

A dense forest with tall, thin trees and sunlight filtering through the canopy. The text is overlaid on the left side of the image.

Using Transnational Whistleblower Laws to Combat Nature Crimes

Stephen Kohn

Chairman of the Board, National Whistleblower Center

Al Capone was busted for Tax Evasion - NOT for Racketeering or Murder



Deepwater Horizon Oil Spill



- The SEC charged BP with misleading investors while the Deepwater Horizon oil rig gushed into the Gulf of Mexico
- The company's public statements reported a flow rate of 5,000 barrels of oil per day, while internal data reported flow as high as 146,000 barrels of oil per day
- BP agreed to settle the SEC charges and pay a penalty of **\$525 million**

Dieselgate Scandal

- In 2017, Volkswagen AG (VW) was fined **\$4.3 Billion** dollars for violating EPA and ESG regulations
- VW used a defeat device to cheat on emissions tests mandated by the Environmental Protection Agency (EPA) and the California Air Resources Board (CARB)



Brazilian Mining Scandal

- Vale S.A. --Brazilian mining world's largest iron ore producer that misled investors about the safety of a dam
- In 2019, the dam collapsed killing 270 people and causing severe environmental harm.
- Vale S.A. paid a penalty of **\$55 million**



Qui Tam – The First Modern Whistleblower Law

- The False Claims Act whistleblower law was originally signed by President Abraham Lincoln on March 2, 1863. It incentivizes whistleblowers to report fraud by paying a financial reward.
- In 1986, Senator Charles Grassley led a bipartisan effort to modernize the law, making it the most successful whistleblower law ever.

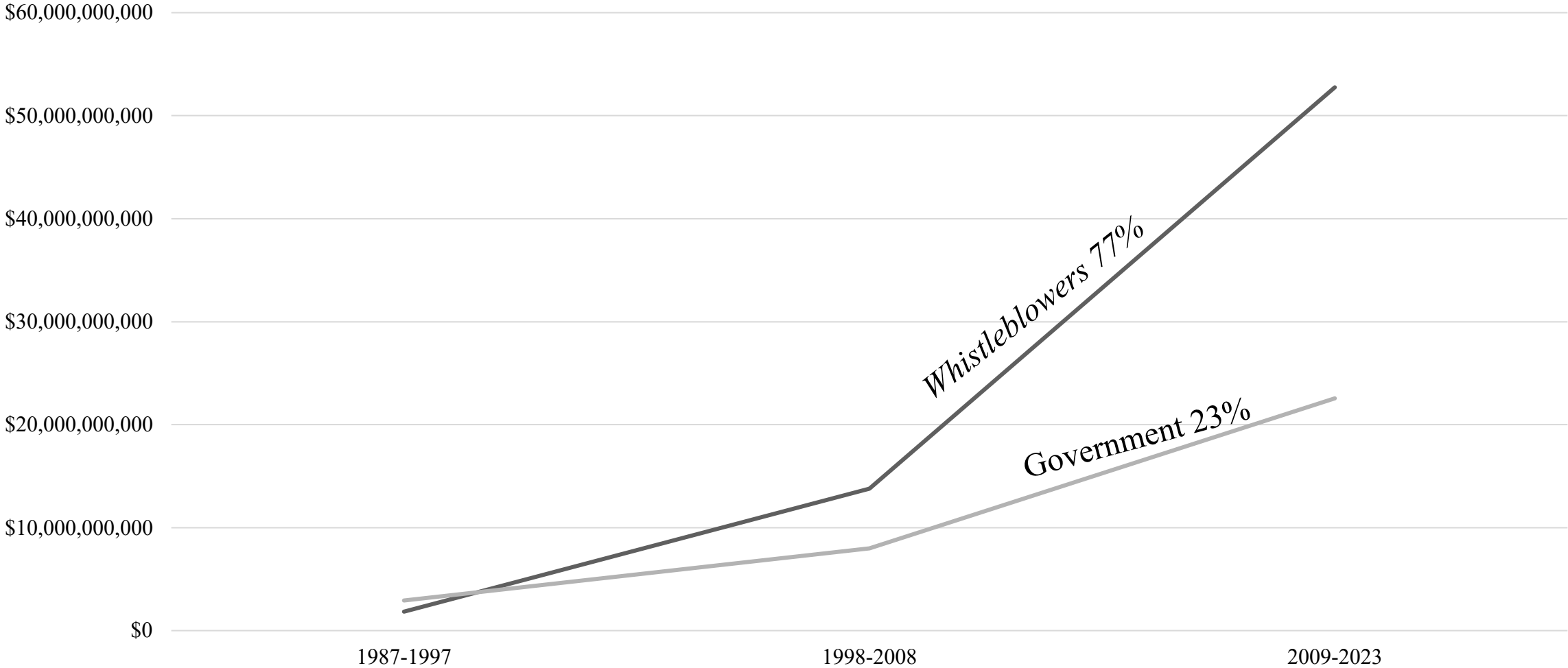




**Former U.S. Assistant
Attorney General
Stuart Delery**

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

Amount Recovered by DOJ:
Comparing Whistleblower Cases to Non-Whistleblower Cases (1987-2023)



OECD Phase 4 Report Of U.S. Implementation of the Anti-Bribery Convention

“The Dodd-Frank Act’s multi-faceted protections, most notably the SEC’s ability to enforce the anti-retaliation provisions, constitute a good practice given that they provide powerful incentives for qualified whistleblowers to report foreign bribery allegations against issuers.”



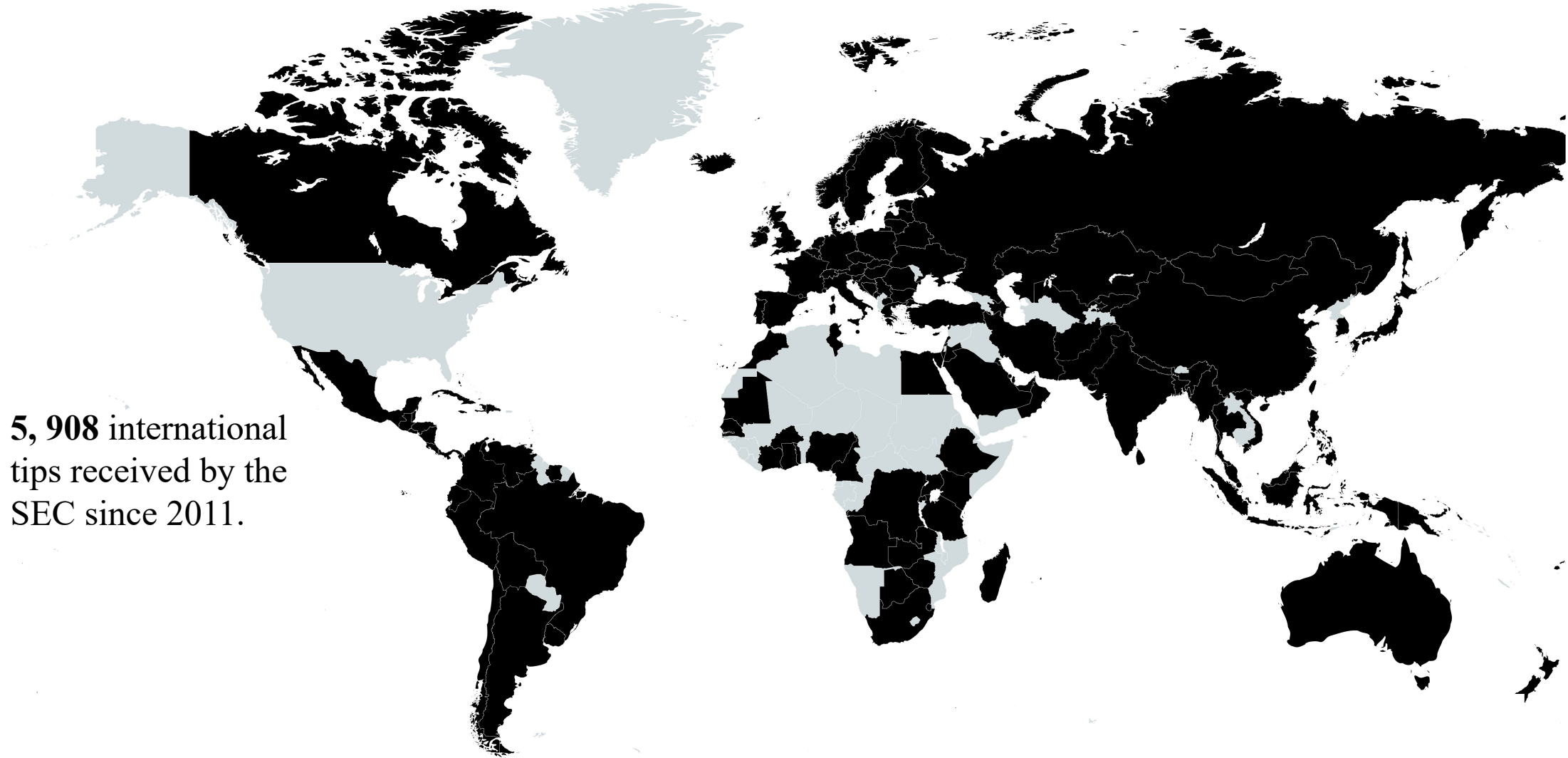
**Kevin M. O'Neill,
Deputy Secretary, SEC**

Order Determining Whistleblower Award Claim

[I]t makes no difference whether . . . the claimant was a foreign national, the claimant resides overseas, the information was submitted from overseas, or the misconduct comprising the U.S. securities law violation occurred entirely overseas.”

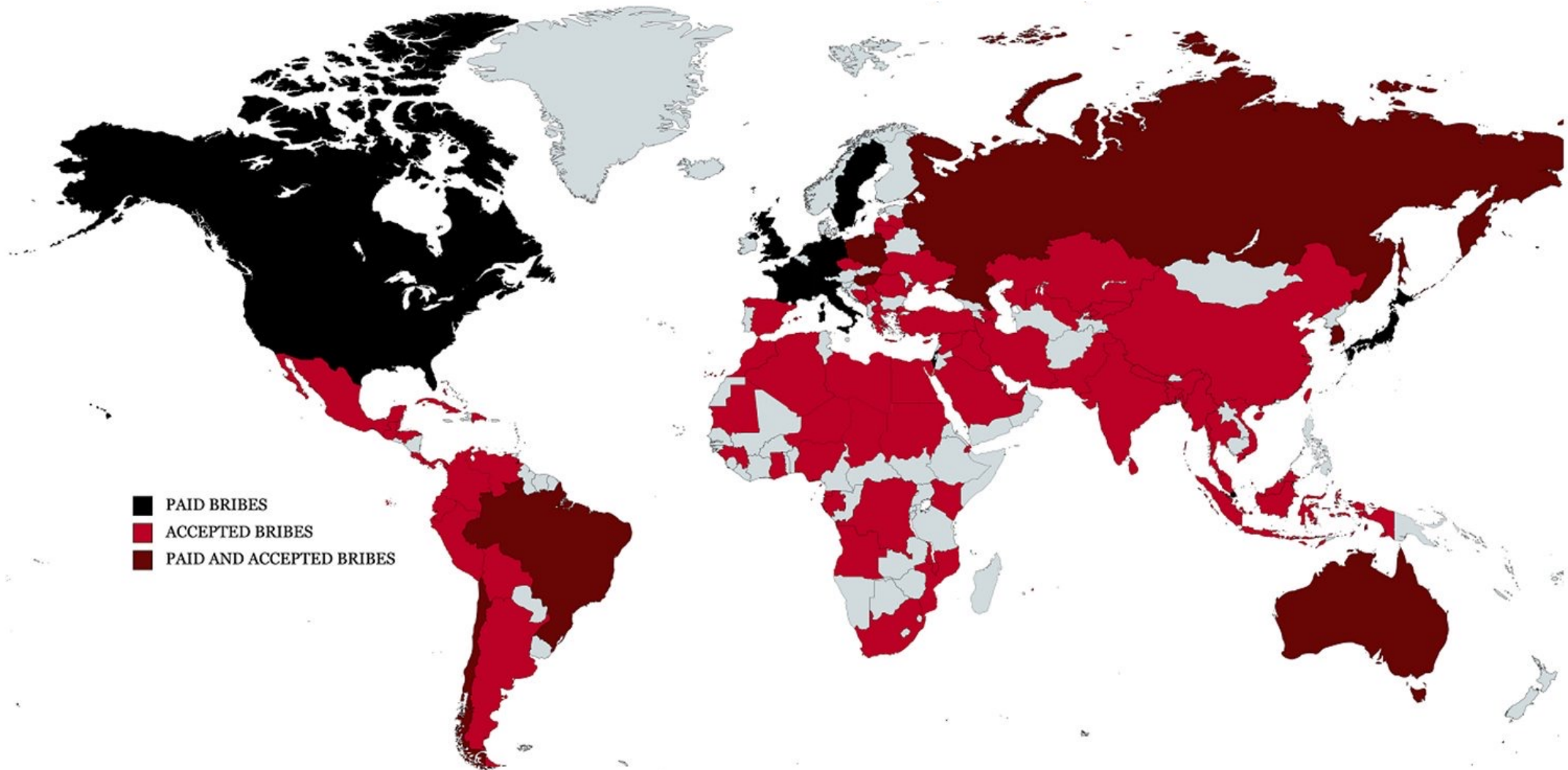


Countries Where Whistleblowers Have Submitted Tips Under U.S. Law (2011-2021)



Source: U.S. SEC Office of the Whistleblower Annual Report (2021)

Countries Where Government Officials Paid and Accepted Bribes



Source: Stanford University and Sullivan and Cromwell LLP FCPA Clearinghouse (2010-2016)

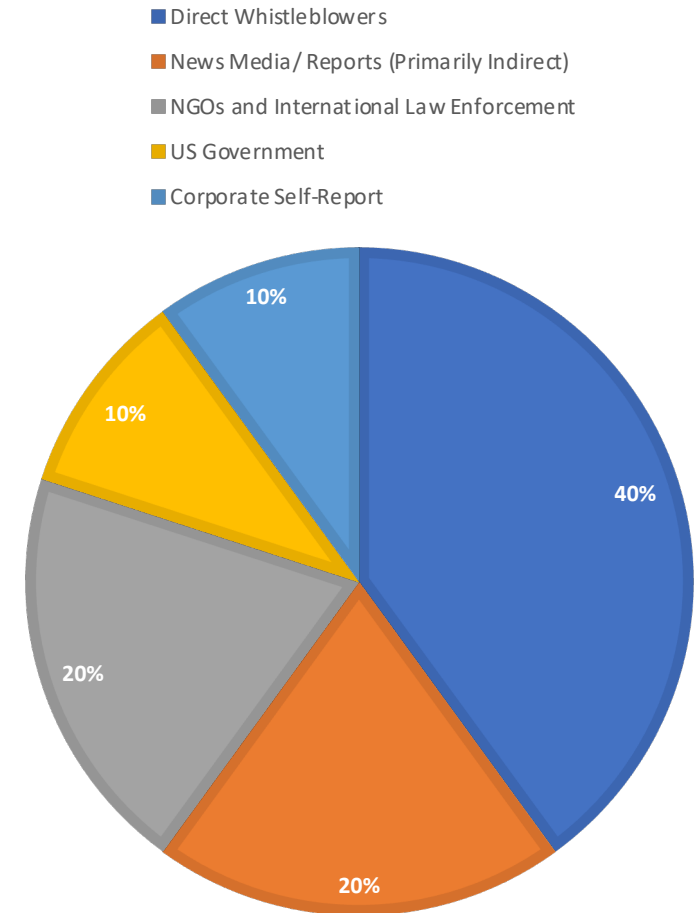
This chart does not identify countries where the whistleblower has remained anonymous or their contribution was not publicly disclosed.

How DOJ/SEC Learns About Foreign Bribery

- 40% Directly from Whistleblowers
- 20% News Media
- 20% NGOs and International Law Enforcement
- 10% U.S. government
- 10% Corporate self-reports

OECD Phase 4 supplemental US audit available at:
www.kkc.com

OECD PHASE 4 SUPPLEMENTAL AUDIT



Oil and Gas Industry Foreign Corruption Cases

Year	Company	Headquarters	Sanction
2010	GlobalSantaFe Corp	Cayman Islands	\$5.8 Million
2010	Transocean Inc	Cayman Islands	\$13.4 Million
2016	HMT LLC	United States	\$2.7 Million
2016	Key Energy Service Inc	United States	\$5 Million
2017	CEFC China Company	China	\$400,000
2017	Halliburton Company	United States	\$29.2 Million
2017	Keppel Offshore & Marine Ltd	Singapore	\$422 Million
2018	Petroleo Brasileiro S.A.	Brazil	\$1.7 Billion
2018	Vantage Drilling Company	United States	\$5 Million
2019	Griffiths Energy International Inc.	Canada	\$27.6 Million
2019	Unaoil S.A.M	Monaco	\$1.5 Million
2020	Eni S.p.A	Italy	\$24.5 Million
2020	Sarheant Marine Inc.	United States	\$16.6 Million
2020	Vitol Inc.	Switzerland	\$135 Million
2022	Honeywell International Inc.	United States	\$81.158 Million
2022	Glencore	Switzerland	\$1.1 Billion
2023	Frank's International	Netherlands	\$8 Million
Total			\$3.5 Billion



Whistleblowers can Report ESG Violations

ESG- Environmental Social Governance



ESG investing is a strategy that helps people put their money behind companies that score highly on the independent measures of their environmental, social, and governance practices



Companies that mislead consumers or investors regarding their environmental activities can violate ESG rules.



United States Securities and Exchange Commission created an ESG enforcement task force to identify violations in disclosure and compliance related to ESG funds



Transnational Whistleblower Laws

Transnational Whistleblower Laws that can be used to Target Environmental Violations

Anti- Money Laundering Act

False Claims Act

Foreign Corrupt Practice Act

Dodd-Frank Act

Commodity Exchange Act

Key Provisions for Successful Enforcement



Anonymous and Confidential reporting to US law enforcement worldwide



Full coverage to all whistleblowers regardless of nationality, where the violations occur, and residency of whistleblowers



Large monetary awards if the whistleblower information results in a sanction over \$1 million

Blowing the Whistle on pollution on the high seas

- *“The United States is the leading country in enforcing MARPOL, a widely accepted maritime environmental treaty to which the United States is a party, but to which there is widespread non-compliance.”*

*- U.S. Department of Justice,
Environment and Natural Resources
Division, Environmental Crimes
Section*



Revenue Distribution from APPS Cases Involving Whistleblowers


(1993-2021)

\$213,033,633

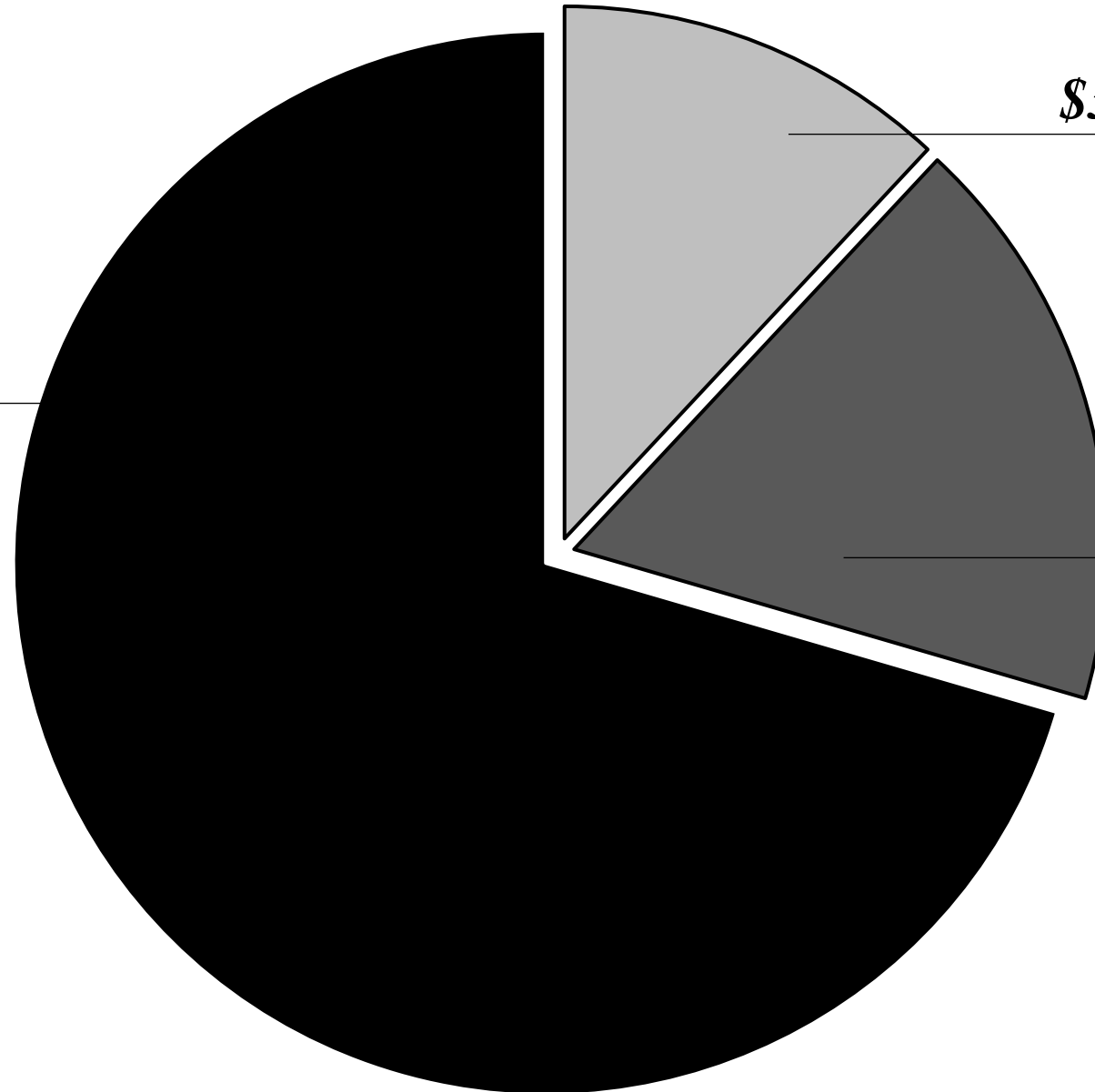
\$36,113,833

\$53,091,920

 U.S. Government Treasury

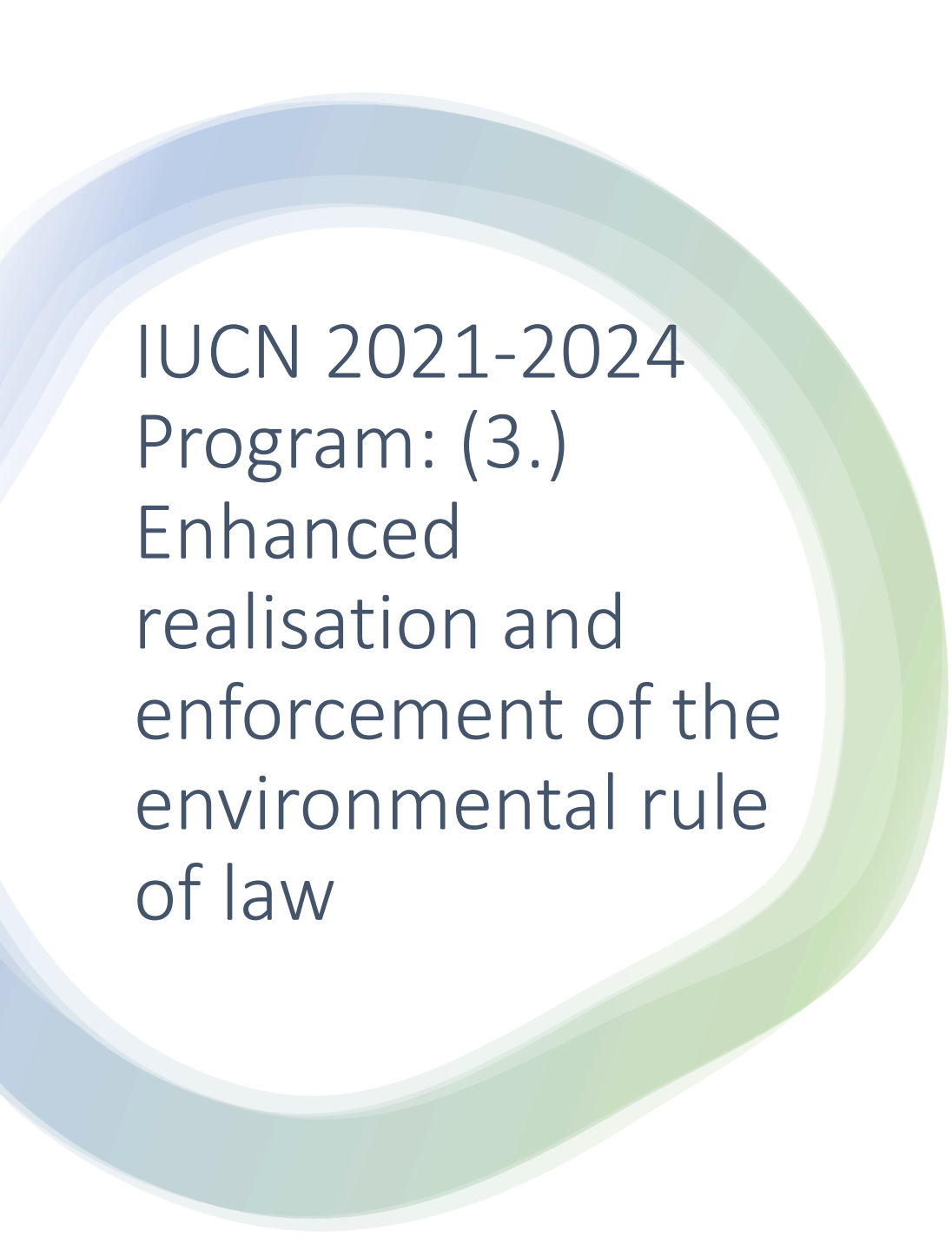
 Restitution &
Community Service

 Whistleblower Awards



Beneficial Purposes of Sanctions Obtained in APPS Cases with Whistleblowers

SAMPLES OF GROUPS WHO OBTAINED RESTITUTION	EXAMPLES OF PROJECTS FUNDED
Smithsonian Environmental Research	Restoring U.S. water ecosystems
Florida National Keys Marine Sanctuary	Conservation of wildlife resources for U.S. coastline
Alaska Sea Life Center	Protection of coral reefs
Puget Sound Marine Conversation Fund	Scientific research of marine habitats
National Fish and Wildlife Foundation	Projects and initiatives benefitting the maritime environment and marine and coastal natural resources
Abandoned Seafarers Fund	Financial support to seafarers in the U.S. currently aiding U.S. Coast Guard investigation
Oil Spill Liability Fund	Pay removal costs and damages from oil spills
National Marine Sanctuary of American Samoa	Abatement, cleanup, and remediation of pollution in American Samoa
Columbia River Conservation Fund	Education on protecting marine environments from pollution



IUCN 2021-2024
Program: (3.)
Enhanced
realisation and
enforcement of the
environmental rule
of law

***“IUCN will . . . promote
whistleblower protection
and reward laws.”***

An illustration featuring two stylized figures in business suits. The figure on the left has dark hair and is wearing a blue suit with a yellow and white striped tie. The figure on the right has blonde hair and is wearing a blue suit. They are both holding a large, thick red book. The book has the words 'WHISTLEBLOWER PROTECTION ACT' written on its cover in yellow, bold, sans-serif capital letters. The book is decorated with yellow starburst symbols. In the background, there are several grey gears of different sizes, some with motion lines around them, suggesting a mechanical or industrial setting. The overall style is modern and graphic.

Resources



ONLINE LAW LIBRARY

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

Visit the library at:
<https://kkc.com/law-library/>

Rule 1: The New WB

Rule 2: Be confidential

Rule 6: Think Globally

Rule 7: Protect Yourself

Rule 19: Dodd-Frank

Rule 20: FCPA

Rule 21: Money Laundering

Rule 23: Ocean Pollution

Rule 24: Wildlife Trafficking

NATIONALLY ACCLAIMED EXPERT ON WHISTLEBLOWER LAW
FOREWORD BY SHERRON WATKINS,
ENRON WHISTLEBLOWER; TIME PERSON OF THE YEAR 2002

RULES FOR **WHISTLEBLOWERS**

A HANDBOOK
FOR DOING



Stephen M. Kohn

Partner, [Kohn, Kohn & Colapinto, LLP](#)

Chairman of the Board of Directors, [National Whistleblower Center](#)

Adjunct Professor, [Northeastern University](#)

Stephen M. Kohn is widely recognized as the leading international authority on whistleblower law. He has represented whistleblowers in high profile cases since 1984, including the whistleblower who reported the [largest money laundering](#) scheme in history (\$240 billion laundered from Russia/former Soviet Union to New York banks). He obtained the first \$100 million [reward ever paid](#) to an individual whistleblower for reporting illegal offshore accounts at the Swiss bank UBS.

Steve is the most published author on whistleblower law. His new book, [Rules for Whistleblowers](#) was released by Lyons Press in June 2023.

Steve was awarded Top 200 attorneys in the United States by the Forbes Magazine.

Website: www.kkc.com

Email: Stephen.kohn@kkc.com

© Stephen M. Kohn, 2024,
Reproduction permitted with credit. Permission to use as
part of AI-created text or images not granted

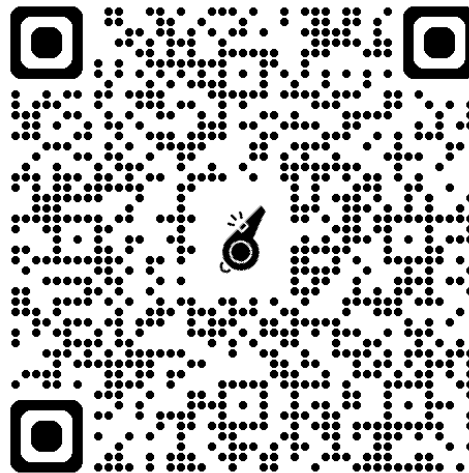
Stay up to date on the latest happenings in the world of whistleblowing!



<http://www.kkc.com/blog/>



<https://www.whistleblowers.org/>



<https://whistleblowersblog.org/>

