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## All you have to do is act patiently

■ Sound advice for business execs and companies facing allegations of criminal wrongdoing

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Imagine that you've been kidnapped, shot at and beaten while trying to secure a Nigerian pipeline contract for your American-based company.

Then, federal agents find out you've handed off a briefcase with \$1 million in \$100 bills, knowing that it's destined for a Nigerian official. All the while, you believe you're operating to the company's benefit and with its blessing.

All those travails; all that evidence. What to do?

Cooperate, said Mark Weinhardt, whose experience as a white-collar crime specialist at Belin McCormick P.C. has carried into a new private practice, Weinhardt & Logan P.C.

The story about an American businessman in Nigeria is true. Jim Bob Brown was convicted last year for his part in a scheme to deliver \$6 million to Nigerian officials to win a natural gas pipeline contract in that country for Wilbros Group, a Houston contractor that eventually agreed to pay \$32.3 million in penalties.

Brown was facing 10 to 12 years in prison after pleading guilty to one count of violating the Foreign Corrupt Practices Act. He was sentenced to one year and a day and fined \$175,000. Prosecutors spoke on his behalf at sentencing. A federal judge said he was reluctant to hand down a heavy sentence, but noted that Brown also delivered bribes in Ecuador for Wilbros.

For its part, the company contacted federal authorities when it found out that Wilbros and a partner were delivering bribes.

Weinhardt said his advice to Brown was to cooperate with authorities.

That advice was based on a career of watching companies do the right thing and the wrong thing when confronted with an investigation into alleged wrongdoing.

Some of Weinhardt's practice has been outside of Iowa, such as the bribery case, but enough of it has occurred in Iowa to convince him and Holly Logan that they could break away from Belin and make a go of it on their own.

"There's not a shortage of work in Iowa," Weinhardt said. He currently is appealing the sentence of a northwest Iowa man who was convicted as part of federal investigation into a conspiracy to fix the price of ready-mix concrete.

Weinhardt has several pieces of advice for executives who find out

### Focus Story



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— Mark Weinhardt, Weinhardt & Logan P.C.

that their companies are facing allegations of criminal wrongdoing.

And for business leaders who worked their way up the ladder through fast action and on-the-spot decision making, a key caution is to be patient. Don't start firing people, don't break out the paper shredder, don't act before contacting counsel.

Two scenarios typically play out in white-collar crime, Weinhardt said.

In the first, a company benefits from illegal acts carried out by the company or an employee who believes the actions are being carried out with the bosses' knowledge.

Many companies believe that such a scenario could not play out for them. They could be thinking wrong.

In the second, the company really is the victim, maybe of a colossal embezzlement. In those circumstances, companies usually are led to do the right thing, which is to contact law enforcement.

Executives might “leap to the assumption that they only have to worry about the second, but the reality is they need to think about the first one,” Weinhardt said. “The first case is stickier. It is where people are more ignorant, and ignorance can cause more damage.

“In the first case, where left to their

own devices, they get to the wrong outcome. They destroy documents, they try to cover things up; in an effort to be more cooperative, they often say the wrong things to law enforcement.”

Warning signs typically tip off that a company or an employee is under investigation. The serving of a search warrant is an obvious signal.

“You're pretty far down the road then,” Weinhardt said.

Others are when a company finds out that employees are being interviewed by agents or a grand jury subpoena is delivered.

“Oftentimes, law enforcement doesn't show up at the door of the people they think are principally responsible first; they start around the periphery,” Weinhardt said. “They don't come to the workplace, they go to people's houses; they show up at dinner time, they show up at breakfast time, they try to catch people off balance.”

And if something bad has just happened, such as a manure spill at a feed lot, it might be safe to bet that civil and criminal inquiries will be launched.

“The first meeting or the first conversation with government agents can be catastrophic or it can be productive, depending on how it's managed,” he said. □

### WHEN THE LAW COMES CALLING

#### DO

Investigate the facts of the matter thoroughly – but do so through counsel, so that the results of the investigation can be kept confidential.

Learn immediately what law enforcement agency or agencies could be looking at the company. Get business cards and phone numbers where possible.

Consult with counsel before making any corporate moves – such as employee termination or discipline – in reaction to the problem.

#### DON'T

Destroy or alter documents that have any conceivable relevance to the problem. This includes electronic documents, such as emails.

Tell employees or witnesses not to talk to law enforcement, and don't tell them what to say to law enforcement.

Tell employees that the company's lawyer is everybody's lawyer. Conflicts of interest often prohibit one lawyer from representing everyone.