

Insights

SEC ISSUES RARE WHISTLEBLOWER AWARD TO AUDIT PROFESSIONAL

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On December 14, 2020, the Securities and Exchange Commission announced an award of more than \$300,000 to a whistleblower who uncovered potential securities law violations in connection with audit-related responsibilities. The whistleblower met with the SEC more than a dozen times and provided “high quality information and continuing assistance,” including identifying additional witnesses. This is only the fourth time that the SEC has issued an award to an audit or compliance professional.

In announcing the award, Jane Norberg, Chief of the SEC’s Office of the Whistleblower, stated: “This award is an example of the important role that audit and compliance professionals can play in assisting the Commission’s enforcement efforts, especially when the entity is attempting to thwart an investigation.” Compliance and audit professionals often have access to information that may evidence legal violations, as well as responsibilities to prevent or mitigate such violations. While compliance and internal audit professionals generally are not considered eligible for whistleblower awards under the Program, there are three exceptions in which such personnel may become eligible whistleblowers:

- (1) when the whistleblower believes disclosure may prevent substantial injury to the financial interest or property of the entity or investors;
- (2) when the whistleblower believes that the entity is engaging in conduct that will impede an investigation; or
- (3) when at least 120 days have elapsed since the whistleblower reported the information to his or her supervisor or the entity’s audit committee, chief legal officer, chief compliance officer – or at least 120 days have elapsed since the whistleblower received the information, if the whistleblower received it under circumstances indicating that these people were already aware of the information.

In this case, the SEC found that the whistleblower attempted to remedy the alleged misconduct and had a reasonable basis to believe that the entity would impede the SEC’s investigation.

This latest award brings the total awarded to whistleblowers to more than \$731 million since 2012. In fiscal year 2020, the SEC awarded approximately \$175 million to 39 individuals, representing both the highest dollar amount and the greatest number of individuals receiving awards in a single year. To date in fiscal year 2021, the SEC has already awarded approximately \$170 million to 17 individuals. The increasing numbers of awards and the skyrocketing amounts issued to whistleblowers demonstrate the SEC's continued commitment to courting whistleblowers and rewarding those who voluntarily provide valuable evidence of potential violations.

In this environment, companies should continue to evaluate their compliance programs to ensure that they are tailored to prevent and detect potential violations of the securities laws, and to mitigate penalties that may result from inadvertent violations. Such programs must include mechanisms to encourage and receive internal reports as well procedures to respond immediately and effectively to internally reported information.

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MEET THE TEAM



Mark A. Srere

Co-Author, Washington

mark.srere@bclplaw.com

[+1 202 508 6050](tel:+12025086050)



Jennifer Kies Mammen

Co-Author, Washington

jennifer.mammen@bclplaw.com

[+1 202 508 6044](tel:+12025086044)

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