

RALPH NADER RADIO HOUR EP 295 TRANSCRIPT

Steve Skrovan: Welcome to the *Ralph Nader Radio Hour*. My name is Steve Skrovan, along with my co-host, David Feldman. Hello, David. How are you today?

David Feldman: Very good. How was the benefit for Public Citizen?

Steve Skrovan: The benefit Stand Up! for Main Street was just a raging success out here in Los Angeles, for those of you who don't know. We had Larry Miller, and John Fugelsang, Cristela Alonzo, and Rondell Sheridan 's comedy and inspiration in a very easy-to-digest packet. So we were very happy with that. So thanks for asking.

David Feldman: What is Public Citizen?

Steve Skrovan: Public Citizen is, as if you don't know, the group that Ralph founded back in 1971, 48 years ago. It has served a public interest in fighting corporate power and defending democracy for all those 48 years.

David Feldman: Is that before or after Ralph coined the phrase whistleblower?

Steve Skrovan: I don't know. Maybe we should ask the man himself, the man of the hour, Ralph Nader.

Ralph Nader: Yes, indeed. Why don't we ask the author of the book, *Crisis of Conscience*, who is going to be with us most of the hour, Tom Mueller.

Steve Skrovan: Correct. On the show today we're going to talk about a topic and a word that has been in the news a lot lately in many different contexts. We're going to talk about whistleblowing, whether it's in the political realm or the corporate realm, we are seeing how important it is to engage and protect whistleblowers. And our guest today is named Mueller. No, not that Mueller, another Mueller who is a little less cryptic than Bobby Three Sticks [lots of laughter]. We'll be speaking with Thomas Mueller, who has written a book entitled *Crisis of Conscience: Whistleblowing in An Age of Fraud*. In the book, Mr. Mueller argues that we live in an age of astonishing corruption, but it is also a Golden Age of whistleblowing. He researched the book by talking to over 200 whistleblowers, and lawyers, and many other experts like intelligence officials, politicians, government watchdogs, and even cognitive scientists. It's a full and comprehensive picture of the courageous act that helps us preserve our democracy. We'll be spending the bulk of the show with Thomas Mueller and then take a short break to check in with our corporate crime reporter, Russell Mohkiber, who has done his own fair share of celebrating whistleblowers. Then we'll fill out the rest of the hour posing your questions to Ralph. We've got some really good ones this week. But first, let's hear about the brave souls who have blown the whistles on corruption. David?

David Feldman: Thomas Mueller is a free-lance writer of nonfiction and fiction. His work has appeared in *The New Yorker*, *National Geographic* magazine, *New York Times Magazine*, *Atlantic Monthly* and elsewhere. His first nonfiction book *Extra Virginity [The Sublime and Scandalous*

World of Olive Oil] is a *New York Times* bestselling account of olive oil culture, history, and crime. His latest is *Crisis of Conscience: Whistleblowing in An Age of Fraud*. Welcome to the *Ralph Nader Radio Hour*, Thomas Mueller.

Tom Mueller: Thank you very much. It's good to be here.

Ralph Nader: Welcome indeed, Thomas Mueller. This book reads like a mystery, but it's real. A lot of stories, gripping stories. You can read it in parts. You can spend an entire day going through its over 400 pages. He's interviewed a lot of people, and it shows. But for our listeners who have a vague concept of whistleblowing, that is they could describe it in three or four sentences, I want to read an excerpt from page 42 that will really frame it, so we can get in deep and expect a framework of comprehension by people who are not steeped in the whole whistleblower struggles that are all over the country, and in the courts, and in the press. Here's the excerpt (quote)

“This is the age of the whistleblower. Over the past two decades, continuing legal and social trends that originated in the late 1960's, a vital new figure has emerged--the insider, who reveals malignant behavior by his organization, earning a measure of protection from the law and of acceptance, even acclaim, from society. In lawsuits that grow more numerous every year, private anti-fraud whistleblowers have disclosed crimes by Fortune 500 healthcare companies, banks, automakers, and weapons manufacturers. Government whistleblowers have unmasked wrongdoing throughout federal, state, and local government--dishonest meat grading at the U.S. Department of Agriculture, theft of revenues from oil contracts in the Bureau of Indian Affairs, hazards at nuclear facilities like Los Alamos and Hanford, violation of mine safety standard that killed hundreds of miners, malfeasance by U.S. Marines procurement officials that killed hundreds of frontline soldiers in Iraq and Afghanistan, Civil servants at the Environmental Protection Agency, Homeland Security, the Department of Interior and the White House have revealed what they see as systemic betrayals of the legal mission of their offices. In fact, Thomas Mueller continues, “in fact, whistleblowing as an essential fraud-fighting paradigm is one of the few things that liberal and conservative lawmakers can agree on. Each year Congress passes new whistleblower laws, which frequently improve job protection and offers large money incentives to encourage employees in an ever-wider sphere of the public and private workplace to step forward”. End of quote. But indicating how deep this book is, Tom says something else two pages later--(quote) “But ultimately, as we'll see, the power of whistleblowers is often illusory. There arises a symptom of a society in deep distress. We are in the midst of a battle over whistleblowing, part of a larger struggle between personal conscience and group solidarity, between the rights of individuals to know what their corporations and their government are doing and the ever-greater power of organizations to keep their secrets. How these conflicts are ultimately resolved will say much about the future strength of our democracy.” (end quote) Now, in your book, Tom, you open with a long description of a struggle by a quite heroic person, an unlikely person, whose name is Allen Jones and who is an investigator at the State Office of the Inspector General in Harrisburg, Pennsylvania. And one of the points you make is about Johnson & Johnson, which the record has shown over the years, is a recidivist corporate criminal, gets caught long after it's made huge profits on hazardous drugs, for example, pays what appears to be a big fine or tort law verdict or settlement, ends up ahead, and keeps doing it. So let's delve into the saga of Allen Jones and the Harrisburg authorities in Pennsylvania and Johnson & Johnson.

Tom Mueller: Yes, Ralph. Allen Jones is an inspiration, and I think a perfect example for me, why I started off the book, of both public and private whistleblowing. He was a public employee at the Office of Inspector General in Pennsylvania, and he discovered what he thought was wrongdoing. The Big Pharma companies were paying the state pharmacists money that was being put into an unmarked account, and that's a felony offence in Pennsylvania. So he went into action, and he began to look into why they were paying the state pharmacists. And ultimately, he uncovered a multi-billion dollar fraud scheme during which Johnson & Johnson and other pharmaceutical companies were basically corrupting the public officials that ran Medicare and Medicaid in over a dozen states, and essentially forcing them to put their anti-psychotic drugs as the first treatment for a wide range of ailments, many of which the FDA had specifically forbidden them from using. For instance, in the case of Risperdal, which is Johnson & Johnson's anti-psychotic drug, they had specifically forbidden the use of Risperdal in any but adult schizophrenics. They had said no to children, no to elders, no to a wide range of people. Well, Johnson & Johnson was ignoring that and suborning state officials in over a dozen states to sell that drug to precisely those people who are quite often captive audiences. They were in reform schools, in prisons, and state hospitals. They didn't have a choice in what they were getting. And, needless to say, those drugs were also vastly more expensive than the first-generation anti-psychotics, and so Johnson & Johnson and others were literally making a killing, figuratively, with a lot of money, but literally because the side effects were quite often extremely serious and sometimes lethal. Now, Allen Jones had a long background. He was a parole officer specializing in people with drug addiction problems and difficult childhoods. He really had a way of identifying with these people who were being victimized by this Big Pharma fraud scheme. He was able to see past the rhetoric and the camp and see there were real victims here, so he started investigating. He went to the headquarters of Johnson & Johnson and other companies and asked them sharp questions and began to get answers about this plan. I think they thought he was just an innocent paper pusher and wasn't going to cause them problems. Well, he went back home and started putting together what looked to him like a fraud scheme. Unfortunately, his own officials, his own bosses in the Inspector General's office, started clamping down on him because they said these Big Pharma companies have huge political power and they write checks to both sides of the aisle. Tom Ridge was the governor, the new governor in Pennsylvania, and he had strong corporate ties. And they basically tried to shut his investigation down. So Allen Jones fought back. He filed a First Amendment whistleblower lawsuit against his own office of the Inspector General whose mission, as he pointed out, was to inspect and route out fraud wherever it was found that was to the detriment of the people of Pennsylvania.

Ralph Nader: This was brought by a pro bono law firm?

Tom Mueller: Correct.

Ralph Nader: Yeah.

Tom Mueller: No, that's correct. The Government Accountability Project and other lawyers created a pro bono project to defend Allen and their help and their support was fundamental in just keeping him on his feet. And at the same time, he brought another suit under a qui tam provision of a state whistleblower law in Texas, basically the state version of the False Claims Act. And the qui tam provision is this beautiful mechanism in law that was really codified under Abraham

Lincoln during the Civil War, but dating back to medieval common law in which an individual citizen can become a private attorney general and bring suit on behalf of the American people even when the Department of Justice or the U.S. Government is not interested in taking part. And of course, that's very handy when you have very politically powerful players who might well convince the government not to take part. So, Allen Jones for years lived in a deer-hunting cabin in the woods in Pennsylvania. He had no job, no money, barely enough money to pay for the propane for his cabin and a new set of tires for his pickup truck. But, he finally found someone who would listen in the State of Texas and the Texas Attorney General took his case, and a very good law firm, Fish/Richards in Dallas, became his advisors and eventually, he won a settlement against Johnson & Johnson after three days of trials in which some remarkably damning evidence was brought out and won a settlement of \$158 million which led years later to the global DOJ settlement with Johnson & Johnson of \$2.2 billion. But, Ralph, as you pointed out, in the course of the marketing of Risperdal, Johnson & Johnson made what was estimated to be something like \$24 billion. So ultimately, these settlements, as Allen Jones himself recognized, really felt like the cost of doing business, not like real justice. And the people who suffered from these drugs ultimately got no retribution at all. They were not even taken into account in the lawsuit. So Allen has a good feeling about having won his case, but not a good feeling about ultimate justice being done.

Ralph Nader: It's even worse. In your book on page 39 you say, Johnson & Johnson admitted no wrongdoing in these cases, accepted no liability. None of its employees were prosecuted. It's because the settlements with all these states, Johnson & Johnson's corporate lawyers would say, okay, we'll agree to this modest amount to spare you all kinds of litigation years, and you know you don't have the staff in the attorney general's office to combat our corporate lawyer mega-firms. However, we want you to agree to write in the settlement that our client, Johnson & Johnson admits no wrongdoing and accepts no liability. So this is an example of the double standard, listeners, between corporate crooks and ordinary people who might forge a \$300 check, or ordinary people who might forge a \$300 check out of desperation, or have a tiny bit of marijuana in their pocket in a state where marijuana is illegal. So how do you deal with this structured immunity and impunity? And start with your view of corporate law firms representing these corporate crooks. I want to hear what all these interviews and all this research, Tom, has led you to conclude about the least-examined power brokers in our country that are the architects of immunity by their corporate-crook clients, the corporate law firms. Let's start with them.

Tom Mueller: Yes. Well, I took a page from your book and learned a great deal about the notion of law in the public interest. And this is law in the public disinterest. A number of white-collar defense lawyers who do their tour of duty in the Department of Justice and then move smoothly, seamlessly over to the other side of the table and begin to defend the very people they have learned about how to prosecute--for ten times the amount, ten times the money, or the Mary Jo White's or the Eric Holder's who cycle in and out of government, but really, ultimately, home back in to home base. And they even call it, this is my home, in friendly interviews. It's a fundamental conflict of interest, this revolving door of business is so clear, a moderately gifted eight-year-old would tell you, I don't think this is going to work out so well. They're going to be thinking about their next paycheck and their former clients. How can they be objective? Well, it's only the clever careerists and technocrats who have convinced us and themselves that they can manage this conflict of interest. This is part of the reason why I went deeply into social psychology and evolutionary

psychology at points in my book, because we know these things; we have this data. This science is settled. People are not able to handle these kinds of severe conflicts of interest because much of those conflicts work their way out in the unconscious. And it is perfectly natural for people to home in on their friends, former and future, perfectly natural. One great social scientist, Eliot Aronson, put it to me, “a person turns towards their source of funding as a flower turns towards the sun.” And I think that's just a very natural, almost biological, reality. We chose to ignore it, but at our great peril. And the people, the architects of this settlement with Johnson & Johnson and the State of Texas, the national settlement, they were former and future white-collar defense lawyers with a brief term in the DOJ. And they never even considered prosecuting Alex Gorsky, who was in fact the architect of the Risperdal marketing plan. He's now the CEO of the company. There's a fundamental problem here, and as one Texas lawyer told me, “You know, until we start folks out with orange jumpsuits, we're not going to get justice.” And I think that's perfectly clear [that] if you can write a settlement check, pass that along to your shareholders, keep your beach house, and continue with business as usual, no one's going to stop. And Allen Jones loses his job and is permanently unemployed, but the architects and the executors of this heinous drug-marketing plan were promoted, sometimes to the head of their organization.

Ralph Nader: But the bright light in your book is the 1986 False Claims Act, which flowed from a lot of civic group, I might add, our groundbreaking conference on whistleblowers in January of 1971, which is converted into a book called *Whistle Blowing [the Report of the Conference on Professional Responsibility]*. We had whistleblowers from government, unions, corporations, universities. And I looked out at the sea of conscientious people who take their conscience to work every day, and I said, well, something has to be done, but along came John Phillips, who was a public interest lawyer, and he lobbied Republican Senator Grassley in the Senate and Congressman Howard Berman, Democrat in the House, to pass this 1986 False Claims Act, one consequence of which is, Allen Jones got part of the bounty, and he's no longer in a state of semi-deprivation and penury. So why don't you describe this 1986 Act, what's happened since, and how it's constantly under attack.

Tom Mueller: Yes. As an aside, your conference on professional responsibility, January 30th, 1971, is a red-letter day for whistleblowing. And I think you're rightly recognized as having helped to recoin the term in a positive sense and underscore the professional responsibility, as many whistleblowers will say, “just doing my job” is a fundamental undertaking that in a sense we shouldn't even need the word whistleblower. People should just really do their jobs better. And, I think whistleblowers are the first to say that. But thank goodness, we do have whistleblower legislation now when corruption is so endemic that 1986 amendments to the False Claims Act basically brought back to life a law that had been passed under Abraham Lincoln in 1863, at the height of the Civil War; Lincoln and a set of Senators became aware that surprise, surprise, military contractors were robbing the Union Army blind. And in response to this they passed the False Claims Act, which allotted an individual with good facts to step forward and become a private attorney general and bring suit against those contractors or anyone who presented a false claim for payment to the US government and receive a bounty if they were successful. Now, during World War II, that law was hamstrung systematically by the defense contractors, another big surprise. But in 1986, and in the era of Casper Weinberger's \$640 toilet seat and a period of time in which defense contractors, all the major defense contractors were under multiple investigation, there was a ground swell of support for the reenactment of these laws that, as you said Ralph, John Phillips

was able to coalesce an amazing, unlikely coalition of people--Chuck Grassley in the Senate and Howard Berman in the House--who maybe didn't agree on much else, but they certainly agreed that waste, fraud, and abuse, and misconduct were to be punished and that we needed this bounty provision more than ever to incentivize people to come forward. And they successfully reenacted this law and gave it teeth, gave it significant teeth. And the False Claims Act today is far and away the Department of Justice's most effective weapon in fighting corporate fraud, far and away. Since 1986, we have recovered something in the order of \$60 billion in ill-gotten tax dollars, and we've helped to prevent an estimated trillion dollars more in fraud because people are always looking over their shoulder now and saying anyone in this office could become a whistleblower. So the False Claims Act is a remarkable success.

Ralph Nader: Well, were talking with Tom Mueller, the author of *Crisis of Conscience*, a book that's being talked about all over the country. The subtitle is *Whistleblowing in An Age of Fraud*. And by the way, David, if this is of enough interest to you, I know you have a culinary desire for olive oil when you eat, and Tom Mueller is an expert on olive oil. That was his first book. Tell us, Tom, about the gripping story in the chapter 5 called "Reaping the Nuclear Harvest." Listen to this.

Tom Mueller: Well, Hanford nuclear reservation is one of the most dangerous and polluted places on earth. It's certainly the most polluted place in the Western Hemisphere. It's where all of the plutonium was made for the US's nuclear arsenal. It was begun in the heat of World War II and had a secrecy that exceeded the Normandy invasion. It was so tightly held, the information about how plutonium was being made was so tightly held that it was, that was more secret than Operation Overlord. At any rate, in the 70's and early 80's, the production of new plutonium was phased out and a new era at Hanford began, one of nuclear cleanup. Now, nuclear cleanup, just like nuclear production, is an enormous possibility for a boondoggle by government contractors, many of whom--Bechtel, URS, Honeywell--are on the government contractors database for recidivist fraud; you can see their names right up there with Lockheed and Johnson & Johnson. And then in the last 30 years, as the cleanup has proceeded, and the cleanup I should add, is of vital importance to our nation, not only people who are downstream of the Columbia River where the plants are located, but also for the entire Pacific Northwest because as these World War II Era Facilities age and are crippled by their own radioactivity, the risk becomes greater and greater, of a criticality, as the technicians would say, or in layman's terms, a mushroom cloud over the Tri-Cities. So Danna Busche and Walt Tomasitas were two highly-skilled, highly-trained nuclear engineers who worked at Hanford. They were working on a project, a major new nuclear-waste disposal facility, which was to deal with the most dangerous, high-level waste on the facility which, let me tell you, is the most dangerous material that we know of in the Western Hemisphere; only the Russians can compete. And very late in the project as this plant began to approach completion, both Danna and Walt began to see that there were serious, serious technical problems--serious problems with the quality of the materials that had been used, serious problems with the fundamental chemistry and physics of this plant. And as with all whistleblowers that I know, they first surfaced their concerns through channels. They went to their bosses, and their bosses' bosses. Then they went to the Department of Energy regulators, who should be riding herd on this whole thing, but who are completely captured by the government contractors. When they got nowhere, they took the dramatic step that true whistleblowing requires, of going outside their organization, of getting out of the trap of channels. They went to nuclear safety activists. They went to the press. They went to lawyers. And they ultimately filed suit. Now, they did successfully stop this plant in its tracks,

this multi-billion dollar plant for which taxpayers have been bled white over the years. They did reveal multi-billion dollar fraud in the process for which the contractors recently signed a settlement agreement on their False Claims Act case, but Walt and Donna are permanently out of a job. They're permanently blackballed in their industry, and they have never been replaced. And the people who facilitated and/or ran the fraud are thriving. Their careers have never missed a beat. So again, we have a situation in which people who do the right thing suffer career-ending and life-changing retaliation.

Ralph Nader: Our listeners should also know that the metal tanks, the giant metal tanks containing these plutonium-laced wastes in Hanford and Eastern Washington State have broken through over the years. The tanks, they're contaminating the land underneath it, which will eventually go into the Columbia River. And that's the great fear. And billions of your taxpayer dollars have been spent at Hanford, as well as other nuclear waste sites, to try to deal with this horrendous problem. You have a chapter called "Money Makes the World Go Round," and you quote a Thomas Jefferson letter to John Taylor in 1816 that I wasn't aware of. And the quote is, by Thomas Jefferson (quote) "and I sincerely believe with you that banking establishments are more dangerous than standing armies." (end quote) And also, you quote James Galbraith, testifying before the Senate, saying, (quote) "at its heart, therefore, the financial crisis was a breakdown in the rule of law in America."(end quote). He's speaking of the financial collapse on Wall Street on taxpayer backs in 2008/2009. Give us a thumb sketch of what you've found in the chapter, "Money Makes the World Go Round."

Tom Mueller: Well, in essence, 2008 was, to borrow a phrase from the economist, Simon Johnson, "a silent coup." You know, we had the crash of 1929; we had the Great Depression, but then we had The New Deal. We had retribution and some measure of justice on Wall Street. We had Ferdinand Pecora, who grilled all the Wall Street titans and humiliated them in the press. And we had people going to jail for this. Even in the Savings & Loan Crisis, which is a fly-speck compared to 2008, over 1,000 bank heads went to jail. 2008 was a little bit of a different picture. We had the people who had been the architects of this deregulation storm-- the Robert Rubins and others in the White House and the Larry Summers' who brainstormed this deregulation under Clinton, then went on to profit mightily in the private sector from what they had wrought in the public sector, Citibank and elsewhere, hedge funds--coming back to the White House in 2008 to write the prescription for how to fix this. Not one senior banker was indicted. Not one senior banker was prosecuted. Not one senior banker saw a day of jail time. And yet, our economy, still reeling from the structural damage that was done in 2008. And these stories that I tell of the people of various areas of the financial system, both at Citibank and the SEC and elsewhere, are an interlocking indictment of the ways in which the key regulators have been captured. The Obama Administration was clearly not interested in investigating specific people, specific firms and the kinds of frauds that we all know now caused the 2008 collapse--gross fraud by Wall Street banks and by upstream, all the other layers of toxic mortgage creators and purveyors. We weren't interested in getting to the bottom of this because it would have been bad PR for the bailout scheme. Now, it makes me laugh when various Republicans decry socialism in all of its forms, and they neglect to remember that a major standing army is, of course, a significant socialist entity. But bailing out our banks and not demanding that they even give up their bonuses, is the most egregious form of broken socialism that I've ever seen.

Ralph Nader: Corporate immunity, again, and they're at it with very risky derivative speculation with other people's money, and some people predicting another crash. In your chapter "Ministries of Truth" you talk about William Edward Binney, B-i-n-n-e-y, as "one of the National Security Agency's greatest living code-breaking, mathematicians, and a world authority on mass surveillance". And he'd been with the NSA since 1965. You couldn't have a more establishment figure. And tell us what happened to him; he received the Calloway Award for moral courage a few years ago. Tell us what happened to him and his partner whistleblower. This is one of the most amazing stories in your book.

Tom Mueller: Yes. Bill Binney is, as you say, a lifetime high-level member of the security establishment. You know, he, like many whistleblowers I interviewed, is from a military background, quite right-wing, short haircut, yes, sir. These are not liberal crunchy granola sorts of individuals. They are very much rules people and they're very much old-fashioned American values. And Bill Binney, in the run-up to the 9/11 attacks, became convinced that what he and his fellows were doing in the NSA under Michael Hayden, not only consisted of a massive fraud against taxpayers, to the tune of somewhere between \$8 billion and \$13 billion, although no number has been pinned on it because, of course, it's classified; but also, actually compromised the American defense system to the extent that it facilitated the attacks of 9/11. So we not only lost billions of our tax dollars, but we actually helped the terrorists in the 9/11 attacks. And again, this is not the average American's view. This is the view of Bill Binney, Tom Drake, Deana Rourke, and others of their group--the group of five NSA lifers who had something like 150 years of experience between them--who came forward to the DoD-OIG [and] to the Inspector General of the Department of Justice, following protocol, following channels. They surfaced their complaints in a written whistleblower complaint to their Inspector General, much as the Ukrainian whistleblower has done against Trump. Now, for their pains and for following the protocol and through channels, the DoD-OIG appears to have promptly handed their names over to the Department of Justice; the FBI kicked in their doors, pointed guns at their faces, terrorized the families, subjected them to years of judicial retaliation. Tom Drake, at one point, faced 35 years in prison under Espionage Act charges. Of course, that all went away because there was no case, but the job was done. They were terrorized. They were permanently unemployed and unemployable. And ultimately, what often happens in whistleblower stories, the message was shifted from the data that they brought forward, which of course is still in a report that's been redacted, and it's almost unintelligible--we need to know this information--to the messenger. What were they up to? Were they spies? Were they traitors? And the US establishment, on both the Republican and the Democratic, has become a master at shifting the debate to the point where the American people have lost track of what we're really talking about here. Those folks brought forward dead-solid facts about matters of extreme national security and extreme fraud against the nation. And we still can't read that document. It is absurd.

Ralph Nader: Not only that, but Binney and his colleagues were driven by their discovery inside the NSA, that the NSA was engaged in dragnet snooping of all the people in our country, a violation of the Fourth Amendment to the N-th degree. And he basically said to himself, that's not what I signed up for. I didn't sign up for an agency to engage in dragnet surveillance without judicial warrant, with these fancy computer systems of everybody in the country.

Tom Mueller: That's true.

Ralph Nader: So there was that aspect to it. What are they doing now? They haven't given up.

Tom Mueller: No, they haven't given up. They've made a lot of noise about these whistleblower complaints, and at the same time, they continue undoubtedly with the sanction of major officials in the three branches of government to continue this surveillance. Yeah, Bill Binney had the awful irony of having created this structure to surveil foreign targets and winnow out in rapid, top speed, potential terrorists. And seeing his own work, have the muffler and the regulator turned off, and being used against Americans, which is the thing that he had sworn every day of his working life not to do...he swore only surveillance on foreign targets. He swore to uphold the Constitution, so yes, he backed away from the agency when he felt that they were fundamentally violating their mission. And what would Edward Snowden take away from this message. If you follow protocol, and you surface your concerns about mass surveillance, warrantless surveillance through channels, what happens to you? Well, all you have to do is look at Bill Binney and Tom Drake and see that his only hope of getting the word out was to take another route.

Ralph Nader: And none of the perpetrators were ever punished in the NSA or other agencies of the government that collaborated with the persecution of these patriots. And by the way, listeners, there was a bread and butter aspect to this whistleblower, being a brilliant mathematician. Binney designed a surveillance system for about \$360,000, he estimated it would cost, and he challenged the NSA alternative that was costing millions and millions of dollars and wasn't even doing as good a job. And he was proven right, and Drake was proven right in blowing the whistle on waste, fraud, and abuse against the taxpayers. Even that bread and butter whistleblowing didn't insulate them from this kind of retaliation. Someone told me that after Drake was driven out and persecuted, even though he was proven right in the proceedings about the waste, fraud, and abuse, he was seen working in an Apple Store in Washington to support his family.

Tom Mueller: That's correct. I've met him several times in an Apple Store. That's where he works. That's the only job he can get. I've met other whistleblowers who drive Uber, who simply have been driven [out] for doing the right thing and proving themselves to be ethical and right. And perhaps, that's the worst of all; they were right, and that makes them very awkward. But ultimately, loyalty and obedience are vastly more prized than justice and truth, and that's a sad statement.

Ralph Nader: In your epilogue, Tom Mueller--we're talking to Tom Mueller, author of *Crisis of Conscience: Whistleblowing in An Age of Fraud*, a brand new book--a lot of people are working with big businesses who don't particularly respect the conscience of their workers as they violate the laws and moral principles. In the epilogue, is this ever an enticing title, "The Banana Republic Wasn't Built In A Day," you say. What do you mean?

Tom Mueller: Well, it's a funny thing. I actually finished this book while Obama was still in office, more or less finished. And for various reasons, there was a delay, and then Trump got elected. And I had to write the epilogue to explain that all of the drivers that I had identified of whistleblowing—the actual, social, and economic, and political forces that had brought whistleblowing to the fore, like unhealthy melding of public and private, like revolving door and other toxic conflicts of interest, like cults of money, like cults of secrecy--all of these are embodied in Donald Trump. He is the walking, living, breathing, conflict of interest; unhealthy melding of

public and private. And so, I had to write this epilogue to say, hey folks, I wasn't actually writing this book about him. It just so happened that those factors emerged in my analysis, and sure enough they come to fruition here. But the point of the Banana Republic not only being built in a day, I tried...there may not be any original analysis in my book, but I tried to connect a lot of dots. It took me about seven years overall to write this book, and I connected an enormous number of dots, and those dots lead from the last 50 years, certain institutional corruptions have become normalized, and we have accepted them as the way the game is played. And, in fact, even that terminology gives you a sense that we're looking at public life and private life as a game, not as coherent with our belief systems and our ethics, but as some kind of a game that needs to be played cleverly by clever people. We've gradually accepted this level of acceptance of white-collar criminality as just one of the ways the game is played. And Russell Mohkiber and many others will tell you that white-collar criminality is vastly more harmful to society than all the blue-collar crime put together. It's just that it's unfortunate that you have to prosecute people that are your fellows at the country club. But if you look at what Donald Trump is today and his coterie of bandits that he's put in charge of our government, you can see that the price that is payed when you do not pay attention to recidivist, white-collar criminality over a generation or more--you get Donald Trump. And so that was my point, that Donald Trump didn't come from Mars. He is the logical extension of the corruptions that we've allowed to creep into our political and social system.

Ralph Nader: Well, Thomas Mueller, I wish you'd use the term corporate criminality instead of white-collar. That's an old term that was used to not focus the American people on corporate crime. White-collar crime really is when a bank teller cheats the bank, not when the bank cheats millions of consumers the way Wells Fargo has done. But one thing needs to be emphasized; a lot of these whistleblowers in your book, they were uncovering crimes, I mean literal crimes. I mean Bill Binney, when he blew the whistle, wasn't just invoking the violation by the NSA of the Fourth Amendment [or] the right against search and seizure without judicial warrant. He was invoking the violation also of the FISA Act, the Foreign Intelligence Surveillance Act that provides a five-year jail term. It's a first-class felony if you, as a government official, spy on someone without a judicial warrant. And that's what I want to end this interview before I turn it over to David and Steve, on page 537, by the way listeners, you should really get this book, not only for yourself, but also for your local library, because then all kinds of young people and no-to-young people can come and read it. And as you know, library budgets are pretty tight. Anyway, here's the way you end it. This is what I like about this book. It's not just a Pollyannaish pan to whistleblowing as the cure-all. Let me quote you. "For we cannot rely on a handful of whistleblowers alone to save our democracy. As Edward Snowden said in a 2015 interview, and you quote him. "If we as a society are reliant on asking volunteers to stand up and self-emulate to report a wrongdoing, we will very quickly find ourselves out of volunteers." (end quote Edward Snowden) and then you continue, "In a sense, the concept of blowing the whistle needs to disappear. It must become a routine act. Just as many whistleblowers consider it simply a part of working and living, right? The changes are society needs run deeper than better laws, regulations, compliance programs, and hotlines. We need to affirm the essential patriotism of descent, to celebrate sharp tongues and sovereign minds as our purist duties. Can this really be so hard in a nation that professes to revere its founders, those bold, rebellious, tirelessly provocative truth tellers?" (end quote) Now, here's what everybody needs to keep in mind--almost everything we like that we inherited from our forebearers in our country started with descent. Descent is the mother of ascent. The whole Bill of Rights, which I expect most people would assent to these

days, freedom of speech, protection from search and seizure without judicial warrant, were controversial matters that started with dissenters, like George Mason. So if you keep that gigantic framework in mind, that almost all progress that changes the cruel status quo, starts with descent, and whistleblowing is a form of conscientious descent, we won't look at whistleblowing as kind of an outlier, as kind of an idiosyncratic leap into risk land by workers and big business and in government who take their conscience to work. Steve, David, jump in.

Steve Skrovan: Yeah. I've got a question. We've talked a lot about, and obviously in the news, the focus is on the Donald Trump Administration and whistleblowers, and Trump calling them spies and treasonous; how did the Obama Administration treat whistleblowers?

Tom Mueller: Well, in the corporate sphere, the Obama Administration was supportive with certain enhancements of corporate whistleblowing under the False Claims, the Dodd/Frank, whistleblower offices were aided. He had been a qui tam lawyer for a short time in private practice. He knew that world well. In the national security sphere on the other hand, we'll go down in history perhaps as the worst president ever. Certainly, the worst president so far in terms of weaponizing the Espionage Act and using it as a purely blunt-force mechanism, a mechanism for shutting down discourse and intimidating people. You know, this is a 1917 law that was written to punish German spies during World War I. It's now being used by people who have absolutely nothing of a spy in them. They may disagree with their elders and betters, but they have, as Bill Binney and Tom Drake, and countless others have shown...[interrupted]

David Feldman: ~~Can we go back?~~ Doesn't the Espionage Act actually go back to John Adams?

Tom Mueller: Well, yes, I think originally...

David Fedman: I mean it's engrained; it's part of our heritage.

Tom Mueller: Yes, shortly after the Declaration of Independence, yeah, we had a retrenchment and attack on anyone who might be cozy with the British. Yeah, there's this is two-faced nature in our stance towards whistleblowing, and it was very evident under Obama, that we believe that whistleblowers are a good thing in other organizations. But, people in our organization who are whistleblowers, we tend to think [of] as traitors, spies, jerks, unstable individuals. We can't quite see that, hey, we need whistleblowers inside as well. And I think what Ralph says about descent is fundamental. We need to rediscover and re-emphasize the vital importance of disagreeing, of not being a go-along-to-get-along personality; not being a good soldier who executes orders no matter what. I mean we've already worked that out in Nuremburg, right? I mean that's not a good thing, unquestioning loyalty.

Ralph Nader: Yeah. Let's pause here. Let's define for our listeners qui tam. It's q-u-i t-a-m. It's a Roman name. Quickly define it.

Tom Mueller: Qui tam is a mechanism that was born in medieval common law, actually ultimately of Roman Law roots. And it essentially stands for, it's a Latin phrase that stands for 'he either brings suit on his own behalf and on behalf of the king.' And it was born at a time when the King of England did not have a standing police force to enforce all crimes, and so he relied on

individual citizens to call out wrongdoing by their neighbors, by anyone that they noticed and collect a reward for that. That was enhanced and inserted into the 1863 False Claims Act by Abraham Lincoln, otherwise known as the Lincoln Law. But it allows an individual citizen to prosecute a case on his own behalf as a private attorney general, but also on behalf of the entire US government, even if the Department of Justice does not intervene.

Ralph Nader: Good explanation. And you mentioned Nuremburg. I think a lot of officials now in the Trump Administration, including the military, have got to bone up on the Nuremburg principles, which is if a boss, say the president, trying to do wag-the-dog at a time of impeachment crisis, tells the military to fire; if they think it's an illegal order, they're bound by international law to ignore it.

Tom Mueller: Right.

Ralph Nader: I think this has got to be part of the regular reporting of newspapers on the impeachment courses of action that are being taken because if Trump becomes really desperate he's going to be giving diversionary, and distracting, and perhaps horrendously risky orders to his military or to other officials, and they have got to realize that they are perfectly within their proper behavior to ignore that order if they believe it is illegal under our Constitution or under international law. Explain the origin of the Nuremburg principles.

Tom Mueller: Well, that's exactly right, Ralph. They are not only in their rights but obliged not to obey illegal orders. The Nuremburg principles were essentially a way of dealing with Nazi oligarchs and higher-ups in the Nazi administration. They basically said, look, we were following the orders of our supreme leader, our Fuhrer. And at the same time, which exonerated them in their minds from culpability in killing seven million Jews and untold other millions, and the principle was codified that you cannot escape responsibility for your acts because of a higher authority. At the same time, the people on the ground who were executing those orders, could not shift their responsibility to their superiors. Now, the sad thing, of course, is that it's still this game that we play of superiors being out of the loop and not knowing what their lower-downs were doing and the people actually executing the illegal orders blaming their wrongdoing on their bosses, just following orders. That was replayed to great success during My Lai trials only a short time later in Vietnam. This horrible massacre in which a lot of people were arrested and tried, but fundamentally only one person was put in jail for any time, and he was ultimately exonerated.

Ralph Nader: Just let me interrupt there. Justice Jackson, who was a Supreme Court Justice on leave at the time of the Nuremburg trials, and he presided in Germany over the Nuremburg trials, at the end, he said to the American people, don't think that these Nuremburg rules only apply to foreigners. They apply to people in the United States.

Tom Mueller: Yes, indeed. And Timothy Snyder's wonderful book, *On Tyranny: Twenty Questions for the Modern World*, is a brilliant synoptic look what happened in the rise of Hitler and the rise of Stalin on the one hand, and what's happening in our democracy today, and how those two things are disturbingly similar in many ways. It can happen here, as the book says.

Ralph Nader: On that note, we're out of time. Thank you very much, Tom Mueller, author of *Crisis of Conscience: Whistleblowing in An Age of Fraud*, a spectacular book that should be in every library in the country, in addition, as part of living room discussions and town meetings, because it's the ultimate protection against wrongdoing. It may not be the only protection that we can rely on given how government and corporations are corrupted, but it certainly deserves ever greater elevation and protection of these great American patriots who put their whole future and career on the line--take their conscience to work to protect you from dangerous products, fraudulent services, and corrupt government. Thank you very much, Tom Mueller.

Tom Mueller: Thank you very much, Ralph.

Steve Skrovan: We have been speaking with Thomas Mueller, author of *Crisis of Conscience: Whistleblowing in An Age of Fraud*. We have a link to his work at RalphNaderRadioHour.com. When we come back, Ralph is going to answer the questions you have submitted. But first, we're going to step away for a minute and find out what is going on in the wonderful world of corporate crime with our corporate crime reporter, Russell Mohkiber. You are listening to the *Ralph Nader Radio Hour*. Back after this.

Russell Mohkiber: From the National Press Building in Washington, D.C., this is your Corporate Crime Reporter Morning Minute for Friday, November 1, 2019. I'm Russell Mohkiber. Across the nation, local and state governments have turned to utilities to address acute and pervasive infrastructure needs while utility companies have looked to surcharges as a way to finance those projects and ensure steady profits. That's according to a report in *Pro Publica*. Sometimes, utilities have used revenue from surcharges to pay for things other than infrastructure, many of which customers might expect are already included in their rates. For example, tree trimming in Kansas, smart meters in Colorado, and pension costs in Massachusetts. In New Jersey, gas and electric bills are packed with add-ons that pay for everything from installing solar panels to putting sub-stations on platforms above flood levels. For the Corporate Crime Report, I'm Russell Mohkiber.

Steve Skrovan: Thank you, Russell. I'm Steve Skrovan, along with David Feldman and Ralph. You're listening to the *Ralph Nader Radio Hour*, and we're going to answer some listener questions. And when I say we, I mean Ralph. So, David, why don't you do the honors.

David Feldman: I think we should do Jay Goldberg's first because it's kind of apropos to our guest. This one comes from Jay Goldberg, Ralph. He says, "Isn't Ralph just a little concerned that the whistleblower behind Ukraine gate works for the CIA? I don't know what the CIA's agenda here is, but we can be sure that it's not to highlight Trump's non-enforcement of consumer, environmental, and labor-protection laws and I worry that we may be creeping towards a system where impeachment is used by elites as a means to override the will of the voters. We saw how impeachment was employed in Brazil and in Paraguay to oust progressive leaders like Dilma Rousseff and Lula on bogus charges. Who's to say that if a progressive like Sanders or Warren is elected, the mere threat of impeachment couldn't be used to keep him or her in line. As awful as Trump is and as many impeachable offences as he has no doubt committed, the worst outcome would be to give our intelligence agencies a de facto veto over the choice of the voters."

Ralph Nader: Well, that's a real risk in the future if impeachment becomes more normalized and presidents are not held accountable by informed voters and the presidents don't control the Congress. It's something we all have to be very alert to. Hidden agendas by various groups trying to use impeachment as a way to get their own people in office and other people out of the office. But when it comes to Trump, there are many more impeachable offences--contempt of Congress, for example. Many obstruction of justice, law enforcement, shredding the health, safety, and economic well-being laws of our federal government, pushing out scientists, crushing the oath of office to be exercised by civil servants and regulating for a more healthy and safe society, chronic lying, which has all kinds of deceptive, disabling, and devious impacts on people who may believe it because it comes from the White House, incitation of violence; Trump saying if he's impeached, there may be civil war, and that's not the first time he's said that. You know, his bigotry against minorities, his misogyny against women, his disgusting personal habits, all of which violate the public trust that was one of the definitions of an impeachable offence by Alexander Hamilton, who wanted a strong president. So when he talks about impeachable offences, he has more credibility than maybe some of the founders who wanted a weaker president and a stronger Congress. Anyway, thanks for making that point.

David Feldman: Rich Korn writes, "Ralph, I just read that wet paper and cardboard cannot be recycled, but there's no effort on the part of the Solid Waste Authority here in Palm Beach County, Florida to inform the public of this requirement. Isn't the whole idea of household recycling somewhat of a sham pushed by interest groups like the plastics industry and the bottled beverage industry. That way there is no public pressure to mandate reusable beverage containers like there was 60 years ago. Everyone thinks we're doing something great for the environment; meanwhile, household waste is a tiny fraction of the size of industrial waste, which is not recycled.

Ralph Nader: Well, first of all, you should recall that the beverage industry continues to fight any attempt to put a five- or ten-cent recycling refund for people who bring these bottles back. So, they must have an attitude that doesn't quite square with your question. Over the years, they have fought people like the ecological scientist Barry Commoner tooth and nail against any kind of recycling, and then using the recycled plastics to manufacture park benches, for example, and other uses. Secondly, there's a huge amount of household waste. It's not a tiny fraction of industrial waste, and it is very decentralized and exposes huge numbers of people in the process. So I wouldn't minimize household waste. And of course, we all have to go from recycling to pre-cycling; in other words, to use products like industrial hemp, which is degradable and doesn't require any fossil fuels in products like paper use to in the colonial days of our country's history; the best paper was made from industrial hemp. George Washington and Thomas Jefferson, they grew it on their plantations. So pre-cycle we should talk much more about. That's a preventive approach.

Steve Skrovan: Thank you for your questions. Keep them coming on the *Ralph Nader Radio Hour* website, and you know, if they don't get into the radio version, they'll get into the podcast version. So you'll want to hang out for that. I want to thank our guest again, Thomas Mueller. For those of you listening on the radio, that's our show. For you podcast listeners, stay tuned for some bonus material we call the Wrap Up. A transcript of this show will appear on the *Ralph Nader Radio Hour* website soon after the episode is posted.

David Feldman: Subscribe to us on our *Ralph Nader Radio Hour* YouTube Channel and for Ralph's weekly column, it's free, go to Nader.org. For more from Russell Mohkiber, go to corporatecrimereporter.com.

Steve Skrovan: And Ralph's got two new books out, the fable, *How the Rats Re-Formed the Congress*. (for a copy of that go to ratsreformedcongress.org) and *To the Ramparts: How Bush and Obama Paved the Way for the Trump Presidency and Why It Isn't Too Late to Reverse Course*. We have a link to that also.

David Feldman: Join us next week on the *Ralph Nader Radio Hour*. Thank you, Ralph.

Ralph Nader: Thank you, everybody and try to get this program on more radio stations. Spread the word, listeners. If you like it, then you can always assume others will too.

[Audio Ends] [0:57:39]