

SEC Reports 3 of its Biggest Whistleblower Payouts and a Steady Increase in Tips in 2017

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February 20, 2018

The U.S. Securities and Exchange Commission (SEC) Office of the Whistleblower has filed its [Annual Report to Congress for FY2017](#), marking another banner year for the SEC Whistleblower Program. During FY2017, the SEC issued whistleblower awards totaling nearly \$50 million to 12 individuals. The fiscal year included three of the largest whistleblower awards issued by the commission to date.

An Increase in Whistleblower Tips

The SEC has continued to see an increase in whistleblower tips year over year. In its first full year in FY2012, the SEC received 3,001 whistleblower tips. Subsequent years reflect the rise in activity with 3,238 tips submitted in FY2013, 3,620 in FY2014, 3,923 in FY2015, 4,218 in FY2016, and 4,484 in FY2017. This increase could represent an increase in awareness of the SEC Whistleblower Program, a growing societal acceptance of the role of whistleblowers, or some combination of the two.

More Action to Protect Whistleblowers

In addition to reviewing whistleblower tips and issuing awards, the SEC has also taken steps to protect [whistleblowers who report securities violations](#). For instance, in January 2017, the commission ordered HomeStreet, Inc., a Seattle-based financial services company, to pay a \$500,000 penalty for its efforts to uncover the identity of a presumed whistleblower and for threatening that it would deny indemnification for legal costs to the individual whom the company believed to be the whistleblower.

The SEC also penalized multiple companies in FY2017 for using restrictive language in separation and severance agreements that could violate Rule 21F-17, which makes it illegal for a company to “impede” someone from communicating directly with the SEC about a possible securities law violation. During FY2017, the agency penalized HomeStreet, Inc.; NeuStar, Inc.; BlackRock, Inc.; and SandRidge Energy, Inc., for violations of Rule 21F-17. Katz, Marshall & Banks partners David Marshall and Debra Katz have [long advocated](#) for the SEC to aggressively use its enforcement powers to restrict the use of employment agreements to impede whistleblowers, and the SEC has demonstrated its commitment to seeking out and punishing Rule 21F-17 violations.

New Insights on Award Recipients

The Office of the Whistleblower’s annual report also provided some additional insight into its whistleblower award recipients. This information could be useful to prospective whistleblowers and practitioners who wish to model their tips and behavior after whistleblowers who have received awards in the past. According to the commission, 96 percent of award recipients provided additional assistance after their initial whistleblower tip. Roughly two-thirds of award recipients provided information that did not itself open up a new investigation, but assisted with an already-existing investigation into the underlying misconduct. Over 50 percent of whistleblowers were either current

or former employees of the offending company, and of those, over 80 percent first reported their concerns [internally before reporting securities violations to the SEC](#).

The SEC Whistleblower Program's 2017 annual report reflects the continued success that the program has enjoyed. In December 2017, the SEC [awarded](#) its 50th whistleblower award under the program, this time to a former company insider who informed the commission of a widespread securities law violation. The SEC has now awarded whistleblowers over \$179 million from its investor protection fund, financed by monetary sanctions paid to the SEC by securities law violators. One whistleblower who received a [\\$2.4 million award](#) in 2017 was a client of Katz, Marshall & Banks. Because success in obtaining an award may turn on an individual's ability to provide on-going assistance to SEC investigators, people who believe they have information about securities violations should seek legal advice to help with that process.