

tective order in advance of a hearing if exigent circumstances are present. If such an ex parte order is applied for or issued, the court shall hold a hearing not later than 14 days after the date such order was applied for or is issued.

(3) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

(4) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail the act or acts being restrained.

(5) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness.

(c) Whoever knowingly and intentionally violates or attempts to violate an order issued under this section shall be fined under this title, imprisoned not more than 5 years, or both.

(d)(1) As used in this section—

(A) the term “course of conduct” means a series of acts over a period of time, however short, indicating a continuity of purpose;

(B) the term “harassment” means a serious act or course of conduct directed at a specific person that—

- (i) causes substantial emotional distress in such person; and
- (ii) serves no legitimate purpose;

(C) the term “immediate family member” has the meaning given that term in section 115 and includes grandchildren;

(D) the term “intimidation” means a serious act or course of conduct directed at a specific person that—

- (i) causes fear or apprehension in such person; and
- (ii) serves no legitimate purpose;

(E) the term “restricted personal information” has the meaning given that term in section 119;

(F) the term “serious act” means a single act of threatening, retaliatory, harassing, or violent conduct that is reasonably likely to influence the willingness of a victim or witness to testify or participate in a Federal criminal case or investigation; and

(G) the term “specific person” means a victim or witness in a Federal criminal case or investigation, and includes an immediate family member of such a victim or witness.

(2) For purposes of subparagraphs (B)(ii) and (D)(ii) of paragraph (1), a court shall presume, subject to rebuttal by the person, that the distribution or publication using the Internet of a photograph of, or restricted personal informa-

tion regarding, a specific person serves no legitimate purpose, unless that use is authorized by that specific person, is for news reporting purposes, is designed to locate that specific person (who has been reported to law enforcement as a missing person), or is part of a government-authorized effort to locate a fugitive or person of interest in a criminal, antiterrorism, or national security investigation.

(Added Pub. L. 97-291, § 4(a), Oct. 12, 1982, 96 Stat. 1250; amended Pub. L. 111-16, § 3(2), (3), May 7, 2009, 123 Stat. 1607; Pub. L. 112-206, § 3(a), Dec. 7, 2012, 126 Stat. 1490.)

Editorial Notes

AMENDMENTS

2012—Subsec. (b)(1). Pub. L. 112-206, § 3(a)(1)(A), inserted “or its own motion,” after “attorney for the Government,” and inserted “or investigation” after “Federal criminal case” in two places.

Subsec. (b)(2), (3). Pub. L. 112-206, § 3(a)(1)(B), (C), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 112-206, § 3(a)(1)(B), (D), redesignated par. (3) as (4) and struck out “(and not by reference to the complaint or other document)” after “describe in reasonable detail”. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 112-206, § 3(a)(1)(B), (E), redesignated par. (4) as (5) and inserted “, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness” before period at end of second sentence.

Subsecs. (c), (d). Pub. L. 112-206, § 3(a)(2), added subsecs. (c) and (d) and struck out former subsec. (c) which defined “harassment” and “course of conduct”.

2009—Subsec. (a)(2)(C). Pub. L. 111-16, § 3(2), substituted “14 days” for “10 days” in two places.

Subsec. (a)(2)(E). Pub. L. 111-16, § 3(3), inserted “, excluding intermediate weekends and holidays,” after “the Government”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 of Title 11, Bankruptcy.

EFFECTIVE DATE

Section effective Oct. 12, 1982, see section 9(a) of Pub. L. 97-291, set out as a note under section 1512 of this title.

§ 1514A. Civil action to protect against retaliation in fraud cases

(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company, or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),¹ or any officer, employee,

¹ So in original. Another closing parenthesis probably should precede the comma.

¹ So in original. Probably should be “given”.

contractor, subcontractor, or agent of such company or nationally recognized statistical rating organization, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress; or

(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurs, or after the date on which the employee became aware of the violation.

(E) JURY TRIAL.—A party to an action brought under paragraph (1)(B) shall be entitled to trial by jury.

(c) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) the amount of back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

(e) NONENFORCEABILITY OF CERTAIN PROVISIONS WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBITRATION OF DISPUTES.—

(1) WAIVER OF RIGHTS AND REMEDIES.—The rights and remedies provided for in this section may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(2) PREDISPUTE ARBITRATION AGREEMENTS.—No predispute arbitration agreement shall be valid or enforceable, if the agreement requires arbitration of a dispute arising under this section.

(Added Pub. L. 107-204, title VIII, §806(a), July 30, 2002, 116 Stat. 802; amended Pub. L. 111-203, title IX, §§922(b), (c), 929A, July 21, 2010, 124 Stat. 1848, 1852.)

Editorial Notes

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-203, §929A, in introductory provisions, inserted “including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company” after “the Securities Exchange Act of 1934 (15 U.S.C. 78o(d))”.

Pub. L. 111-203, §922(b), in introductory provisions, inserted “or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),” before “or any officer,” and “or nationally recognized statistical rating organization” before “, may discharge.”

Subsec. (b)(2)(D). Pub. L. 111-203, §922(c)(1)(A), substituted “180” for “90” and inserted “, or after the date on which the employee became aware of the violation” before period at end.

Subsec. (b)(2)(E). Pub. L. 111-203, §922(c)(1)(B), added subpar. (E).

Subsec. (e). Pub. L. 111-203, §922(c)(2), added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of Title 12, Banks and Banking.

§ 1515. Definitions for certain provisions; general provision

(a) As used in sections 1512 and 1513 of this title and in this section—

(1) the term “official proceeding” means—

(A) a proceeding before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Court of Federal Claims, or a Federal grand jury;

(B) a proceeding before the Congress;

(C) a proceeding before a Federal Government agency which is authorized by law; or

(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;

(2) the term “physical force” means physical action against another, and includes confinement;

(3) the term “misleading conduct” means—

(A) knowingly making a false statement;

(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

(E) knowingly using a trick, scheme, or device with intent to mislead;

(4) the term “law enforcement officer” means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

(B) serving as a probation or pretrial services officer under this title;

(5) the term “bodily injury” means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental faculty; or

(E) any other injury to the body, no matter how temporary; and

(6) the term “corruptly persuades” does not include conduct which would be misleading conduct but for a lack of a state of mind.

(b) As used in section 1505, the term “corruptly” means acting with an improper purpose,

personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.

(c) This chapter does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.

(Added Pub. L. 97-291, §4(a), Oct. 12, 1982, 96 Stat. 1252; amended Pub. L. 99-646, §50(b), Nov. 10, 1986, 100 Stat. 3605; Pub. L. 100-690, title VII, §7029(b), (d), Nov. 18, 1988, 102 Stat. 4398; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103-322, title XXXII, §320604(a), Sept. 13, 1994, 108 Stat. 2118; Pub. L. 104-292, §3, Oct. 11, 1996, 110 Stat. 3460; Pub. L. 104-294, title VI, §604(b)(39), Oct. 11, 1996, 110 Stat. 3509.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a)(1)(D). Pub. L. 104-294 struck out “or” after semicolon at end.

Subsecs. (b), (c). Pub. L. 104-292 added subsec. (b) and redesignated former subsec. (b) as (c).

1994—Subsec. (a)(1)(D). Pub. L. 103-322 added subpar. (D).

1992—Subsec. (a)(1)(A). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1988—Subsec. (a)(1)(A). Pub. L. 100-690, §7029(b), inserted “a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court,” after “bankruptcy judge.”

Subsec. (a)(6). Pub. L. 100-690, §7029(d), added par. (6).

1986—Pub. L. 99-646 inserted “; general provision” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in subsec. (a)(1)(A) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective Oct. 12, 1982, see section 9(a) of Pub. L. 97-291, set out as a note under section 1512 of this title.

§ 1516. Obstruction of Federal audit

(a) Whoever, with intent to deceive or defraud the United States, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person, entity, or program receiving in excess of \$100,000, directly or indirectly, from the United States in any 1 year period under a contract or subcontract, grant, or cooperative agreement, or