



Trends, Tips and Lessons Learned

January 2008

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Trends

Corporate Resolutions has recently been mentioned in the following media:

1. **Associated Press – November 6, 2007** – Keith Prager spoke with reporter Alan Clendenning to discuss the increasing number of fraud cases in Brazil.
2. **Entrepreneur Magazine & Entrepreneur.com – September 2007** – Ken Springer was interviewed for a feature article about investigations related to VC/portfolio companies.
3. **TIME Magazine Blog – September 11, 2007** – Reporter Lisa Cullen did a profile on Corporate Resolutions and the type of background checks they do.
4. **Bloomberg News – October 25, 2007** – Reporter Katherine Burton interviewed Ken Springer regarding the European hedge fund manager Florian Homm.

Letter from the President

One of the greatest threats to corporations and global markets today is business fraud. Without detailed standards and controls in place to curb fraud, many companies have taken matters into their own hands, often doing a disservice to their company and employees. In PriceWaterHouseCooper's 2007 Global Economic Crime Survey, 43% of the international survey respondents experienced corporate crime in 2007. Their reported losses were \$2.4 million in 2007, up from \$1.7 million in 2005.

In this newsletter, we will outline and define common causes of fraud for the private equity and hedge fund communities and the methods used to prevent it. Knowledge and the appropriate measures of prevention will assist in mitigating the costs, risks and effects of fraud. By implementing a fraud prevention program or complementing the practices already in place, Corporate Resolutions assists in identifying the most effective and efficient ways to resolve the problems and prevent further occurrences.

Kenneth S. Springer
President

Navigating Portfolio Company Obstacles

What are the corporate governance responsibilities of a board member? What options do board members have when a problem arises? Increasingly, our clients are spending a significant amount of time addressing these issues, yet often have limited experience in knowing what needs to be done and understanding the potential ramifications of their actions/inactions. Corporate Resolutions offers services to assist our clients in identifying and resolving issues and implementing checks and balances for prevention and protection.



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Examples of recent inquiries we have conducted for our private equity, VC and buyout firm clients include:

- Investigating allegations of fraud (To include filing a fidelity claim)
- What to do upon receipt of an anonymous letter/email
- Violation of a Non Compete Agreement (When the former CEO is now your competitor)
- Backdating of Options
- Theft of intellectual property
- Sexual Harassment
- Intelligence support when terminating an ineffective Officer/Director

Other complementary investigative services we provide to investors/portfolio companies include I-9 Reviews, AML Compliance Reviews and FCPA investigations.

Please look for our upcoming breakfast series that will address these issues and others, in your area. www.corporateresolutions.com

Sovereign Wealth Funds-Friend or Foe?

Sovereign Wealth Funds, with an estimated total of \$2-3 trillion dollars in assets, are now garnering interest and concern from economists and government officials. Sovereign funds are not required to, and few do, "publish information about their assets, investment strategies and liabilities" (*Finance & Development, Sept. 2007, Vol. 44, #3*). Many people view sovereign funds to be a "stabilizing influence on the world's financial markets" because "it's thought that they've traditionally been "long only" (*F & D*).

This means, much like is happening now, because of their long term investment strategies, sovereign funds step in when asset prices fall. But as sovereign funds become a "significant unregulated set of intermediaries" (*F&D*) that invest with hedge funds, their presence and impact are likely to attract greater attention.

Corporate Resolutions Inc. conducts a variety of investigative fact gathering, background checks and corporate investigations for investors, hedge funds, activist hedge funds, counsel and others. Services include:

- Vetting potential investors, borrowers and other third party providers
- Global fund manager background checks
- Management background checks when investing in privately held companies
- Special purpose fact gathering for proxy contests
- Internal investigations
- Intelligence gathering for investments under regulatory scrutiny (backdating of options, insider trading and more)



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- Interview managers re discrepancies or controversies to document their explanation of the facts
- Litigation support for dispute resolution

Corporate Resolutions has a vetted network of in-country international investigators in Europe, Latin America, Asia and South Africa. We also offer AML Compliance Reviews and offer an Ethics Hotline. If you are interested in learning more about the services that we offer to hedge funds, fund of funds and others, please contact us at **212-691-3800**.

The Universal Language of Bribery

There is no doubt that the United States is taking an aggressive approach on bribery by companies operating abroad in violation of the United States Foreign Corrupt Practices Act (FCPA).

At the beginning of 2007 the Securities and Exchange Commission (SEC) and the Department of Justice (DOJ) instituted actions against companies alleged to have participated in bribery of foreign officials to obtain or retain business, resulting in record-setting settlements and most importantly a flurry of self-reporting by companies. Recent FCPA enforcement actions against companies operating in Asia, Middle East and West Africa has resulted in the heightened reporting by companies to the SEC and DOJ that they have begun internal investigations of payments made by employees and agents used in their foreign operations.

Violators of the FCPA face substantial fines, imprisonment and/or forfeiture of property, but in one recent case the SEC settled a civil action in connection with improper payments made by their foreign subsidiary to government officials whereby the company agreed to pay a \$325,000 civil penalty and also received a cease-and-desist order. This very favorable outcome was only achieved because the company self-reported to the SEC.

Any company that is doing business abroad should take immediate steps to determine if:

1. appropriate due diligence was performed on its independent contractors (i.e. freight forwarders, customs agents, brokers) engaged in activities on the part of the company
2. their books and records comply generally with FCPA requirements

Public and private companies operating overseas should proactively conduct FCPA investigations and review their accounting controls to detect any potential violations of the FCPA. Implementing a sound corporate ethics program which includes training of company employees and an independently monitored whistleblower hotline is essential to protecting your company from FCPA violations.

Corporate Resolutions can assist companies worldwide in conducting FCPA investigations, preparing corporate ethics programs or putting into action a whistleblower hotline. If you would like more information please contact us at 212-691-3800 or through our website at www.corporateresolutions.com.