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Special Counsel Announces Whistleblower Settlement with IRS

FOR IMMEDIATE RELEASE

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Special Counsel Carolyn Lerner announced a settlement between the Internal Revenue Service (IRS) and an IRS employee, Charles Adelberg, who blew the whistle on alleged gross mismanagement of an IRS contractor and subsequently was suspended for two weeks without pay. The employee believed that the oversight of the contractor, who was responsible for assisting with audits of major corporations, was inadequate, resulting in the potential loss of millions of taxpayer dollars.

Adelberg, a San Jose-based economist in the Large Business and International Division, made his disclosure to the IRS Inspector General (IG) through his private attorney. When he reported his disclosure to the attorney, he cited by name the corporation involved. In turn, the attorney named the corporation in his March 2007 correspondence to the IG on the matter.

The IRS viewed Adelberg's disclosure to his attorney as inconsistent with his statutory obligation not to disclose a taxpayer's confidential information. Adelberg was suspended and his duties were changed.

The Office of Special Counsel (OSC) determined that the IRS violated Adelberg's First Amendment rights, as well as the Whistleblower Protection Act (WPA). Even if a public disclosure would have been unauthorized by law, OSC argued, Adelberg had a legal right to go to OSC or to the IG. OSC concluded that his legal right also encompassed the intermediate and subsequent disclosures to counsel to obtain legal advice on the scope of his rights and potential risks as a whistleblower.

The IRS disagreed with OSC's legal conclusion that the agency violated Adelberg's First Amendment rights and the WPA. The parties, however, reached a mutually agreeable settlement. As part of the settlement, Adelberg obtained the relief required by OSC's corrective action statute, and Adelberg agreed to withdraw his complaint. The parties have agreed not to discuss the terms of the settlement.

"Employees who have the courage to come forward with mismanagement claims should not have to risk their careers," Lerner said. "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 U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing. For more information, please visit our website at www.osc.gov.