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## **PART 5**

### **The Current Environment**

If a university, with its promises of diversity of ideas, academic freedom, and creation of knowledge effect an environment in which faculty cannot bring “bad news” to the attention to administrators and colleagues without being punished, what hope is there that other types of organizations that offer far weaker support will not punish its employees or professionals for speaking out about perceived problems? In other words, if current protection of those who “speak truth to power” is a failure in an academic environment, then knowledgeable individuals in other environments should not be expected or be encouraged to report misconduct or illegal activity. For example, professional accountants should not be expected to bring to the attention of internal administrators or outside authorities “bad news” which has the potential of significant financial adverse consequences for stockholders and taxpayers. They should keep silent in the current legal and regulatory environment.

An assumption, therefore, is that the environment best equipped to encourage and protect the expression of different ideas and critical speech, especially when the participants have “skin in the game,” is an academic organization, a university. If the thesis that “speaking truth to power” in this most tolerant of environments is punished, then it would most likely be punished in other organizations characterized by less support for speech. A conclusion would be that in the current environment our society should not expect its citizens—auditors and internal accountants among them—to fulfill obligations

to the public, that is, to speak out to protect stockholders, taxpayers, and the public from harm.<sup>1</sup>

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<sup>1</sup> “In 2002, the Sarbanes-Oxley ("SOX") law was enacted to combat accounting fraud on Wall Street in the aftermath of the Enron, WorldCom and Arthur Anderson scandals. At the time, SOX was the most far reaching expansion of corporate oversight and reform of corporate regulatory law since the depression-era securities laws were passed. The purpose of SOX was to combat corporate fraud and restore public confidence in Wall Street and corporate America. Whistleblower protection provisions were included in SOX and the stated Congressional intent was to broadly construe those provisions in order to carry out the ambitious goal of stamping out corporate fraud. However, in practice, the SOX whistleblower law has become a major disappointment. There are several reasons that the SOX whistleblower provisions did not live up to their expectations and stated congressional intent. First, and foremost, the current administration failed to properly implement and enforce the SOX whistleblower law. Second, corporate defendants were well organized and funded, and with sympathetic Bush administration appointees in the Department of Labor, were able to convince the administration to narrowly construe the SOX whistleblower provisions to exclude most employees who report corporate wrongdoing despite the congressional intent to the contrary.”

([http://www.whistleblowers.org/index.php?option=com\\_content&task=view&id=738](http://www.whistleblowers.org/index.php?option=com_content&task=view&id=738))