Most of the employees in HealthSouth Corporation’s finance department had no idea that the CFO and his close associates were cooking the books at the high-flying healthcare giant. The company, which was the nation’s largest provider of outpatient surgery, diagnostic, and rehabilitative healthcare services, boasted more than 1,800 facilities in the United States and abroad.

Over the course of 10 years, Weston Smith, who worked his way up from an entry-level finance position to CFO, along with the four former CFOs who preceded him, actively falsified HealthSouth’s financial records—inflating revenues to meet the company’s aggressive earnings targets. In total, they managed to inflate HealthSouth’s revenues by more than $2.7 billion, resulting in an overstatement of earnings of $1.4 billion.

According to Smith, who eventually broke from the pressure and turned himself in to government regulators, the fraud began as aggressive accounting, including manipulating reserves and other judgment areas on the balance sheet, and progressed from there. “When we started stepping over the line, it was always done under the premise of, ‘Well, we’ll make it up next quarter, or it’s temporary, everybody does it,’” he explained.

To keep knowledge of the fraud limited to only those who were participating in it, Smith and others developed a process. Basically, a group of people in the accounting department managed the fraudulent debits and credits so that lower level people wouldn’t be able to make journal entries.

However, according to Smith, the situation eventually became a “gigantic fraud snowball” rolling down the hill that had to be maintained. “At the height of the fraud, it took about 126,000 journal entries each quarter to move all the fraudulent numbers out to some 2,000 locations,” he explained. HealthSouth’s fraud clearly required collaboration from a lot of accountants.

Following the government’s investigation in 2003, 18 HealthSouth employees, including Smith and the four former CFOs, were charged with financial crimes related to the fraud. Smith was sentenced to 14 months in a prison boot camp for his role in the fraud.

What if you went to work tomorrow and your CEO asked you to do something that you believed to be wrong. Would you do it? No?

How about if she asked you to misrepresent the financial health of the company. Still no? Now suppose that the request merely involves making a “technical” misrepresentation that’s supposed to be temporary. You’re asked to check Box A instead of Box B on an unimportant form with the understanding that the company will correct the “error” in the future. You’re told that the misrepresentation is necessary in order to avoid triggering a financial default, which would lead to huge negative outcomes for the business. In fact, you’re guaranteed that the company will have everything it needs very, very shortly to be in financial compliance. It’s really just a timing issue, nothing more. What would you say then?

Ok, now let’s suppose that it’s bonus time. You’re expecting a nice, sizeable bonus. You’ve earned it. You worked very hard for it. You are planning to use that money to pay off some of the debt that’s had you worried. However, if the company experiences a financial default, there will be no bonus. You will also be your CEO’s least favorite person—not a good spot to be in when it comes to future bonuses or job security.

If your answer is still no, good for you! But I’ll bet you know people who would say yes. “After all,” they might say, “what’s the real harm? No one is getting hurt. It’s a simple timing issue, right?”

At some point in our professional careers, many of us will likely encounter a situation where we’re asked, perhaps told, to do something we believe to be wrong or even illegal. Most of us are not prepared for this when it happens. This lack of preparation makes us vulnerable to rationalizations—our own and those of anyone else who may be attempting to coerce us to act. Rationalization is the means whereby good people do bad things. It is the road down which many good people have traveled and found themselves in orange jumpsuits bearing a new name: a prison ID number.

If it’s hard to imagine that this could ever be you, consider this: 80 percent of individuals convicted of white-collar crimes are first-time offenders. Many are moms and dads. Some coach our children’s little league teams, and others are community volunteers. Most would describe themselves as good people and would be described by others as good people. And yet, they ended up being described by the penal system as an inmate.
The focus on individual responsibility

If the HealthSouth case had happened today, it is likely that many more employees would have been charged. As a result of the memorandum titled “Individual Accountability for Corporate Wrongdoing” issued by Deputy Attorney General (DAG) Sally Yates on Sept. 9, 2015—even those who merely had knowledge that something wrong was happening, but didn’t report it—would potentially have faced penalties.

Known simply as the “Yates Memo,” the directive signals the new priority in the Department of Justice’s (DOJ) pursuit of corporate wrongdoing—a priority of pursuing, punishing, and deterring individual wrongdoers versus the corporation itself. In fact, the Security and Exchange Commission (SEC) has stepped up its focus on financial reporting, resulting in an uptick in financial fraud cases.

According to the SEC’s annual report, issuer reporting and disclosure cases represented 20 percent of the SEC’s 2015 enforcement actions—the largest proportion in many years, and the single largest component of the agency’s 2015 docket. All told, the SEC brought 135 such cases against 213 individuals and companies in 2015.

Smith’s advice to those who might be asked to step across the line?

“Just say no! Don’t ever let it start. From the get-go, don’t do it. No job is worth a career, especially when you are selling your own personal integrity along the way.”

What should you do?

What should you do if faced with pressure to collaborate in something you suspect, or know to be wrong?

First, document, document, and document! Keep detailed and precise records about what you are asked to do, who asked you to do it, and what you did. Make sure that the records are easy to find, with clear evidence of date, time, and author.

Second, report your concerns. Granted, this advice is a lot easier said than done. It’s hard to know who to tell and what adverse consequences might result.

Does your company offer an independent, anonymous hot line? Laws have changed significantly in recent years. In many cases whistle blowers are provided meaningful protection from reprisal, and they may even be eligible for a financial reward for providing useful information to law enforcement.

From the get-go, don’t do it. No job is worth a career, especially when you are selling your own personal integrity along the way.

Note that the law also has a potentially damaging flip side. Under the Foreign Corrupt Practices Act, ignoring and failing to report a red flag may make you guilty of “conscious indifference.” In short, by keeping quiet you may be considered an accomplice after the fact.

Bad things do happen to good people. No matter how unlikely it seems today, it’s good to think through what you would do if faced with such an unwelcome request.

About Workiva

Workiva (NYSE:WK) created Wdesk, a cloud-based productivity platform for enterprises to collect, link, report, and analyze business data with control and accountability. Used by thousands of organizations, Wdesk helps public sector and government agencies meet compliance standards with synchronized data, controlled collaboration, granular permissions, and a full audit trail. See what we can do for you at workiva.com.

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About the authors

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