



## SEC AND CFTC WHISTLEBLOWER PROGRAM REPRESENTATION

# FIGHTING FINANCIAL FRAUD

Kessler Topaz has a long history of success fighting financial fraud by taking on some of the biggest corporations in the world.

In the wake of the 2008 financial crisis, the Securities Exchange Commission and the Commodities Futures Trading Commission implemented whistleblower programs directly targeting financial fraud. Like the False Claims Act, these programs empower whistleblowers by providing monetary rewards for individuals who supply information leading to successful enforcement actions. Kessler Topaz -- nationally renowned for our work in combatting securities fraud -- represents numerous whistleblowers in reporting complex financial fraud to enforcement agencies. We staff each case not only with former government enforcement attorneys who have worked at the SEC and DOJ, but with securities lawyers who have litigated complicated financial fraud cases against some of the largest corporations in the world. Our attorneys focus on thorough investigation, compelling presentation, protection from retaliation, and preservation (where requested) of your anonymity.

### **Who can be an SEC whistleblower?**

An individual is eligible for an SEC whistleblower reward by voluntarily providing original information or analysis to the SEC about a securities law violation, where that information leads to a successful enforcement action of greater than \$1 million. Whistleblowers come from a wide array of backgrounds including financial sector employees, corporate executives, market analysts, traders, and compliance officers. Corporations and organizations are not eligible to be whistleblowers under the program.

### **Can an SEC whistleblower remain anonymous?**

Yes, but only by authorizing an attorney to file a case on their behalf.

### **What does it mean to “voluntarily” provide information to the SEC?**

The SEC considers a whistleblower's submission "voluntary" if the whistleblower provides the information to the SEC before the SEC or other relevant authority (such as Congress or FINRA) requests or demands information from the whistleblower (or whistleblower's attorney) relating to that submission. A submission is not considered voluntary if the whistleblower was already under a pre-existing legal or contractual duty to disclose the violation to the SEC.

## What is "original" information?

The SEC Whistleblower Program seeks "original" information, which means information derived from the whistleblower's own knowledge or own independent analysis. This includes analysis of information which is in the public domain.

## What Type of Fraud is Covered by SEC Whistleblower Program?

The SEC Whistleblower Program applies to violations of the federal securities laws including the Securities Act of 1933, the Securities Act of 1934, and the Investment Company Act of 1940. Types of fraud covered by the SEC Whistleblower Program include:

**PONZI SCHEMES** – A type of investment fraud that involves the payment of purported returns to existing investors from funds obtained from new investors. Organizers often solicit new investors by promising high returns with little or no risk.

**PYRAMID SCHEMES** – A type of investment fraud where participants attempt to make money solely by recruiting new participants into the program. Usually there is a promise of high returns for simply handing over your money to the program's organizers and getting others to do the same.

**MANIPULATION** – Intentional conduct designed to deceive investors by controlling or artificially affecting the market for a security. Methods include: (i) spreading false or misleading information about a company; (ii) improperly limiting the number of publicly-available shares of a company; and (iii) rigging quotes, prices or stock trades to create a false picture of the demand for a security.

**INSIDER TRADING** – Buying or selling a security in breach of a fiduciary duty or other relationship of trust and confidence, while in possession of material, nonpublic information about the security. This conduct also includes "tipping" such material, nonpublic information to others who then trade on that information.

**OFFERING FRAUD** – The SEC requires companies to register with the SEC and disclose important financial information, descriptions of a company's business operations, its management and the securities it is offering to the investing public. The failure to register with the SEC without a valid exemption form

registration, or making material misstatements or omissions in registration documents constitutes offering fraud

**VIOLATIONS OF THE FOREIGN CORRUPT PRACTICES ACT (FCPA)** – A company's failure to put internal controls into place to detect and prevent payments and gifts to officials from foreign governments in order to obtain advantageous business opportunities for the company in that country.

**ACCOUNTING FRAUD** -The intentional misrepresentation or alteration of accounting records regarding sales, revenues, expenses and other factors for a profit motive such as inflating company stock values, obtaining more favorable financing or avoiding debt obligations.

If you would like to speak to one of our attorneys about a potential whistleblower matter, please email us at [wbinfo@ktmc.com](mailto:wbinfo@ktmc.com) or call us at (610) 667-7706. All case evaluations are confidential and free.