

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES *ex rel.*
ERVIN & ASSOCIATES,

Plaintiffs,

v.

THE HAMILTON SECURITIES
GROUP, INC., et al.,

Defendants.

Civil Action No. 98-1258 (LFO)

FILED IN CAMERA
UNDER SEAL

**THE GOVERNMENT'S NOTICE OF ELECTION TO
DECLINE INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.*

Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all

pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause, at a later date.

In particular, the Department of Housing and Urban Development's Office of Inspector General ("OIG") maintains a subpoena enforcement action before this Court against Hamilton. Gafney v. Hamilton 98-ms-92 (LFO). The OIG will continue to pursue that matter and will review any evidence obtained therein. If evidence developed through that action calls into question the Department of Justice's analysis on this non-intervention decision, the Department of Justice may deem such a situation, amongst others, as good cause to intervene in this action at a later date.

Finally, the United States respectfully requests that only the complaint, this notice, and the Court's Order be unsealed and served upon the defendant. All other contents of the Court's file in this matter (including, but not limited to, any applications filed by the United States for an extension of the sixty-day investigative period or for any other reason, oppositions filed by the United States in response to the relator's motions, reply briefs, memoranda, and supporting

documents) should remain under seal and not be made public or served upon the defendant.

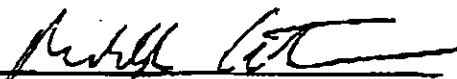
A proposed order accompanies this notice.

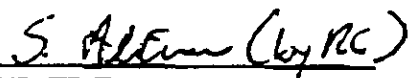
Respectfully submitted,

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