

**MEMO# 26700**

November 16, 2012

## **SEC Publishes 2nd Annual Report on Its Whistleblower Program**

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TO: COMPLIANCE MEMBERS No. 25-12

INTERNAL AUDIT ADVISORY COMMITTEE No. 6-12 RE: SEC PUBLISHES 2ND ANNUAL REPORT ON ITS WHISTLEBLOWER PROGRAM

The U. S. Securities and Exchange Commission has published its second annual report on the Commission's Whistleblower Program as required by the Dodd-Frank Act, which discusses the activities of the SEC's Whistleblower office for fiscal year 2012. [\[1\]](#) Below is a summary of the information contained in the report.

- Staffing – The Office of the Whistleblower (the “Office”), which is located in the SEC's Division of Enforcement, continues to be headed by Sean McKessy, who was appointed in February 2012. In January 2012, Jane Norberg was named the Office's Deputy Chief. The Office is currently staffed by eight attorneys, three paralegals, and one program support specialist.
- Activities – During this fiscal year, the Office has focused on the following eleven activities:
  1. Communicating with whistleblowers;
  2. Reviewing and processing applications for awards;
  3. Acting as a liaison between whistleblowers and the staff in the SEC's Enforcement Division;
  4. Maintaining the whistleblower portion of the SEC's website;
  5. Supporting the work of the Residential Mortgage Backed Securities Fraud Working Group, which is a working group of the Financial Fraud Enforcement Task Force established by President Obama in November 2009;
  6. Providing “extensive training on the Dodd-Frank Act and the Commission's implementing rules to the Commission's staff;”
  7. Establishing an implementing internal policies, procedures, and protocols;
  8. Maintaining a public whistleblower hotline;
  9. Reviewing and entering tips into the SEC's Tips, Complaints, and Referrals (TCR) System;
  10. Conferring with other agencies' whistleblower offices publicizing the SEC's

whistleblower program; and

11. Providing ongoing guidance to SEC staff regarding the program.

- Number of Tips Received – There were 3001 TCRs received this fiscal year. According to Appendix A to the Report: [\[2\]](#)

18.20% (547) alleged corporate disclosure of financial violations;

15.50% (465) alleged offering fraud;

15.20% (457) alleged manipulation;

6.30% (190) alleged insider trading;

3.80% (115) alleged violations of the Foreign Corrupt Practices Act;

3.30% (100) alleged offerings of unregistered securities;

2.80% (85) involved “market events;”

2.10% (64) alleged violations involving municipal securities or public pensions;

23.40% (703) represented allegations that did not fall into the above categories;  
and

4.40% (131) did not indicate the particular type of violation alleged.

- Location of Tipsters – Appendices B and C of the Report indicate the location of the persons filing whistleblower complaints with the SEC. According to Appendix B, there were 2507 whistleblower complaints (83.5% of the total) filed by persons residing in the United States or in a U.S. territory. The states/U.S. territories with the most tipsters were: California (435), New York (246), Florida (202), Texas (159) and New Jersey and Washington (each with 102). There were 11 states with five or fewer. According to Appendix C, with respect to international tipsters, 324 whistleblower complaints (10.8%) were filed by persons outside the United States. The five countries with the most tipsters were: the United Kingdom (74), Canada (46), India (33), the People’s Republic of China (27), and Australia (21).
- Awards Paid – Only one award was paid to a whistleblower during the fiscal year. While information concerning the name of the whistleblower and the related enforcement case is confidential, according to the Report, “[t]he whistleblower’s assistance led to the court ordering more than \$1 million in sanctions, of which approximately \$150,000 has been collected by the end of the fiscal year.” Accordingly, to date, the whistleblower in this case has only received approximately \$50,000, though more will be paid when additional monies are collected from the perpetrator. [\[3\]](#) The Report notes that, during fiscal year 2012, there were 143 Notices of Covered Action for enforcement judgments and orders issued that included the imposition of sanctions that could be paid to whistleblowers.

As of September 30, 2012, the SEC’s Investor Protection Fund, which is to be used exclusively to fund the SEC’s whistleblower award program and to finance the operations of the SEC’s Office of the Inspector General’s suggestion program, [\[4\]](#) “was fully funded with an ending balance of \$453,429,825.58. “ [\[5\]](#)

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**endnotes**

[1] See Annual Report on the Dodd-Frank Whistleblower Program, Fiscal Year 2012 (U.S. Securities and Exchange Commission, November 2011) (the “Report”). The 10-page Report, which is accompanied by three appendices (i.e., Appendix A – Whistleblower Tips by Allegation Type; Appendix B – Whistleblower Tips Received by Geographic Location – United States and Territories – Fiscal Year 2012; and Appendix C – Whistleblower Tips Received by Geographic Location – International – Fiscal Year 2012) is available on the SEC’s website at: <http://www.sec.gov/about/offices/owb/annual-report-2012.pdf>.

[2] The parenthetical following the percentages indicated below is the number of complaints received in the various categories.

[3] The staff determined the whistleblower in this case should receive 30% (the maximum amount allowed) of the sanctions collected by the SEC.

[4] According to the Report, “The suggestion program is intended for the receipt of suggestions from Commission employees for improvements in the work efficiency, effectiveness, and productivity, and use of resources at the Commission, as well as allegations by Commission employees of waste, abuse, misconduct, or mismanagement within the Commission.” See Report at p. 9.

[5] The Fund began the year with \$452,788.043.74. During the year, it had earnings on investments of \$757,248.07 and two disbursements were made from it – one to the whistleblower (\$45,739.16) and one to the Office of the Inspector General (\$69,727.07).