

TEACHING

Crooked Contractors

A LESSON

For 25 years, pioneering attorney Stephen Kohn has been protecting whistleblowers—and taxpayers

Dick Cheney was so riled, he uttered an expletive on the Senate floor, telling Patrick Leahy (D.-Vermont) to go #!@* himself. Had Stephen Kohn ('79), the source of the vice president's troubles, been in the room, the attorney surely would have gotten worse.

To be fair, Kohn was just doing his best to represent Bunnatine "Bunny" Greenhouse, the real cause of the VP's heartburn—and the spark in his notoriously heated exchange with Leahy. The Pentagon's chief contracting official, Greenhouse complained publicly that the Army had rushed to grant an improper no-bid contract worth billions to Cheney's former business associates.

"Our clients do the heavy lifting," Kohn says. "They're the ones who blow the whistle. They're the ones who take the risk."

Nevertheless, it is Kohn's firm—Kohn, Kohn & Colapinto, LLP—that stands up for Greenhouse and people like her. The Washington, D.C.-based law firm is perhaps the nation's best-known resource for whistleblowers—primarily, people with inside knowledge of wrongdoing who sue on behalf of the United States under the False Claims Act, at their own peril. (Their bosses often try to fire them or otherwise retaliate.) "Federal employees [for example] who blow the whistle on waste, fraud, and abuse need strong protection, and so do the taxpayers," Kohn wrote in a letter to the editor of the *Washington Post*. He is credited with pioneering the field of whistleblower law over the past quarter-century.

In Greenhouse's case, which at press time is ongoing, the Louisiana native was the highest-ranking civilian in the Army Corps of Engineers and the first African American to direct procurement for the corps. She earned glowing performance reviews in the 1990s. But in 2003, she complained to superiors that the Army was flouting convention—and the law—when it awarded Halliburton subsidiary Kellogg Brown & Root (KBR) a no-bid, five-year contract worth \$7 billion for reconstruction work in Iraq. (Cheney had been Halliburton's CEO until August 2000, and he retained stock options and deferred compensation from the company.)



File Photo by Lauren Victoria Burke/Associated Press

Whistleblower Bunnatine Greenhouse, left, talks with her attorney Stephen Kohn ('79), right, before testifying to the Senate Democratic Policy Committee during the hearing on "Abuses in Private Security and Reconstruction Contracting in Iraq: Ensuring Accountability, Protecting Whistleblowers," in September 2007 on Capitol Hill in Washington.

Soon after issuing her complaints, Greenhouse lost her post. "They demoted her," says Kohn. "Shoved her into a basement and stripped her of her contract authority." She filed suit, and the FBI and Justice Department began continuing investigations of KBR. In March 2009, President Barack Obama announced an end to the Bush-era practice of no-bid contracts. All in great measure thanks to Kohn's tireless efforts and round of appearances in the national media, such as on MSNBC's *Hardball with Chris Matthews*.

And lest anyone suspect Kohn's firm of partisanship, note their highest-profile client of all time: Linda Tripp. "We have represented Democrats, Republicans," says Kohn. "It does not matter who they blow the whistle on or who's in power; we're just gonna do it straight."

Here's how the *New York Daily News* succinctly summarized Tripp's case when the Defense Department staffer filed suit in September 1999: "Linda Tripp, who secretly taped her personal conversations with presidential paramour Monica Lewinsky, sued the White House and her Pentagon bosses yesterday for violating her privacy."

Despite the irony—Tripp was herself under indictment for illegal wiretapping in Maryland—the fact remains that her superiors broke the law when they leaked damaging personnel records to *The New Yorker*, revealing that Tripp had been arrested for shoplifting at age 19. Tripp contended the leak was retaliation for her role in President Bill Clinton's impeachment. In a statement issued through Kohn's firm, Tripp said, "The government should never be permitted to use Privacy Act-protected information to discredit a political opponent." She won.

These are but two of the many whistleblowers Kohn and his partners, brother Michael Kohn and David Colapinto (CAS'84), have fought for over more than two decades, both through their firm and through the advocacy organization National Whistleblowers Center, of which Stephen Kohn is the executive director.

Kohn has won precedent-setting cases. He has several times given Congress expert testimony, and he has authored dozens of scholarly articles and a pile of books regarding employment law, civil

liberties, and other law topics. He has blazed a trail, virtually creating a coherent field of law where none had existed.

According to a profile of Kohn in *Super Lawyers* magazine, "whistleblowing was still an obscure concept and certainly not a recognized area of law" when Kohn started out in the early '80s. "There was no case history. So Kohn wrote it himself." Digging up and synthesizing obscure precedents, Kohn authored the first legal treatise on whistleblowing, *Protecting Environmental and Nuclear Whistleblowers: A Litigation Manual*.

What Kohn enjoys most about his work, however, isn't found in dusty law libraries.

"You get to help an individual who's in a crisis," Kohn says, explaining his job's appeal. "You can actually have real impact on someone's life. Their career, their job, their reputation, the way they view themselves. And it's someone who tried to do the right thing. So it's someone you want to help. And sometimes you're able to. And that's very satisfying. It's kind of like representing an innocent person who is wrongfully accused."

Oftentimes, a Kohn client will be a Serpico-like figure, vilified by his colleagues as a "boy scout" for playing by the rules. When FBI agent Frederic Whitehurst raised concerns about possible misconduct in the Bureau's crime lab in the mid-1990s, he lost his job and likely fell off a few holiday-card lists. With Kohn as attorney, Whitehurst won a settlement and vindication.

But the case had broader impact. President Clinton issued an executive order still in effect that established whistleblower protections for FBI employees. And today, instead of the Bureau policing itself, the Justice Department's inspector general automatically reviews any allegations of misconduct within the FBI. "Outside oversight—that had not been achieved," Kohn says, "through illegal monitoring of Martin Luther King [Jr. (GRS'55)], all the abuses of [former director J. Edgar] Hoover . . . They existed as an insular little system." Not anymore.

"You can't get much better than that," Kohn says, "actually using the skills you've learned to help someone—and someone who really stuck their neck out to help the public interest."

Most every case Kohn handles carries implications for the rest of us. "The United States has recovered well over a billion dollars now," Kohn says, "from information that our clients had given to the government. That helps the taxpayer." Not to mention, he adds, it may deter other crooked contractors and corrupt public servants.

"In this business, you have to be willing to stand up pretty hard," Kohn says. "Because there are lots of pressures. The companies that you end up suing, or the institutions, are very powerful. And you've got to be tough." ●

