

White Collar Chronicles – Chapter 2 - The Collusion

White Collar chronicles is a multi-part series of white-collar investigations stories discussing issues that keep the compliance officers and investigators on their toes. Each chapter is meant to elaborate how particular white-collar issues were identified, how companies responded and what lessons can be learnt. In this instalment, we dive into how the best of the internal controls can be bypassed through collusion, and how such collusion frauds are the most difficult to detect.

(Chapter 1 – The Consultant – [Read Here](#))

Chapter 2 – The Collusion

The Premise

Elizabeth is the head of internal audit of a leading market research and consulting company. Her focus has been on streamlining the controls in sales, revenue assurance and mission-critical business turnaround projects. Though she has been in for only four years in her current role, she already dealt with and closed several control gaps.

As one of the most important growth regions, India had been on her list for a detailed review, and as the circumstances would have been, she was tasked with a short visit to India to speak with key stakeholders. However, little did she know that her short trip to India would become one of the most difficult professional challenges for her!

The Meeting

Her first meeting was with a departing sales executive. They discussed in routine the way sales function operated and how various other functions supported the sales team. However, the discussion took a sharp turn when the sales executive told her ‘We are being bullied to close the targets at any cost, and I was asked to resign because I refused to fake sales’. Shocked at this revelation, Elizabeth decided to delve into it further. She called the India legal head and discussed this at length. The legal head did not mince her words and told Elizabeth that the sales function has been alleged of operating in an unethical manner, and though she did not have conclusive evidence, but almost all functions were hands-in-glove with the sales team, which kept these issues from emerging and being identified. She also told her that she had tried to look into these issues earlier, but she was stonewalled and even accused of being anti-business. Elizabeth understood the gravity of the problem – it was not a routine internal control gap or a mere fraud - it was collusion with influence casting.

The Challenge

As an experienced internal auditor, Elizabeth knew that a dysfunction operating in isolation cannot remain undetected. However, if controls are failing, it means that multiple functions are colluding with each other. In this case as well, based on a preliminary understanding, Elizabeth understood that fake sales were being generated by sales team, and the same remained undetected for years, owing to collusion between sales and various other functions like finance

and operations. She thought of reviewing it internally; however, all functions and their key members were involved in this. Not only involved, but they had financially enriched themselves and earned huge incentives.

This was a major hurdle for Elizabeth, as collusion schemes are difficult to uncover. She also understood by now that employees were being bullied into not speaking, and they had been well-rewarded to not to speak against this charade. And most importantly, the functional heads, the real masterminds of this scheme, were influential, powerful, business driven and strongly networked, who could stall and deflect all the internal efforts to uncover this issue.

The Strategy

Sensing these challenges, Elizabeth engaged external lawyers to investigate this issue. The objectives behind bringing external lawyers were multifold:

1. The external lawyers would be able to view various functions impartially and there could be no claim of biased or being anti-business in their assessment.
2. The influence casting from functional heads would be minimal on external lawyers. In fact, the external lawyers would be able to mount due pressure on people to make them talk.
3. Anticipating potential senior management involvement, a report by external lawyers would command independence and credibility to the decision-makers.
4. And finally, this needed an all-hands-on deck approach, including significant forensic technology procedures, and external lawyers would be able to deploy these resources and tools more effectively.

She onboarded the lawyers quickly and provided them the data along with the entire background, and challenges to be expected.

The Approach

The external lawyers conducted some preliminary discussions with some of the employees and understood at once the challenge that Elizabeth anticipated – it was true. The employees kept deflecting the lawyers through their sales talks and passed off any issues as a bad business decision. They blamed other departments for any failure of control gaps, and the circle kept going. The external lawyers understood the anatomy of these employees, and the way to deal with this problem was to confront these employees with some real evidence. The lawyers exhaustively reviewed multiple data points, especially for situations which involve collusion, and calibrated their investigative procedures to meet the needs of the assignment.

1. The idea was to identify the roles and operational limits of each functional area, along with the specific operating procedures for those functions. This meant that any decision by such functional area was needed to be justified based on certain defined parameters – a test that would be particularly useful when detecting collusion.
2. In situations of deep-rooted collusion schemes, next objective was to identify the weak links in the chain. Such weak links or employees not only provide account of the entire scheme but also tell who all have been involved in this, when applied some pressure.
3. Finally, anticipating denial and deflection by employees, the lawyers had to independently identify various evidence and facts to the extent possible for use in the final interviews with these employees.

The procedures were planned strategically, and it worked. The lawyers were able to gather circumstantial evidence, based on which, one sales executive broke down, and disclosed the entire fraud. This admission helped the lawyers in cracking the entire web and the entire collusion card-house fell dramatically. It was a fraud of over a hundred million dollars.

But what was astonishing for Elizabeth was not the scale of fraud, but how these employees rationalised their acts – that they were doing what was asked to be done and that they were not answerable to anyone. The culture was so powerfully influential and toxic, that the employees even tried to threaten Elizabeth and the lawyers during the interviews. However, ultimately, with continued persistence and pressure, the employees admitted the fraud that they had colluded in together.

The Post-Op

Elizabeth seemed sufficiently satisfied with the results. Based on her very comprehensive reporting and description of events along with evidence, the top management clearly understood the message and took no time in firing the employees. However, Elizabeth was still worried because even despite sufficient controls being there in the company, the perpetrators were still able to deceive the system. Therefore, she started dissecting the root cause of this collusion and implementing controls to prevent this from recurring in future.

The personalities of the different persons involved had played a role in the failure of established processes and controls.

1. The overly aggressive and fear-inducing dominating functional head – who bullied his team to drive into the sales pressure and pick up fake sales.
2. The incentive-yearning sales team, lured with the dollars despite being bullied and harassed.
3. The ambitious and management pleaser operational head, who was keen to make his mark in the APAC region by creating a huge top line.
4. The weak-willed finance head was considered a ‘cost-centre’ (and therefore expected to not interfere in the business), turned a blind eye to these schemes, and approved everything that came on his table, without questioning anyone.
5. The global management was too comfortable in believing the glossy dashboards and rosy pictures, instead of critically examining it.
6. Support team played along, provided necessary documentation to wash away the inconsistencies.

She knew that the collusion practices are not visibly identifiable, and to address this, she needed to assess and address the personality-factor – power dynamics, value systems and people priorities.

The Restructuring

Elizabeth understood it well that she needed to bring in strong teams, a turnaround in the culture and adequate supervision to prevent this from happening in future.

1. Reinforced safe and anonymous reporting lines for employees to be confident in escalating the issues and be assured about non-retaliation.
2. Re-created the KRAs for internal audit function to include corporate governance checks.
3. Hired strong-minded business leaders with impeccable ethical reputation.

4. Turned cost-centres into accountability centres and de-linked their incentives from business performance.
5. Ensured frequent training programs and set clear expectations across the board.

These strong decisions invited some criticism from top management – but Elizabeth knew that *tough situations demand tough solutions*, and she refused to be another people pleaser and enabler of a hundred-million-dollar collusion fraud.

An organisation may have very robust internal controls and compliance framework, but collusion can dismantle every such structure in the organisation. Organisations are driven by people and their value systems, which if nurtured correctly with right leadership can transform organisations. A lack of it can destroy them. Elizabeth learnt this aspect and as part of the internal audit domain, rather than looking at just numbers and trends, she now focuses on the human aspect as well.