

3. The central issue in this problem is advising an individual client on her options regarding proffer, plea, cooperation, and the potential of whistleblowing benefits. All of this should be explained to the client, drawing off of the materials in much of the second half of the course, while evaluating the likelihood and degree of benefits to her. Some discussion of the underlying criminal liability (securities fraud based on accounting fraud) would also be important. Janet has put herself in a position in which fighting the case is going to be difficult. It is even possible that she could be threatened with prosecution, on a stretched theory, for lying to the company's internal investigators. It is unlikely that anything in the fact pattern would allow an argument, even stretched, that her statements should be suppressed due to a Fifth Amendment violation, but it could be worth explaining why. Always good in a question like this to discuss what other facts you would need to know and what you would ask the client to elicit that information.