The Tyco Story: How to Recover From Unethical Management Behavior

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Rutgers Institute for Ethical Leadership

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What is Tyco Today?

Tyco Security Solutions

Tyco Fire Protection

Tyco Flow Control
The Slide in 2002

- January 2002 – Former Lead Director indicted and pleaded guilty to charge of securities fraud
  - Ordered to pay restitution of $20M
- June 2002 – Former CEO indicted on state sales tax evasion charges. Later amended to include conspiracy, larceny and falsification of records
  - Sentenced to 8 to 25 years and ordered to pay restitution of $97M
- September 2002 – Former CFO indicted on state sales tax evasion charges. Later amended to include conspiracy, larceny and falsification of records
  - Sentenced to 8 to 25 years and ordered to pay restitution of $35M
- September 2002 – Former GC indicted on larceny charges
  - Acquitted following six week trial
The Investigations Begin

- **U.S Attorney for S.D.N.Y**
  - Former CEO and CFO income tax evasion

- **Department of Justice and SEC**
  - Accounting fraud, books and records and improper payments to officials

- **U.S. Department of Labor**
  - ERISA violations in management of 401K plans

- **New Hampshire Bureau of Securities**
  - $10M fine and two year reporting obligation

- **Government Services Administration**
  - Government Contract debarment proceedings
Foundation of a Turn Around

- Crisis of Confidence, Ethics and Governance
  - Investor backlash over $100 billion in market losses
  - Public criticism and loss of regulator confidence
  - Employee, Customer and Supplier reputational damage

- Quick Action on Board and Executive Leadership
  - Replaced half the Board in 2002 and the remainder in 2003 for a first in Corporate America
  - Replaced every senior executive on the leadership team in six months
  - Building blocks of an effective Board
    - Group dynamics: the Lead Director and CEO relationship
    - Information Architecture: Governance Principles and Delegations
    - Substantive Transparency: Clear access to people and data
Foundation of a Turn Around

- Fostering the Progressive Board Environment
  - Establishing the Lead Director and CEO leadership model
    - Ram Charan’s Book, *Boards that Deliver*
  - Power sharing in setting each meeting agenda with input from entire Board
  - Adhere to the Delegation of Authority
    - Key areas of Compensation, Capital Allocation, Securities Reporting and Earnings

- Introduce the Information Architecture
  - Establish position of SVP Corporate Governance, Ombudsman and Internal Audit reporting directly to both the Nominating and Audit Committees
  - Publish Board Governance Principles and Committee Charters
  - Create Delegation of Authority to management drawing clear lines
  - Disseminate the new Guide to Ethical Conduct
A Continuing Governance Leader

- Ensuring Transparency in the Board Room
  - Stay current and focus the Board on major risks
  - Enterprise and Segment risk assessment site visits every other month during the year with access to line management
  - Regular self-evaluation of effectiveness with external benchmarking

- Lead from the Front
  - Adopt the progressive governance position
    - Annual director elections
    - Majority voting for election
    - Lead Director and Committee chair rotations
  - Annual Governance Best Practice Benchmarking
    - Reported in the Proxy Statement
Driving Management Governance

- **Reporting Relationships**
  - Finance Leaders report to CFO (now a Sarbanes requirement)
  - Legal Leaders report to General Counsel (with Sarbanes reporting up)
  - Compliance and Audit direct access to Audit Committee

- **Control Structures**
  - Disclosure Committee Established (now a Sarbanes requirement)
  - Quarterly disclosure report meetings with CEO, CFO, CAO and GC
  - Written management representations on completeness and accuracy of financial statements and quarterly reports
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Governance Crisis in 2002
Tyco’s Commitment to Ethics and Integrity

“The effectiveness of our company policies and programs relies on the unwavering support and commitment of our leaders and employees to conducting business with integrity.” - Ed Breen, Chief Executive Officer Tyco International

“I can’t emphasize enough how important it is that we resist the urge to take any type of shortcut in the way we do business, particularly the kind that forces us to compromise our values.” - George Oliver, President Tyco Fire Protection

“Our core values of Integrity, Excellence, Teamwork and Accountability and our business ethics principles are truly the foundation of Tyco Flow Control’s ongoing success. With that foundation, we will maintain trust between the company, our customers, our suppliers and among our colleagues and ourselves.” - Patrick Decker, President Tyco Flow Control

“Not only are violations of our Tyco Values wrong, but they also damage our reputation despite the efforts of the great many people in our company who do things the right way every day. Anything less than doing things the right way is simply unacceptable.” - Naren Gursahaney, President Tyco Security Services
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Tyco CEO Ed Breen named one of the 100 most influential people in Business Ethics by Ethisphere Magazine, Dec. 2009

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Tyco’s Vital Values

Our Vital Values are...

**Integrity**
Is doing the right thing, even if nobody is watching

**Excellence**
Is expecting more than what others think is possible

**Teamwork**
Is realizing that none of us is as smart as all of us

**Accountability**
Is taking responsibility for our decisions and delivering on our commitments
Vital Values Communications

- Vital Values Education*
- Middle Manager Training*
- Integrity Bulletins
- Awareness Communications
- Ethical Dilemma Scenarios
- Compliance Resource Center (Intranet Site)
- GEC Annual Commitment*

*These items are tracked on management scorecards
Vital Values Annual Campaign – Values Week

- Daily e-mails communications, intranet articles and values videos
- Daily Webinar Series (8 topics, 26 sessions)
- Desk drops
- Values Week Banners
- Values Week events, such as Values Trivia

Desk Drop

April 4: Kickoff
April 5: Integrity
April 6: Excellence
April 7: Teamwork
April 8: Accountability
FY06 VVE program did not have defined completion targets or accountability across the businesses.
FY07/FY08 program introduced completion targets and regular reporting to business leaders.
FY09 completion targets reached by all businesses within program timeline.
FY10 completion targets reached by all businesses within program timeline.
FY11 completion targets reached by all businesses before program deadline (1 month early).

Approximately 50,000 employees per year
Live Training a key component of compliance program:

- In-person training on:
  - Ethical Leadership
  - Fair Competition
  - Anti-Bribery
  - Data Protection
  - Third Party Management Program

- Over 1300 Finance, Sales, Controllers, HR and other managers trained in Jan. 2011
Ombudsman Office and Employee Reporting

**ConcernLINE**

The ConcernLINE is an anonymous reporting tool that is available 24 hours a day, 7 days per week and is staffed by third party trained professionals.

Local ConcernLINE numbers are available. To view these numbers, visit [www.vitaltycoconcerns.com](http://www.vitaltycoconcerns.com) and click on “Contacts and Resources”.

**Vital Tyco Concerns Website**

This online portal provides employees all over the world the option to report concerns via the web. Concerns can be entered in 8 languages and reporters can maintain anonymous two-way communication with investigators.
Ethical Reflections Program
Manager-led discussions of ethics and compliance scenarios

Welcome to the Vital Values Ethical Reflections Program

Ethical Reflections is an ethics and compliance program which provides managers with an easy scenario-based toolkit to facilitate ethics-based discussions with their employees.

To use the toolkit please follow the steps below:
1. Select a subject area listed below that is meaningful to your audience.
2. Choose a scenario from that topic.
3. Review the materials and conduct the session.
4. Return to this site and select “Training Validation” to confirm you completed your session.

Case Studies
- Conflicts of Interest
- Doing Business with Integrity
- Financial Integrity
- Gifts and Business Entertainment
- Political Activities and Charitable Contributions
- Promoting a Positive Workplace and Respecting Others
- Protecting and Managing Company Records
- Protecting Employees and the Environment: Zero Harm
- Vital Values Ethical Reflections Frequently Asked Questions (FAQs)

Facilitators Resource Center
“Tyco Thermal Controls is taking immediate steps to remove ourselves from the construction and product sales business in India.”

“The decision to exit . . . India was not an easy one but one which was necessary for the long-term success of Tyco Thermal Controls. Simply put, we need to step away from this part of our business until we have the right people in our organization and appropriate controls in place to do business the right way.”

“As the leader of Tyco Thermal Controls, I will not allow our people, our customers, Tyco shareowners or our vendors to be negatively impacted by the poor behavior of a minority and a lack of appropriate process and procedure controls.”
Companies judged by employees to be values-based and self-governing have significant advantages:

- Up to five times more innovation
- Up to nine times more customer satisfaction
- Up to three times more employee loyalty
- Up to 50% less misconduct and up to three times less retaliation for speaking up about misconduct
- Up to 40% superiority on financial performance

Source: The HOW Report – Rethinking the Source of Resiliency, Innovation, and Sustainable Growth (A survey of more than 5100+ employees in large US and global companies exploring the connection between a culture of doing the right thing – in simplest terms, operating based on a system of values, with a long term higher purpose as the objective, and equipping their employees to self govern -- and business outcomes like innovation, employee loyalty, customer satisfaction, corporate misconduct, and financial performance.)
The Truth About Compliance . . .
It’s Really About the Culture!

WHAT WORLD FAMOUS BUSINESS LEADER SAID THIS?

“The priority is that all of us continue to zealously guard [our] reputation. We can’t be perfect but we can try to be. . . . We can afford to lose money – even a lot of money. But we can’t afford to lose reputation – even a shred of reputation.

Sometimes your associates will say ‘Everybody else is doing it.’ This rationale is almost always a bad one if it is the main justification for a business action. It is totally unacceptable when evaluating a moral decision. Whenever somebody offers that phrase as a rationale, in effect they are saying that they can’t come up with a good reason.

We now employ more than 250,000 people and the chances of that number getting through the day without any bad behavior occurring is nil. But we can have a huge effect in minimizing such activities by jumping on anything immediately when there is the slightest odor of impropriety. Your attitude on such matters, expressed by behavior as well as words, will be the most important factor in how the culture of your business develops. Culture, more than rule books, determines how an organization behaves.”
THE TYCO LITIGATION: Cleaning Up the Mess

• Dozens of lawsuits directly resulting from former management's actions:
  • Shareholder Class Actions
  • Shareholder Opt Outs
  • Executive Compensation cases
  • D&O Coverage
  • Affirmative cases against former officers and directors
  • Executive compensation cases
  • “Tag along" cases re: specific corporate transactions
  • Etc.

• Spill over effect in "normal" commercial litigation

• Time Frame – 2002 to present
THE TYCO LITIGATION: The Cost

- **Settlement costs:**
  - $2.975 Billion for the Shareholder Class Action
  - Approx. $450 Million for opt outs and "tag along" cases
  - Tens of millions for miscellaneous related cases

- Some offsets from criminal restitution, insurance workouts, etc.

- **Defense/Investigative costs:** > $350 Million

- Increased SOX and auditing costs

- Business distraction

- Reputation
Questions?