7-6-2011

Whistle-Blower Protection Available under Dodd-Frank Reform

Leslie B. Fletcher

Follow this and additional works at: https://digitalcommons.georgiasouthern.edu/savannah

Recommended Citation

This article is brought to you for free and open access by the Business, College of - Publications at Digital Commons@Georgia Southern. It has been accepted for inclusion in Business in Savannah Articles by an authorized administrator of Digital Commons@Georgia Southern. For more information, please contact digitalcommons@georgiasouthern.edu.
Entertainers create jobs — not Washington

Obama appointed the wrong group, mostly big business executives, for addressing a problem that Washington cannot solve: job creation.

Obama appointed the wrong group, mostly big business executives, for addressing a problem that Washington cannot solve: job creation. Entrepreneurs create jobs, not Washington, not big business and not the council. Perhaps the Jobs Council should come to Georgia and find out how jobs are created with new ventures. It may be a surprise to many, but Georgia and Nevada tied for the top spot for the highest rate of entrepreneurial start-ups in 2010, according to the Kauffman Foundation.

Both Georgia and Nevada came in at a 0.51 percent start-up rate, meaning that 510 people per 100,000 adults created new businesses each month during the year. This compares to the national rate of 0.34 percent start-ups, or with 341 individuals starting businesses throughout the U.S. Obviously, Georgia would be a good place for the council to look at job-creating business growth.

I suggest the council look at the Entrepreneur Advisor group in Atlanta, headed by Cliff Oxford and his extensive advisory team. Oxford and associates have built an effective educational and counseling platform for helping more than 250 fast-growth companies develop strategies that will accelerate growth of their businesses. A sound approach for existing businesses creates up to 70 percent of new jobs in the economy, according to Kauffman. While in Georgia, come by Savannah and talk to our FastPitch entrepreneurs.

A recent FastPitch Entrepreneurship Competition for identifying and assisting start-up companies was conducted in Savannah by The Creative Coast, Georgia Tech and Georgia Southern University.

More than 120 entrepreneurs responded with their new venture ideas. Forty-two of the most promising were presented to the business community and investors for possible funding. A FastPitch program is important, for start-ups can create up to 30 percent of the new jobs. A soon-to-be announced Savannah company is taking a page out of Tom Friedman’s latest book “Hot, Flat and Crowded.”

Friedman says when sustainability is seriously acted upon in the U.S. this will cause an economic transformation greater than the first Industrial Revolution. Developing products and services for the green economy is “posited to be the mother of all markets,” according to Friedman. This Savannah Internet-based firm will focus on creative “products of the future” — green products, sustainability products, technologically-implanted products, smart products and new ideas for clean energy, energy efficiency and conservation of energy.

If you have product ideas in this area, please send them to me for consideration. I have a relationship with this start-up venture.

We encourage council members to visit Georgia, a national hub for entrepreneurial activities, a state where cities are identifying, and promoting entrepreneurship and a state where a large number of individual entrepreneurs are seeking to start their new ventures. It is here, at the local level, where you will discover how start-ups really occur and how entrepreneurship can be encouraged to grow and create jobs.

Dr. Ervin Williams, Entrepreneur in Residence, Savannah State University, and author of “The Global Entrepreneur,” 2011 revised edition. Contact: Phone 912-399-2835, or email at cheers@ervinwilliams.com.

Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) added new Section 21F to the Securities Exchange Act of 1934 (the Act). This section, “Securities Whistleblower Incentives and Protection,” enables the U.S. Securities and Exchange Commission (the Commission) to pay awards to eligible whistleblowers. Dodd-Frank also provides protection from retaliation by employers to those individuals who submit securities information to the Commission.

To be eligible for a monetary award, whistleblowers must (a) voluntarily provide the Commission (b) original information about a violation of federal securities laws (c) in writing (d) that leads to the successful enforcement of a covered judicial or administrative action, or a related action, resulting in monetary sanctions exceeding $1 million. Whistle-blowers who choose to remain anonymous are required to submit their information to the Commission through an attorney.

Whistle-blowers who choose to remain anonymous are required to submit their information to the Commission through an attorney.

Issue 1: What is a whistleblower? Final Rule 21F-2(a) clarifies parts of the definition contained in the proposed rule and retains its applicability solely to natural persons. Legal entities are, therefore, ineligible to receive an award. The final rules define a whistleblower as an individual who, alone or jointly with others, provides information to the Commission in accordance with the procedures set forth in Rule 21F-9(a) relating to a possible violation of the federal securities laws, or a rule or regulation promulgated by the Commission, that has occurred, is ongoing or is about to occur. The final rule expands the number of possible violations included and the time frame over which the violations could occur. It also strictly delineates reporting procedures to ensure that only voluntary whistle-blowers meet the eligibility requirements for a monetary award.

Issue 2: What is the interaction between the section 21F whistleblower requirements and the existing whistleblower requirements of a company’s internal controls and compliance procedures? The runners could decide not to require whistle-blowers to go to their companies’ internal controls and compliance procedures. The Commission did include incentives to encourage employees to first report internally. Whistle-blowers who report through their employers’ compliance system first to reporting to the Commission may receive a larger monetary award.

Conversely, those who interfere with their company’s compliance systems may receive a reduced award. A second incentive credits its whistle-blowers with both their own original information and any additional information submitted by the whistleblower or by their companies.

Numerous other issues were resolved in the final rules. To view them and the complete text of the regulation, go to sec.gov/complaint/info_whistleblowers.shtml.

Leslie B. Fletcher, CPA, is a professor of accounting at Georgia Southern University’s School of Accountancy. You can contact her at fletcher@georgiasouthern.edu or 912-478-0104.