

**ASSOCIATION OF CORPORATE COUNSEL- 2007 ANNUAL MEETING
CLO CLUB HYPOTHETICAL SCENARIO- CLO1**

**Designing a “Best Practices” Plan to Ensure Financial Compliance
October 31, 2007 (9:00 a.m. until 10:30 a.m.)**

You are the Chief Legal Officer of Office Mate, a company that sells a variety of office supplies to a range of corporate customers. The company was started by two college friends six years ago, and has thrived by seeking out low-cost producers overseas and offering creative purchasing and financing arrangements to suppliers. Office Mate engaged in an initial public offering two years ago, which was well-subscribed, and the company’s share price steadily rose afterward.

A month ago, however, the company was rocked by two discoveries. The first was that Office Mate’s director of Information Technology had conspired with a technology vendor to submit false change orders on work that the vendor was performing for the company. The director had been brought in right after the IPO to integrate more fully the company’s data systems, which had become cumbersome and incompatible with one another in many cases.

After seeking bids from vendors on a data integration project, the IT director and the Vice President of Procurement had chosen Seamless Corporation to do the work for \$35 million over a one-year period. During that time, the IT director arranged for the Seamless project manager to submit two false change orders based on features of Office Mate’s data system supposedly first discovered during work on the project. The IT director approved the additional payments for a total of \$6 million, which he then split with the Seamless project director. The fraud was discovered when a Seamless internal auditor was unable to match a particular change order with the supposed corresponding revenue from it.

On the heels of that scandal came another revelation. Almost a year ago, the Office Mate regional business unit based in Milwaukee had made two large sales to Fortune 100 companies totaling almost \$25 million. This resulted in a significant bonus for the head of the Milwaukee office. It turns out, however, that the head of the office had entered into an oral side agreement that allowed the customers to return as much of the merchandise as they wanted within a one-year period. Over the last eleven months, \$16 million worth of merchandise has been returned by these customers. The arrangement was discovered when a customer asked a manager in another regional office if it could receive the same terms as the Milwaukee customers had received. Office Mate then discovered that the head of the Milwaukee office was preparing to enter into a

similar agreement with another vendor so that the large sale amount again would be included in the calculation of his bonus.

Office Mate's share price has dropped sharply, and the Securities and Exchange Commission has begun an investigation of both instances of misconduct. The Board of Directors has asked you to head up a task force to conduct a comprehensive review of the company's internal and financial reporting controls and to propose solutions and enhanced practices.

Questions to Consider

- 1. What components should a compliance program have that is designed to prevent the type of financial fraud committed by the company's IT director and the head of the Milwaukee Office?**
- 2. Which parties (e.g., Board of Directors, Audit Committee, CEO, CFO, CLO, internal auditor, outside auditor, head managers of company business units, others) should play a role in that program? What roles should they play, and what should be the reporting relationships among the parties involved?**
- 3. What types of financial fraud reporting channels would you establish (e.g., helplines, ombuds programs, etc.) to help facilitate receipt of information on potential fraud? How (and to whom) would you communicate the availability of such channels?**
- 4. Would you create separate mechanisms for reporting financial allegations? Should the role of the Board be different in connection with allegations relating to financial matters?**
- 5. What are the key challenges for you as CLO when it comes to financial compliance matters? What types of practices have you implemented to help address these challenges?**
- 6. What, if anything, would you do differently (or in addition) to help create an ethical culture within your organization?**