Behind the Crime
Interview with a White-Collar Felon

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Behind the Crime: Interview with a White Collar Felon

Table of Contents

St. Thomas Lawyer. *Hank Shea: Lessons Learned From Two Decades of Prosecuting White-Collar Criminals*, University of St. Thomas School of Law


Shea, Hank. *Lessons Learned From Two Decades of Prosecuting White Collar Crime*
Hank Shea: Lessons Learned From Two Decades of Prosecuting White-Collar Criminals
Today I am wearing two hats: I am still in my old role as a federal prosecutor, now serving as a Special Assistant U.S. Attorney. In that capacity, I am expressing my own views and not the position of the U.S. Department of Justice. I am also appearing in my new role, as a Fellow at the University of St. Thomas School of Law and its Thomas E. Holloran Center for Ethical Leadership in the Professions. The title of my remarks, “Top Ten List of Lessons Learned From White-Collar Criminals,” is drawn from both of these roles.

As an Assistant U.S. Attorney, I prosecuted hundreds of white-collar offenders, including bankers, lawyers, business owners and executives – from companies large and small. About seven years ago, however, I began to realize that, while prosecuting and punishing these people was necessary, it was not an adequate solution to the problems posed by their unlawful conduct. I started to look for answers to addressing white-collar crime beyond just sending such criminals to jail. Instead, I began to pursue innovative ways to seek justice, including novel deterrence approaches and extraordinary restitution remedies, all to prevent future crimes and help crime victims.

While these were important steps forward, they were not enough. Therefore, in 2003, I took a new approach by asking...
Kristine Kelly, a former real estate mortgage broker who was convicted of mortgage fraud and served 16 months in prison, shared her story with a law school audience.

were overwhelmingly positive. As a result, I started down a new avenue to crime prevention through education.

Now, as a Fellow at St. Thomas, I am working with more than a dozen white-collar felons for educational purposes. I have made more than 40 joint appearances with these felons, former lawyers, government officials, bankers, brokers and business executives — each willing to share their powerful, yet painful stories of temptation, deceit, concealment, apprehension, ruin and recovery.

The format of these joint presentations is unique and engaging. I begin by having each person provide his or her background and history, which often parallels that of many of those in the audience. I then draw out the various motives and reasons for their misconduct and prompt them to describe the many legal, professional and personal consequences of their offenses, including the impact of their crimes on their victims. We jointly explore what they could have done differently and how other people and organizations can best avoid such breakdowns and disasters. Finally, we usually take questions from the audience. I have never had a felon refuse to answer someone’s question, no matter how personal or probing.

These dozen felons, and a growing number of others with whom I am working, typically have served their sentences and are under no obligation to make presentations. They participate in these events voluntarily and without compensation (except for occasional reimbursement of travel expenses). While each has personal reasons for participating, most are seeking to make amends for the harms they have caused by steering others toward a different path. These presentations are not simple descriptive litanies of describing transgressions and punishments, but rather, genuine explorations of the often unspoken causes of misconduct and the often misunderstood realities of criminal punishment. For some presentations, the roles of apology, forgiveness and redemption are raised in the context of faith and justice.

Based on my many years of prosecutions and all of these presentations, I have identified 10 of the most important lessons to be learned from the misconduct and wrongdoing of others. For those interested in learning more about our work at the Holloran Center, visit: www.stthomas.edu/ethicalleadership.

Hank Shea’s Top 10 List

Lesson No. 10
When faced with a right versus a wrong decision, guard against that first intentional misstep.

This first misstep often involves a small matter or amount. However, none are more important because this small compromise or minimal transgression will almost always lead to worse conduct. Once you step over the line, it is difficult to go back to the right course. In fact, felons typically say that whether it be embezzlements, tax frauds or corporate offenses, after that first wrongful act, it always gets easier to commit the next wrong and to live with it.

By way of example, in one of my recent corporate prosecutions, former company executives started by abusing their expense accounts over small matters involving gas and meal reimbursements; it graduated to taking family vacations on their expense accounts in lieu of bonuses; and it ended with large-scale corporate fraud leading to prison terms for the former CEO and CFO.

Lesson No. 9
Never knowingly sign a false document.

No matter what type of document is at issue – expense account, stock option, tax return – it is almost always a crime and it is always wrong to intentionally sign an official document that is untrue or inaccurate. Your word and your signature are your bond; consequently, you should never put them at risk by stretching the truth or endorsing something that you know is not right. Your signature is also permanent: It often outlives your memory, and may even outlive you. Therefore, always sign your name with care.

Lesson No. 8
Never compound or try to bury your mistakes.

Everybody makes mistakes, errors in judgment and bad decisions. When you do, face up to them, try to make things right and learn from your mistakes. Do not make matters worse by concealing what you did or covering up what you messed up. Many false statements are worse than the underlying misconduct. Consider the example of Martha Stewart. At the same time, it is never too late to admit your mistakes, or even wrongdoing. Felons with whom I work are great examples of truly accepting responsibility, not just by pleading guilty to their crimes, but by trying to make amends for their misconduct by teaching others how and where they went wrong.

Lesson No. 7
Do not follow directions from others you believe to be improper or unethical.

It is not the right thing to do, and it is not a defense to a criminal act unless you are being forced to take the wrongful action. If a CEO says to employees, “We’re going to take
Once you step over the line, it is difficult to go back to the right course.

advantage of …” someone (in other words, cheat), then you cannot simply go along without exposing yourself (as well as your corporation) to prosecution. It is also not a defense that others are doing it, or even that everybody else is doing it. Instead, that claim may invite the prosecutor to make you the example for others.

Lesson No. 6
No matter what your position in your organization, lead by example.

Leading by example is crucial because others are always watching, especially your subordinates. Those in positions under you talk about how you act and what your actions reflect about your expectations for their behavior. For example, if you cut corners or fudge on your expense account, others will do the same and get down in the mud with you. In contrast, if you take the high road or demand the highest ethical standards from yourself, others will follow in your footsteps. This type of leadership is what creates a company’s culture—not written rules or a code of conduct, but the everyday actions of senior leadership that reflect values and priorities.

Lesson No. 5
Avoid the perils of “willful blindness.”

In the post Sarbanes-Oxley world, do not ever deliberately ignore wrongdoing by others, especially if you are a “gatekeeper.” In other words, if you are a senior executive or general counsel, you can commit a crime if you close your eyes to wrongful conduct by your subordinates. For example, federal juries are often instructed that a defendant cannot escape responsibility by deliberately ignoring the obvious. This so-called “ostrich” jury instruction was used to convict Jeff Skilling, the former CEO of Enron. Closer to home, the general counsel for a local Twin Cities company plead guilty to aiding and abetting computer fraud that was being committed by others, because after learning about it, the general counsel did not do enough to stop it and did not report it.

In short, if you learn of misconduct by others, address it or report it to your superior or board of directors. Do not ignore it! Do something about it and then keep a record of your action.

Lesson No. 4
When faced with an ethical dilemma, seek advice and counsel from others.

Put aside your pride and ego and ask others for help. By doing this, you receive a fresh point of view and also a different perspective on the situation. Insular, isolated decision-making often leads to bad results. Consider the many possibilities of people to whom you can turn—your supervisor, a colleague or associate, a company lawyer or compliance officer, your best friend, your parents or your spouse.

The best advice to give to young professionals or new employees is that they seek and find mentors. These mentors should not only be people you can emulate, but also people you trust will give you sound advice and wise counsel based on experience and seasoned judgment. Several younger executives whom I have prosecuted say that this was a key reason for their downfall—the lack of a mentor or someone they could go to for help. My experiences show that mentors can make a difference. At the University of St. Thomas School of Law, every student has a mentor during law school, and many continue the relationship with that mentor during their legal careers.

Mentors are the wave of the future of professional education. Smart organizations are taking a similar path by promoting mentor relationships to train and retain key employees and future leaders.

There is, however, one caveat: Choose your mentor wisely. For example, one local former executive whom I prosecuted followed his mentor from corporation to corporation—but also followed his mentor’s example of cheating on expense accounts and using corporate funds for personal purposes; now both are felons!

Lesson No. 3
Learn to be satisfied with what you have legitimately earned. Greed is a vicious vice that can destroy you.

While this may sound trite, it is important. If you judge success in life by what you can accumulate, you will never be fully content. Someone will always have more, your children or others will always want more from you, and therefore, you will never have enough.

Among the many former lawyers whom I prosecuted, two examples stand out: One was legitimately earning more than $1 million a year as a personal injury attorney and the other was serving as an elected official and making a decent living as a lawyer. However, this wasn’t enough for either of them; instead, they stole from vulnerable clients. Now they have lost everything—their freedom, their livelihood, their marriages, and their self-respect and reputations.
Do the right thing.

Do something of which you can be proud.

Lesson No. 2
No one is above the law.

This is a core principle in our system of justice: No matter how powerful, wealthy or famous one becomes, everyone is still subject to the same laws that govern us all and enable us to live in a civilized society.

Three examples should suffice:

- A former chairman of the state’s second largest savings and loan was a community leader with great influence when he was found guilty of conspiracy, insider trading and other fraud offenses following the failure of that institution;
- A former chairman and CEO of a successful company was among the wealthiest of Minnesotans when he plead guilty to tax fraud and corporate fraud; and
- A university transplant surgeon was probably the most famous person whom I prosecuted. Although that prosecution was not successful, it proves my point better than all of my many convictions. No matter how well-known the person, no matter how many lives one has saved as a surgeon, if you sell an unlicensed experimental drug that causes harm to others or if you double bill your travel expenses to the tune of more than $100,000, you should be held accountable for your conduct.

And finally, above all, the No. 1 lesson learned from white-collar criminals:

Lesson No. 1

This top lesson consists of what I call first principles:

ABOVE ALL ELSE, AT ALL TIMES, WHEREVER YOU LIVE OR WORK, DO THREE THINGS:

- Act with integrity
- Exhibit courage
- Honor your reputation

- Act with and foster integrity.

When I told one of my colleagues at the U.S. Attorney’s Office about my intention to give you a top 10 list of lessons learned, he said it all boils down to one rule: “Don’t Lie.” While it is not quite that simple, you need to always stand behind the truth and punish dishonesty in all its forms.

Recent surveys show the disturbing number of students, from high school to graduate school, who cheat:

- In a 2006 survey of business schools, 56 percent of the more than 5,000 M.B.A. students surveyed admitted cheating at least once (McCabe, Butterfield & Trevino, September 2006).
- In surveys conducted by the Josephson Institute, 60 percent of more than 30,000 high school students admitted cheating on a test (2006 Josephson Institute Report Card on the Ethics of American Youth: Part One – Integrity).

These are frightening statistics and they need to be addressed immediately by people like you and me. This is where the Holloran Center will strive to make a difference, but this is a dilemma for our entire society.

- Exhibit and reward courage.

DO THE RIGHT THING REGARDLESS OF THE CONSEQUENCES.

To combat cheating and dishonesty, you will need to reward courage when people stand up for what is right. Honor codes and compliance programs only work when people feel obligated and safe to report wrongdoing by others. Thus, consider how your organization treats change agents or whistleblowers — are they ignored, shunned or muzzled or are they protected, fostered and recognized, and where appropriate, rewarded?

- Honor and protect your reputation and your organization’s reputation.

IT IS YOUR MOST VALUABLE ASSET.

It has been said that reputations are earned over a lifetime, but can be lost in a single day. So when faced with that tough ethical decision, ask yourself how your decision would look on the front page of the next morning’s newspaper, then do the right thing, do something of which you can be proud. That is what your reputation is all about. Your acts not only define who you are but establish your reputation. They shape your life and define your legacy, so safeguard that reputation at all times.

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Author: Hank Shea is a Senior Distinguished Fellow at the University of St. Thomas School of Law and a Fellow at its Thomas E. Holloran Center for Ethical Leadership in the Professions (www.stthomas.edu/ethicalleadership). He previously served as an Assistant U.S. Attorney for the District of Minnesota for 18 years and now serves as a Special Assistant U.S. Attorney for that same office. Shea graduated with honors from Georgetown University’s School of Foreign Service in 1978 and Harvard Law School in 1981.
Lessons Learned the Hard Way

By Stephen J. Rondestvedt

“Ordinary people sometimes do bad things. A wrong-headed business decision, a romantic encounter in a late night bar, a rivalry with a neighbor over the placement of a fence, any of these seemingly insignificant moments can initiate a series of events that, like a rusty nail in the sole of a foot, can systematically poison a normal law-abiding person’s life and propel him into a world he thought existed only in the perverse imaginings of pulp novelists.”

So says the protagonist in James Lee Burke’s Last Car to Elysian Fields, but he could just as easily be describing the life I led as a result of the choices I made. My “wrong-headed” business decision, made at a time of great personal turmoil and weakness, plunged me into unimaginable depths and caused a tremendous amount of pain to me, my family and my clients.

I became one of “those lawyers” who took money from his clients. Rather than being an overnight snap decision, however, it was the result of many internal debates I had with myself as I struggled to determine my pathway at a crossroads in my life. I knew from the very outset that what I was doing was wrong; yet I searched for ways to lull my conscience into accepting what it knew was completely against everything I had been raised to believe and everything that I knew was right. Ultimately, I convinced myself that it was only a temporary problem and that as soon as the right case settled I would repay the funds and no one would be worse for the experience. I learned all too quickly, however, that once the door had been opened, it was impossible to close it again and that every decision I made thereafter to try to correct the mistakes I had made only served to compound them. Managing the mess became a full-time occupation that robbed me of my ability to function normally.

Four years have now passed since I turned myself in to the authorities, thus ending a period in my life when the ringing of the phone caused me to jump, when I feared retrieving my voicemail messages, and when opening the daily mail was pure torture. At any moment, the house of lies I had constructed could crumble, and only a constant stream of more lies tenuously kept it together. I couldn’t sleep, couldn’t eat and couldn’t focus on the responsibilities of being a lawyer, a husband or a father. Like an alcoholic, each time I took money was “the last time.” After all, I was only borrowing the money until “things turned around.” Like that rusty nail, though, each of the ensuing decisions I made only served to put me deeper and deeper into the hole I had created for myself.

In those four years, I’ve served 29 months in federal prison, lost my license to practice law, gotten divorced, and suffered numerous other setbacks. Worst of all was being away from my family and not seeing my daughters. My time in prison was measured not in days, weeks, or months, but rather in missed birthdays, holidays, dance performances and all of the other little things we too often take for granted. I missed my grandmother’s funeral and my youngest daughter’s first day of kindergarten, as well as the daily rituals, the happy times and the sad times that come with being part of a family.

I will not be able to relive any of those times.

The lessons I’ve learned along the way, however, while they will never erase the pain of having lived through this experience, can, I hope, serve as a cautionary tale to others. I have had the opportunity to share my story in many different forums, and in each case I am convinced that I have been able to reach the audience on a very visceral level. I’ve also learned that help is there for the asking, and I’ve worked hard to reshape my internal compass so that it once again points in the proper direction. I’ve been blessed to have family and friends who have supported me in my darkest moments and have been there to celebrate the small victories as I emerge from this experience, and each day that I live without fear only serves to remind me of how lucky I have been in spite of all of the difficulties.

Author: Stephen J. Rondestvedt was a workers’ compensation and personal injury attorney in the Twin Cities when he started “borrowing” money from clients without their knowledge in the late 1990s. In September 2003, Rondestvedt turned himself in to authorities and pleaded guilty to embezzling more than $700,000 in client funds. He was sentenced to 46 months imprisonment and served his sentence at the Federal Prison Camp in Yankton, S.D.
“TOP 10 WAYS GOOD COMPANIES CAN GET IN TROUBLE”

Good afternoon. Today I am wearing two hats: one in my old role as a federal prosecutor, as I am still serving as a Special Assistant United States Attorney for the District of Minnesota, and the other in my new role as a Senior Distinguished Fellow at the University of St. Thomas School of Law and Holloran Center for Ethical Leadership in the Professions. Today, however, I am wearing my professor hat more than my prosecutor hat. My goal is to help each of you learn about the practices that can get your company into trouble, and how to avoid them.

I want to thank MTS Systems, the Center for Ethical Business Cultures and the Minnesota High Tech Association for sponsoring today’s event. This part of the program says “MTS Case Presentation,” but I have expanded my remarks to focus on how any good company can get in trouble. In doing so, I have drawn upon 20 years of prosecuting all types and sizes of companies and other organizations to provide you with a snapshot of “lessons learned.” So, while some of what I present will touch upon MTS, it can happen and does happen everywhere—including possibly your company or organization—or for the attorneys here, your client.

So, here is my top ten list of how good companies can get in trouble:

REASON No. 10 – THE WRONG PERSON IN THE WRONG POSITION (AT THE WRONG TIME).

This is a common problem for many companies. It is one thing if the wrong person is involved in ministerial matters, but when you put the wrong person in charge of export controls or auditing or as your in-house counsel, you are playing with fire. These positions are the organization’s “gatekeepers.” Individuals serving in these roles should be specially qualified to oversee and protect your company. Consequently, it is imperative that your company or business makes sure these employees are up to the task and that it takes immediate corrective action if they are not meeting their responsibilities. MTS fell short regarding the person who had been in charge of export compliance and it paid a heavy price. It eventually addressed and beefed up export controls when it brought in Jeff Zinsli and his team. But this happened way too late—after the violations had already taken place.

REASON No. 9 – INADEQUATE TRAINING AND SUPERVISION.

Even if the wrong person is in a particular position, it is possible to avoid most breakdowns if those higher in the chain-of-command provide extra training, support, and supervision. This often takes time and expense that busy executives may not want to spend. Nevertheless, when a key employee makes a serious blunder, a supervisor needs to step in and take charge, or, if a key employee indicates he or she needs help, get the person help. When supervisors
ignore these requests, they do so at their peril and risk incidents similar to what occurred at MTS.

**REASON No. 8 – INADEQUATE MONITORING/AUDITING & EVALUATION.**

Even if the wrong person is in the wrong position and there is inadequate direct supervision, companies can still detect and avoid problems if they are proactively checking and weighing employee performance. A company needs both internal and external audits focusing on its most vulnerable areas. These vulnerable areas can include past problem areas for the company or the industry, as well as new employees or those employees with new responsibilities.

Many examples exist where companies failed to conduct audits or proper monitoring, which in turn led to criminal prosecutions. Given outside auditor warnings regarding customer credit issues, Katun Corporation should have made that area a priority in its finance department. Similarly, since two-thirds of MTS’s revenue comes from exports, it should have made export controls a very high priority.

**REASON No. 7 – POORLY COMMUNICATED OR UNENFORCED CODES OF CONDUCT OR COMPLIANCE POLICIES & PROCEDURES.**

It does no good for a company to have impressive standards of conduct or compliance programs if its employees are not aware of them or if the company does not enforce them. Mere “paper programs” are often worse than no standards at all. They are worse because they show that the organization was aware of laws or rules that they violated and chose not to obey or enforce them.

A key issue for MTS was: what did it do about “red flags”? Employee emails showed real confusion and inconsistency in addressing the company’s knowledge that its exports were headed for India’s unregulated nuclear power industry. When an employee or company agent writes **NUCLEAR** in bold caps in an email to the company export compliance person about a possible sale to India, this is a bright red flag that must be addressed and kept on file.

Inadequate or under-enforced policies or procedures were not an issue just at MTS. Here is an even more telling example. When the general counsel of another company under investigation was interviewed, he was asked who enforced the company’s compliance program. His response: it is “self enforcing.” This is an example of a gatekeeper acting like an ostrich, or in other words, engaging in willful blindness. This practice of deliberate ignorance led to felony convictions for the company and its former CEO, COO, general counsel, and others.

**REASON No. 6 – FAILURE TO ACCEPT RESPONSIBILITY & REMEDY PROBLEM WHEN BREAKDOWN OR WRONGDOING OCCURS.**

Not every misstep or breakdown involves wrongdoing. Employees are human; they make mistakes and mess up. Such mistakes are an inevitable part of doing business. The critical
point is how an organization and its leadership respond. In dealing with wrongdoing, a company has two general choices: 1) it can ignore it, bury it, and hope it goes away (and usually get burned again and worse) or 2) it can acknowledge it, fix it, and learn from it.

MTS ultimately took the right course—but one may ask: what took so long? Possibly, it engaged in some of the following reasons:

REASON No. 5 – HIRE THE WRONG ATTORNEY WHEN PROBLEMS ARISE (THAT CAN MAKEmATTERS EVEN WORSE).

Be careful in deciding who a company turns to for help when problems come to light. This is often the most important threshold decision for any company that comes under investigation. Given my experience, I believe that it is essential to retain outside counsel who can fully represent your organization’s interests and work with the government to identify and expeditiously resolve issues.

The federal investigation into MTS began in 2001. The investigation had a long, tortuous history involving other Assistant United States Attorneys and other MTS outside counsel. I took over the case in May 2007. MTS hired Bill Mauzy at the same time. The government welcomed this development. MTS also brought in Doug Peterson, Bill Michael, and other outside attorneys. This was even more welcomed by the United States.

Let me tell you why. When Bill Mauzy and Doug Peterson said something on behalf of their clients, we could rely on it. If Bill or Doug made a representation that later changed, we were told as soon as possible. Bill Mauzy worked with us to get us access to people and documents, while still protecting the company’s attorney-client privileges. They never backed away from negotiations. Doug Peterson, in particular, kept lines of communication open.

The bottom line: if your company gets into trouble, find an attorney who government lawyers respect and trust if you want to avoid expense and delay, or even worse. In my view, if MTS had not hired new outside counsel, this case would not have been resolved by a plea agreement. Instead, MTS would be defending itself against multiple felony charges in a long, expensive trial with a potentially disastrous outcome for the company.

REASON No. 4 – FAILURE TO BE CANDID AND OPEN WITH THE GOVERNMENT FROM THE OUTSET OF ANY INQUIRY/INVESTIGATION.

As with many relationships in life, how you and your company initially respond when the government comes calling will often dictate the future course of events between the parties. If you are respectful and upfront, trying to be as cooperative as you are able to be, you can expect reciprocal treatment by the government. If not, you risk setting the tone for a prolonged, difficult relationship.

I have investigated many companies and have charged relatively few. Nothing is more effective or powerful than being up front with the government. Nothing is more disarming
than an apology. That is what voluntary disclosure is all about. It is the opposite of hunkering down and circling the wagons and adopting a scorched earth policy.

**REASON No. 3 – ATTACKING THE GOVERNMENT INSTEAD OF TACKLING THE PROBLEM.**

A search warrant was executed early in the MTS investigation. Search warrants are always tough calls for the government. It is always a sensitive matter for an organization getting searched. It is frustrating for the company and its executives because they often cannot find out the reasons why the judge authorized the search—but experienced attorneys will explain to their clients how and why the government takes these steps and the role of the court in approving the search.

The key point for any company: find out the nature and extent of the problem. Do this internally. Meet with the government as soon as possible and often. Let me also tell you what not to do. Do not tell newspaper reporters that the government’s investigation is “bizarre” or describe allegations as “absurd” or make up facts about the search that get printed in the paper. That is what MTS did early on. No one likes being ridiculed, even public servants. Government agencies have long, institutional memories.

I want to be fair to MTS and give credit to its senior executives. When MTS entered its plea, the chairman of the MTS board of directors (and its former CEO) personally appeared in court to admit to his company’s wrongdoing. The new CEO went further. She wrote a letter to MTS shareholders, stating in part:

> MTS takes full responsibility for these violations of law. While no equipment was shipped, these actions by our employees are still unacceptable. Our Code of Conduct states that we are expected to conduct ourselves with the highest level of integrity and explicitly that we will comply with both the letter and spirit of the laws wherever we do business. In these instances we did not live up to our own expectations.

Such candor and acceptance of responsibility are to be commended.

**REASON No. 2 – COMMITTING THE SAME MISTAKE OR MISCONDUCT MORE THAN ONCE.**

Committing the same wrongful act more than once shows that you have learned nothing. For me, MTS presented a challenging dilemma. On one hand, this successful company employed more than 1,000 Minnesotans. On the other hand, the company committed not one, not two, but three separate violations—demonstrating a pattern of breakdowns that often is prosecuted as felony conduct. It was apparent to all that charging and convicting MTS of a felony could put them out of business. Yet the government was beyond the point of handling the violations as simply an administrative matter, which is what could have been done if there was only one violation. The multiple misdemeanor charges as well as administrative penalties were a fair and just resolution for all parties.

The situation was made worse for MTS because, even after it brought in outside counsel early in the investigation, communications made by and on behalf of MTS to the Department
of Commerce did not disclose all of the important facts that MTS employees (and outside counsel) knew about possible nuclear end-use of its equipment in India. This is cardinal error material. Any time there is possible attorney knowledge or involvement in a matter under investigation, investigators and prosecutors engage in a much higher level of scrutiny because of several factors, including a possible defense of reliance on advice of counsel.

Finally, the number one reason good companies can get in trouble, as we have already heard today,

**REASON No. 1 – WHEN SENIOR MANAGEMENT FAILS TO CREATE & MAINTAIN AN ETHICAL CULTURE.**

Others today have talked about “walking the talk,” but I am convinced that the daily conduct of senior management in leading by example is the most important factor in determining if a company gets in trouble or stays out of trouble. It is a simple fact—employees and officers observe how their leaders behave in any organization to set their own values and priorities and guide their own performance and work habits. They do so because senior management behavior indicates who gets promoted or not, what gets rewarded or not, and who gets held accountable or not. The model and tone from the top has a far greater impact on employee performance than any mission statement or code of conduct.

At MTS, that commitment to ethical conduct existed among senior management, *but*, it grew fuzzy in how it was communicated and prioritized to the rest of the company. Some employees just did not get it prior to 2004. In my opinion, since 2004, real progress has been made at MTS by Jeff Zinsli and the others who are training employees and implementing new procedures to ensure the corporate culture and behavior is in sync in terms of ethics and compliance. As always, time will tell how much more needs to be done. Under the company’s plea agreement and the court’s sentence, the government will closely monitor MTS for several years. We hope it can be pointed to as a model for export compliance for years to come.

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1. Attorney Embezzlement and Theft
   
a. **United States v. Glenn Smith**, (1999) (Former attorney/Mayor of Edina plead guilty to mail fraud and sentenced to 41 months imprisonment for defrauding vulnerable clients of more than $500,000).

b. **United States v. David Moskal**, (1998) (Former name partner in personal injury firm plead guilty to mail fraud and sentenced to 60 months imprisonment for defrauding vulnerable clients of $2.5 million).

c. **United States v. Steven Samborski**, (2003) (Former attorney plead guilty to mail fraud and sentenced to 60 months imprisonment).

d. **United States v. Stephen Rondestvedt**, (2003) (Former attorney plead guilty to mail fraud and sentenced to 46 months imprisonment).


2. Attorney Fraud
   

b. **United States v. Frederick Schumacher**, (2000) (Former corporate attorney found guilty of securities fraud and related offenses and sentenced to 41 months imprisonment).

general counsel plead guilty to aiding and abetting
wire fraud and computer fraud and paid $200,000 in
fines and restitution).

3. Restitution and Other Remedial Efforts

a. **Gurstel** - Paid $400,000 in restitution and agreed to
consignment sale of 58 suits, 39 sports coats, and 123
pairs of dress shoes towards payment of his restitution
obligation.

b. **Moskal** - Surrender and sale of Edina residence and
adjacent property, Spicer log home, Steamboat Springs
condo, retirement and money market accounts, jewelry,
vehicle, boat, and other personal property, and
forfeiture of law firm stock and pending and future
attorneys fees, all towards payment of his restitution
obligation.

c. **Moen** - Paid $75,000 in restitution to Ricoh Corporation
and $25,000 in extraordinary restitution to Caux Round
Table for ethics programs in Minnesota schools.

d. **Rondestvedt** - Post-conviction speaking engagements at
all four Minnesota law schools regarding his criminal
wrongdoing, its impact, and lessons to be learned.

e. **White** - Numerous speaking appearances before high
school students, law school students, and attorneys
regarding the severe consequences of his felony
conduct.
1. The slippery slope of unethical behavior – small lapses or transgressions usually become larger problems

2. It is not a defense that everyone else is doing it – in fact, it highlights the need for enforcement and deterrence

3. Unenforced codes of conduct or “mere paper” compliance programs are often worse than nothing at all – they show the corporation and its employees were aware of the laws or rules that were violated and chose not to obey or enforce them

4. Willful blindness as felony conduct – gatekeepers should never deliberately ignore wrongful conduct

5. Effective business executives must lead by example – in their use of corporate funds, in fostering open communications, in protecting whistleblowers, in holding rule breakers accountable, and in building an ethical culture

6. No organization is invulnerable – misconduct and breakdowns are inevitable – the key question is how it will be dealt with by the organization and its leadership – for example, hidden in a confidential settlement or used as a teaching tool

7. Final Lesson – Creating an effective compliance program and building an ethical culture are not only the right things to do but also constitute smart business – because the consequences of misconduct are severe and long-lasting
   
   a. Substantial financial sanctions
   b. Damaged reputations and employee morale
   c. Loss of government contracts
   d. Huge legal expenses and related costs
   e. Jail time for executives and employees