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# The SEC Whistleblower Program's Biggest Year—By the Numbers

C. Ryan Barber, The National Law Journal

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The U.S. Securities and Exchange Commission's whistleblower program reached a milestone on Aug. 30.

Five years after the program was created under the Dodd-Frank financial reform law, the second-largest bounty in the whistleblower office's history pushed the awards total past the \$100 million mark—and the SEC was ready to celebrate.

In addition to [the announcement](#) of the day's more than \$22 million award, the SEC issued a [separate press release](#) in which SEC Chairwoman Mary Jo White described the whistleblower program as a "game changer for the agency in its short time of existence."

Ever since, the whistleblower office's website has been adorned with a green rectangle boasting that "Whistleblower Awards Top \$100 Million."

But that number—\$100 million—tells only part of the story for the year that the SEC's whistleblower office hit full stride. Here's a deeper look into the numbers behind the program's big year.

## \$500 Million

As White said in August, the whistleblower program has proven itself a game changer for the SEC's enforcement efforts. The SEC traces more than **\$500 million** in ordered sanctions back to whistleblower tips.

Andrew Ceresney, the SEC's enforcement director, [said in September](#) that "whistleblowers provide an invaluable public service, often at great personal and professional sacrifice and peril."

"I often speak of the transformative impact that the program has had on the agency, both in terms of the detection of illegal conduct and in moving our investigations forward quicker and through the use of fewer resources," he said. "The success of the program can be seen, in part, in the over \$107 million we have paid to 33 whistleblowers for their valuable assistance, in cases with more than \$500 million ordered in sanctions. But it can also be seen in my daily interactions with enforcement teams who when I ask the question of how an investigation began, often respond by pointing to a whistleblower."

Whistleblowers, acting as "force multipliers," contributed to "record results" for SEC enforcement, said whistleblower lawyer Jason Zuckerman in Washington. "You can't argue with the data."

## \$136 million

After crossing the \$100 million mark, the SEC whistleblower program hardly let up in its efforts to reward tipsters. Between September and early December, the SEC awarded about \$30 million in whistleblower bounties, bringing the new total to more than **\$136 million**. Including a Dec. 9 award of more than \$900,000, the program has now issued bounties to 37 whistleblowers.

In the fiscal year ending Sept. 30, the SEC awarded \$57 million—a total that topped what it had rewarded in all previous years combined.

## \$22.5 million

On Aug. 30, the SEC whistleblower program cleared the \$100 million mark in style with the second-largest award in its history—a [\\$22.5 million bounty](#) to a former Monsanto Co. executive who told the agency about improper accounting that inflated the agrichemical company's reported sales of Roundup. That award came just shy of the maximum bounty he stood to receive for the \$80 million settlement Monsanto reached with the SEC in February.

Under the SEC's program, whistleblowers deemed crucial to a successful enforcement action are eligible to receive between 10 and 30 percent of any resulting penalties that exceed \$1 million.

"I think, to whistleblowers out there, it's indicative of the potential reward that information that normally would be hidden and covered up, or people would do nothing with, can lead to if employees with a conscience decide to take the initiative. It does take initiative to do," said Stuart Meissner, a whistleblower lawyer who represented the former Monsanto executive.

Meissner said the investigation took about six years alone, before the settlement.

"He did have to go through a lot," said Meissner, a former New York assistant attorney general who helped draft the original SEC whistleblower rules. "He obviously had to deal with, before even going to the SEC, bringing this up internally over the objections of his co-workers and supervisors."

## 7

The SEC cracked down this year against whistleblower retaliation and agreements that it viewed as potentially stifling tips.

In June, the SEC punished Merrill Lynch & Co. for using confidentiality agreements that could have been read to prohibit employees from voluntarily contacting securities regulators. Two months later, the [SEC reached settlements](#) with two other companies over severance agreements that required outgoing employees to [waive their ability to receive a whistleblower award](#).

The SEC took **seven** enforcement actions in 2016 over severance agreements or outright retaliation against whistleblowers.

In a two-day span this week, the SEC fined a company \$180,000 for routinely using severance agreements that contained a broad nondisparagement clause that prevented outgoing employees from contacting regulators. Under the agreements, employees could be compelled to forfeit all but \$100 of their severance for breaching the clause, according to the SEC.

The [SEC fined SandRidge Energy Inc.](#) on Dec. 20 for retaliating against a whistleblower who raised concerns about how the oil and gas company was calculating its publicly reported reserves. The

company fired the whistleblower after determining that it could find a replacement “who could do the work without creating all of the internal strife,” according to the SEC.

"It's something of a clarion call to firms to review carefully their severance agreements, and that the SEC is going to hold firms to a high standard to ensure their severance agreements can't be read to impede or discourage current or former employees from communicating directly with the commission, whether as a witness or as a whistleblower," said Mark Cahn, a Wilmer Cutler Pickering Hale and Dorr partner and former general counsel to the SEC.

## 2

After leading the SEC whistleblower program for five years, Sean McKessy stepped down in July and [handed the reins to his deputy, Jane Norberg](#). She initially served in an interim capacity before being named McKessy's permanent replacement in September. Norberg became the **second** director of the whistleblower program.

Ceresney framed the selection of Norberg as an implicit endorsement of the whistleblower program's performance during the past five years.

"In its short history, our whistleblower program has had a transformative impact on our agency, and Jane has played a significant role as deputy of the Office of the Whistleblower," he said in a statement. "I am proud of the program's accomplishments, and I know that Jane will continue to ensure the program is a game changer for years to come."

## 1

Whistleblowers don't always leave the SEC happy. Sometimes, they feel they deserved a bigger bounty. In other cases, they're deemed unworthy or [ineligible of any reward](#). In **one** case this year, a whistleblower went public with his dissatisfaction—and in the eyes of many tipsters, he was one of the lucky ones.

Eric Ben-Artzi, a former Deutsche Bank risk officer, said he refused to accept his part of a \$16.5 million whistleblower award. Ben-Artzi criticized regulators for not going after the senior executives responsible for the false accounting he exposed at Deutsche. Instead, he said, the SEC reached a \$55 million settlement with the bank that would ultimately hurt shareholders. In a column in the [Financial Times](#), he blamed the “revolving door” between Deutsche and the SEC.

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Contact C. Ryan Barber at [cbarber@alm.com](mailto:cbarber@alm.com). On Twitter: [@cryanbarber](https://twitter.com/cryanbarber).

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