

January 26

2017

# Incentivizing Whistleblowers to Report Fraud

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# WHAT IS A WHISTLEBLOWER?

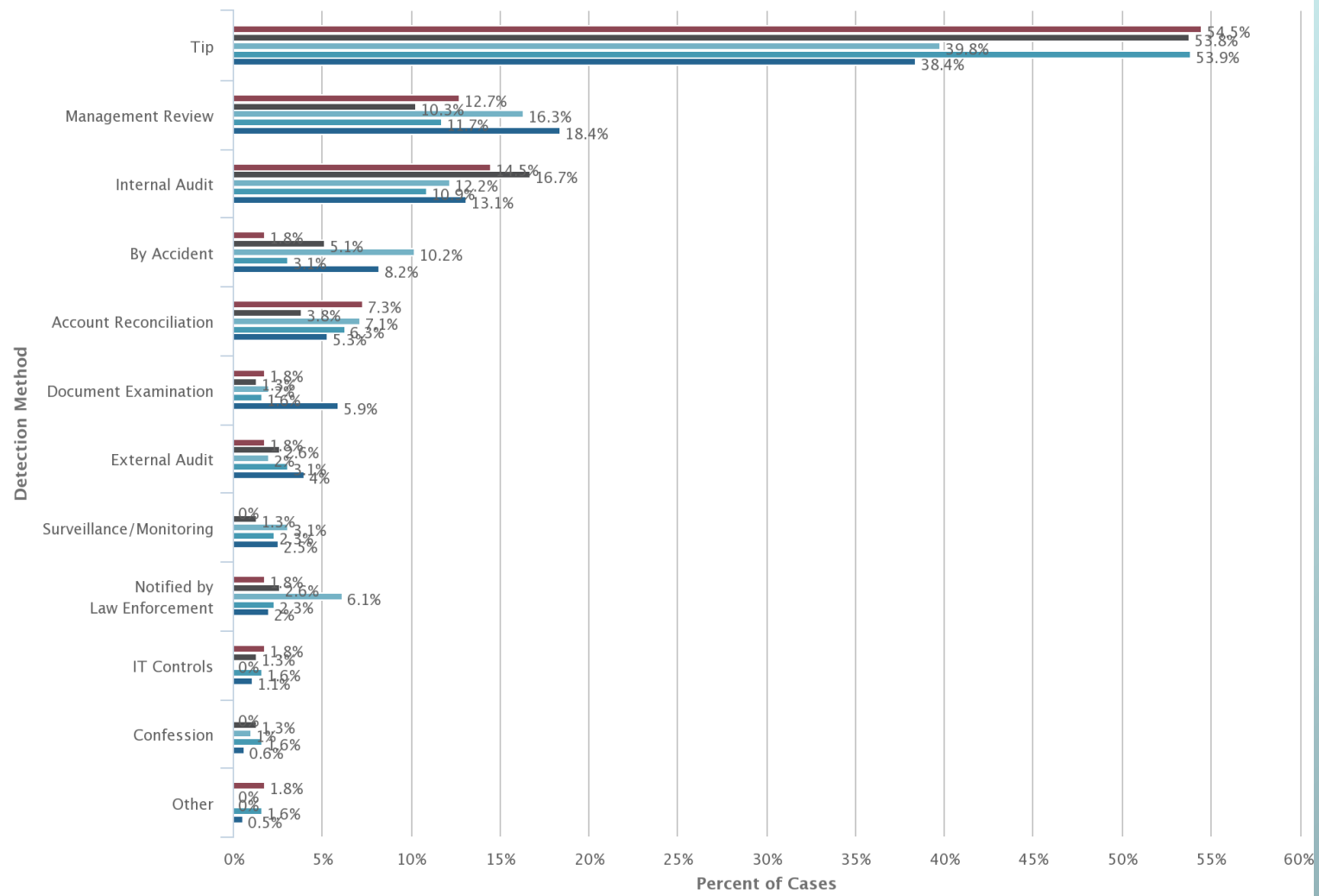
Whis\*tle\*blow\*er (noun)

1. One whose loyalty is to the truth.
2. One who reports securities fraud, corruption, or other violations of law to the appropriate authorities, often risking his or her job or security.
3. One who discloses bribery of government officials by persons seeking to obtain a business advantage.

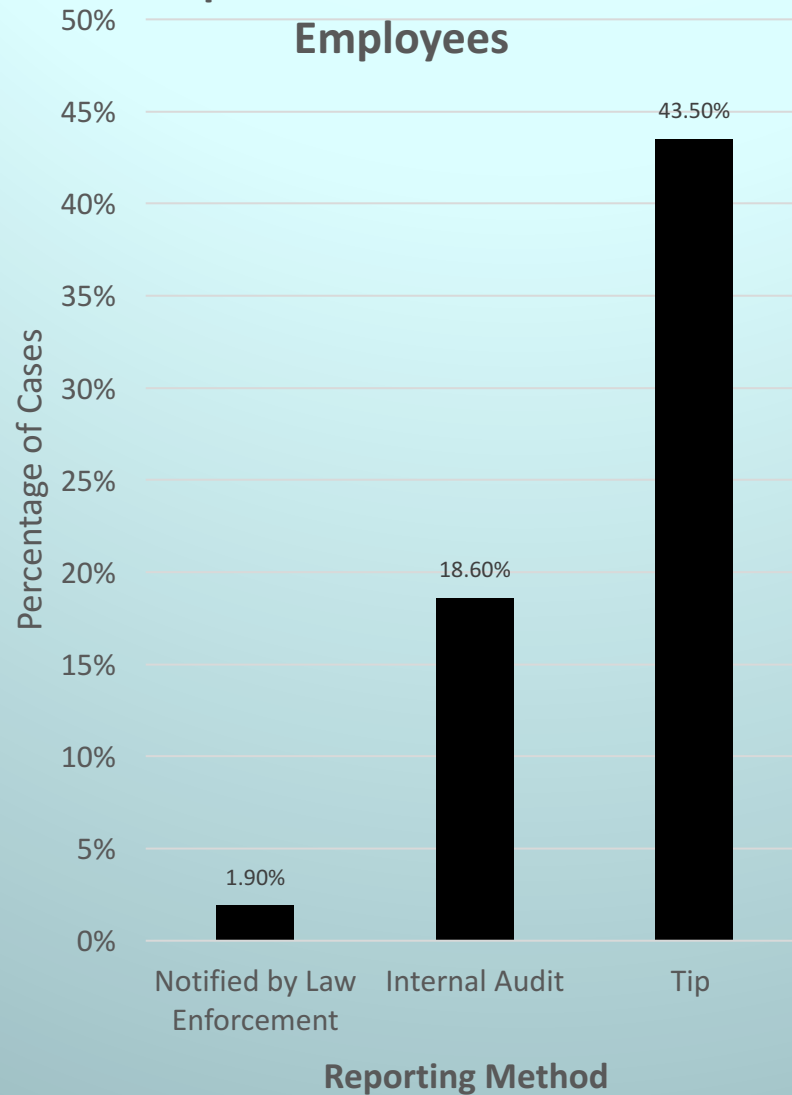
# Who Detects Fraud???



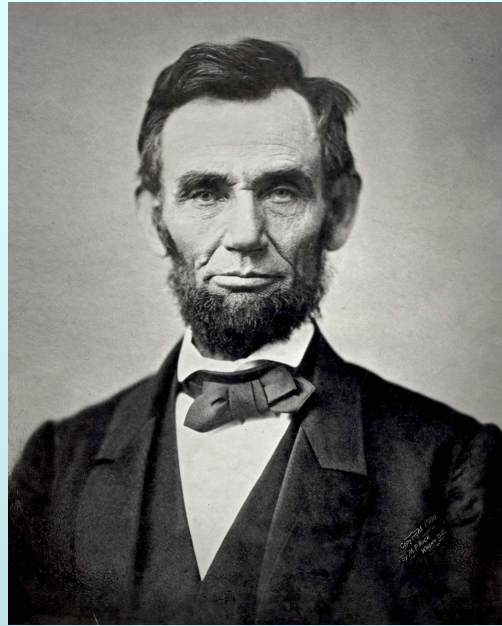
## Detection Method by Region



## Fraud Detection Methods in Companies with 100 or More Employees



Association of Certified Fraud Examiners, "Report to the Nations on Occupational Fraud and Abuse," (2016).



On March 2, 1863, President Abraham Lincoln signed the original whistleblower reward law, the False Claims Act. It was modernized in 1986. Since then it has become the most successful anti-fraud law in the United States.

The “*impact*” of the reward laws “*has been nothing short of profound. Some of these [cases] may have saved lives. All of them saved money.*”

–U.S. Attorney General



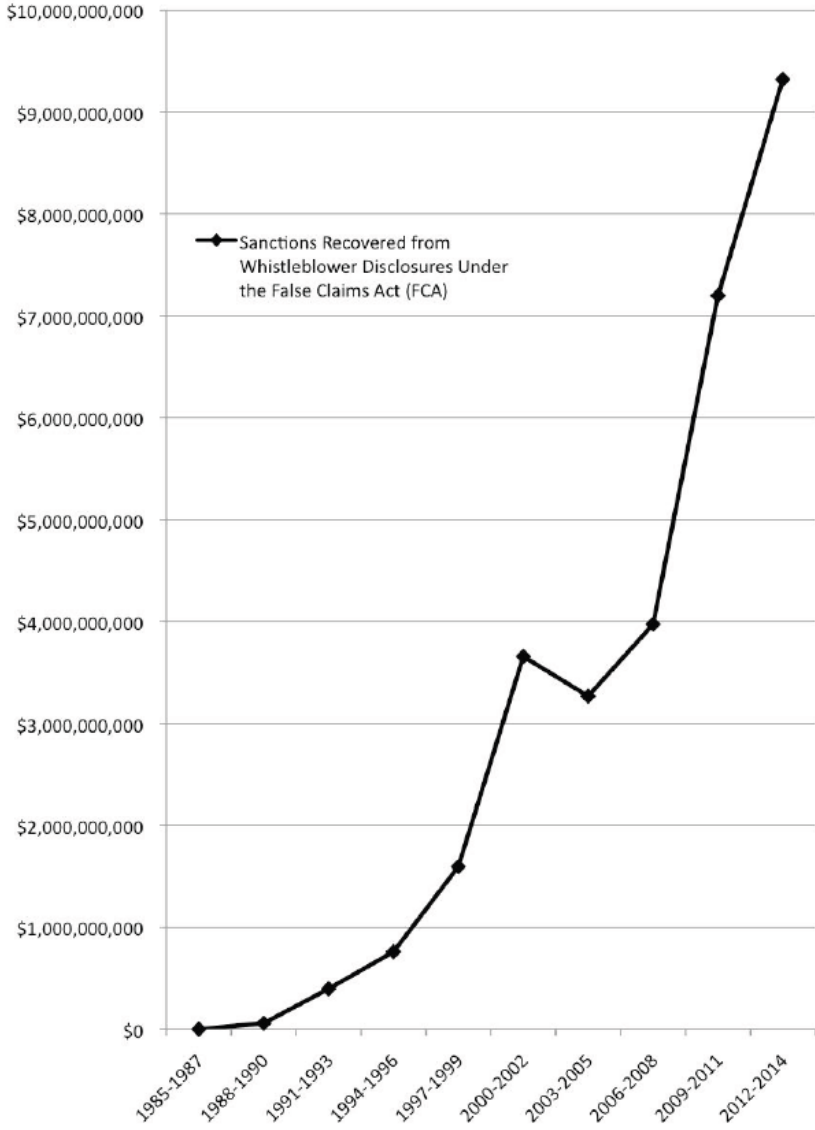
Whistleblower reward laws are  
*“the most powerful tool the  
American people have to protect  
the government from fraud.”*

-U.S. Assistant Attorney General





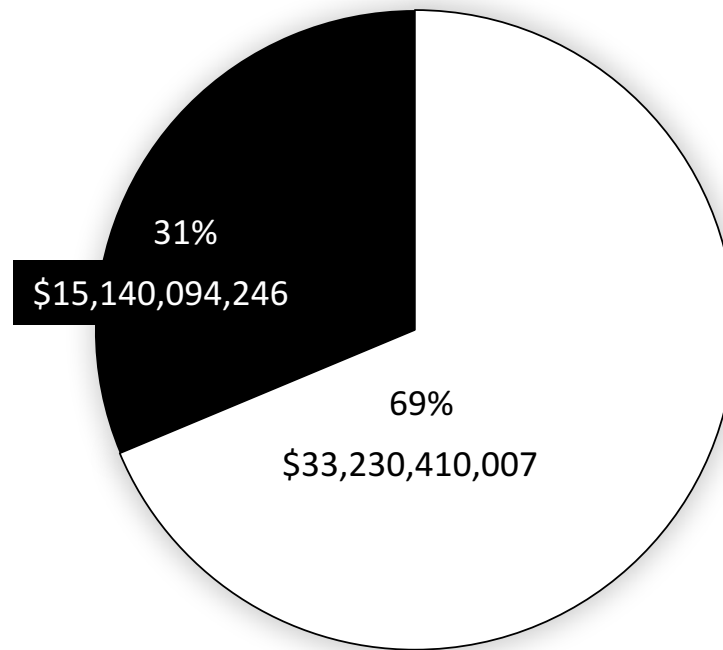
### Sanctions Obtained by the United States from Whistleblower Disclosures (FCA)



Source: "Fraud Statistics-Overview" Civil Division, U.S. Department of Justice (October 1, 1987-September 30, 2014).

# Total U.S. Civil Recovery: From Whistleblowers and Government Investigation

October 1, 1987 - Sept. 30, 2015



□ Whistleblowers

■ Government

The rewards “*create powerful incentives*” for informants “*to come to the Commission with real evidence of wrongdoing . . . and meaningfully contributes to the efficiency and effectiveness of our enforcement efforts.*”

- SEC Chair Mary Jo White



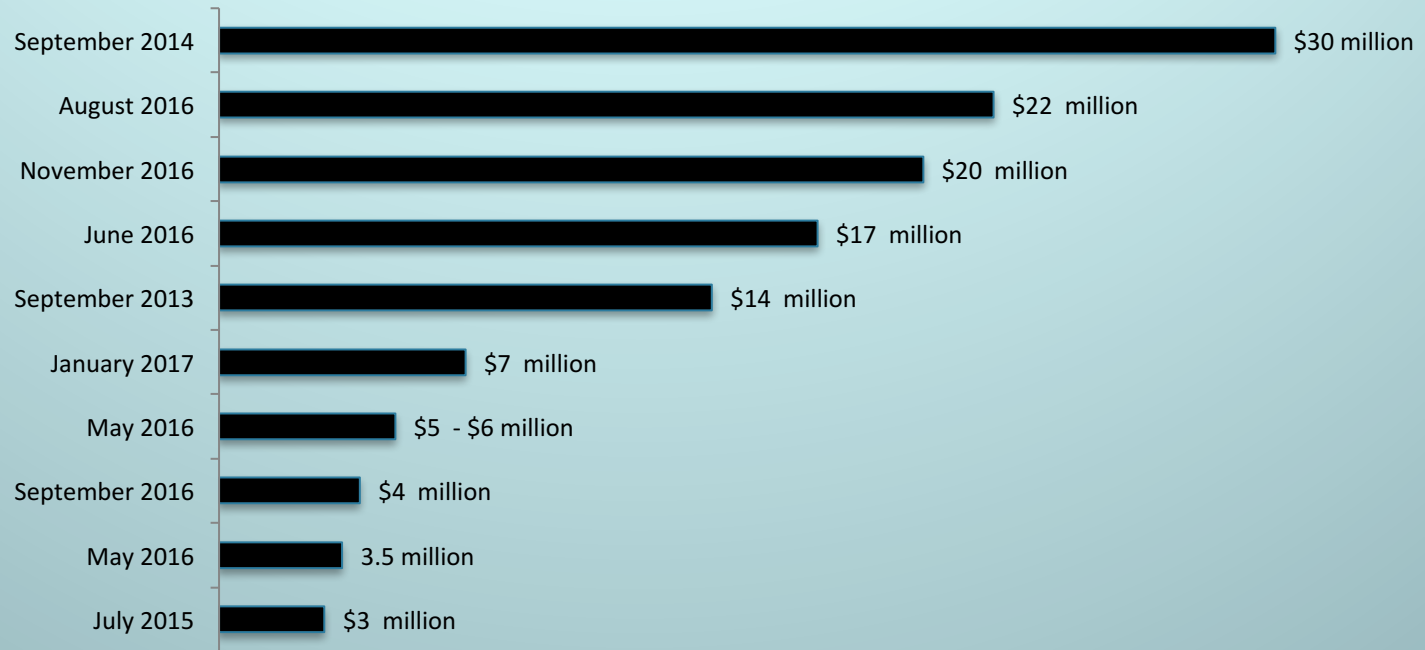
*The “whistleblower program . . . has rapidly become a tremendously effective force-multiplier, generating high quality tips, and in some cases virtual blueprints laying out an entire enterprise, directing us to the heart of the alleged fraud.”*

–Chairman, Securities and Exchange Commission.



# Largest Securities Whistleblower Rewards as Publicized on SEC's Website

## Top 10 SEC Whistleblower Awards



# **Countries From Which Whistleblowers Have Filed Reward Claims Under U.S. Securities Laws 2012-2015**



Source: U.S. Securities Exchange Commission, 2012-2015  
Annual Reports on the Whistleblower Program

*“In issuing [a \$30 million USD] award, the Commission specifically noted that **allowing foreign nationals to receive awards under the program best effectuates the clear Congressional purpose underlying the award program.**”*

--Securities and Exchange

Commission Report.



# SEC Reports on Canadian Reward Claims

## Canadians Filing Whistleblower Claims with United States Securities and Exchange Commission

Year	Number of Canadians Filing	Rank Among All Nations
2016	68	1
2015	49	2
2014	58	3
2013	62	2
2012	46	2
Total	283	



**APPENDIX F**  
**International Whistleblower Tips FY 2011-2015**

United Kingdom	221	Slovenia	4
Canada	216	Ukraine	4
China, People's Republic of	164	Ecuador	3
India	153	El Salvador	3
Australia	97	Greece	3
Ireland	51	Hungary	3
Germany	40	Indonesia	3
Russia	39	Kuwait	3
Brazil	27	Qatar	3
Mexico	27	Vietnam	3
Israel	24	Belize	2
Argentina	23	Botswana	2
Singapore	22	Costa Rica	2
South Africa	21	Cyprus	2
Switzerland	21	Czech Republic	2
Hong Kong	19	Lebanese Republic	2
Netherlands, The	19	Panama	2
Curaçao	18	Saudi Arabia	2
France	18	Zambia	2
Spain	18	Bahamas, The	1
New Zealand	17	Bangladesh	1
Malaysia	15	Burkina Faso	1
Thailand	15	Cameroon	1
Turkey	14	Cayman Islands	1
Italy	13	Democratic Rep. of the Congo	1
Chile	11	Denmark	1
United Arab Emirates	11	Egypt	1
South Korea	10	Honduras	1
Norway	9	Iceland	1
Philippines	9	Jamaica	1
Belgium	8	Jordan	1
Bulgaria	8	Kazakhstan, Republic of	1
Japan	8	Kenya	1
Poland	8	Luxembourg, Grand Duchy of	1
Portugal	8	Maldives	1
Romania	8	Malta	1
Sweden	8	Mauritius	1
Venezuela	8	Monaco	1
Slovak Republic	7	Montenegro	1
Taiwan	7	Morocco	1
Austria	6	Nicaragua	1
Colombia	6	Papua New Guinea	1
Finland	6	Peru	1
Ghana	6	Rwanda	1
Pakistan	6	Serbia	1
Dominican Republic	5	Uruguay	1
Nigeria	4	Uzbekistan	1
<b>Total Tips Received</b>	<b>1557</b>		

Source: SEC, ANNUAL REPORT ON THE DODD-FRANK WHISTLEBLOWER PROGRAM (2014); SEC, ANNUAL REPORT ON THE DODD-FRANK WHISTLEBLOWER PROGRAM (2015).

**THE FIVE STEPS**  
**FOR CREATING AN EFFECTIVE**  
**WHISTLEBLOWER PROGRAM**



# Step One

## Protect Confidentiality

*Create a secure and confidential mechanism for whistleblowers to report potential crimes.*



## Step 2

# Prohibit Retaliation

*Provide strong administrative and judicial protections for employees who suffer retaliation for making a protected disclosures. Remedies should include reinstatement, back pay, compensatory and punitive damages and attorney fees.*

# Step 3

## Pay Rewards

*The best method to incentivize whistleblowers to report fraud and illegal conduct is to provide for financial rewards based on the quality of original information provided to the government.*

## Step 4

# Program Rules Should Attract High Quality Information

*Whistleblowers who qualify for a reward must be guaranteed a minimum percentage reward (not less than 10%) and have a right to judicial review if a claim is denied. There should be no “caps” on the amount of a reward.*

## Step 5

# Establish a Whistleblower Office

*A Whistleblower Office is needed to coordinate submissions, publicize the program and ensure that rewards are paid at the highest possible level to incentivize whistleblowers and promote voluntary corporate compliance.*



# A Comprehensive Whistleblower Law Library

- Free online access to whistleblower statutes/laws
- Free online access to important legal cases
- Free online access to “links” to relevant governmental agencies and other sources

Visit the online library at:

<http://www.kkc.com/whistleblower-protection-resources/>

Follow the Whistleblowers  
Protection Blog:

<http://www.whistleblowersblog.org/>

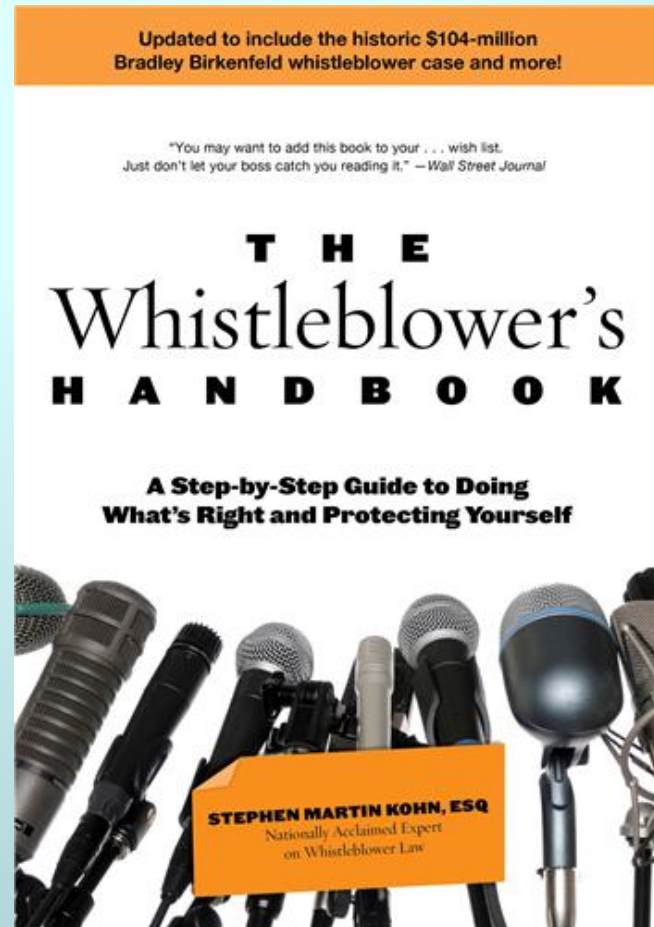




*“The single best volume of all laws, rights and obligations related to to whistleblowing that I have come across” – FCPA Compliance & Ethics Blog*

*The Whistleblower’s Handbook is a “vastly shrewd and practical” tool that “offers an astute long-view of American whistle-blowing.” – Boston Globe*

Order Copies online at  
<http://www.whistleblowershandbook.com/>



# Set up a Training



- If you are interested in arranging a training please contact: [consult@kkc.com](mailto:consult@kkc.com) or [contact@whistleblowers.org](mailto:contact@whistleblowers.org)

# ABOUT THE PRESENTOR



**Stephen M. Kohn** serves *pro bono* as the Executive Director of the *National Whistleblower Center*, and is a partner at the Washington, D.C. law firm of Kohn, Kohn and Colapinto, LLP. He has represented whistleblowers for over 30 years, successfully setting numerous precedents that have helped define modern whistleblower law. *The Whistleblower's Handbook: A Step-by-Step Guide to Doing What's right and Protecting Yourself* (Lyons Press, 3rd ed. 2013), is Mr. Kohn's eighth book on whistleblowing. Mr. Kohn represented Swiss banker Bradley Birkenfeld in his case against UBS, and obtained the largest whistleblower reward ever obtained for an individual (\$104 million).

# Contacts and Information

- National Whistleblower Center Website:  
<http://www.whistleblowers.org/>
- Kohn, Kohn & Colapinto, LLP Website:  
<http://www.kkc.com/>
- Contact the Presenter, Stephen M. Kohn:  
[consult@kkc.com](mailto:consult@kkc.com)
- National Whistleblower Day (US):  
<http://www.nationalwhistleblowerday.org/>