

Problems in the Accounting Profession

Please read a letter from Jimmy Allen, CPA, which is provided below. It describes a significant problem the CPA profession has with regard to its integrity. I wonder what the CPAs at USM's School of Accountancy and Information Systems think of Mr. Allen's letter and information.

Well, Rod Posey, Charles Jordan, Gwen Pate, Steve Jackson, Patty Munn, John Brown, as CPAs, [what do you think](#) about the cowardice and corruption Mr. Allen informs us about in the CPA profession? We know what you do when you actually participate in misconduct in an academic setting. Do you act the same with regard to your CPA profession? Are you proud of your profession? Are you proud of your school of professional accountancy? What do you stand for? What do you teach? What do you practice as a CPA?

Marc DePree
Editor

Mr. Allen's Letter

In the current corporate environment, CPAs who discover a reportable matter (i.e., one that would prevent a company from releasing their financial statements in good faith if not addressed) are all too often forced to make a decision between (1) doing the right thing and likely losing their job, and (2) dropping the matter completely in order to keep their job. You might be surprised to learn that a large percentage of CPAs that I have spoken to about this matter explicitly stated that they would never blow the whistle for fear of retaliation and job loss. "Why", they say, "would I risk my family's security and my career just to do the right thing?" The answer to that question is, of course, because you are part of a profession with ethical standards that require you to do so. And, for that matter, it is the morally correct course of action.

I too was faced with the decision of whether or not to "blow the whistle" on a matter that I became aware of at my place of employment. I made the right choice and fulfilled my responsibilities but was promptly retaliated against (in my opinion). Further, I was unable to obtain protection under Federal and State whistleblower

protection laws because of unrealistic statutes of limitations and my inability to fund a legal battle against a large corporation. Also unfortunate, the outcome of my situation only reinforced what other CPAs at my company already knew - that whistleblowers will suffer consequences.

Our profession cannot maintain the status quo any longer. We must do something now. I have proposed to the AICPA and talked with countless individual CPAs about creating a fund to assist CPAs with legal fees upon being retaliated against. Such a fund would level the playing field for CPAs trying to do their job. Unfortunately, without significant support, a fund like this will never materialize.

My goal today is to rally support for this cause and for our profession. There are a great deal of us out there suffering and our profession is currently doing nothing. I believe that if we don't take action, some other organization or agency likely will and their solution forced upon us.

I've put together a list of events likely to occur after blowing the whistle. These are based upon my experience and the experiences of other whistleblowers who shared their stories with me. Please consider distributing this to your students so they understand the severity of the situation. Also, please stress how important it is that they act honorably despite the consequences.

What to expect:

- You will either be removed from your current position or simply fired
- If you are not fired, you will find that your responsibilities have drastically changed. For example, if you were a manager of SOX compliance you might find yourself doing entry-level work like booking journal entries
- You may find other employees in your company who sympathize with your situation (even officers), but none will publicly come to your assistance
- If you seek whistleblower protection under the Sarbanes-Oxley Act, you will find that you only had 90 days to substantiate your claim, find a suitable attorney, allow the attorney time to

prepare, and file a complaint with the Department of Labor. That isn't much time. Especially after having gone through the horribly painful and exhausting process of pursuing a matter that you knew would likely end your career.

- You may be lucky enough to live in a state with additional whistleblower protection laws with more liberal statutes of limitations (in the case of Florida, 2 years). But this doesn't matter unless you have a lawyer.
- With a bit of research you'll find an attorney with a proven track record against large corporations. But even if your case is ideal, from an attorney's perspective, and you have solid documentation of retaliation, you will still be required to ante up a large retainer for the "discovery phase" (determining if you have a case). Don't let anyone fool you into thinking that attorneys regularly take on these types of cases with zero out-of-pocket expense for you.
- If you do qualify for protection under the Sarbanes-Oxley Act and you did meet the 90-day window, you will find an additional hurdle to overcome. The Department of Labor held, at least up until last October, an interpretation of the Act that precluded anyone from seeking protection if they did not work directly for the holding company. Just in case you don't know this, most large corporations create a subsidiary entity through which all (or most) of their people are employed. As such, only 17 cases (my lawyer happened to be one of these 17) out of the over two thousand cases that petitioned the Department of Labor for protection under SOX ended in favor of the plaintiff.
- Many companies now understand that their best course of action is, in most circumstances, to promote a policy of not firing or laying off anyone who cries retaliation. That way the employee could never have significant damages to claim against the company. If there are no significant damages to be had, very few lawyers are willing to gamble their valuable time for an outcome likely to produce little financial return. That means the plaintiff has to pay their attorney on an hourly basis - a substantial investment. This option is simply not feasible for many CPAs.
- You may find that your only course of action available at this point will be to resign from your position and begin carving a big

"W" on your chest. You hope and pray that prospective employers don't find out that you are currently unemployed due to a whistle-blowing incident.

- Sadly, you should not expect help from any organization - you are likely on your own. And don't get too discouraged when you realize that almost everyone you speak to about the matter knows that there's a critical problem but are unwilling to help for fear of jeopardizing their own position or financial well-being.

At a minimum, I hope all of you believe that this matter is a serious problem. If you do, I hope you will take this opportunity to work towards a solution. Keep in mind that finding a solution does not constitute an attack on any segment of our profession or on any specific company. It will be a modification of our profession's existing infrastructure. If you have an idea that you think may produce better results, please contact me. I am very interest in each of your thoughts.

Best regards,
Jimmy Allen, CPA