

IRS Settles With Worker Suspended Over Contractor Claim

By **Roxanne Palmer**

Law360, New York (February 09, 2012, 9:46 PM ET) -- The U.S. Internal Revenue Service has reached a settlement with an employee who was suspended after blowing the whistle on alleged mismanagement by an IRS contractor, the U.S. Office of Special Counsel said Wednesday.

While the IRS disagreed with the OSC's finding that its actions violated the Whistleblower Protection Act as well as employee Charles Adelberg's First Amendment rights, both parties reached a "mutually agreeable settlement," the agency said.

Further details on the settlement were not immediately available.

Adelberg, an IRS economist based in San Jose, Calif., had told the agency that oversight of the contractor — which was not named by the OSC — was too lax, resulting in a potential loss of millions of taxpayer dollars.

Adelberg notified the IRS Inspector General of his suspicions through his private attorney and cited the corporation involved by name, according to the OSC.

"The IRS viewed Adelberg's disclosure to his attorney as inconsistent with his statutory obligation not to disclose a taxpayer's confidential information," and suspended him for two weeks without pay, the OSC said.

But Adelberg had a legal right to bring his suspicions to the OSC or the IG, and also had the right to make certain disclosures to his attorney in order to ascertain the scope of his rights and potential risks as a whistleblower, according to the OSC.

"Employees who have the courage to come forward with mismanagement claims should not have to risk their careers," special counsel Carolyn Lerner said Wednesday. "The goals of the WPA are better served if agencies do not penalize their employees for seeking advice and protection from counsel before putting their jobs on the line."

The unnamed corporation that Adelberg blew the whistle on is responsible for assisting with audits of major corporations, according to the OSC.

The OSC said Adelberg obtained the relief required by OSC's corrective action statute, and Adelberg in turn agreed to withdraw his complaint.

A representative for the IRS could not be immediately reached for comment Thursday.

Last April, a bipartisan group of U.S. senators reintroduced legislation that would strengthen existing legal protections for federal employees who blow the whistle on fraud or misconduct, after an earlier version of the measure died in Congress in 2010.

The Whistleblower Protection Enhancement Act of 2011, introduced by Sens. Daniel K. Akaka, D-Hawaii, and Susan M. Collins, R-Maine, would build on protections already provided by the Whistleblower Protection Act of 1989, which prohibits executive branch departments and agencies from taking retaliatory action against any employee who reports waste, fraud, abuse or other wrongdoing at an agency.

The bill also establish a whistleblower protection ombudsman to educate agency personnel about whistleblower rights, and would provide the OSC with the independent right to file amicus briefs with federal courts in such cases.

--Editing by Kat Laskowski.