Exploring the Behavior and Psychology Behind Bribery and Corruption

An Interview with Richard Bistrong
INTRODUCTION

As the global business landscape evolves with new technologies and opportunities, new risks emerge and old risks find new channels to grow. In this SAI Global interview, our focus is on bribery and corruption, the mentality and psychology of people who may engage in these unethical behaviors, and how organizations can build modern anti-bribery and anti-corruption programs that work.

As of October 2016, the 10 biggest Foreign Corrupt Practices Act (FCPA) cases involve combined financial penalties of $4.84 billion. In a speech given this November at George Washington University Law School, Leslie Caldwell, Assistant Attorney General at the Department of Justice, said that the “World Bank estimates that more than $1 trillion is paid every year in bribes, which amounts to about 3% of the world economy.”

The implications of corruption and bribery on our societal and economic wellbeing are clear. What remains hazy and confusing is why these illegal and unethical acts continue to happen when the people responsible for conducting them know they are wrong and historical data suggests they will eventually be caught.

Do employees giving and taking bribes or acting corruptly do so intentionally? Are they even aware they are doing something wrong?

What is troubling for employers and compliance officers is that this behavior can stem at any level and department in an organization. So, what can be done?

At SAI Global, we believe that an effective compliance & ethics training program around anti-bribery and anti-corruption isn’t just comprised of thorough, modern annual training and short, engaging learning tools to reinforce that training. It involves a cohesive understanding of the mentality and behaviors that drive unethical and illegal business practices, and a culture where each employee is treated as a unique individual with unique risks associated with their role.

It requires a culture of trust where whistleblowing isn’t met with retaliation, and open, honest communication is encouraged from senior leaders, middle managers, and compliance departments.

When you finish reading this interview, you should have a stronger understanding of what drives an employee in your organization, seemingly harmless and hard-working, to make a decision that could impact your company’s reputation, financial outlook, and potentially send them to jail.

We hope you enjoy reading it and learn something new.

Sincerely,
The SAI Global Team
Richard Bistrong is the CEO of Front-Line Anti-Bribery LLC, a former FCPA violator, and an FBI/UK cooperator.

Richard was formerly the VP of International Sales for a large, publicly traded manufacturer of police and military equipment, which included residing and working in the UK. In 2007, as part of a cooperation agreement with the United States Department of Justice and subsequent Immunity from Prosecution in the UK, Richard assisted the United States, UK, and other governments in their understanding of how FCPA, bribery and other export violations occurred and operated in international sales. In 2012, Richard was sentenced as part of his own Plea Agreement, and served fourteen-and-a-half months at a Federal Prison Camp, returning home in December 2013. Richard now consults, writes, and speaks about current front-line anti-bribery and compliance issues. He was named one of Ethisphere’s 100 Most Influential in Business Ethics for 2015, is a Contributing Editor of the FCPA Blog, and can be contacted at richardtbistrong@gmail.com.

On November 14, 2016, I spent two hours with Richard Bistrong in New York City to discuss how bribery, corruption, and doing the wrong thing changed his life, and how compliance officers can ensure their employees avoid the mistakes he made. Below is a transcription of our interview, edited for clarity.

I grew up in Long Island, New York, and I never planned or aspired to be a VP of International Sales. I graduated from the University of Rochester with a political science degree and I wanted to be a foreign policy professor. So I entered the Woodrow Wilson School of Government at the University of Virginia, in their Ph.D. program to pursue that path.

Right after getting my Master’s degree, I was at a crossroad between two interesting offers. One was for a foreign policy internship with The White House during the Reagan administration. The other was from my father and cousin to enter into our family business, started in 1888 by my great grandfather, which was going strong for three generations and manufactured bullet proof vests.

As compelling as the internship was, especially considering my goal when I started grad school, the idea of taking the baton in the family business was even more inspiring. So with my Masters Degree in tow, I moved back to New York to work with my father and cousin, and the focus of my work was strictly on U.S. law enforcement and U.S. military sales. Those sales cycles were stable, the procurements were high frequency, with a well-organized civil-service, and there was always a steady demand for supply. That was where I “cut my teeth” in sales, and eventually the business became so successful that we sold it in the early 90s.

With that sales experience under my belt and the company sold, I decided to take the next step in my career and go work for a successful, publicly traded company that manufactured bullet proof vests, armored vehicles, armored systems, munitions, and riot control equipment, among other products and services. Their portfolio of products was deep and wide, which created an exciting opportunity for me as a sales executive, and to apply what I learned selling similar products in my family’s enterprise. When I started this new job as a VP of Sales, I remained strictly focused on U.S. military and U.S. law enforcement markets, like my prior position with my family.
In 1997, the company decided to invest in international sales. It was clear that the demand for such products was growing in the international markets, and U.S. products and technology were regarded as some of the most reliable and sophisticated among end-users.

The company was ready to tap into that dynamic. They wanted to hire someone to lead this initiative, and as soon as I heard about that opportunity, I thought “I want that job!”

Here was an incredible opportunity to fuse together my foreign policy background and sales experience. I got the job of VP of International Sales and Marketing, where I start traveling the world.

I tallied it up and did the math: I was on the road for 250 days a year on average, or 70%, of the year, which was time I wasn’t spending with my family, friends, and domestic colleagues.

Because I was traveling so much, I started to work out of the company’s UK office and living in England, just to make it easier to conduct business with regions such as Europe, Asia and the Middle East. While it might be exhausting going to Dubai for a two or three day visit from New York, it’s a breeze from Manchester, which is where I was living.

What did you know about the FCPA before you took that first flight in your new role?

Before I took my first international business trip, my employer at the time presented me with a copy of the Foreign Corrupt Practices Act (FCPA). In short, they shared, “This is the law. If you have any questions, we’ll get you resources to help you.” It was clear enough: I knew that bribing or conspiring to bribe a foreign official was illegal.

Ok, so back to the story.

So now I start traveling around the globe, and one of my first goals was to visit with existing customers, and that was a network of intermediaries and agents, upon which I would build a global operation. One of them was in South America, and they had done a few successful deals with our company in the past. In all of our prior experiences and dealings, there was no indication or warning signs of corruption or corrupt intent. So on this visit, which was either my second or third, we spent the weekend at Tierra del Fuego. It’s the southernmost city in Argentina, and actually the southernmost habitable city on Earth, around 600 miles from Antarctica.

In retrospect, I probably should have asked myself “why am I going on a trip with my agent?”

No matter who’s paying, why am I going? But the default mindset for a salesperson is that the more time you spend with a customer, the more likely you are to build up that relationship and close future deals. Being new to the world of international business, I wanted to spend time with these folks to create as much goodwill as possible. I was also anxious to put some wins on the scoreboard as to demonstrate to my company that they made a good decision in giving me this new role. Nonetheless, I should have been home with my wife and our two young children - and more about those decisions later. But I was excited! It was very cool visiting some of the places that I only read about as a young grad student.

Moving along, we were working together on a bid (procurement) for a large contract, and during my visit he shares with me that as part of his success and his success fees, he’s paying “tolls” to win tenders. And I knew what he meant by “tolls.”
There are two elements of the conversation I had that I think remain relevant for commercial teams, C-level executives, and compliance leaders.

He’s speaking in wink and nod terms to describe a bribe – referring to them as “tolls.” In 15 years in the field, I’ve heard many colorful words and phrases to describe a bribe, from “taking care of” to “making people happy”, but the one word I never heard to describe a foreign bribe was “bribe.”

In other words, his work with me was a mixed bag of legitimate and corrupt services. But the interesting thing is that he didn’t explicitly ask me for anything – he didn’t say “the tolls are going up, I need a bigger success fee” or “there are a lot of toll takers, I need a bigger commission” – and his commission rates weren’t even suspiciously high or out of the ordinary – he just pointed to “this is how we do it here.”

So here I am, in Tierra del Fuego, looking out at the Antarctic tundra so to speak, thousands of miles away from company headquarters and compliance personnel, and certainly out of the earshot of international law enforcement. I then pondered, “This is only a red flag if I make it one.” And do you know what I did? I nodded my head to the “tolls.”

When people ask me “Hey Richard, between grad school and prison, when did it all start to go wrong?” – This moment was the beginning of my slippery slope.

While I didn’t go to prison for nodding my head, Tierra del Fuego is how it started. I nodded my head as a co-conspirator to violating the FCPA. That initial conversation in Tierra del Fuego would play itself out in region after region over the coming years, using different colorful words and terms in different situations, and that’s how I started to think of foreign corruption as the norm in international business.

At what point did you know you were breaking the law and doing something wrong?

In Tierra del Fuego, the moment I heard the word “toll.”

Richard, it was ten years until you got caught. In a general sense, how might your conduct have been detected earlier?

I was the poster boy for a robust detection regime. It’s one thing to think corruptly, it’s another thing entirely to be able to engage in these transactions and make them a reality. A tighter control regime, with stronger internal accountability mechanisms would have certainly helped. I think this is still a dilemma – I was successful, and as my success continued, the company gave me more autonomy and discretion. Operating internationally and being so successful, I was given latitude to set my own discounts, commissions, and marketing allowances.

My peers focused on the U.S. business, by comparison, had a very tight discretionary matrix of what they could and couldn’t do – those controls were looser for me because I was so successful, and because I operated so remotely, I was able to use that latitude and freedom corruptly when I needed to. Over the course of ten years, I outperformed my forecasts, even in times where the market was turning downwards. A tighter set of controls would have prompted a “red-flag,” even if not transactionally, where someone might have queried, “how?”

Beyond detection, what might have stopped you before it started? What could your company have done? Any thought to that?

A couple of things, but let’s be clear, when I was targeted by the Justice Department in 2007, I had come a long way from nodding my head. I was thinking and acting corruptly, which is why I continue to share that getting caught was a great moment in my life, as marking the start of rebuilding anew, even with dire consequences ahead.
Richard, we’re taking you from one of the lowest risk market places to one of the highest risk market places, and possibly in harm’s way. You’re going to hear about illegal conduct, and you are going to be asked to participate in illegal conduct, especially with respect to foreign bribery – it’s inevitable in some of these regions. So, we need to tell you what our philosophy is – no, and never. We know you want to make money, and are not afraid of incentive opportunity, we get that, but we’re going to compensate you in a way that promotes long term ethical business and value creation.

We’re confident that we can succeed if we conduct business ethically, but it’s going to take time, so part of your compensation is going to be based on the performance of the company as a whole, not just on you as an individual. We want you to be successful, but we also want you to be safe and we want to get you back home.

So, if the voice on those quarterly calls is only about getting business done, and it drowns out the importance of we care about HOW you get the business done, then you need to come and talk to us. What we want to do here is prepare you for risk before you are in the middle of it. We want you to understand the resources that are here to support you, and we also want to train you on how to engage if there’s a problem.

As I shared, I had already spent 10 plus years in the U.S. sales marketplace before I accepted the international role. That environment was safe, reliable, well organized, and people operated with a high level of integrity. So, before I got on that flight, if someone with P&L responsibilities – a CEO or divisional President sat me down and said:

“Richard, we’re taking you from one of the lowest risk market places to one of the highest risk market places, and possibly in harm’s way. You’re going to hear about illegal conduct, and you are going to be asked to participate in illegal conduct, especially with respect to foreign bribery – it’s inevitable in some of these regions. So, we need to tell you what our philosophy is – no, and never. We know you want to make money, and are not afraid of incentive opportunity, we get that, but we’re going to compensate you in a way that promotes long term ethical business and value creation.

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The “what could have been done?” question is a speculative one, but one which I had fourteen and a half months in prison to think about.

With a big if, here’s what I have concluded:

Richard, considering what compliance and ethics programs look like today, and will look like in the future with technology, is there anything else that you think would help those on the front-lines of international business and those in compliance who are tasked with supporting their work? In other words, how can we best operationalize compliance? We know that not all risk is created equal.

Well, what I tend to focus on is the behavioral aspect of compliance and ethics, and how programs engage and inspire people on the front-lines. So, as I often reflect, is compliance in the field being embraced or distorted to the demands of business growth? In other words, do people in the field consider themselves the recipients of compliance or compliance ambassadors?

One thing that’s clear is the behavior precedes the bribe, so I always try to pivot the discussion to “how can a compliance program impact how people think?”

If that type of conversation took place before I started my extensive travels, by the time I landed in Argentina, I would have been ready for the conversation which took place, and I would have known how to respond. In some parts of the world, sitting in someone’s remote office, saying “no” might not be the best decision from a personal safety perspective. A company has to understand the realities of different regions and prepare their sales executives who might be exposed to a corrupt offer with a response plan, along with how to get home safely. That’s not always intuitive, and certainly not simple.

If you have those hard conversations with people before they embark on their commercial roles, first of all, they may realize they aren’t cut out for the job, but more importantly, it prepares them for that risk and eliminates the element of the surprise, which can result in compliance “on the fly” decision making. I’m not the first sales executive to change market sectors and start operating in unfamiliar territory. It happens all the time.

In sum, people need to be prepared for risk before they are in the middle of it, know the resources that are available to support them, and have a roadmap for how to engage.
In my opinion, a rules-based compliance program, one that is articulated through policies and procedures, while a necessity, doesn’t in itself inspire a workforce. As Ann Tenbrunsel and Max Bazerman address in Blind Spots, compliance programs can “contort the decision making process.”

How? By having a program devoid of a greater ethical discussion and awareness.

I never thought about the ethical consequences of my decisions. I wasn’t spending my evenings on the Transparency International website, thinking about how bribery degrades human rights, economic development, and social progress. I was thinking about it as a win-win, because who was really getting hurt?

I wasn’t messing with the integrity or quality of the products I sold. The client got a great product, the intermediary moved on to the next opportunity and I made my bonus, quota, and forecast. And the public official who is the bribe recipient, who may be making next to nothing from a salary perspective, gets a little something extra to make ends meet. Professor Francesca Gino co-authored piece “Self-Serving Altruism” where she addresses the dynamic of how, when one’s unethical decisions benefit others, they come to be thought of as altruistic and morally permissible. It is scary stuff and not to be discounted.

From inner city hotels and fine restaurants, there’s an unhealthy ethical distance between where business gets conducted in these frontier markets, and the general population at large, which suffers significant harm due to corruption, even petty bribery.

A read of Chayes’ Thieves of State or, The Looting Machine by Burgis might be a good start for front-line personnel to think about how their conduct impacts society at large. There are unintended consequences of bribery that you can’t find in a compliance manual, from safety to human rights. When field personnel think of their conduct as “I don’t bribe or feed corrupt governance” above “I don’t violate the FCPA,” that’s a good start.

Who better understands risk than the people who work in the middle of it?

When I talk to compliance leaders, I encourage them to show their vulnerability and humanity in order to demonstrate to the field that they embrace the reality that compliance looks a lot more complicated in the field than it does at HQ. That means a lot to those who work far away from home in challenging commercial environments.

Compliance officers need to communicate that they want their commercial teams to be successful and that they want to be a trusted partner, but that they also care about keeping people out of harm’s way.

All those messages point to one critical moment:
If you aren’t sure, call your compliance officer.
That’s the moment where compliance and commerce collide.

Let your teams know that “while we might be upset by what you share with us, becoming upset means that the conversation is going well, because now we have a problem that we can fix together.” In other words, “if you tell us about it, we will work on a solution as a team, but if something comes to our attention via internal investigators or an enforcement agency, well, then it’s too late”. But it’s a door that swings both ways, because people in the field need to embrace their responsibility to speak up. When they see compliance missing real-world risk, they need to share that information and not keep it to themselves. People in the field need to understand that good news can wait, but bad news needs to be shared quickly, and with the same fidelity.
Finally, compliance personnel should not discount the impact of local cultures. A German social psychologist, Jamie Lee-Campbell, calls it the “Cocoon of Corruption.” You start to trust the people who are in your circle and a micro-culture develops to get things done. You start distrusting the support systems and mechanisms that are there to help you, because you don’t think they understand the risks you face and how to engage in these environments.

The thinking becomes “compliance doesn’t know what it’s like out here, and what I’m up against” which is to everyone’s peril. In my case, that got reinforced as I met up with peers and competitors at trade shows and hotel bars, where war stories on corruption were exchanged. That has a profound effect, which I still hear today on, “if I don’t do this, someone else will.” I hate to talk in clichés, but it really is a slippery slope. I don’t think compliance officers always appreciate the impact of behaviors that such environments can have, especially in frontier markets, where corruption risk and lucrative business opportunities are intertwined.

I think the challenge remains in getting teams to keep their ethical north no matter where they are.

**Do you consider yourself a good person?**

I do now, but I didn’t in 2007. There was a time, particularly when I was in my family business, when I had a good family life, but years later, due to no one’s fault but my own, I chose a path which ultimately ended up causing tremendous ruin, for myself, and my loved one’s. The dynamic of ‘win above all else’ took priority above all else, including family and spirituality. Today, I am grateful to have those bonds back in my life, and to enjoy the fellowship, friendship, and camaraderie of compliance professionals from around the globe.

But wherever my career and journey might take me, I will never again disconnect from the networks of those who care about me and my well-being. And I, theirs. That’s something I talk about often. Today, more than ever, technology makes it easier for people to stay close to their personal networks.

For commercial teams who might read this, if you’re jet-lagged, sleep deprived, and struggling with an ethical or business decision far away from home – call your family!

Listen to them, stay close to them, and remember, if you go tip the wrong way in ethical decision making, those are the voices that you will lose, and those are the lives which will be devastated as the result of your conduct. Skype, Facetime, or text, whatever it takes, but listen to those voices! Then get on the phone and call your manager and compliance leaders!

**You were caught. Countless other people who give and accept bribes and act corrupt are caught. Why do you think people don’t think they can be caught or will get in trouble? How do you justify doing something wrong when you know it’s wrong?**

There’s something called optimism bias. You think that the probability of you getting caught is less than someone else getting caught. You think “it can’t happen to me.”

The most dangerous part of optimism bias is that the longer you’re not caught, the more you think you’ll never get caught. So I was really thinking of myself as invincible. Always on the move. Nobody is ever going to catch up with me. I thought I was successful and safe, but what I wasn’t counting on or thinking about was one of my intermediaries getting caught.
What other advice do you have for professionals who face challenges similar to yours?

Incentives, and “carrots/sticks” are a huge issue now, especially with the recent Wells Fargo scandal. While incentives can be a controversial subject, after all, why should you have to incentive people to behave ethically, it’s now an unavoidable topic. I came to think of personal/financial success and anti-bribery compliance as a zero sum gain.

To me, the people in compliance back when I was in the field were the “bonus prevention department.” I pondered “what does management really want,” compliance or sales? That’s a debate I regrettfully didn’t share with anyone, and as I would come to lament, the paycheck always won.

We should remember, incentives are a huge unspoken message, and like prescription medication, they can have unintended side-effects. Even worse, bad incentive systems remain hidden, that is, until it’s too late, as bad behavior can hide behind good performance.

What I encourage people in the field to do is to use the planning process, where forecasts, quotas and incentives are discussed and debated, as as an opportunity to make certain that strategy accounts for risk.

If you feel like there’s a part of your business planning that doesn’t point in the same direction as your compliance program, speak up and speak up early. As Roy Snell, CEO of SCCE, recently shared, “a license to perform isn’t a license to cheat,” but people have a responsibility to share their concerns, and to share early, if they feel like strategy and compliance exist in separate silos. The time to do that is not the last day of a fiscal quarter. Saying “I didn’t get the sale because I didn’t pay a bribe” so late in the process sounds like more of an excuse than a well-articulated concern.

Having spent the better part of my career at a public company, we know that strategy, forecasts, and quotas don’t roll-up overnight. There is a very calculated, well-articulated process behind those numbers. Use that planning process to share your reservations with commercial and compliance managers, and make sure that risk is baked into your business plans.

It might be that your company is left with the dilemma of rolling back their forecast to make sure that ethics and compliance rolls forward, but that’s only a decision which can be analyzed if it’s raised.

Finally, to complement that recommendation, compliance officers need a “seat at the table” of strategy, to be visible, and accessible. They need to be a part of these C-level planning meetings and part of the sales planning process, because if they’re not, then compliance might not get operationalized, and leaders will be left with the unenviable task of catching falling knives.

International Anti-Corruption Day is coming up in a few weeks, on December 9th. What is the #1 thing people can do to help fight corruption?

Don’t think of corruption or bribery as a “norm” even if it seems to be the norm where you work. Don’t think of it as “if I don’t do it, someone else will.”

Think of your ethical north, your center of mass, and that your ethics travel with you, no matter where you work. That can have consequences which might impact business development depending on where you are engaging, but never forget what your values are.

Never compromise on ethics, because at the end of the day, long term value creation and ethical businesses WILL WIN, it just might take longer in some places than others.

Finally, remember that you’re not a compliance recipient, you ARE compliance, and as you work at the sharp end of compliance risk, that makes you the front-line of defense AND solutions. Guard your company, and hence, your liberty, with all the resources at your disposal!

If you are ever in doubt, hit the pause button and call someone you love.
For more information, please visit www.saiglobal.com

SAI Global is the world leader in providing organisations with a wide range of governance, risk and compliance (GRC) products, services and technology that help build organisational integrity and effectively manage compliance risk. Our global staff includes professionals and subject matter specialists in advisory services; programme design, management and implementation; instructional design; and software development. Our focus is to help establish and enhance compliance effectiveness.

With well over a thousand organisations as clients and tens of millions of satisfied users around the world, we work with clients to integrate a flexible suite of solutions and services specifically tailored for a business and industry. Our products include the world’s largest library of compliance and ethics learning, Code of Conduct advisory services and training, and the Compliance 360® GRC Software Suite to manage compliance, policy, incident and audit management. Our Cintellite™ EH&S Software addresses key issues in operational environmental health and safety management. For more information, please visit www.saiglobal.com/compliance