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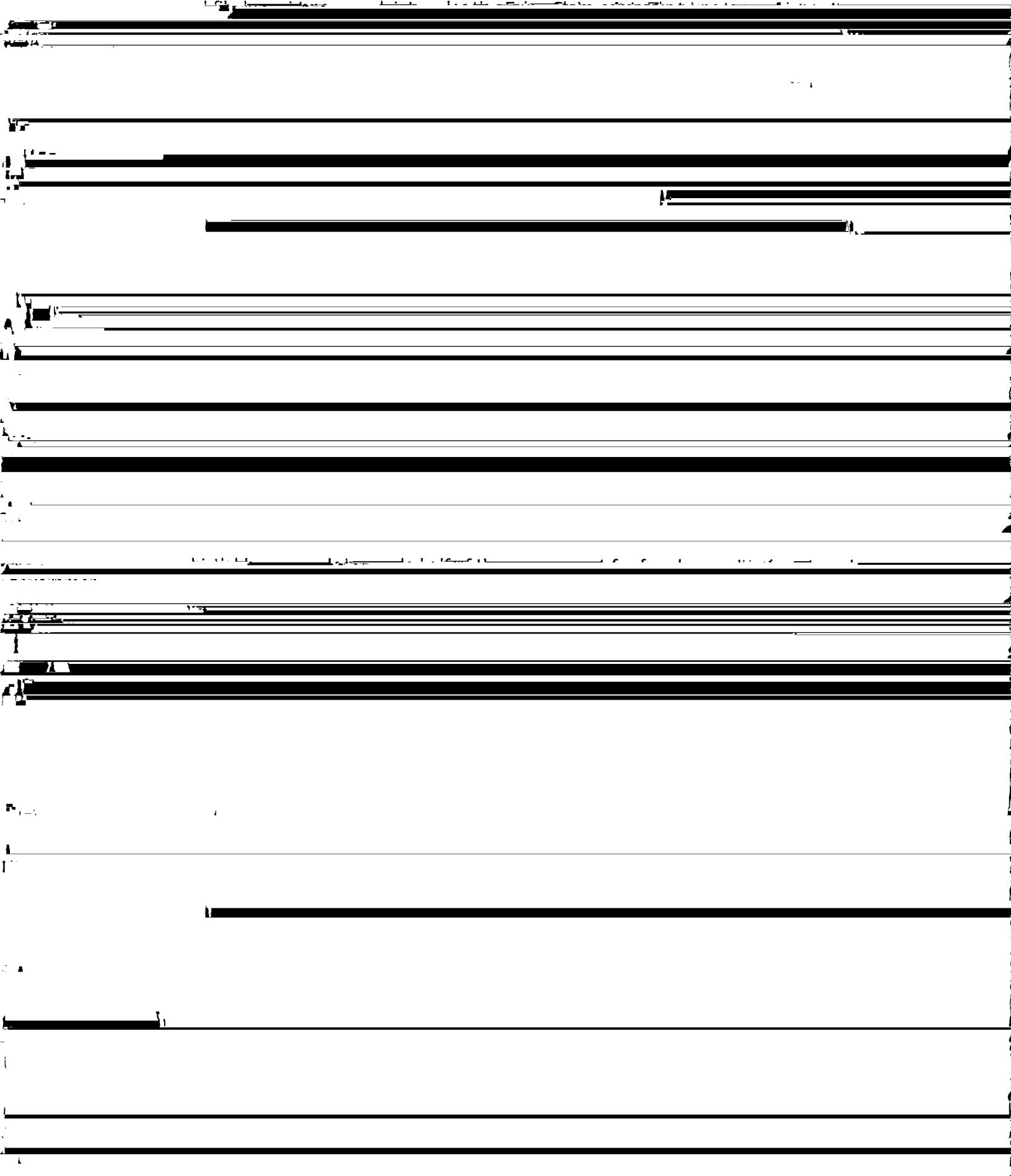
Age Of The Whistleblower: Incentives And Protections

Law360, New York (September 06, 2012, 12:40 PM ET) — Nobody likes a snitch. At least,

that is what we all learn from day one in the schoolyard. Next to engaging in the dirty deed yourself, squealing is about the worst thing you can do. Better to stay quiet, look the other way, mind your own business, than to stick your nose into someone else's affairs. And lessons are soon learned for those who do not abide. Name-calling. Isolation. And worst of all — retaliation.

But that was then. Perhaps it was the 9/11 wakeup call that we live in a more dangerous

Unable to stand by and allow these abuses to continue, Hamrick alerted federal authorities



settlement with Abbott Labs (over Depakote), and the billions more the government is
needed to secure from Johnson & Johnson (over Biscardi) and Bank of America and others

over the ongoing mortgage scandal.

Expanded Protections and Rewards

There is no question that the FCA has been the most important tool in combating fraud
and protecting and rewarding whistleblowers. But it has its shortcomings, the biggest are

being that it only applies when the government is the subject of the fraud. Fraud on
investors in securities, for example, is not covered unless the government is the actual
investor (such as through an employee pension fund). Without the incentives offered
under the FCA, fraud in these cases may go unreported until it is too late.

The Enron debacle provides a striking example. We all know what happened. Enron cooked
its books for years. Shareholders lost billions. Thousands of employees lost their jobs. The
ripple effects went far beyond those immediately connected to the company. The scheme
was complex, involving not only top executives, but the company's outside accounting firm
Arthur Anderson. We'll never know just how many people knew or at least suspected that
something was amiss. But something so big and byzantine could not have gone unnoticed
for as long as it did. Yet, while Enron's elite were building their phantom empire, no one

Futures Trading Commission) have established whistleblower offices dedicated exclusively to working with whistleblowers. So while it may be too early to tell exactly how these new whistleblower provisions will pan out, it is a pretty safe bet that their impact will be significant. Indeed, the SEC recently announced that there are already 60 cases this year

Think about how the Madoff fiasco might have gone differently had this legislation been in place. With the lure of a multimillion-dollar bounty, Harry Markopolos would have had plenty of company in his efforts to divulge the fraud to the regulators. And with a dedicated whistleblower office, the SEC would have been hard-pressed to ignore this chorus of complaints.

Age of the Whistleblower

Over the next two decades, the role of the whistleblower has become increasingly