

# Whistleblowers: Uncovering facts of financial frauds in forensics

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**Abstract-** The present study emphasis on the evolution of International and Indian laws protecting whistleblower's and highlights the vital role that these individuals play in exposing and combating financial misconduct in a variety of industries. The article assesses the influence of historical events on present whistleblowers legislation by thorough study of cases including the Enron fraud, the Satyam scam, the Kandla port scam, the 2G spectrum scam, and the wire card affair. By categorizing the several types of financial crime that whistle blowers have revealed, including accounting fraud, insider trading, Ponzi schemes, and the securities fraud. It will help to comprehend the various facets of contributions in the mentioned cases. It also discusses the moral and legal dilemmas that employees of financial institutions must deal with, as well as the ethical obligations that come with working in the industry. This study concludes by creating awareness and strengthening public perception for whistle-blowers in India, emphasizing the moral implications for corporate accountability, and presenting whistle-blower as ethical guardians for an open and accountable system of finance.

**Keywords:** Accounting, Investigation, Forensic, Fraud, Whistle blower

## 1. INTRODUCTION

### 1.1 Whistleblower Definition

Whistleblowers are someone who disclose information about wrongdoing, misconduct, illegal activity, or unethical behavior that takes place within a business or organization. They frequently divulge this information to authorities, regulatory bodies, media outlets, or the general public at great personal or professional risk. Whistleblowers typically expose issues that jeopardize the public interest, such as fraud,

corruption, safety violations, environmental risks, or other wrongdoing. Their actions are meant to promote accountability, openness, and the rectification of wrong in a business or social context. (Chen, 2019)

### 1.2. Whistleblower Importance in Uncovering Financial Fraud

The importance of whistleblowers in bringing financial misconduct to light cannot be overstated. The following are some key points that highlight their significance:<sup>2</sup>

1. Early Identification and Defence: Whistleblowers typically hold insider knowledge of fraudulent conduct within Businesses. Their disclosures facilitate the early detection of fraudulent behavior and allow regulatory bodies or the authorities to respond quickly. Early detection shields investors and stakeholders from harm and reduces the likelihood<sup>3</sup> of future financial losses. Obtaining Insider Knowledge: Whistleblowers typically possess firsthand information of fraudulent behavior, which is not discovered through regular audits or examinations. Their expertise and evidence can shed illumination to the finer points of financial fraudulent activity, such as accounting issues, statements of finances manipulation, and theft. (Jubb, 1999)

2. Increased Transparency and Accountability: Whistleblowers play a major role in enabling organizations to foster accountability and openness. By uncovering fraud, they hold individuals and institutions accountable for their actions, which finally fosters a morally upright society. (Wijaya, 2023)

3. Strengthening of Regulatory Measures: Whistleblower reports typically lead to changes in

regulatory regulations and processes. Administrations and regulatory bodies may alter or enact new laws or regulations, improving the finance sector in order to prevent similar fraudulent practices in subsequent years. (Kampourakis, 2020)

4. Investor protection as well as the general good: Whistleblowers safeguard the public interest by exposing financial misconduct that might jeopardize consumers, investors, and the economy as a whole. Their disclosures help protect vulnerable parties from monetary loss and suffering. (Khan, 2022)

5. Support for legal processes and inquiries: Whistleblower data has been valuable evidence in court cases and investigations. Their testimony and evidence are very helpful to prosecutors and law enforcement agencies when building cases against financial fraudsters. (Mechtenberg, 2020)

6. Corporate Ethics and Morals: Whistleblowers highlight the transgressions of ethical standards and business management. Their actions usually lead to enhancements in corporate processes, inspiring companies to establish robust internal controls and ethical standards to prevent misconduct in the future. (DeMott, 2021)

## 2. WHISTLEBLOWING HISTORICAL CONTEXT

### 2.1 Earlier Whistleblowing Incidents In Finance Fraud Case

1. The 2G Spectrum Fraud-: Time magazine listed scam as a very top 10 power scam. It entails granting license for the use of 2G spectrum to multiple Indian telecom carriers. The scam was discovered by whistleblowers who saw irregularities in the allocation process. (DYCK, 2010)

2. The Satyam Scam-: An important accounting scam that occurred in India was the Satyam Scam. The fraud was exposed by whistleblowers who brought attention to irregularities in the company's financial records. (sharma, 2016)

3. Kandla Port Scam-: This loan fraud case is purportedly related to the Shipping Ministry. The scam was discovered by whistleblowers who draw attention to shortcomings in the way the ministry operates. (Yadav, 2010)

4. Enron Fraud-: The Enron Scam, a major accounting and business scam, caused the energy company Enron to declare for bankruptcy. The scheme employed financial statement fabrication and off-book accounting methods, leading to one of the worst corporate scandals in history. (Tonge, 2003)

5. Scandal of Wirecard -: False financial reporting and a series of unethical business activities led to the bankruptcy of the German banking corporation Wirecard, which became known as the "Wirecard Scam." The fraud involved the creation of fake transactions and the manipulation of financial accounts, and it was the biggest accounting swindle of the twenty-first century. (Kilby, 2022)

### 2.2 Development of Regulations and Laws Protecting Whistleblower

#### 2.2.1 Before the 2000s: No comprehensive Laws

1. Before specific laws were created in this area, India did not have comprehensive legislation devoted to the safeguarding of whistleblowers.<sup>4</sup>

2. Employees who disclosed information about financial misconduct or corruption risked. (The national whistleblower center, 2022)

#### 2.2.2 The Public Interest Disclosure and Informer Protection Initiative (PIDPI) Resolution from 2004

1. This resolution was intended to encourage public servants to report instances of misbehavior, corruption, or unlawful activities carried out by their colleagues.

2. Although it was a significant step, there were no specific provisions or legal backing for protection. (CIRCOT, 2022)

#### 2.2.3 The Right to Information Act (RTI) of 2005

1. This Act, while not only aimed at safeguarding whistleblowers, allowed individuals to ask public entities for information.

2. It directly benefited whistleblowers by promoting transparency and easing information availability. (Ghuman, 2017)

#### 2.2.4 The 2013 Companies Act

1. Section 177 of the Company Act created a monitoring mechanism for directors and employees to

submit concerns about unethical conduct, fraud, or policy infractions. (Mishra, 2017)

### 2.2.5 The Whistleblower Protection Act ( 2014)

1. The purpose of this law was to provide legal protection to whistleblowers in all industries; but, it was met with criticism for a variety of reasons, including its limited reach and inadequate safeguards for informants. (Meenu, 2020)

### 2.3 Influence of past cases on current whistleblower regulations:-

1. 2G Spectrum Scam: Policies Impact's: This incident demonstrated the criticality of protecting whistleblowers from harm and offering anonymous reporting channels. Consequently, discussions to strengthen whistleblower protection laws in India's telecom sector were initiated. (AKLEGAL, 2023)

2. The Satyam Scam: Policies Impact: The Satyam case exposed weaknesses in the safeguards for whistleblowers and emphasized the need for all-encompassing regulations that offer a secure environment for them in the Indian IT and commercial sectors. (Jaiswal, 20233)

3. Enron Fraud: The Enron scandal has had a considerable impact on conversations about corporate responsibility and whistleblower protection laws worldwide. It highlighted the need of protecting whistleblowers and ensuring that their disclosures lead to meaningful actions. (Portillo, 2014)

4. Wirecard Scandal: This case highlighted the need of responsive and accountable corporate governance as well as the need for robust whistleblower protection laws in the financial and technology sectors. (Miceli, 2008)

## 3. FINANCIAL FRAUD TYPES SPOTTED BY WHISTLEBLOWERS

### 3.1 The Fraud in Accounting:

The act of fabricating financial records, concealing material facts, or withholding information that may be helpful to regulators, investors, or additional stakeholders is known as accounting fraud. (Del, 2019)

### 3.2 Security Fraud:

In the financial services business, deceptive practices such making false promises, leaving out crucial information, or tampering with stock prices are called securities fraud. Whistleblowers may uncover instances of fraudulent conduct regarding bonds, stocks, including other securities, insider trading, misleading information releases, or market manipulation. (Buccirossi, 2021)

### 3.3 Insider Training:

The act of insider trading is a way of making stock trades with substantial, confidential knowledge, providing an unfair advantage to those with access to confidential information. Situations when employees of a company or organization utilize privileged information to carry out illegal activities may be exposed by whistleblowers. (Barone, 2023)

### 3.4 Ponzi schemes:

Whistleblowers usually bring to light situations where incentives to stockholders are paid using funds from potential investors rather than with real earnings. Whistleblowers may also disclose other fraudulent activities, such as bribery, money laundering, theft of assets, or other schemes meant to deceive investors or stakeholders. (Jacinta, 2023)

## 4. CASE STUDIES OF SIGNIFICANT DISCLOSURES BY WHISTLEBLOWERS

### 4.1 Sherron Watkins's Part and The Enron Scandal:

Synopsis: The Enron scandal, regarded as one of the foremost well-known cases of corporate fraud, included unethical financial behavior and accounting issues that finally led to the company's collapse in 2001. The role of the whistleblower: In an anonymous letter to Kenneth Lay, the company's then-CEO, Enron the office of vice president Sherron Watkins, at the time, expressed concerns about moral quandaries and accounting issues.5

Impact: Enron's dishonest accounting practices were made public thanks in large part to Watkins' memo. It brought attention to the company's reckless financial practices and sparked investigations that ultimately exposed the whole extent of the fraud. (Zulauf, 2011)

### 4.2 The Bernie Madoff Ponzi scheme and Harry Markopolos, :

Overview: Bernard Madoff orchestrated one of the largest Ponzi scams in history over a number of decades, defrauding investors of thousands of dollars..

The role of the whistleblower: Finance analyst Harry Markopolos furnished the SEC with substantial evidence of Madoff's fraudulent investment scheme on many occasions over a ten-year period.

Impact: By failing to take Markopolos's concerns seriously, the SEC exposed regulatory vulnerabilities in response to his persistent efforts. However, following Madoff's imprisonment, his revelations prompted modifications to SEC procedures and laws safeguarding informants, which facilitated the receipt and evaluation of credible allegations. (Clark, 2017)

## 5. CHALLENGES FACED BY WHISTLEBLOWERS:

### 5.1 Fear of retaliation and its consequences

1. Fear of Coming Back: Whistleblowers often feel fear and concern about potential repercussions when they expose accounting fraud or other violations within their companies. Retaliation can take many various forms, including being blacklisted, demoted, sacked, harassed, shut off from digital media, or have one's reputation ruined at work.

2. Effect on the Mind: They fear retaliation, whistleblowers and their families may endure extreme stress, worry, hopelessness, and emotional suffering. It might lead to a hostile work environment, which would be detrimental to the whistleblower's overall health and cause mental health issues.

3. Professional Repercussions: Whistleblowers may encounter difficulties finding new work opportunities as a result of their reputation being tarnished or being put on a blacklist inside their company. In addition to impeding career advancement, retaliation might result in uncertain finances and difficulties.

4. Fallout on the Social and Personal Levels: Whistleblowers frequently encounter social rejection, strained relationships, and isolation within their communities or professional networks. Stress caused by relationships and the weight of anticipated judgment for standing up to what's ethically good may be detrimental.

5. Financial strain and legal battles: Legal battles against businesses or firms that whistleblowers believe

are guilty of misconduct can be costly and difficult to do. The cost of defending oneself against reprisals lawsuits or legal actions might be incurred.<sup>6</sup> (Benchekroun, 2012)

### 5.2 Legal and Ethical dilemmas

#### 5.2.1 Legal Conundrums:

1. Whistleblowers must balance the moral need to expose financial misconduct contrary to agreements of non-disclosure or confidentiality clauses. If such agreements are breached, there may be legal repercussions.

2. Regulating vs. Reporting: Employees may have to decide between following internal reporting procedures that have been legally mandated by their companies, or reporting directly to external regulatory bodies or law enforcement agencies.

3. Defamation and Legal Repercussions: Those who come forward as informants may be accused of defame or may be subject to retaliatory litigation from the people they have identified. This might lead to protracted legal proceedings, financial difficulties, and psychological misery.

#### 5.2.2 Moral Conundrums:

1. Organizational Allegiance vs. Ethical Obligation: Whistleblowers usually face a difficult decision on which of their two allegiances to follow: their company or the ethical obligation to expose injustice. This dilemma arises when disclosing fraud might jeopardize their peers' employment or harm the firm, they work for it.

2. Impact on Partners and Colleagues: Whistleblowers may run into ethical dilemmas when it comes to the potential consequences of their exposes on shareholders, investors, or colleagues who could suffer as a result of the discovered fraud.

3. Own Accountability vs. Public Interest: When balancing their own personal dangers or consequences—including the potential for retaliation—against people's general interest for uncovering financial fraud, whistleblowers face a difficult moral dilemma.

#### 5.2.3. Legal and ethical factors Colliding:

Whistleblowers often face moral dilemmas when navigating legal systems. They have to weigh their moral obligation to expose injustice against the possible legal consequences.<sup>7</sup>

### 5.3 The function of corporate ethics and culture

1. Fostering a corporate culture that promotes moral behavior, transparency, and accountability may help prospective whistleblowers avoid some of the ethical and legal pitfalls they may face.

2. Better Laws to Protect Whistleblowers: Whistleblower disclosures have prompted legislative changes to strengthen protections, including as legal protections against retaliation and anonymity to encourage reporting.

3. Establishment of Reporting Structures: Organizations and regulatory bodies have established hotlines and online forms to facilitate individuals reporting financial misconduct in confidence, platforms, and specific reporting channels. (Staff, 2019)

## 6. EFFECTS OF MARKET AND FINANCIAL INSTITUTION WHISTLEBLOWERS

### 6.1 Regulations changing as a result of whistleblowing

1. Legislation that better protect whistleblowers: Whistleblower revelations have prompted legislative changes to strengthen protections, including as legal safeguards against retaliation and anonymity to encourage reporting.

2. Creation of reporting structures: Regulatory bodies and associations have established hotlines, online portals, and dedicated reporting frameworks to facilitate individuals' ability to report financial misconduct in confidence.

3. More Enforcement and Oversight of Regulations: Regulatory agencies now oversee enforcing more laws and regulations, conducting thorough investigations into claims of fraudulent activity in finance and imposing harsher penalties for violations.

4. Schemes for Rewarding Whistleblowers: Some regulatory bodies have put in place incentive programs that offer financial rewards or other

advantages to whistleblowers whose disclosures lead to successful legal actions or settlements.

5) Increase in the Scope of Whistleblowers: As a result of regulatory frameworks, claims of insider trading, fraud in securities, accounting issues, and other financial misbehavior are now more widely covered by protected disclosures. (Cannon, 2023)

### 6.2 Long-term implications for corporate governance

#### 6.2.1 Changes to Corporate Culture:

1. Focus on the Standards of Ethics and Transparency: As a result of whistleblowers' revelations, efforts are underway to foster a company culture that values moral behaviour, transparency, and accountability.<sup>8</sup>

2. Open Information Channels: Companies put a lot of effort into creating channels for interactions so employees may voice concerns without fear of repercussions.<sup>9</sup>

#### 6.2.2 Reforms in Governance:

Board Responsibility and monitoring: To monitor corporate behavior and ensure that legal and ethical standards are being upheld, boards of directors employ more stringent monitoring protocols.

Executive accountability: Regulations, risk management, and executive compensation have all changed as a result of increased supervision and accountability.

#### 6.2.3 Risk management and compliance:

Enhanced Compliance procedures: Companies use thorough compliance procedures, which include whistleblower protections, to prevent and detect financial misconduct.

Strategies for Mitigating Risk: To prevent corruption in the future, companies develop more efficient risk management strategies by identifying and mitigating potential risks.

#### 6.2.4 Adaptability and Resilience in Organizations:

Adaptive Governance Structures: Businesses make changes to their governance structures to improve their adaptability, responsiveness, and capacity to change with changing risks and regulatory landscapes.

Crisis Preparedness: Better crisis management strategies and contingency plans are put in place to deal with the fallout from any future incidents involving whistleblowers.

#### 6.2.5 Trust and Stakeholder Involvement:

Stakeholder Communication: Companies strive to win back the trust and participation of stakeholders, such as investors, clients, employees, and regulatory bodies, by conducting open dialogues and initiatives.

Reputation administration: To repair damaged reputations, companies should act morally and responsibly at all times. (Batten, 2021)

### 7. MECHANISMS FOR PROTECTING AND SUPPORTING WHISTLEBLOWERS

7.1 An overview of the rules that currently protect whistleblowers laws

7.1.1 The Whistleblower Protection Act of 2014 (WBP Act):

The WBP Law was designed to provide legal protection for anyone who come forward with information about wrongdoing in both the private and public sectors.

Scope: Disclosures include data on offenses against the law, official misconduct, corruption, and willful misuse of public funds.

Protections Offered:

1. Protects the confidentiality of the whistleblower's identity.
2. Protects the whistleblower against retaliation by outlawing any kind of punishment or retaliation.
3. Retaliation penalties include fines for violating regulations that protect informants.
4. Remedy Access: Provides access to civil remedies for victims of retaliation or mistreatment.

Oversight Mechanism: The Act mandates the establishment of a framework for expose investigations and their protection.<sup>10</sup> (WHISTLEBLOWERPROTECTION, 2021)

7.1.2 Provisions under Company Law:

A system must be set up so that staff members and managers may disclose suspicions of theft, unethical

behavior, or other breaches, according to Section 49 of the SEBI Listing Agreement.

The Companies Act of 2013 encourages the establishment of watchdog groups so that staff and executives may voice valid concerns.(LAWMAN, 2020)

### 8. PROSPECTS FOR THE FUTURE AND CONCLUSIONS

Concluding remarks about the role of whistleblowers in the fight against financial fraud

1. Defenders of Honesty: Whistleblowers in financial institutions take on the role of moral sentinels, exposing dishonest activities that compromise the principles of transparency and fairness.

2. Advocates for Transparency: Whistleblowers serve as catalysts for corporate accountability by ensuring that financial corporations are held responsible for their actions while ensuring stakeholders' interests are safeguarded.

3. Stakeholder Protectors: By disclosing financial misconduct, whistleblowers protect the best interests of everyone concerned, including investors, employees, and consumers. This promotes fair competition and prevents possible damage.

4. Catalysts for Regulatory and Legal Reform: Whistleblower disclosures often lead to changes in the law and regulations that strengthen the defenses against fraud in finance and promote a more stable and accountable financial industry.<sup>11</sup>

5. Beacons of Morality in Business Culture: Whistleblowers challenge and alter company cultures and contribute to the development of a more morally aware and moral business atmosphere by encouraging moral behavior, honesty, and adherence to values.

6. Encouraging Ethical Making Decisions: The actions of whistleblowers motivate other financial institution employees to behave morally, fostering an atmosphere where employees are motivated to act respectfully even in times of difficulties.

7. Protecting the Public Interest: By exposing financial wrongdoing that might have a substantial effect on industries, economies, and public trust, whistleblowers safeguard social welfare in the public interest.

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