SHINING THE LIGHT ON WHISTLEBLOWER & RETALIATION CLAIMS
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WHAT TO KNOW ABOUT THE SEC'S WHISTLEBLOWER BOUNTY PROGRAM

TEN "RULES" FOR BECOMING A SUCCESSFUL SEC WHISTLEBLOWER

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The Dodd Frank Act's whistleblower provisions make it possible for an individual with "original information" regarding violations of the securities laws to submit it to the SEC and receive up to 30% of the monetary penalties in the event the SEC or certain other government enforcement agencies bring a successful case based on that information and the penalties exceed one million dollars. Unfortunately, the regulations the SEC issued governing the whistleblower program are dense, virtually incompressible to non-lawyers, and full of legal traps to gaining an award. Solid whistleblower information, which leads to a big case, may still be ineligible for an award, for any one of a multitude of reasons. Thus, as a former SEC lawyer who among others advised the SEC during the drafting process and now represents whistleblowers, I suggest a few "rules to stay on the road" to getting a whistleblower award.

Rule One: Make Sure You Really Want to Be A Whistleblower

There are many unhappy, frustrated, angry, or simply disgusted corporate managers, employees (former or current), compliance officers, auditors, and others who possess information they believe might show securities fraud by their current or former employer. Maybe you are a mid-level manager who sees accounting fraud taking place in your division. Maybe you are aware of payments to a foreign official to get or keep your company's business. Maybe you observe earnings reports or public filings being made which are materially wrong. Maybe you have participated in or condoned such activity in the past and want it stopped.

Most people who learn such information will, especially in tough economic times, stay silent, for fear of rocking the boat and potentially facing demotion or dismissal. It's only human, and nothing to be ashamed about, despite what your company Code of Ethics may decree. Some may complain about it to superiors, and are told to mind their own business, or are just ignored. We are all familiar with what can happen to those who become seen as "troublemakers." Their duties shrivel, they get transferred to the Nome, Alaska branch, and their career path begins to lead to nowhere.

Others, however, being well-motivated or interested in the reward, or both, consider "blowing the whistle." Under the SEC process, you can, using an attorney, remain anonymous, at least until the case goes to trial (which very few do). In the only award made to date under the program, the SEC withheld the name of the whistleblower when it announced the award. So is it not always the case that your identity will be revealed.

Nevertheless, being a whistleblower can be a lonely, long and winding road. Life can become very difficult for a whistleblower, even a successful one. Of course, if the case succeeds, and you qualify, you might eventually earn enough to make it financially worthwhile. But there are no guarantees and many things have to fall into place before getting a whistleblower award.

Many whistleblowers have already complained internally to no avail and are fed up. While retaliation is always a possibility, the SEC has issued strong retaliation provisions that can be enforced by the Commission itself or by a lawsuit filed by the whistleblower. The corporate world, including their lawyers, is increasingly sensitive to treating whistleblowers very gingerly. The SEC whistleblower office has recently indicated it will treat retaliation cases as a top priority. So while the environment may be improving for whistleblowers, human nature being what it is, you will still be pretty much on your own if you pick up that whistle. If you can sleep with that, and your family can as well, and you are the kind of person who just feels better about doing the right thing, then you should consider becoming an SEC whistleblower.

Rule Two: You Must Have Original Information which Qualifies for An Award

Maybe you are aware of accounting fraud at your company, maybe insider trading, maybe the payoff of a foreign official. You want to tell the SEC. Is it as simple as picking up the phone and dialing the main number in Washington? Unfortunately not. First, you have to have "original information." The SEC defines (on its Website, "Office of the Whistleblower") "Original information" to be that "derived from your independent knowledge (facts known to you that are not derived from publicly available sources) or independent analysis (information that may be publicly available but which reveals information that is not generally known) that is not already known by [the SEC]." You don't have to be an insider—you can be a customer, an outside advisor, or someone who hears about something secondhand. Don't assume the SEC knows about or is acting on the information already. You would be surprised about what they **don't** know (I can

speak from experience—I used to work there). You may have the information that could bring a major enforcement action by the SEC or another government agency.

Even if the SEC already knows something, or there has been publicity, or a Congressional hearing, or something on the Internet, you can still qualify if your information "significantly contributes to the success of [the SEC's] resulting enforcement action." As long as your tip is "not exclusively derived" from public sources, you can still qualify. So if you see something in the media, but it does not tell the whole story, or it has it wrong in some respect, or your company has claimed to be "cooperating in an SEC investigation" but is secretly withholding information, do not hesitate to make the submission, and demonstrate to the SEC that what has been in the media up to that point is incomplete, inaccurate, or untruthful.

Rule Three: Be Creative, and Do a Bit of Your Own Investigating

Potential whistleblowers tend to focus on one specific transaction or practice they feel is wrong or dishonest. Sometimes this activity is a violation the securities laws, sometimes it is not. The securities laws are very broad, cover corporate activity worldwide, and are continually being expanded by the SEC to new business practices and legal theories. For example, there has recently been scrutiny of companies who hire the children of public officials to gain influence with their parents as a potential violation of the Foreign Corrupt Practices Act ("FCPA"). Likewise, the SEC recently launched an insider trading investigation involving a law firms and consultants who allegedly were informing their clients about impending government and congressional actions that could affect their business, and presumably their stock prices. This is standard fare in Washington, and no one has yet figured out where the line should be drawn as to what might be insider trading in these situations. My point is that there is no harm in filing a whistleblower report about activity which may turn out to be just this side of legal.

My advice is to keep your eyes open and read those emails (enforcement lawyers love emails). Listen to the water cooler rumors, some may be based on fact. Bad news travels fast, and if a company is in trouble and trying to put a good face on bad results by misleading investors, the word usually seeps out eventually. Your challenge is to be the first to report it to the SEC. Read the company's annual and quarterly reports. Scrutinize its press releases and analyst calls. If you hear the widget division in Singapore is having a bad year see if those results show up in the financial statements. If the company has huge potential environmental liabilities it is not disclosing, you may have a case. If the company is winning overseas business using shady middlemen or is entertaining government officials lavishly, there is probably an FCPA bribery case in progress (despite all the education and compliance programs, I suspect the FCPA continues to be violated around the globe, in ever more creative ways). Watch carefully for signs of insider trading—it's the hot area of enforcement these days. Never pass up a chance to talk to the junior outside auditors—they usually know where the bodies are buried and are still naïve enough to tell you.

In fact, while the FCPA foreign bribery cases grab the headlines, historically the accounting provisions of that act relating to bookkeeping and internal controls have been far more likely to form the basis of an SEC case. These provisions are intended to protect the general integrity of financial statements, and apply equally to U.S. and non-U.S. operations of companies required to file reports with the SEC. They also apply to majority-owned foreign subsidiaries. My sense is that, across the entire spectrum of business activity subject to these provisions, there are untold violations of these provisions being committed every day, many of which would be of great interest to the SEC staff if only someone informed them. Likewise, the Sarbanes-Oxley Act requires officers to certify the integrity of their companies' financial statements and review the adequacy of their internal controls. Find a mid-level manager who is unhappy about a false certification he was pressured to make and you have a case. While more accounting-provision violations are being uncovered, many (but surely not all) are being reported to the SEC. This too is a fertile ground for whistleblowers.

Rule Four: If At All Possible, Report Your Information First Internally In a Well Documented Submission to the Responsible Corporate Officials

Before the Dodd-Frank whistleblower rule was enacted, there was considerable concern expressed in the corporate community that the SEC whistleblower program would seriously undermine internal reporting through compliance programs. This has not happened. Most whistleblowers still report internally first, but get frustrated, discouraged, or punished, before they go to the SEC. However, the SEC, in an effort to acknowledge the value of internal compliance programs, and encourage internal whistleblowing, has stated that it will reward internal reporting first by considering an increase in the percentage of the award closer to the 30% limit if the information was reported first internally.

If you choose to report internally, do it right. Don't just leave a message on a company hotline, or mumble something in a random conversation to a supervisor. It may be hard later to prove you gave the tip, and exactly what you reported and when. Proof of providing a timely internal report can be critically important to getting an award. Put together a written report of your information. Sign and date it, and present it (preferably in person) to a superior you trust, and one who has the responsibility to report up the chain of command. It may be an internal auditor, a member of the legal department, an HR or compliance officer. Start as high up the chain as you can. You do not have to go directly to your immediate superior, especially if that person is part of the problem, or likely to bury the information or make your life difficult thereafter.

The important thing is to make the information as comprehensive, detailed, and authenticated as possible. If you have documents or emails, provide them (even if you are not supposed to have such material). If you do report through a hotline, don't just leave a message on a recording. Insist on talking to someone, and ask his or her permission to tape the conversation (they are probably taping it as well). If you are asked to come in to

speak to others, including company lawyers, consider getting your own counsel to accompany you. In any event, do a memo to the file afterwards to document when and to whom you gave the information, and exactly what you told them.

The only reason not to report internally is if you are convinced it will do no good (and can prove that), and if there is a high likelihood of retaliation. In the case of a smaller company whose top management is deeply involved in the wrongdoing, or if the wrongdoing is clearly known to top management, or if others who have reported it have been punished, or if you simply don't want to take the risk of letting it be known you are a whistleblower, then go directly to the SEC, or employ counsel to make an anonymous report. Likewise if you have any reasonable basis to believe that your safety, or that of your family, may be jeopardized if you report internally, then go directly to the SEC. In many parts of the world, this can certainly be the case, and the SEC will understand if you choose to come to them first under the circumstances.

If you are a former employee, the decision to report "internally" may have less significance. You can certainly contact the company and inform it of your information, and disclose if you choose that you intend to contact the SEC as well. If you essentially reported the issue at the time you were an employee (and can prove it somehow) but nothing was done as far as you know, you basically have satisfied the internal reporting suggestion in any event. If you are concerned about retaliation, such as blacklisting in the industry or efforts to alert your current employer that you are a troublemaker, or other forms of retaliation, then it may be best not to call the former employer but explain to the SEC in your submission why you did not do so.

Rule Five: After You Report Internally, Promptly Report to the SEC

Once you have reported internally, submit your information to the SEC, either yourself or through your counsel. Give the SEC what you gave the company. You have only 120 days from the time you report to the company to take that information to the SEC, in order to insure you get credit as the original source (as of the first day you reported it internally) if the company decides to report it to the SEC as well, or if someone else reports it to the SEC before you do. Don't wait around to see what the company does with the information, even if someone is advising you to "keep this confidential." You may want to inform the company you are also going to the SEC with the information, which will increase the chance the company will feel compelled to report it almost immediately, and the clock will be running. Note that the rules on this are different for high-level officers and compliance officials in certain circumstances, where it may be advisable to *wait* 120 days before reporting to the SEC (see Rule Seven).

Of course, even if you report internally, you may decide to remain silent about your intention to also report to the SEC, especially if you think the company may decide not to report the matter to the SEC on its own. That mistake may end up costing the company a lot more in a settlement with the SEC, and increase the amount of the penalties and the size of your award. In any event, there is no rational reason not to make

a report to the SEC as soon as possible after you have reported your information to the company.

If you do report to the SEC within the 120 day window, the SEC has said: "Under these circumstances, we will consider your place in line for determining whether your information is 'original information' to be the date you reported it internally." The best aspect of going to the SEC as well as reporting up internally is you not only get the extra credit from the SEC to boost the size of your award, and the presumed gratitude from the company from telling them first, but you also get the benefit of the company's internal investigation, if it conducts one and reports it to the SEC. Your information may trigger a wider investigation which is conducted by outside company counsel and reported to the SEC, for which you should get the credit, whereas your independent tip to the SEC without going inside first might not get a similar priority or as thorough an investigation by the agency, or may be ignored entirely.

Regardless of when you choose to do it, you **must** report the information directly to the SEC to qualify for an award and, it now appears, to insure you have the right to sue the company for retaliation under the whistleblower friendly terms of the Dodd-Frank Act. A recent federal appeals court decision makes this requirement clear, although other lower courts have decided this issue differently. You have to use the SEC process to make the report. If you are doing this yourself without a lawyer, you should go to the SEC website, get to the Whistleblower Office pages, and follow the instructions carefully. Reporting it to local police or the FBI does not count. Likewise, if you wait until the SEC contacts you, it is probably too late to get an award. Do not let someone at the company, even a lawyer, persuade you that you should not contact the SEC and "let us handle it."

Unfortunately, the SEC process for reporting information is, in my opinion, not all that user-friendly. You have to answer a battery of questions and be able to use the computer to jump through a series of steps before hitting submit to file your information, at which point you should receive back a "TCR Number" indicating your claim has been filed. Retain that response as proof you filed the information and the date on which you submitted it.

When I make a whistleblower submission for a client, I do it the old fashioned way, on paper, normally with a cover letter explaining the submission, the TCR Form (which can be downloaded from the SEC website) and attach numbered exhibits with selected documents. I assume (perhaps incorrectly) that a written submission may be harder for the staff to overlook than an electronic folder buried somewhere in their computer. I do not try to overwhelm the SEC staff with a phone book of exhibits or try to tell every aspect of the story. The SEC Office of the Whistleblower is small, and is reportedly has been receiving thousands of submissions and calls annually. We must assume they cannot devote too much time to each submission before deciding which to pursue and which to (figuratively) file away in that big room you may recall from the last scene in "Raiders of the Lost Ark." Of course if you make a paper submission (I use FedEx, not a fax machine) you will not receive your TCR Number for a few weeks, but

the SEC will eventually send back a nice form letter from the Chief of the Whistleblower Office thanking you for your submission, assigning you a long number, but telling you little else. If you don't receive a TCR number after a month or so, call the SEC Office of the Whistleblower.

After that however, do not expect to hear anything else from the SEC for quite awhile, if ever. The review process at the agency is something akin to a "black hole" in which no one outside the SEC knows whether anyone is looking at the submission or if it has been rejected, is buried among the thousands of other tips, or is under active review. If you try, as I have, to inquire about the submission, you will probably get a call back from a staff lawyer who will politely tell you they have received the submission and it has been forwarded to the appropriate enforcement branch but can give no further information as to what if anything is happening with it. SEC cases can take literally years to go through the entire enforcement process to get to a final judgment against the company, and then more time to decide whether there will be a whistleblower award made and how much it will be. So the whistleblower must be patient and understand that neither he or she nor their lawyer will be getting much information while the case is under investigation, at least until the SEC calls to ask for an interview, which is a sure sign they are taking the matter seriously.

Rule Six: Make Your Submission Short and to the Point; Consider Carefully which Documents To Include

Your submission should get to the point quickly, and be specific without overwhelming the staff with details, which can be added later if they decide to follow-up on the matter. You can tell of a bribe to a foreign official in a paragraph ("My company has been paying off the Minister of Finance of Guatador by sending cash to his sister"). You can describe a complex accounting fraud in a page or so ("My company cooks the books each quarter by using cookie-jar reserves, as shown in the attached accounting records"). You should attach a few "smoking gun" documents if you have them, and tell the SEC you have more documents, if that is the case. Don't send them a box full of dog-eared paper and expect them to sort it out. If you can name individuals at the company that you know or have good reason to know are aware of the activity don't hesitate to name them and their positions. Be specific and succinct. If you simply have suspicions but no direct proof, tell them than too. Don't hype, puff, or over-promise. Tell them about yourself, your position and background, how you came about the information, and why you believe it to be true. If you have reported internally describe that in some detail, and what if anything happened to you afterward.

If your information relates to an event already made public, indicate that but show how you are adding to the information, or perhaps correcting falsehoods put out by the company. You can even make a submission based entirely on publicly available information if your "examination and evaluation" of it "reveals information that is not generally known or available to the public." If you have someone you can trust to keep your information confidential you might ask him or her to read a draft of your submission for editing before submitting it to the SEC.

In selecting documents to submit, be aware that you may be violating company policies against disclosing confidential or proprietary information. This risk is pretty much part of the life of a whistleblower. However, the need to reveal illegal acts should normally trump routine confidentiality language in an employment agreement. Nevertheless, if you have documents which are highly sensitive, and might involve serious breaches of the law on your part to disclose (e.g. "national security" matters), it may be best to hold them back until you are certain the SEC is interested in your submission, and then discuss with the staff how to handle such information. Likewise, the SEC staff is extremely sensitive to using documents or information which may violate the company's attorney client privilege. If you have any documents which involve attorney advice (such as emails to or from inside or outside company counsel) it is advisable not to include them in your initial submission, or clearly segregate them among your attachments. They can be addressed later when and if the SEC responds to your information.

Rule Seven: Before Making A Submission, Consider Your Position in or Relation to the Company

The SEC whistleblower rules, covering eighty-four pages of small print in the Federal Register (17 CRF Parts 240 and 249, *Fed. Register* June 13, 2011, page 34300 *et seq*.) are riddled with definitions, exclusions, and exceptions to exclusions that can pose multiple legal hurdles to the prospective whistleblower. Good information that leads to a major case can still result in no award if the whistleblower is not eligible, for any of a multitude of reasons. One particularly tricky set of rules deals with who is disqualified by law from being a whistleblower for being what the SEC considers a "core person" relating to internal compliance mechanisms.

If you are a corporate officer, director, trustee or partner of an entity (an officer being the president, a vice-president, secretary, treasurer or chief financial officer, or "any person routinely performing corresponding functions with respect to any organization whether incorporated or unincorporated, " but not a non-officer supervisor) and you receive information because another person informed you of allegations of misconduct, you cannot become a whistleblower.[1] You are also disqualified if you have

[1] Sec. 240.21F-4(b)(4)(iii)(A). The SEC did soften this exclusion a bit in its explanatory release: "[P]aragraph A does not prevent an officer from becoming eligible for a whistleblower award if the officer discovers information indicating that other members of senior management are engaged in a securities law violation." *Fed. Register,* June 13, 2011, at 34318. While this is hardly clear, to me at least, I assume the SEC means that if an officer on his or her own discovers illegal activity, but not through someone else telling them about it, then they can become a whistleblower.

"learned the information in connection with the entity's processes for identifying, reporting and addressing possible violations of law." Thus compliance officers or internal auditors, or anyone who learns the information in connection with investigations into wrongdoing after the fact will most likely not qualify. Lawyers are addressed separately, but in general cannot be whistleblowers unless meeting specific exceptions set forth in other sections of the rules.[2] In general, the SEC frowns on professionals inside or outside the company who try to take advantage of their "insider" status to profit themselves through the whistleblower process. The case of outside auditors is particularly complicated, but they can in some circumstances become whistleblowers.[3]

However, there are important exceptions to these exclusions which will permit such individuals to become whistleblowers. Even if you fall into one of the categories discussed above, if your submission is reasonably intended to "prevent the relevant entity from engaging in conduct that is likely to cause substantial injury to the financial interest or property of the entity or investors," or if the company is trying to "impede an investigation of the misconduct," you can submit your information immediately to the SEC and still qualify as a whistleblower. This is true for lawyers as well, as far as the SEC is concerned, but they may also be subject to state bar prohibitions on disclosing client misconduct. In your submission, you should describe why you believe these exceptions exist in your case and that you are relying on that fact to justify making the submission.[4] If the illegal activity is ongoing, as opposed to completed, and your information may cause the SEC to act to stop it, you have a much better chance of succeeding as a whistleblower, in my opinion. Arguably, any information that relates to a continuing nondisclosure of illegal activity, even if in the past, that is being covered up and would if disclosed likely due financial damage to the company or investors, would seem to fit into the exception and allow whistleblowing. Likewise, if an internal investigation is being conducted and you have evidence that witnesses are being influenced to keep quiet or lie (including yourself) you are permitted to go to the SEC immediately.

Finally, in what may be the widest loophole of all, if you provided the information to the company's audit committee, chief legal officer, chief compliance officer, or your own supervisor**,** and at least 120 days have elapsed, or if at least 120 days have elapsed since you received the information, if you received it under circumstances indicating that

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[2] See Sec. 205.3(d)(2).

[3] See "*When Can The Independent Auditor Become An SEC Whistleblower?"* Daniel J. Hurson, Mondaq News Service, Nov. 20, 2012.

[4] The SEC notes that "we expect that in most cases the whistleblower will need to demonstrate that responsible management or governance personnel at the entity were aware of the imminent violation and were not taking steps to prevent it…[I]n such cases [the SEC] believes it is in the public interest to accept whistleblower submissions and to reward whistleblowers—whether they are officers, directors, auditors, or similar responsible personnel—who give us information that allows us to take enforcement action to prevent substantial injury to the entity or to investors." *Fed. Register*, *id*. at 34319.

any of the above-listed corporate parties was already aware of it, you can provide it to the SEC even if you are otherwise disqualified from doing so. What you cannot do, however, is receive the information, sit on it for 120 days without notifying any of the responsible corporate actors listed (unless you are aware they already know of it), then go to the SEC with a whistleblower allegation. The SEC says its goal is to "have a date certain after which [the party with the allegations of wrongdoing] will no longer be ineligible to make a submission with the information in their possession." This "exception to the exclusion," as I read it, does not appear to require the information to involve an imminent harm to the company or investors nor evidence of obstruction of an investigation. Thus, regardless of who you are within the company (except perhaps for the lawyers or outside auditors) if the company has had the information for at least three months, either because you provided it to them or they already knew it, you are free to go to the SEC and submit it for a whistleblower award.

These hair-splitting distinctions are confusing, but can turn out to be very important to your getting an award. Given the complexity of these rules, if you conceivably fit into any of the excluded categories due to your position in the company, you really should consult a lawyer before doing anything else (See Rule Ten below).

Rule Eight: If You Had Any Involvement in the Illegal Activity, Consult An Attorney Before Making Any Approach to the SEC

This Rule may seem too obvious to mention, but in the complex world of securities fraud many individuals do not realize they may have personal legal exposure for their action or inaction. In this circumstance, you may still qualify as a whistleblower, but you definitely need to consult with an experienced securities enforcement attorney before contacting the SEC. There are ways that counsel can work with the SEC to convey the information and protect you from civil or criminal prosecution, while keeping you eligible for an award. But until a lawyer hears your story, it is very risky to give it to the SEC, which can do with it what they wish, including referring it to the Department of Justice for criminal investigation. Of course, if you had nothing to do with the illegal activity other than learning about it, you are free to go to the SEC without concern. As we note in Rule Ten below, however, there may still be good reasons to consult an attorney before making your whistleblower submission.

Rule Nine: Formulate Your Submission, and cooperate with the SEC, with an Eye to Getting the Maximum Award After the Case is Brought.

As our discussion above suggest, there is nothing certain about getting a whistleblower award, even if the SEC decides to pursue a case based on your information. You may end up dealing with one or more attorneys at the SEC and possibly the DOJ (Department of Justice) over an extended period of time. You may be asked to repeat information to the DOJ that you have already given to the SEC (they have rules preventing them from sharing certain information). You may see the case brought and settled, and a large fine or disgorgement ordered, and assume you are assured of a large

award. While we have virtually no track record at this point to gauge the program, you have to assume that the staff may have disagreements over the many legal requirements built into the rules for getting an award, and the staff and the Securities and Exchange Commission members may have differing views of the value of your contribution.

There are a number of criteria the Commission has to review under the law to determine the amount of any award. For example, the Commission is entitled to consider whether the "reliability and completeness" of your information "resulted in the conservation of Commission resources." This means, as I read it, that if you give them speculative information that forces them to spend time tracking down dead ends, or if you give them some but not all of what you know (and they figure that out), your award may be reduced. The Commission will also consider whether you provided "ongoing, extensive and timely cooperation and assistance by, for example, helping to explain complex transactions, interpreting key evidence, or identifying new and productive lines of inquiry."

The Commission will also consider the "timeliness" of your report to the Commission or to internal compliance or similar authorities at your company. It will consider as well whether you did report internally, and the extent of your help in any internal investigation. If you have not reported internally first, it may be critically important to convince the staff, and later the Commission itself, that you had a very good reason not to report internally before you went to the SEC.

Rule Ten: Consider Hiring A Lawyer to Assist You In Reporting to the SEC

As you may have figured out by this point, the complex process for becoming eligible for a whistleblower award, and the many pitfalls for qualifying, strongly suggest the need for counsel. Indeed, if the whistleblower wishes to remain anonymous, he or she has to report through counsel.

An attorney, particularly one experienced with the SEC and with the securities laws, can help frame your information in a way that will be more likely to get the SEC's attention. A whistleblower submission that is a jumbled narrative of complicated events could be overlooked, ignored, or shelved in the SEC review process. Likewise, you are more likely to get your information reviewed and acted upon if you have a lawyer advocating for you with the agency. Some cases sell themselves, others may need some help from you own lawyer. Unlike the typical enforcement case, in whistleblower situations I believe the staff is more comfortable dealing through an attorney, who obviously wants to help them make the case and can help the client tell the story and locate documents that may be relevant.

If a case is brought and an award is possible, the lawyer's role may become even more important to argue for why the client should be considered an eligible whistleblower, if this is in any doubt, and why the award should be on the high end of the percentage scale, up to the full 30% of the monetary penalties.

There is now developing a bar of experienced lawyers who are taking on whistleblower cases, typically on a contingent fee basis. These attorneys, who tend to have prior SEC enforcement experience, or experience with whistleblowers in false claims cases, are generally not members of large law firms, which typically represent the companies who are often the subjects of whistleblower claims. Is in not difficult to locate such attorneys on the Internet or through consultation with attorneys familiar with lawyers who practice in this area.

A whistleblower claim made in good faith, which reveals the truth, should in a perfect world succeed and reward the person who took the chance to do the right thing. But we must recall the old adage "No good deed goes unpunished." In the world we live in, the whistleblower, to succeed, must follow the SEC's complicated procedures and make a persuasive case for what could become a successful SEC enforcement action. The reward money is there, almost half-a-billion set aside for awards. We anticipate that substantial awards will be made in the future. Following these unofficial rules may help you to be one of the recipients.