

# COMPLIANCE WEEK

THE LEADING INFORMATION SERVICE ON CORPORATE GOVERNANCE, RISK, AND COMPLIANCE

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# TOP MONDS 2017



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Bill Coffin is a nationally recognized and award-winning business journalist and editorial director specializing in insurance, risk management, and compliance. His work has appeared in *National Underwriter*, *Claims*, *Risk Management*, *Best's Review*, *Captive Review*, and *New European Economy*, as well as *The Wall Street Journal*, *BusinessWeek*, and *Forbes*.

{COFFIN ON COMPLIANCE}

# What makes a Top Mind?

When we launched the Top Minds project last year, we were excited by the prospect of calling out the best and brightest professionals in the compliance, risk, governance, and ethics space. This year, our roster of nominees was nearly quadruple what we got in 2016 and, as we narrowed down our selections for the 2017 Top Minds, we noticed some common qualities that united all of our nominations. These were the things that seemed, time and time again, to set people apart in their field and establish them as real heavy hitters. The more we noticed this, the more we realized that these characteristics form a kind of roadmap for success. Top Minds are:

**Effective.** Most nominees could illustrate how effective their compliance program had been. What is the ROI on their program? What are the results they delivered? They could somehow quantify what their program did, which is easier said than done. There is no one way to do this, but it's a hallmark of a strong compliance program, and of a strong compliance officer, to be able to do that.

**Collaborative.** A lot of our most compelling entries showed that compliance does not live in a bubble. For compliance to be truly effective, it has to live across the organization, contend with or break down silos, and create a holistic system of risk management of which compliance is an integral part.

**Communicative.** Whether it's exporting compliance expectations across the organization, broadcasting visions and values, starting an organizational conversation ... the most successful nominees use their compliance efforts as a bullhorn to make sure that the rest of the organization understands what it means to bring best compliance practices to everyday operations and what it means to build value through compliance.

**Constrictive.** A lot of compliance officers learn the hard way that when they simply act as a hall monitor, they get shut down. Many of the most successful nominees had figured out how not to just say no all the time, but to use their compliance program to empower what the company was trying to accomplish. Business is always trying to move faster and reach higher. For compliance, it's a matter of saying, "we know you want to do these things, but how can we do them in a way that accomplishes your goals yet remains compliant with our internal and external standards?" They're using compliance not as a way to hold the business back, but as a way to build value for the business.

**Visionaries.** A lot of our most compelling Top Minds had a vision not just for themselves as a professional, but for their organizations. These people are true believers in the discipline. Compliance isn't something they do, it's something they are. When they truly give themselves over to their roles and responsibilities, that's what really elevates their abilities as compliance professionals from merely good to truly great ... from a sharp mind to a Top Mind.

With that, I'll leave you to enjoy the various profiles we have prepared for this year's Top Minds. Please join me in congratulating them, and be sure to say hello when you meet them at the Compliance Week 2017 annual conference later this month in Washington, D.C. Until then! ■



# RICHARD Bistrong



Nobody understands better than Richard Bistrong how personal pressure, performance incentives, and temptation can come together in bad ways. But he has since become one of the compliance world's most outspoken voices on how companies can build better and more ethical businesses.

BY BILL COFFIN

CEO

Front-Line Anti-Bribery



# The great communicator

**R**ichard Bistrong never wanted to get into sales; he had plans to become a foreign policy professor. But after he got his first postgraduate degree in 1987, he joined his family business which made bulletproof vests, and from there joined a publicly owned defense contractor. Bistrong had sold to the U.S. military and law enforcement markets, which are stable, high-integrity, and low-risk. In 1997, when he took an opportunity to become an international sales vice president, he suddenly had a much different experience, traveling around the world for some 250 days a year, dealing with clients for whom bribery was not just an occupational hazard, but a way of doing deals. From 1997 to 2007, Bistrong began bribing foreign officials to gain and retain business. In 2012, he would pay for his actions, as well as turn the page on a new career promoting compliance and business ethics. Today, he is one of the compliance communities most outspoken voices on how to manage incentives and anti-bribery efforts.

**You have seen up close and personal what anti-bribery enforcement looks like. Can you share your experience with us?**

Starting in 1997, my strategy [in international sales] was to build a network of intermediaries, agents, and distributors. That's how I was going to grow international sales and that's where I would spend most of the next 10 years. That was my route to market.

A lot of people probably remember the United Nations Oil for Food investigation [in 2004]. In the wake of that investigation, the United Nations formed something called the Procurement Task Force, which was charged with investigating United Nations contract fraud.

In 2006-2007, one of those intermediaries [in my network] was investigated on a food contract for catering services for the United Nations, and the UN was investigating a poten-



tially corrupt relationship between that intermediary and a UN procurement official in New York. The UN investigators noticed that same intermediary held a defense contract with me and my former employer for armored systems for United Nations peacekeepers. So the UN investigators turned their attention to me. They shared their findings with my former employer and that was the reason why I was terminated.

But they also turned over their findings to the United States Justice Department. In 2007, shortly after being dismissed from my former employer, I got a call that I was the target of a criminal investigation by the United States Justice Department over an FCPA violation. The Department gave me an opportunity to cooperate. Now, I had engaged in corrupt behavior, and I was certainly a corrupt person. I hadn't thought

about the implications of my conduct, or the ethical implications of my conduct on society, on my former employer, and regrettably not on my family. I'm thinking, I'd like to come clean and change the trajectory that I had been on for the last 10 years, so I decided to cooperate. That decision led to five years of cooperation with the United States and United Kingdom law enforcement and prosecutors. I would come to find out that I was also targeted in the United Kingdom, so I became an undercover cooperator not only for the FBI but for the City of London police as well.

When the undercover cooperation ended, then I became a cooperating witness. It all ended with me getting sentenced in U.S. federal court as part of my plea agreement. The judge acknowledged the substantial value of my cooperation with the DoJ, so he departed from what could have been a five-year sentence and he gave me 18 months, of which I served 14. I came home in December of 2013.

#### **How did that experience transition into what you're doing now as the CEO of Front-Line Anti-Bribery?**

When I got home in December 2013, I took a deep dive into the compliance world. What I found was a very well-sourced, well-experienced, well-educated discourse of practitioners. But I didn't see a deep perspective on what this all looks like from the business viewpoint. If you look at other individuals who have violated the FCPA and anti-bribery laws, like myself, they're for the most part not individuals who had to risk their personal liberty to be successful. So I started thinking, is there a voice in this field that should talk about what people are actually thinking when they're working in remote offices, far away from the compliance suite, thinly supervised, when a remote office might just be a hotel room that night? We're talking about people who are in what are often called "frontier markets," where lucrative business opportunities and corruption risk are intertwined. People who work in public company environments, like I did for 10 years, who have commercial objectives that are usually measured on a quarterly basis, often with lucrative incentive opportunities. What does that look like? What is it like to work in environments where you're working with third parties and intermediaries that may not embrace or respect anti-bribery laws, ethical conduct, and behavior the way we see it?

In 2014, I started a simple Wordpress blog and I began posting. First, I wanted to see if this perspective brought any value to what was already a to what was already an experienced field. But there was a very personal element for this, as well.

Part of me said, this was a self-inflicted wound. There was no one else responsible for Richard Bistrong going to prison and getting in trouble other than Richard Bistrong. I wasn't a fall guy. Cheating is a choice and just because I had a license to succeed, that wasn't a license to cheat. I said if sharing my own rationalizations—talking about the temptations, how I made compliance decisions on the fly without reaching out to the support networks that were there to help me, those decisions that led to a very dark conclusion—could just help one person to hit the pause button and to think twice when faced with an ethical dilemma, then perhaps this experience was worth it as bringing value to someone else who faces the same pressures.

The other part was helping companies and compliance teams understand the real-world risk that their teams face and to help audit teams understand that a risk-based audit process can miss a whole lot of risk. What started out as sharing my experience led to being asked to speak at events like Compliance Week, and then over time individuals from legal, audit, and compliance asked me to come speak at their corporate events. That is how Front-Line Anti-Bribery has evolved from Richard Bistrong at his desk blogging once or twice a week.

#### **You have said that compliance needs to get the attention and support of business leaders, especially those with profit and loss responsibility. Can you elaborate?**

Sometimes, the toughest person to speak up about is ourselves. If you're rationalizing something like, "if I don't pay a bribe someone else will," and you share that with your compliance leaders and your business leaders, we can all unpack those rationalizations together. We can reframe them in a way as positives for the business.

I had rationalized, what does the company really want, compliance or sales? Because I can't deliver both. I didn't speak up about that. That's a debate I kept in my own mind and I took that compliance position into my own hands.

Before I took my first flight, my company provided me with a copy of the FCPA and told me to read it. If I didn't understand it, they would get me resources that would help me. I didn't need any resources. I understood that conspiring to bribe or bribing a foreign official to gain or retain business was illegal. What happened to me was very shortly in my travels, I started to figure out risk while I was in the middle of it. I started to make decisions on my own and to make calculations on my own.

I can't say for sure that anything would have stopped me, but imagine if someone who had a say in my performance review would have said, "Richard, you have been working in your career in some of the safest markets in the world. Now, we're getting ready to put you in harm's way. It is inevitable that you will come into contact with corruption and corrupt offers. We want to prepare you for that before it happens, because it *will* happen. The company's perspective is no and never, but more important, we want you to understand the resources that are here to support you and we want you to understand how we expect you to engage. In some parts of the world, if you're dealing with an intermediary over police and military contracts, saying no right there on the spot might not be the safest thing for you as an individual, so we want to give you a roadmap to engagement that gets you back home safely. And, we're going to incentivize you in a way that promotes a long-term ethical and sustainable business model. We're not going to pay you on an 'eat what you kill' performance plan. We're going to incentivize you based on corporate and group performance, so take a deep breath. This is going to take some time, and we want to make sure that you are prepared."

That's what I call business leadership. When compliance messages are delivered through business leadership, particularly through mid-level management, that message comes through loud and clear because it's coming from the people who are conducting performance reviews and who are responsible for promotions.

#### **To that point, how can compliance work more productively with the C-Suite and the board?**

Lately, I have been asked more and more by compliance leaders and officers to talk to CEOs and the board to try to help them get more engaged on business leadership; that anti-bribery dilemmas, and ethical and compliance decision making, are not a compliance responsibility in itself. It's a leadership issue. Depending on what the background of the CEO or board might be, they might or might not have firsthand understanding of how these issues look from the front lines of business. Those meetings help business leadership and board leadership understand the support that compliance needs to help people with those ethical struggles where they work.

#### **It must be hard to appreciate that when you're not on the front lines of the business, though.**

At the end of the day, compliance challenges are business

## **RICHARD BISTRONG**

**Title:** CEO, Front-Line Anti-Bribery

**About Front-Line Anti-Bribery:** Front-Line Anti-Bribery is a consultancy designed to complement existing legal & regulatory compliance efforts to focus on the so-called "perverse incentives" that lead to corrupt behavior.

**Years of experience:** 30

**Areas of expertise:** The Foreign Corrupt Practices Act, anti-bribery, anti-corruption

#### **Quote:**

"At the end of the day, compliance challenges are business leadership challenges. The business has the risk. Compliance doesn't have the risk. Compliance is there to help manage it, but the risk is created at the business level."

leadership challenges. The business has the risk. Compliance doesn't have the risk. Compliance is there to help manage it, but the risk is created at the business level.

In a globally dispersed workforce, we have people who are working in new territories and with new responsibilities, under jet-legged, sleep-deprived performance pressures, who might be away from their families for an extended period of time. I think that both business and compliance leadership has a responsibility to look at their workforce as individuals.

When you have people working in frontier markets where there is corruption risk, where cultures could be very different than home, I think we always have to look after people as individuals to keep them close to their network of family and loved ones. Even if they want to continue to make more and more sales calls, bring them home.

I lost my network of people who cared about Richard Bistrong not for his paycheck, but for him. I abandoned those relationships for business success. So I always encourage people in the commercial workforce to stay close to home. If you're struggling with a decision, before you call compliance, call your loved ones. **TM**