

The Game Changer: OSC Awards \$7.5 Million to Three Whistleblowers

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The Ontario Securities Commission (the OSC) recently announced that it has awarded nearly \$7.5 million to three whistleblowers on separate matters as part of its relatively nascent whistleblower program, which came into effect in 2016. These are the first financial rewards ever made by a Canadian securities regulator to whistleblowers.

While no details were provided relating to the three awards, the cumulative size of the awards demonstrates that the OSC is prepared to pay significant financial rewards for high quality tips. The whistleblower program is proving to be a game changer in securities regulatory enforcement and we expect to see a continuing increase in whistleblower tips and financial rewards.

The OSC's whistleblower program, which borrows certain elements from programs in other jurisdictions, is designed to encourage "high quality, timely, specific and credible" information regarding potential violations of Ontario securities laws, protects the anonymity of individuals who come forward with information, and rewards individuals whose information leads to enforcement action with monetary awards of up to \$5 million.

As of June 2018, the OSC had received approximately 200 whistleblower tips, approximately two tips per week, of which approximately ten percent warranted further action and were referred to the enforcement branch. Financial awards are only paid in respect of concluded cases where the sanctions exceed \$1 million.

As a comparison, the U.S. Securities and Exchange Commission (the SEC) whistleblower program received 334 tips and did not pay out any financial rewards in 2011, its inaugural year, and in 2018 received 5,282 tips and paid out financial rewards totalling approximately \$168 million.

It is clear that whistleblower programs are becoming an important enforcement tool for regulators with the resultant increased risk of more enforcement investigations and proceedings.

The Cassels Securities Litigation Group previously published updates regarding the whistleblower program in its 2016 Canadian Securities Litigation Outlook, and Wendy Berman and Lara Jackson also published an opinion piece on this topic in *The Globe and Mail*.

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