

# **OMNI NEWSLETTER #3 ON WHISTLEBLOWERS, FOR A CULTURE OF PEACE AND JUSTICE, January 31, 2012,**

**Compiled by Dick Bennett (#1 Oct. 21, 2011; #2 Dec. 12, 2011).**

**OMNI's endowed fund at UA's Mullins Library for the purchase of books and films on Victims includes books and films on corporations and on resistance to US Imperialism Abroad and Repression at Home—including whistleblowers and investigative reporters.**

Here is the link to all OMNI newsletters:

<http://www.omnicenter.org/newsletter-archive/>

## **Contents of #1 October 21, 2011**

Whistleblowers

Nader 2002 on Corporate Crime and Whistleblowers

Three Entries on Government Crime and Bradley Manning

Ann Wright: Obama and Leaker Manning

Lendman: Manning, Leaker Hero

Deliberate Mis-Classification of Manning

FDA Whistleblowers

Whistleblowers Heroes, Short List

Selected Whistleblowers Since 1966

## **Contents of #2 Dec. 12, 2011**

Struggle for Whistleblowers' Rights (2)

Government (2)

Military

Corporations (5)

Whistleblowers or Leakers?

## **Contents of #3 Jan. 31, 2012**

GAP: Government Accountability Project

National Whistleblowers Center

Employment Law Group

FDA Illegal Surveillance of Whistleblowers

## Government Accountability Project

Protecting Corporate, Government & International Whistleblowers since 1977

[www.whistleblower.org/](http://www.whistleblower.org/)

### Government Accountability Project

1612 K Street, NW Suite #1100

Washington, DC 20006

(p) 202.457.0034

(e) [info@whistleblower.org](mailto:info@whistleblower.org)

- [About](#)
- [Multimedia](#)
- [Press](#)
- [Program Areas](#)
- [Action Center](#)
- [Blog](#)

[GAP's Investigation into World Bank Managing Director Mohieldin Now Available in Arabic](#)  
by Michael Termini on December 02, 2011 ( [The Whistleblogger](#) / 2010 )

في نهاية هذا التقرير تجد ترجمة له باللغة العربية

As the Egyptian people continue to protest and demand accountability and democratic rule by the thousands in the wake of the collapse of the corrupt Mubarak regime, we have received increased requests from friends throughout the Middle East to translate our reporting on our investigation into former Egyptian Minister of Investment Mahmoud Mohieldin into Arabic, so that far more people affected by or concerned about these issues can directly access our analyses. As explained in my previous posts, which are now all available in Arabic ([here](#), [here](#) and [here](#)), despite having been named in allegations involving at least three suspicious privatization transactions that cost the Egyptian people thousands of jobs and hundreds of millions of dollars, Mohieldin continues to sit unquestioned in a senior position as a Managing Director at the World Bank -- even as multiple former officials associated with him in those transactions face similar charges and allegations of corruption, profiteering and abuse of public assets.

I will be reporting back soon on the latest phase of our investigative efforts into Mohieldin's conduct as Egypt's Investment Minister, as well as the World Bank's failure to respond to our repeated requests for Bank President Robert Zoellick to review Mohieldin's current role as Managing Director in light of these serious allegations and finally agree to make his financial records public.

Stay tuned...

Michael Termini is International Reform Officer for the Government Accountability Project, the nation's leading [whistleblower](#) protection and advocacy organization.

Gov Acct Proj  
[GovAcctProj](#)

[GovAcctProj](#) After 9-mo. investigation spurred by [#whistleblower](#), IN hedge fund manager to plead guilty to cheating ppl out of \$7M [indy.st/uJIBJQ](#) 43 minutes ago · [reply](#) · [retweet](#) · [favorite](#)

GovAcctProj Review of #whistleblower-led documentary against big tobacco, 'Addiction Incorporated': [nyti.ms/tZ9Oqs](http://nyti.ms/tZ9Oqs); trailer: [bit.ly/tFryNW](http://bit.ly/tFryNW) about 1 hour ago · reply · retweet · favorite

GovAcctProj In new op-ed, @SarahPalinUSA mentions #whistleblower protections. [usat.ly/tocB9c](http://usat.ly/tocB9c) 4 hours ago · reply · retweet · favorite

GovAcctProj #Whistleblower News: Celebrities! Fmr pilot says jet had fuel leak, could've killed @JLo, @charliesheen, @KingJames [bit.ly/u2uezg](http://bit.ly/u2uezg) 5 hours ago · reply · retweet · favorite

GovAcctProj Daily #Whistleblower News: Welding inspector revealed major concerns about shoddy work on new #Marlins stadium [bit.ly/tPoDOE](http://bit.ly/tPoDOE) 6 hours ago · reply · retweet · favorite

GAPDylan Focus/Highlight of new doc #AddictionIncorporated - about how cigarettes became regulated - is a #whistleblower [goo.gl/Y2Vb8](http://goo.gl/Y2Vb8) 7 hours ago · reply · retweet · favorite

GAPDylan Elections employees file #whistleblower suit against Ohio county board. Allegedly inv/voter regis. investigation [goo.gl/PWxQx](http://goo.gl/PWxQx) 7 hours ago · reply · retweet · favorite

GAPDylan Hedge Fund manager pleads guilty to bilking investors for \$7 million b/c of #whistleblower [goo.gl/GNfyk](http://goo.gl/GNfyk) 7 hours ago · reply · retweet · favorite

GovAcctProj MT @GAPDylan #Whistleblower suit alleges engineering firm ripped off Army Corps re: #Everglades restoration [goo.gl/OV4hX](http://goo.gl/OV4hX) #muckreads 7 hours ago · reply · retweet · favorite

GovAcctProj MT @GAPDylan Welder #whistleblower shows problems w/ new #Marlins stadium: [goo.gl/RTkYi](http://goo.gl/RTkYi) #muckreads 7 hours ago · reply · retweet · favorite

GovAcctProj MI nursing home subject of #whistleblower suit is staying open despite continued low performance in fed ratings [on.freep.com/v6v0EV](http://on.freep.com/v6v0EV) 23 hours ago · reply · retweet · favorite

GovAcctProj Former officer GA Nat'l Guard filed suit against military org, alleging unfairly fired for #whistleblower complaint [bit.ly/sjSDWF](http://bit.ly/sjSDWF) yesterday · reply · retweet · favorite

GovAcctProj City of Surprise, AZ delayed enactment of #whistleblower ordinance yet again, year after first endorsed by city council [bit.ly/u78pp1](http://bit.ly/u78pp1) yesterday · reply · retweet · favorite

GovAcctProj Secretary for Tulsa Public Schools who reported wrongdoing in athletics department has been fired. [bit.ly/u1Ipex](http://bit.ly/u1Ipex) #whistleblower yesterday · reply · retweet · favorite

GovAcctProj Olympus executive-turned-#whistleblower met w/ lawmakers from Japan's ruling party to tighten corporate governance [bit.ly/tAm3WI](http://bit.ly/tAm3WI) yesterday · reply · retweet · favorite

ETC

Government Accountability Project

1612 K Street, NW Suite #1100

Washington, DC 20006

(p) 202.457.0034 (e) [info@whistleblower.org](mailto:info@whistleblower.org)

NATIONAL WHISTLEBLOWERS CENTER

<http://www.whistleblowers.org/>

- [Whistleblowers Get Help Now!](#)
- [Meet the Whistleblowers](#)
- [Check Out the Blog](#)
- [Redirect Page](#)

## [Listen Live](#)

### **Whistleblowers Radio Hour**

**Tuesdays @ 1pm E.T.**



[Order Now!](#)

[Interactive Map of State  
Whistleblower Protections](#)

[Whistleblowing Around the World  
\(Interactive\)](#)

Since its formation 1988, the National Whistleblowers Center has provided protection and assistance to thousands of whistleblowers across the United States. [Click to learn more> http://www.whistleblowers.org/index.php?option=com\\_content&task=view&id=14&Itemid=43](http://www.whistleblowers.org/index.php?option=com_content&task=view&id=14&Itemid=43)

## **Whistleblower News**

### [SPECIAL NEWS BULLETIN](#)

**[TAKE ACTION!](#)**

#### **Whistleblowers Expose FDA's Illegal Surveillance of Employees**

**FDA Spy Program Documents [Linked Here](#)**

As reported in [today's Washington Post](#), six current and former employees of the Food and Drug Administration (FDA) have [filed a complaint against the FDA](#) in U.S. District Court. The employees are seeking an injunction to stop the agency from illegally spying on employees' private communications to Congress and other oversight agencies.

[Linked here are key documents related to this lawsuit and the FDA's spying program.](#)

The complaint details how the FDA targeted its employees with a covert spying campaign that lasted for two years. The FDA began the program after learning that the employees [wrote a letter to President-Elect Obama and his transition team](#) in early 2009 detailing government misconduct in approving unsafe medical devices. The Agency installed (or activated) spyware on their workplace computers and used other technology that to monitor their password-protected [Gmail-to-Gmail communications](#).

In addition to reading the whistleblowers' emails, the FDA took [contemporaneous screen shots](#) of the employees' computer screens. Managers used the collected information to learn the identities of confidential whistleblowers and to obtain the details of the public health and safety concerns the whistleblowers intended to [disclose to the Office of Special Counsel](#), Congress and the Agency's own Inspector General.

The FDA also intercepted email communications to and from staff members of the House Committee on Energy and Commerce and the Ranking Member of the Senate Finance Committee. These Congressional intercepts are [linked here](#).

The FDA's prolonged covert monitoring of the whistleblowers continued even after the HHS Office of Inspector General denied the FDA's request to take any criminal and/or administrative action against the whistleblowers. In their [letter of refusal](#), the OIG explicitly informed the FDA that the whistleblowers' communications to Congress were protected under law.

The managers who spearheaded the surveillance efforts were the same managers involved with the wrongdoing and corruption that the whistleblowers were seeking to report. Lawyers at the FDA and HHS Offices of General Counsel, who should have understood that the program breached the employees' confidentiality, helped FDA managers with their obstruction and retaliation.

In their lawsuit, six FDA whistleblowers who were fired by the agency (including two highly respected medical doctors, a Branch Chief, a former Health and Safety Officer employed by the Public Health Service and a 23-year FDA career M.D./Ph.D Scientist) are requesting a nationwide injunction prohibiting the federal government from targeting whistleblowers with selected surveillance and monitoring.

The lawsuit alleges that such targeted monitoring of whistleblowers violates their First Amendment rights of freedom of speech and association.

Stephen M. Kohn, NWC Executive Director and attorney for six FDA whistleblowers, issued the following statement:

The FDA declared war on employees who were trying to warn Americans about threats to public health and safety.

The federal government cannot---and should not---spy on whistleblowers. The First Amendment prohibits targeting whistleblowers and selectively monitoring them using highly intrusive electronic surveillance without a warrant.

Targeting the employees who raise health and safety concerns---or who try to report waste, fraud and abuse to the proper authorities---will have a massive chilling effect on employees.

The FDA's illegal spying program is not just a problem for the six victims in this case. The day we allow the government to spy on employees based on their lawful whistleblower activities is the day we give up privacy for every honest public servant in America.

If permitted to stand, the FDA's whistleblower surveillance program will be used by government agencies throughout the United States to silence employees who want to report misconduct. Those who are not silenced will be subjected to years of intrusive covert spying designed to dredge up embarrassing information that the agencies can use to destroy the whistleblowers' reputations and careers.

Today, the NWC [issued an Action Alert](#) seeking public support for the FDA whistleblowers and demanding an end to the federal government's targeted and selective surveillance of whistleblowers.

The NWC obtained the intercepted emails as a result of a lawsuit filed under the Freedom of Information Act and from documents produced by the FDA as a result of administrative actions taken against three of the whistleblowers.

Links:

[FDA Whistleblower Complaint](#)

[Intercepted Emails from FDA Whistleblowers](#)

[Letter from the HHS OIG](#)

[Support FDA Whistleblowers Page](#)

[NWC Action Alert](#)

\*\*\*

[A Message from Jane Turner](#)

[Donate Now!](#)

My dream was not to grow up to become a whistleblower. My dream was to become an FBI agent. But after 20 years at the FBI, I came face to face with corruption. My moral compass allowed no other option: expose the truth.

Fortunately, I found the National Whistleblowers Center (NWC), an organization fighting every day for whistleblower rights. The NWC was created to advocate for whistleblowers who do not have a voice. Over the years, the NWC has created a vibrant whistleblower community. It consists of people throughout the country who put the greater good over their own financial and emotional security.

[Read more...](#)

#### [More News](#)

Click [here](#) to read more news stories.

Click [here](#) to read more press releases.

## EMPLOYMENT LAW GROUP

### Whistleblower Retaliation Litigation

The attorneys at **The Employment Law Group**® law firm have substantial experience litigating whistleblower retaliation claims on behalf of employees, including in the following areas:

- [Airline Whistleblower Representation](#)
- [California Whistleblower Retaliation Representation](#)
- [Commercial Motor Carrier Whistleblower Representation](#)
- [Commodity Futures, Options, and Derivatives Whistleblower](#)
- [D.C. Whistleblower Representation](#)
- [Economic Stimulus Whistleblower Protections](#)
- [Environmental Whistleblower Representation](#)
- [Federal Employee Whistleblower Representation](#)
- [Financial Services Whistleblower Protection](#)
- [Nuclear Whistleblower Representation](#)
- [Public Transportation Whistleblower Representation](#)
- [Qui tam Whistleblower Representation](#)
- [Railroad Whistleblower Representation](#)
- [Sarbanes-Oxley Whistleblower Representation](#)
- [SEC Whistleblower](#)
- [Tax Whistleblower Representation](#)
- [Wrongful Discharge Representation](#)

**The Employment Law Group**® law firm has established important precedent under whistleblower protection laws, including in [Kalkunte v. DVI Financial Services, Inc.](#) and [Leznik v. Nektar Therapeutics, Inc.](#), and has helped draft whistleblower protection laws.

### An overview of whistleblower protection laws

There are a wide range of laws both at the state and federal level that protect whistleblowers from

retaliation and most states recognize a common law action for wrongful discharge in violation of public policy. The decision to pursue a retaliation claim under state and/or federal law can be complex and therefore, it is critical to retain skilled counsel capable of determining which federal and/or state laws are best suited to prosecute a whistleblower retaliation claim.

### **What federal laws protect whistleblowers?**

Various federal laws protect whistleblowers. For example, the [False Claims Act "\(FCA\)"](#) protects employees who are retaliated against for disclosing fraud against the government. The Department of Labor (DOL) administers fifteen whistleblower provisions that protect employees who disclose information about violations of laws pertaining to airline, trucking, nuclear, environmental, rail and workplace safety. The [Dodd-Frank Act](#) protects whistleblowers who report violations of securities laws to either the SEC or Commodities Futures Trading Commission. The Act also protects employees who report fraud relating to a consumer financial product or service to the Bureau of Consumer Financial Protection. Federal employees can pursue a retaliation claim under the [Whistleblower Protection Act \(WPA\)](#), which prohibits federal agencies from retaliating against federal employees who engage in whistleblowing activities.

In addition, Congress recently enacted whistleblower protections for contractor employees and employees of state and local governments to safeguard against fraudulent spending of stimulus funds. To learn more about the new whistleblower protections, [click here](#).

Employees alleging whistleblower retaliation against an employer should retain experienced counsel as soon as possible because many whistleblower retaliation claims have a short statute of limitations.

### **What state laws protect whistleblowers?**

More than thirty-eight states have enacted statutory whistleblower protections, some of which are limited to public sector employees. An example is the [D.C. Whistleblower Protection Act](#) which protects employees of the D.C. government who suffer retaliation because of their protected disclosures or refusal to follow illegal orders. In addition, most states recognize a public policy exception to the employment-at-will doctrine under common law.

### **What activities are protected under whistleblower protection laws?**

Whistleblower protection laws generally cover a broad range of protected disclosure, including providing information to a supervisor or government agency that the whistleblower reasonably believes evidences:

1. a violation of law, rule or regulation;
2. gross mismanagement;
3. gross waste of funds;
4. an abuse of authority; or
5. a substantial and specific danger to public health or safety.

### **What must the plaintiff prove to prevail?**

To be successful under most whistleblower retaliation laws, an employee must prove the following:

1. That she engaged in protected activity;
2. That the employer knew that she engaged in protected activity;
3. That the employer took an adverse personnel action against her; and

4. That the protected activity contributed to the employer's decision to take the adverse action.

### **What retaliatory acts are prohibited by whistleblower protection statutes?**

Many whistleblower protection laws prohibit a broad range of retaliatory actions, including demotion, termination, denial of benefits, failure to hire, failure to promote, intimidation, reassignment, and any other discriminatory action that would negatively impact the terms and conditions of the whistleblower's employment or would dissuade a reasonable person from engaging in further protected conduct.

### **What can a prevailing whistleblower recover?**

Under many whistleblower protection laws, a prevailing employee can recover back pay for lost wages, front pay for future lost wages, compensatory damages, and litigation costs, including attorney fees. Under some whistleblower protection laws, a prevailing employee can obtain exemplary or punitive damages.

**The Employment Law Group®** law firm has published articles on representing and protecting whistleblowers:

["Whistleblower Provisions Of The Dodd-Frank Act,"](#) Law360 (July 20, 2010).

["Whistleblower Protections in the Finance Reform Bill,"](#) Law360 (May 27, 2010).

["Congress Enacts Robust Whistleblower Protections To Prevent Fraud In Stimulus Spending,"](#) Employee Advocate (May 2010).

["Whistleblower Protections Under Health Care Bill,"](#) Law360 (April 12, 2010).

["2010 Annual Update on the Whistleblower Provisions of the Sarbanes-Oxley Act of 2002,"](#) American Bar Association Section of Labor and Employment Law Subcommittee on the Sarbanes-Oxley Act of 2002 (February 2010).

["Federal Whistleblower Protections for Transportation Employees,"](#) The Employee Advocate (Spring/Summer 2009)

["SOX: A Robust Remedy For Whistleblowers,"](#) Law360 (August 2009)

["Representing Whistleblowers in Adler Wrongful Discharge Actions,"](#) Maryland Bar Journal (July 2009).

["Protecting the Whistleblower,"](#) *Corporate Responsibility Officer* (February 2008)

["Representing Whistleblowers,"](#) *The Docket* (November 2006).

["Win for Whistleblowers,"](#) *National Law Journal* (September 8, 2008)

["The Umpires Strike Back,"](#) *Legal Times* (June 2008)

["Seven Questions For Sarbanes-Oxley Whistleblowers To Ask,"](#) *The Practical Lawyer* (October 2007)

["SOX's Whistleblower Provision—Promise Unfulfilled,"](#) *Securities Litigation Reporter* Vol. 4, Issue 7 (July/August 2007).

["Six Steps to Limiting Sarbanes-Oxley Whistleblower Liability,"](#) *IT Business Edge* (January 16, 2007).

["Whistleblower Protections in the Nonprofit Sector,"](#) *Nonprofit Risk Management Center* (September 2005).

["Complying with Sarbanes-Oxley's Document Destruction Provisions,"](#) *Association Management* (July

2004).

"[Whistleblower Protection Programs for Associations](#)," *Association Management* (June 2004).

"Litigating Whistleblower Cases," a chapter in [Whistleblowing: The Law of Retaliatory Discharge](#) (BNA Books 2004).

***Disclaimer:** This website is maintained by **The Employment Law Group**<sup>®</sup> law firm to provide general information about itself and the field of employment law. The information you obtain at this site is not, nor is it intended to be, legal advice upon which you should rely or act. You should contact your attorney to obtain advice with respect to any particular issue or problem. Use of and access to this website does not create an attorney-client relationship between **The Employment Law Group**<sup>®</sup> and the user or browser. You should not send any confidential information to us until and unless a formal attorney-client relationship has been established. If you would like to discuss your potential claim call us at 1-888-263-4305 or contact us by email at [inquiry@employmentlawgroup.com](mailto:inquiry@employmentlawgroup.com).*

## Stop the FDAs Illegal Surveillance of Whistleblowers

[suesnews@mchsi.com](mailto:suesnews@mchsi.com)

From: National Whistleblowers Center [mailto:[lmw@whistleblowers.org](mailto:lmw@whistleblowers.org)]

Sent: Monday, January 30, 2012

To: Sue Skidmore

Subject: Stop the FDAs Illegal Surveillance of Whistleblowers

Today the *Washington Post* broke the story that **FDA managers illegally spied on employees who reported major health and safety issues to Congress**. Instead of protecting the lives of Americans, managers used their time to covertly monitor the whistleblowers. TAKE ACTION! [http://www.whistleblowers.org/index.php?option=com\\_content&task=view&id=1333](http://www.whistleblowers.org/index.php?option=com_content&task=view&id=1333) Demand an end to the harassment of health and safety whistleblowers! The FDA kicked off its covert spying program when nine employees notified the Obama Transition Team that the Agency was approving unsafe medical devices, including a faulty breast cancer-screening device. The FDA activated spyware on the employees' computers that saved screen shots of their personal Gmail-to-Gmail communications. For two years, FDA managers monitored these employees. They intercepted emails to Congress and communications to other oversight agencies. Click here to see some of the intercepted emails. The surveillance happened even after the FDA managers were told by their own Inspector General that the whistleblowers' disclosures to Congress and the media were protected activity. This is an outrageous violation of privacy. If the FDA gets away with this, no federal employee whistleblower will be safe. TAKE ACTION! Spying on whistleblowers should not be tolerated! Targeting whistleblowers for monitoring violates the First Amendment rights of freedom of speech and association. It does not matter if it is at home or at work, government spying will create a massive chilling effect on the willingness of any federal employee to report waste, fraud and abuse. Please ask your family, friends, and neighbors to support health and safety whistleblowers. You can forward this email, share it on Facebook, or tweet it!

END WHISTLEBLOWERS NEWSLETTER #3