

SEC Focuses on Whistleblower Protections in Employee Separation Agreements

October 5, 2023

Recent Securities and Exchange Commission enforcement actions have zeroed in on whistleblower protections in employee separation agreements, signaling that now may be the time for companies to closely review employee agreements and releases. On September 29, 2023, the SEC announced [settled charges against New York-based registered investment adviser D. E. Shaw & Co.](#) for impeding whistleblowing by requiring employees to sign agreements that prohibited the disclosure of confidential corporate information to third parties, without an exception for potential SEC whistleblowing, and by requiring departing employees wishing to receive deferred compensation to sign releases affirming that they had not filed any complaints with any government agency. D. E. Shaw agreed to pay \$10 million to settle the SEC's charges.

Just 10 days earlier, on September 19, the SEC had announced [settled charges against CBRE](#), a commercial real estate services and investment firm, for using an employee release form that the SEC alleged violated its whistleblower protection rule. According to the order, the separation agreement required employees to represent that they had not filed charges or complaints against CBRE or any of its agents with any court or agency based on events prior to the date of the agreement, which the SEC construed as impeding potential whistleblowers from reporting complaints. (Check out the Cooley PubCo blog for [more information on the SEC's charges against CBRE.](#))

Is it time to take another look at your employee separation agreements and release forms?

Contributors



Wendy Brenner
[Bio](#)



Luke Cadigan
[Bio](#)



Helen Luu
[Bio](#)



Elizabeth Skey
[Bio](#)

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our [AI Principles](#), may be considered Attorney Advertising and is subject to our [legal notices](#). Copyright © 2026