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3 October 2002

United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500
Washington, D.C. 20002-8002
Attn: Michael Courlander

Re: Response to Request for Public Comment to Advisory Group on Organizational Guidelines
to the U.S. Sentencing Commission, §8A1.2, comment 3(k)(5)

We are the partners in Redmond, Williams & Associates. We are responding to Question 1f of the Request for Additional Public Comment Regarding the U.S. Sentencing Guidelines for Organizations which addresses §8A1.2, comment 3(k)(5).

We understand and appreciate the value and benefits of an Ombudsman function to an organization. We have had extensive experience as senior management in line functions including operations, service delivery, marketing, finance and other areas in a Fortune 100 financial services firm, large banks and an insurance company. Additionally, we spent 4 years as practicing Ombudsmen and led a global Ombuds team.

Today, corporations, boards and CEOs are striving to ensure that they have the safeguards to ensure legal, ethical conduct and thus protect their corporate reputation. In order to do this, senior management of a firm must have a conduit of information that apprises them of potential illegal activity within their companies. However, fear of retribution, fear of loss of job, uncertainty and lack of faith in the usual corporate issue resolution processes has resulted in employee reluctance to bring potentially damaging information forward.

In order to address these information impediments and to mitigate the risk in not obtaining critical data, a safe, confidential, neutral and independent entity must exist to permit interested parties to escalate any issue, criminal or otherwise. A proven vehicle for providing early detection of criminal activity and mitigating risk is a confidential, neutral and informal Ombudsman office where mishandling of data, accounting irregularities, employee fraud, discrimination and other wrongdoing can be reported.

An Ombudsman function is unique within in a corporation in that it:

- Guarantees anonymity to the individual while preserving the right to escalate any issue posing a serious danger to a person or serious detriment to the firm
- Serves as a confidential channel for early detection and prevention of criminal activity without the fear of retribution; it, therefore, receives and induces action on issues that constituents were afraid to escalate elsewhere in the organization

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- Has direct access to CEO and Board in providing issue trends, early warnings and information, while maintaining confidentiality of individual
- Provides independence from other internal structures such as legal, compliance, security, human resources and management and thus does not have a vested interest in the outcomes of issues brought forward
- Uses senior leader position judgment and understanding of the corporation, systems, controls and employees to uncover and raise potential criminal activity
- Provides issue trend reports to organization and proactively uses influence to effect systemic changes that lead to prevention and early detection of criminal acts
- Keeps no records and, therefore, does not create any discoverable documents
- Is neutral and therefore promotes legal, ethical and equitable outcomes.
- Coaches individuals and explores with them options for bringing issues forward, within the required bounds of confidentiality or anonymity, to the formal channels that handle them.

It is important to understand that an Ethics Officer and an Ombudsman do not function in the same way and should not be conceptually lumped together. In contrast to the above, an Ethics Officer:

- Often reports to a formal department, such as Legal and is, therefore, not independent
- Is not neutral in mission and is often responsible to a third party
- Conducts investigations and formally handles issues
- As a formal channel within the organization, cannot keep anonymity on certain issues
- Usually keeps records.

Hotlines differ from Ombudsmen in that Hotlines:

- Report within a formal entity such as human resources and, therefore, are not independent
- Lack the immediacy of reporting to the CEO and Board and need to go through chains of command to escalate information
- Are often staffed with employees who do not have extensive management experience, perspective and competencies to probe and obtain sensitive information
- Sometimes are staffed by very senior officers who are viewed as part of the problem
- By their nature, are passive call recipients and not proactive change agents
- Sometimes are outsourced and their employees lack institutional knowledge
- As faceless entities, find it difficult to build the reputation and trust required to allow employees to come forward without fear
- Are not freely used in many cultures.

In summary, we support the recommendation that §8A1.2 include either creation of an Ombudsman function for confidential reporting of potentially criminal behavior or provide an incentive for companies to create such offices by designating Ombuds offices as a factor in determining whether a company has a reporting system which allows reporting without the fear of retribution.

Thank you for the opportunity to comment and please contact us if we may provide any assistance.

Sincerely,

Arlene Redmond

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