freddie Mac’s regulator, in directing Freddie Mac to terminate Mr. Piszel without cause without paying him his contractually-required benefits (or any other just compensation), constitute a taking in violation of the Fifth Amendment that completely deprived Mr. Piszel of his rights in his private property interests and rendered those interests worthless. Indeed, the Government’s actions permanently excluded Mr. Piszel from any interest in his contractual benefits and destroyed Mr. Piszel’s right to those interests.

70. The FHFA’s actions were authorized at the highest level of Government, and constitute a taking of Mr. Piszel’s property and property rights in his employment agreement with Freddie Mac and the benefits to which he was entitled under that agreement, regardless of whether the Government’s actions were unlawful.

71. Alternatively, the Government’s actions constitute an unlawful exaction in violation of HERA and the Due Process Clause of the Fifth Amendment because the Government exceeded and contravened its statutory and regulatory authority under HERA and exacted Mr. Piszel’s private property and property interests without due process.

72. Specifically, the benefits to which Mr. Pizsel was contractually entitled do not constitute “golden parachute payments”; instead, they are payments “made pursuant to a bona fide deferred compensation plan or arrangement”, which are explicitly excluded from the definition of “golden parachute payment”. Moreover, the factors the Director must consider in prohibiting payments do not favor precluding Mr. Pizsel from receiving those benefits.

73. HERA provides that the remedy for its violation entails a return of the money unlawfully exacted. 12 U.S.C. § 4617(d)(3)(A).

74. Accordingly, the Government took and/or exacted Mr. Pizsel’s private property and property rights without due process for a public use and public purpose, that is, to allow Freddie Mac to continue fulfilling its Government-mandated mission and benefit the United States economy as a whole. HERA and the Fifth Amendment therefore require the Government to pay Mr. Pizsel just compensation.

75. The Government has not paid any compensation to Mr. Pizsel for the taking and/or illegal exaction of his private property and property rights in his employment agreement with Freddie Mac and the benefits to which he was entitled thereunder. The Government’s actions require it to pay just compensation to Mr. Pizsel under the Takings Clause of the Constitution, HERA, and the Due Process Clause of the Constitution.

76. As a direct result of the Government’s actions and violations of the Constitution and HERA, and as a direct and proximate cause of the Government’s taking and/or illegal exaction of his private property and property rights, Mr. Pizsel was injured. The Government is therefore liable to Mr. Pizsel for the injury it caused.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment in his favor against Defendant, the United States of America, as follows:

A. Finding that the Defendant has taken and/or illegally exacted Plaintiff's private property and property rights in violation of the Takings Clause of the Constitution, HERA, and the Due Process Clause of the Fifth Amendment;

B. Determining and awarding Plaintiff damages suffered by virtue of Defendant's taking and/or illegal exaction, including:

- i. \$1.3 million, which constitutes Mr. Pizel's contractually-mandated termination payment equal to "two-times [his] annualized based salary in effect at the time of termination" without cause;
- ii. \$246,884.85, which constitutes the value on the day before the filing of this Complaint of the remaining unvested 59,205 restricted stock units that had been granted to Mr. Pizel as a signing bonus, which were contractually-required to continue vesting after he was terminated without cause; and
- iii. the value at the time of the filing of this Complaint of the remaining unvested long-term performance-based restricted stock units that had been granted to Mr. Pizel in or about March 2007 and March 2008, which grants were worth approximately \$3 million each when they were granted, or approximately \$6 million total for both years; or
- iv. some other amount to be determined at trial;

C. Pre-judgment and post-judgment interest, together with any and all further costs, disbursements, expenses, and reasonable attorneys' and experts' fees; and

D. Granting all other relief as this Court may deem just and appropriate.

Dated: August 1, 2014

MURPHY & MCGONIGLE, P.C.

By: 

William E. Donnelly
wdonnelly@mmlawus.com
555 13th Street, N.W., Suite 410
Washington, D.C. 20004
Phone: (202) 661-7000
Facsimile: (202) 661-7049

James K. Goldfarb (*pro hac vice to be filed*)
jgoldfarb@mmlawus.com

Michael V. Rella (*pro hac vice to be filed*)
mrella@mmlawus.com

1185 Avenue of the Americas, 21st floor
New York, New York 10036

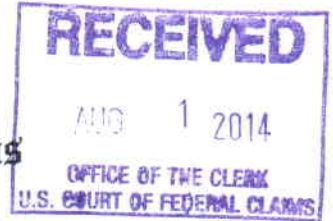
Phone: (212) 880-3999
Facsimile: (212) 880-3998

Attorneys for Plaintiff Anthony Pizsel

4816-7887-3116

ORIGINAL

FORM 2
COVER SHEET



In The United States Court of Federal Claims

Cover Sheet

Plaintiff(s) or Petitioner(s)

Anthony Piszal

If this is a multi-plaintiff case, pursuant to RCFC 20(a), please attach an alphabetized, numbered list of all plaintiffs.

Name of the attorney of record (See RCFC 83.1(c)): William E. Donnelly

Firm Name: Murphy & McGonigle, P.C.

Post Office Box:

Street Address: 555 13th Street, NW, Suite 410

City-State-Zip: Washington, DC 20004

Telephone & Facsimile Numbers: (202) 661-7000 / (202) 661-7049

E-mail Address: wdonnelly@mmlawus.com

Is the attorney of record admitted to the Court of Federal Claims Bar? Yes No

Does the attorney of record have a Court of Federal Claims ECF account? Yes No

If not admitted to the court or enrolled in the court's ECF system, please call (202) 357-6402 for admission papers and/or enrollment instructions.

Nature of Suit Code:

5 1 4

Select only one (three digit) nature-of-suit code from the attached sheet.

If number 213 is used, please identify partnership or partnership group. If numbers 118, 134, 226, 312, 356, or 528 are used, please explain.

Agency Identification Code:

0

See attached sheet for three-digit codes.

Amount Claimed:

\$not less than \$1,550,000

Use estimate if specific amount is not pleaded.

Disclosure Statement:

Is a RCFC 7.1 Disclosure Statement required? Yes No

If yes, please note that two copies are necessary.

Bid Protest:

Indicate approximate dollar amount of procurement at issue: \$ _____

Is plaintiff a small business? Yes No

Vaccine Case:

Date of Vaccination: _____

Related Cases:

Is this case directly related to any pending or previous case? Yes No

If yes, you are required to file a separate notice of directly related case(s). See RCFC 40.2.