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This is the accepted, refereed and final manuscript to the article published in

***Journal of Investigative Psychology and Offender Profiling*, 13 (2016) 2: 91-109**

Publisher's version available at <http://dx.doi.org/10.1002/jip.1440>

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Blame Game and Rotten Apples in Private Investigation Reports: The Case of Hadeland and Ringerike Broadband in Norway

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ABSTRACT

The blame game is a term often used to describe a phenomenon which happens in groups of people when something goes wrong. The blame game hypothesis postulates that private investigators may be misled in their search for suspects, and that suspected individuals do not necessarily become subject to a fair investigation by financial crime specialists and fraud examiners. The rotten apple hypothesis postulates that it is comforting to assume that one bad apple within an organization is essentially responsible for the crime that is all too prevalent. The rotten apple view of white-collar crime is a comfortable perspective to apply to business and public organizations as it allows them to look no further than suspect a single individual. Based on a case study of the Norwegian company Hadeland and Ringerike Broadband, this article discusses blame game and rotten apple issues in an internal investigation report written by an external financial crime specialist. The study finds support for both hypotheses, as blame is mainly isolated to the criminal and his superior, and both board and top management are protected from scrutiny.

Key words: blame game hypothesis, rotten apple hypothesis, financial crime specialist, white-collar crime, case study

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INTRODUCTION

This article is concerned with private investigations into suspicions of financial crime committed by white-collar criminals as introduced in this journal by Gottschalk (2014b).

Financial crime is illegal possession of others property; it is crime directed towards values of others for personal or organizational gain. The white-collar criminal commits financial crime by non-physical means and by manipulating and hiding criminal activities within regular business activities. White-collar criminals are persons who carry out financial crime in the context of their profession (Gottschalk and Rundmo, 2014; Piquero, 2012; Stadler and Benson, 2012; Sutherland, 1949).

Private investigators examine facts, causes and responsibilities for negative incidents. Their inquiries include fact-finding, causality study, change protocols and suspect identification.

Recent years have seen an increasing use of internal investigations by financial crime specialists in terms of the assessment of financial irregularities. The inquiry form – which primarily takes place in public and private organizations – aims to uncover financial incidents such as corruption, embezzlement, tax evasion, and other forms of economic crime (ACFE, 2014; CFCS, 2013; Gottschalk, 2014a; Machen and Richards, 2004; Markopolos, 2010; Morgan and Nix, 2003; Wells, 2003).

Private investigators do not have the same powers as the police, and do neither have to work according to strict guidelines such as the police either. Therefore, it is an interesting research endeavor to evaluate the work of private examiners in financial crime investigations that are typically carried out by knowledge workers at global auditing firms such as BDO, Deloitte, Ernst & Young, KPMG, and PwC, as well as by global and local law firms and other

professional services firms. Two relevant theories are suited for such an evaluation. First, the blame game hypothesis suggests that investigators may be misled in their search for suspects (Eberly et al., 2011; Lee and Robinson, 2000). Next, the rotten apple versus the systems failure hypothesis can mislead investigators in either searching for one guilty person or searching for cultural deviance in the client organization (Ashforth et al, 2008; Punch, 2003). The case of Hadeland and Ringerike Broadband – investigated by financial crime specialists from the auditing firm PricewaterhouseCoopers (Andersen, 2014a-b; Bjerkehagen, 2014; Gjøvik tingrett, 2014; Lien and Mo, 2014; Nielsen, 2014a-e; PwC, 2014a-b; Rundsveen, 2014) – is presented in this article to discuss the blame game theory as well as the systems failure theory.

BLAME GAME HYPOTHESIS

The market for private financial crime investigations by financial crime specialists has grown in Norway in recent years. Several reasons can be found for this growth. First, compliance by business organizations has become an important issue, especially for corporations trading their stocks on stock exchanges both domestically and abroad. Detecting and preventing financial crime has thus become critical. Second, suspicions of financial crime generally and white-collar crime in particular will harm business reputation, making it imperative to find out what actually happened. Third, Norwegian police often do not have the capacity and competence to investigate complicated business irregularities. Fourth, corporate social responsibility has become an issue on the board agenda in many organizations, where ethical guidelines, anti-bribery activities and other crime-related topics are of increasing importance. Finally, innocent yet suspected individuals, especially when exposed in the media, deserve a fair investigation to prove their innocence.

However, the blame game hypothesis suggests that suspected individuals do not necessarily become subject to a fair investigation by private examiners and financial crime specialists (Gottschalk, 2014b). In police investigations, it is equally important to prove innocence as to prove guilt. In the charter for Norwegian criminal investigations, it is stated that police officers should put just as much effort into proving innocence as into proving guilt. Even when victims and others expect public prosecution, only individuals where police investigations have found sufficient evidence, will be prosecuted in court (Gottschalk, 2014a). This may be different in private investigations. Financial crime specialists claim to have found the facts and the responsible person(s) for a negative event or incident. They may not have practiced an open mind. They may have been pointed in a specific direction by the client, and they may have only one lead which was to be verified in the investigation. The client pays sometimes for a desired result. The client defines a mandate, and the investigation has to be carried out according to the mandate. To make a contribution in the investigation report, investigators have to describe some findings related to facts and causes.

There are two steps of looking for causal explanations in private investigations. The first step is concerned with the mandate, where investigative focus is defined. The second step is concerned with findings, where potential suspects are identified. Individuals who are suspected of financial crime can often perceive this as a blame game. Suspects tell investigators: "You should not blame me for what happened!"

Research on organizational justice and social accounts focuses on how explanations of negative events are publicly communicated to others. Explanations affect outcomes such as trust in the organization, feelings of anger, dissatisfaction, frustration, and stress. Suspects find it unfair, especially when suspicions develop into more or less grounded accusations. Of course, this can happen in police investigations as well.

The term blame game is often used to describe a phenomenon that happens in groups of people when something goes wrong. Essentially, all members of the group attempt to pass the blame on, absolving themselves of responsibility for the issue. Lack of causal accounts increase disapproval ratings of the harm done by placing the blame for harmful acts on others. For example, by attributing corruption to an executive in the organization as a rotten apple, the suspect will feel betrayed by other executives who, in his opinion, belong to the rotten apple basket.

External attributions place the cause of a negative event on external factors, absolving the account giver and investigation client from personal responsibility. However, unstable attributions suggest that the cause of the negative event is unlikely to persist over time, and as such mitigate the severity of the predicament. Uncontrollable attributions suggest that the cause of the event is not within the control of the attributor, further removing any blame or responsibility for the unjust act from the account giver (Lee and Robinson, 2000).

The reasons for private investigations include lack of facts and lack of accountability. Nobody will blame oneself for the negative event. The account giver, the private investigator, absolves others from the blame and responsibility for the negative event. Even in cases of self-blame, investigations are required to ensure that the self-blame is justified. Self-blame is attributing a negative event to one's behavior or disposition (Lee and Robinson, 2000).

Some are too powerful to blame (Pontell et al., 2014). Status-related factors such as influential positions, upper class family ties and community roles often preclude perceptions of blameworthiness (Slyke and Bales, 2012).

In a principal-agent perspective, attributions for negative events may deflect blame away from the real perpetrators. Investigators are motivated to assume power and to project control over causal relationships. This motivation to appear in control might lead the account giver to use internal and controllable attributions in their accounts. Such motivation might also lead the

investigator to use controllable attributions in their accounts by deflecting blame. Blaming others is simply attractive when a negative event has occurred.

According to attribution theory, parties involved in a conflict or suspicion will naturally wonder “Why is this happening?” in the hope that if they understand the negative event, they might be able to predict its cause. The cause can either be individual behavior (personal attribution) or organizational behavior (system attribution). Attribution theory suggests that, all else being equal, the odds are in favor of making a personal attribution (Keaveney, 2008).

We return to the issue of personal versus organizational blame in terms of rotten apples versus systems failure (Gottschalk, 2012a).

The blame game includes not only internal and external attributions. Also relations can be blamed. Eberly et al. (2011) found that an employee does not solely blame her own abilities and skills for the negative event, nor does she attribute blame solely to her supervisor. Instead, she attributes the failure to the poor interaction she had with her supervisor – a feature of their relationship. Furthermore, the employee may blame being passed over for a promotion on a lack of connections with key constituents in the organization or on low network centrality. In the blame game, relational attribution is problematic, as investigators will find it inconvenient to blame an individual as self in relation to other. Responsibility for a negative event is assigned to an individual or individuals, and not to a relationship or relationships.

Shepherd et al. (2011) argue that the building blocks of an informed culture are encouraging members to report errors and near misses; to apportion blame justly when something goes wrong; and to flexibly and swiftly learn by reconfiguring assumptions, frameworks, and actions. However, to protect themselves from criticism, executives and other individuals in an organization often engage in impression management that deflects blame to others.

The blame game can be explained in terms of negative events that are attributed to individuals who account givers would like to blame. People have a tendency to make sense of events by

acting as naive psychologists. When confronted with events, people seek to determine their causes. For example, couples in troubled marriages sometimes play the blame game by determining the other spouse as the cause. Causality in terms of cause-and-effect relationships seems easy to conclude when events occur.

The blame game hypothesis can be derived from attribution theory (Eberly et al., 2011) as well as behavioral decision making theory, which posits that decision makers are predictably biased by the interaction of the context and specific cognitive mechanisms (Hammond et al., 1998; Kahnemann, 2011). Behavioral decision-making has identified an array of cognitive mechanisms that may disturb investigators' judgment. A bias can occur among private investigators based on client mandate and available resources in fraud investigations, where anchoring of suspicion can be misplaced. Furthermore, the primacy effect is a tendency for the first items presented in a series to be remembered better or more easily, while affirmation bias means to interpret information in a way consistent with existing beliefs. If the client has strong beliefs in one way or the other, this will manifest itself both in the mandate and in expectations. Similarly, the tunnel view sometimes experienced in police investigations imply that detectives go for the light at the end of the tunnel, rather than to look at what is outside the tunnel.

Keaveney (2008) applied attribution theory to explain the blame game in marketer-engineer conflicts in high-technology companies. She found that personal attribution of negative events is common if (i) the person is perceived to have had a choice about how to act, (ii) the behavior goes against generally accepted social norms, (iii) the behavior seems individualistic rather than role-related, (iv) the person's behavior had a personal impact on the observer, and (5) the observer was an active participant in the event rather than a distant or passive observer.. The observer is more likely to attribute the behavior to personality factors rather than to the situation.

In his book entitled “The Blame Game”, Farber (2010) takes a humoristic view of the rules, techniques, and advanced strategies applied to the play and how to quit. The target of blame becomes a scapegoat, a stooge and a donkey. The blame game is a competition in which participants try intensely to find fault in others. After pronouncing liability, through several techniques such as the responsibility shift, the blamers falsely receive self-accolades. The blamers in our context are the private investigators, who are financially rewarded for successfully affixing blame on targeted individuals.

The purpose of a blame game can be excuse for a negative event, displacement of guilt, and gaining social capital. In his book entitled “The Blame Game”, Hood (2011) argues that individuals working in organizations spend time blaming others rather than working to solve issues that arise. The reason for this type of behavior is that individuals working within organizations are consumed with fear of reprimand. Furthermore, progress is only modestly noted while reprimand is viewed as a lifelong blemish. In his book with the same title, Datner (2011) argues that the skewed allocation of blame and credit is the worst problem in work environments.

Blaming can be a self-defense mechanism for the investigation client, who pays investigators to look another way. People react (personally, in a group, or as a corporation) when they are under pressure, when they make mistakes, when they are put into uncomfortable situations, or when they are attacked. Blaming is used to deflect a problem, incident, situation and/or attention away from oneself (Hein, 2014). Blame can have varying degrees of impact on the blamed person. In the extreme it can cause considerable harm, such as miscarriage of justice, public prosecution without evidence, humiliation in the media, and job loss.

ROTTEN APPLE HYPOTHESIS

As suggested by Keaveney (2008) in attribution theory, observers are likely to attribute negative events to individual behaviors rather than systems or situations. Private investigators are paid to identify rotten apples rather than management shortcomings, bad decision-making or deficiencies in the organizational structure and culture. The client tends to prefer a rotten apple answer when there are suspicions of white-collar crime. Negative events are attributed to individuals rather than management, structure or culture.

Ashforth et al. (2008) argue that it is comforting to assume that one bad apple or renegade faction within an organization is essentially responsible for the crime that is all too prevalent. However, organizations are important to our understanding of crime, because they influence the actions of their members. Therefore, both micro and macro views are important in order to understand crime.

It is certainly an interesting issue whether to view white-collar misconduct and crime as acts of individuals perceived as 'rotten apples' or as an indication of systems failure in the company, the industry or the society as a whole. The perspective of occupational crime is favoring the individualistic model of deviance, which is a human failure model of misconduct and crime. This rotten apple view of white-collar crime is a comfortable perspective to adopt for business organizations as it allows them to look no further than suspect individuals (Gottschalk, 2012b). It is only when other forms of group (O'Connor, 2005) and/or systemic (Punch, 2003) corruption and other kinds of crime erupt upon a business enterprise that a more critical look is taken of white-collar criminality. Furthermore, when serious misconduct occurs and is repeated, there seems to be a tendency to consider crime as a result of bad practice, lack of resources or mismanagement, rather than acts of criminals.

The rotten apple hypothesis is the belief that some people are just bad to the core. The 'rotten apple' metaphor has been extended to include the group level view of cultural deviance in organizations with a 'rotten barrel' metaphor (O'Connor, 2005). Furthermore, Punch (2003)

has pushed the notion of 'rotten orchards' to highlight deviance at the systemic level. Punch (2003:172) notes, "the metaphor of 'rotten orchards' indicate(s) that it is sometimes not the apple, or even the barrel, that is rotten but the *system* (or significant parts of the system)" (Gottschalk, 2012b).

When the system is rotten, we can talk about systemic crime or systems crime (Punch, 2003: 172):

... in some way encouraged, and perhaps even protected, by certain elements in the system. "Systems" refers both to the formal system – the police organization, the criminal justice system and the broader socio-political context – and to the informal system of deals, inducements, collusion and understandings among deviant officers as to how the corruption is to be organized, conducted and rationalized.

The systemic view is in line with the routine activity perspective, which argues that frequency of crime is highest where motivated offenders intersect in time and space with attractive targets that lack capable guardianship. Criminal events occur when motivated offenders have the opportunity to victimize property. Opportunities consist of attractive or suitable targets and a lack of capable protection against attacks. An organization characterized by potential offenders, potential targets, and absence of guardianship is associated with higher frequency of financial crime (Pratt and Cullen, 2005).

Rotten apples are individuals who continue their deviance in an environment that gives them ample opportunity to do so. The phrase that one bad apple spoils the whole bunch alludes to the spread of mold or decay from one infected apple to the rest. One bad apple infects the other apples in the barrel. A person can be called a rotten apple for being a bad individual among a good group. The term has been applied especially to police corruption (Gottschalk, 2012a).

The theory of systems failure recognizes that systems never can take complete control over humans, and systems can never completely register what humans are doing. Systems failure is always possible if skilled white-collar criminals put sufficient effort into committing financial crime.

Furthermore, social contract theory assumes that ethical dilemmas in business overlay a universe of economic transactions involving actors whose ability to comprehend their moral implications is inherently limited, and thus creates and maintains an extent of social disorganization. Social contracts at macro and micro levels constitute the basis for analyzing how individuals and organizations fulfill ethical obligations through consent and through conformity to social norms (Barry and Stephens, 1998).

Gonin et al. (2012) argue that misbehaviors of organizations (barrels) and their members (apples) cannot be addressed properly without a clear understanding of their broader context (larder). They suggest that specialization, individualization and globalization led to a business world dis-embedded from broader societal norms. Whether apples rot not only depends on the apples themselves and the barrels but also on the larder – even the best apples contained in the best barrels might decay if the larder is warm and full of moisture. Thus, the dark side of organizations (barrels) and their members (apples) cannot be addressed properly without a clear understanding of the context in which they operate (larder). The institutionalized view of the roles and responsibilities of individual and organizational actors has an impact on how they behave. By larder is meant the broader societal context in which organizations operate.

RESEARCH METHOD

Private investigations by financial crime specialists in organizations are documented by a mandate at the beginning and an investigation report at the end. The report is written by the examiners and handed over to clients who pay for the work. Typically, a professional services

firm employs a financial crime specialist, while the client is an enterprise in the private or public sector. Therefore, a good source of evaluative material in examining private investigations are the investigation reports delivered from the financial crime specialists to their clients.

Unfortunately, most investigation reports are kept secret and not disclosed to the public. A number of reasons for denial were presented by Gottschalk (2014c), when a researcher asks for access to investigation reports: damage, confidentiality, suspicion, error, accusation, failure, misconduct, packaging, disagreement, termination, protection, evidence, workload, discretion, sensitivity, and property.

The United Nations argues, in their investigation guidelines that confidentiality is required for effective investigation in cases of alleged wrongdoing. Confidentiality is in the interest of the organization, investigation participants and the subject of the investigation. Information will only be disclosed as required by the legitimate needs of the investigation. The requirement extends equally to investigators, management, staff members and other personnel, investigation participants, and investigation subjects. The United Nations' (2012) confidentiality recommendation is concerned with confidentiality during an investigation and not confidentiality after investigation completion and investigation report presentation, which is the concern here.

If a private investigation reveals adequate evidence to reasonably conclude that wrongdoing has occurred, the investigator should prepare "an investigation report setting out the allegations, the investigation methodology and the facts established in the investigation. The investigation report should provide details of the investigative steps undertaken to corroborate each allegation" (United Nations, 2012).

Private investigations by financial crime specialists in Norway are carried out by global auditing firms such as BDO (2011, 2013a, 2013b), Deloitte (2010, 2012), Ernst & Young (2012, 2013a, 2013b), KPMG (2012), and PwC (2007, 2008a, 2008b, 2009, 2013a, 2013b, 2014a, 2014b), as well as local law firms such as Bie (2012), Kvale (2013), Lynx (2011, 2013), and Wiersholm (2011, 2012), and by independent examiners such as Dalane and Olsen (2006), Dalseide (2006), Davidsen and Sandvik (2011), Dobrownen and Klepp (2009), Gjørsv and Lund (2013), Nergaard (2013a, 2013b, 2013c), Roscher and Berg (2013), as well as public authorities such as Distriktsrevisjonen (2007) and Kommunerevisjonen (2006a, 2006b, 2013).

In the spring and summer of 2014, an attempt to obtain as many investigation reports as possible based on news stories in the media resulted in a total of 32 investigation reports written by financial crime specialists, as mentioned above and listed in the references of this article. From these cases, Hadeland and Ringerike Broadband was selected for an in-depth case study because of availability of additional information from court case and media, which enable qualitative testing of the blame game hypothesis as well as the rotten apple hypothesis. Hadeland and Ringerike Broadband (PwC, 2014a) is linked to Hadeland Energy (PwC, 2014b) in terms of embezzlement suspicion towards the chief financial officer as well as suspicion of neglect by board members, thereby enabling our case study to be based on two available investigation reports.

PwC (2014a) is a document of 32 pages, and PwC (2014b) is a document of 25 pages. These documents were subject to archival study in terms of a qualitative content analysis (Krippendorff, 2004). Newspaper articles about the case were also subject to a qualitative content analysis as applied by Jonsson (2005). Furthermore, the author also received verbal information from various parties as the case evolved in the news, and journalists asked for comments from the author.

The blame game hypothesis is evaluated based on the extent to which others than the main suspect are subject to scrutiny in the investigation report. Specifically, the blame variable is operationalized in terms of persons in key positions in management and on the board. If few individuals are blamed, and the client for the investigation is protected against blame, then support for the blame game hypothesis can be found.

The rotten apple hypothesis is evaluated based on the extent to which individual apple(s) focus rather than general barrel focus is applied in the investigation report. Specifically, the apple variable is operationalized in terms of individual focus versus group or systems focus. If only individuals are evaluated, and management and board behavior is protected from scrutiny, as well as systems, culture and structure, then support for the rotten apple hypothesis can be found.

EMBEZZLEMENT CASE STUDY

Chief financial officer at Hadeland and Romerike Bredbånd, Mr. Lars Brorson, was in August 2014 sentenced by a Norwegian district court to four and a half years in prison (Gjøviktingrett, 2014). He was convicted for embezzlement of 20 million Norwegian kroner (3 million US dollars). He agreed to the charges and accepted the verdict without appeal. This was his third conviction for embezzlement (Bjerkehagen, 2014; Nielsen, 2014a). Parts of the court sentence are translated later in this article.

The embezzlement at Hadeland was detected in connection with misconduct in another organization where Brorson had been involved. When embezzlement is detected, management tends to ask why auditors did not notice it. PwC (2014a, 2014b) pointed a clear finger at the auditor who had put a stamp of approval every year on the accounts in Hadeland and Ringerike Broadband. Resigned chief financial officer of the company, Lars Brorson, sent according to investigators from PwC (2014a, 2014b) a total of 18 million to his own accounts

from the company's overdraft account. Half the amount was transferred in 2012, divided into 42 payments. Between 2011 and 2014, 66 such transactions were recorded. During the same period the Deloitte auditor wrote that financial statements were prepared in accordance with laws and regulations. Auditor Ragnar Nesdal was one of six from Deloitte interviewed by investigator Gunnar Holm Ringen from the auditing firm PwC (2014a, 2014b). In the interview Nesdal felt that the company was so small that there was no requirement for annual meetings between the board and the company's auditors in accordance with the Norwegian auditing act. The auditor had not attended board meetings or general meetings. The only communication with the board had therefore been through written auditing statements from Deloitte (Nielsen, 2014a).

For a long time, PwC (2014a, 204b) and Hadeland board as the client attempted to keep both reports secret from the public. The local newspaper Hadeland (www.hadeland.net) was active in getting disclosure. The newspaper argued for transparency and wrote in its editorial on 13 July 2014:

The newspaper Hadeland has requested access to investigation reports prepared after the embezzlement in Hadeland and Ringerike Broadband (HRB) and Hadeland Energy (HE). The answer has been no by referencing to the Norwegian freedom of information act section 24 which states that documents can be exempted if they deal with offenses.

The request for access was sent to municipalities before the police declared the investigation closed. As a newspaper, the editor forwarded arguments that there is a need of a new assessment based on the fact that police have concluded the case. On a Friday afternoon a note came from Councilman Arne Skogbakken that the owners have decided to accommodate the request for access. The report was to be made available the following Monday.

It is in every way good. That documents have been exempt from public disclosure has

angered many, and could have caused to undermine confidence not only in the management and control of companies, but also in the owners. Further, as these two companies are both owned by municipalities and counties, the representatives on their respective boards and in the general assemblies are thus representing all of the local inhabitants and not themselves.

Since there presumably was no critical evaluation of the boards in the PwC (2014a, 2014b) reports, the boards of both companies were re-elected in June. It has puzzled many. Chairman of HRB had previously stated that the report is pointing in a certain direction, but he wanted not to expand on this. That Friday afternoon came a strong indication. Then HRB board stated in a press release that CEO John Ottesen had resigned. At that point in time people would be surprised if not the report also points to board and auditor liability.

Main attention was at that point in time paid to the white-collar suspect. The chief financial officer in his forties was under investigation in the spring of 2014 for embezzlement of between 17 and 18 million Norwegian kroner (approximately 3 million US dollars) from Hadeland and Ringerike Broadband. The man was previously convicted of economic crime. According to chairman Kai Glemmestad, the company has an annual turnover of 75 million NOK. The case became known to the board of HRB in March 2014 as a result of another police investigation in the Romerike police district. The investigation was led by police lawyer Frode Aabak in Vestoppland police district. According to police, the suspected man has spent the money on a house, two cabins and two cars (Lien and Moe, 2014).

Hadeland and Ringerike Broadband is owned by three municipal power companies, and therefore those who can lose money because of this crime are thus the inhabitants of the municipalities. The firm Deloitte has been auditor for the broadband company (Lien and Moe, 2014).

Since 2011, Lars Brorson has been convicted of embezzlement and tax evasion, and he has spent about three years in prison. He has been employed in accounting services firms such as

Manpower (Lien and Moe, 2014). It turned out that Hadeland Energy was familiar with the man's past economic crime when he was hired in 2009 (Nielsen, 2014a).

The case was uncovered in March 2014 in connection with police investigations of another firm for tax and accounting offenses in the neighboring police district Romerike. The accused CFO did accounting for this business, in addition to his job at the broadband company. He was also charged for these offenses, making the total add up to 20 million NOK.

Norwegian daily newspaper Dagbladet wrote the following story about the case under the heading "20 million in three years for cabins, cars, wine and brandy (Andersen, 2014a: 9):

A previously convicted CFO in his 40ies has admitted embezzling 20.9 million kroner from two municipality- and county-owned energy and broadband companies in Hadeland over a period of three and a half years.

-A sensationally large amount compared to the short time and the companies' turnover of 48 million annually. It is obvious that both missing employment procedures, his wide powers in the position, as well as the board's lack of expertise has caused the company to be out of control. And it is strange that the largest owner reelects the chairman long after the financial crime is known (...)

Also, the unfolding of embezzlements in Hadeland Energy and Hadeland and Ringerike Broadband happened by chance (...)

It was in March this year that the investigation of the embezzlement-accused CFO started in the neighboring police district Romerike. Suspicions were then linked to irregularities of cash flows in a company where the man had an extra job doing accounting.. The investigation in the neighboring district led to charges of embezzlement at the main employer Hadeland and Ringerike Broadbank. The amount grew rapidly from roughly 10 million to 18 million kroner. When Vestoppland police district concluded the case and referred it to the public prosecutor yesterday, the sum

of money he was charged for had increased by an additional 2.9 million to 20.9 million.

-The accused has acknowledged all conditions, and there is no reason to believe that there is a greater amount astray in this matter now. We believe we have a good overview, also over what the money has gone into. It's all about houses and cottages, car purchases and very high personal consumption, says police lawyer Frode Aabak to the newspaper Hadeland.

Police seized a house, two cottages, two cars, cash and exclusive wines – and a cognac collection. The CFO accused of and convicted for embezzlement served a total of three years and three months in prison after being convicted of similar crime in 2002 and 2004. In addition to charges of gross embezzlement of 18.9 million from Hadeland and Ringerike Broadband and 2.2 million from the principal owner Hadeland Energy from 2010 to 2014, he was also charged with accounting and tax offenses in the case handled by Romerike police district Bjerkehagen, 2014).

The man from the town of Lunner north of Oslo in Norway was employed as accountant in Hadeland Energy in the autumn of 2009 and promoted to CFO of subsidiary Hadeland and Ringerike Broadband in February 2011. The accused's defense lawyer Kenneth Strømme Gundersen said that his client informed about the second punishment, but not the first, before he got the job as CFO. The auditor had "no comments" to the accounts in Hadeland and Ringerike Bredbånd in recent years (Bjerkehagen, 2014).

General manager at Hadeland and Ringerike Broadband, John Ottesen, resigned and walked in the day (Rundsveen, 2014):

-The board and I have different views on the facts relating to the embezzlement case, but I want to take my share of responsibility for a trusted employee who embezzled large sums of money, says Ottesen.

Chairman Kai Glemmestad argues there have been mistakes in several places in the system. Owners have now appointed a special committee to look at the impact the case will have.

-It has been a challenging spring for the company, says Glemmestad.

It became known in April 2014 that the CFO in Hadeland and Ringerike Broadband embezzled nearly 20 million from the company. The embezzlement was discovered when Romerike police investigated a company for tax and accounting offences. The accused CFO managed accounting for this business enterprise as well.

-He had access to accounts and has both transferred money to own accounts as well as consumed business money directly. This he managed to hide in such a way that it was not discovered until the police came into the picture, according to police lawyer Frode Aabak.

The man has admitted to embezzlement. His roommate is also accused of receiving stolen goods. The case was submitted to the public prosecutor. CEO John Ottesen was together with the rest of the board re-elected.

The chief financial officer at Hadeland and Ringerike Bredbånd, Lars Brorson, was sentenced to several years in prison for embezzlement. The chief executive officer at HRB, John Ottesen, resigned and lost his job. The chairman of the board of HRB, Kai Glemmestad, was reelected as chairman together with all the other board members. Both the CEO and the board in the mother company, Hadeland Energy, kept their positions. This was probably a result of the private investigations by financial crime specialist Gunnar Holm Ringen, where a rotten apple approach led to blame being given mainly to Brorson and partly to Ottesen.

White-collar criminal Lars Brorson was detected by the police because of tax evasion reported by the Norwegian internal revenue service. Embezzlement was a fact when private

investigator Ringen started his job. The issues for the following discussion are who got the blame and was there a rotten apple or a rotten barrel.

COURT SENTENCE FOR BRORSON

Gjøvik tingrett – Gjøvik district court – concluded the case in its verdict on August 27, 2014.

The document is 16 pages long and has case number 14-134676ENE-GJOV. Judge Håkon Schei Mentzoni wrote the confession verdict. Convicted Lars Brorson is born February 2, 1973. He lives with his partner in the town of Lunner, and he has two children with whom he socializes every other week. The court sentence reads as follows:

By Vestoppland Police District's charge of 08.07.2014, ratified by Hedmark and Oppland public prosecutors on 08.21.2014, is Lars Brorson indicted for violation of:

Penal Code § 255, cf. § 256

for the purpose of thereby obtaining or other improper gain unlawfully having dispose of the money entrusted to him as the embezzlement is considered rough, especially because the value of the embezzled is significant, or embezzlement perpetrated in breach of the special confidence came with his position or business (...)

Tax Law § 12-2 No. 1 and 2 cf. § 12-1 No. 1a

for giving tax authorities incorrect or incomplete information when he understood or should have understood that this could lead to tax or tax benefits, and this is considered as grossly serious as particularly emphasized that the action could lead to evasion of a very significant amount of tax or duty, or action was taken in a way that particularly extent impeded (...)

Accounting Act § 15, first paragraph, second sentence, see § 7 subsection

for willfully or negligently under particularly aggravating circumstances to have violated this Act or regulations issued pursuant thereto, cf. § 5, after which each period of mandatory financial reporting, and not less frequently than every four months, shall be prepared

bookkeeping specification, account specification, customer specification, supplier specification, specification of withdrawals to owners, participants and their own business, breakdown of sales to owners and participants, specification of sales and other benefits to senior employees. For each period of mandatory financial reports shall also prepare specification of VAT and specification of taxable benefits (...)

Accountants Act § 14, cf. § 1

for the industry to have agreed to keep accounts of others without being authorized by the Finance Authority (...)

The accused admitted in the hearing guilt and submitted an unreserved confession which included all the records in the indictment. The correctness of the confession is strengthened by the other information in the case. When it comes to post I a in a particularly shown that it is documented in the investigation report in doc 21 that the accused has taken out the amounts according to charges and transferred to his own account. Regarding the post I b appears that there is evidence that the accused unwarranted has transferred the amount indictment refers to from Hadeland Energi Nett AS to the current account that was used to pay personal expenses, ref. doc 20. Regarding post II appears to investigation report in doc 21 documenting that the accused falsified accounting documents to hide under layers. Regarding post III and IV refer to the review from tax authorities contained in doc. 14,02,01, and associated tax audit report contained in doc. 14,02,02.

On this basis, the court found it proven that the accused has behaved as described in the indictment, and that he has acted intentionally and unjustifiably with the purpose of profit in terms of violation of Penal Code § 255 cf. § 256. The Court added that it is clear that § 256 apply both because the value of the embezzled is significant and because the embezzlement is perpetrated in breach of the special confidence that came with the accused's position in the two aggrieved companies (...)

COURT SENTENCE

Lars Brorson, born 02.03.1973, is convicted of violations of

- The Penal Code § 255 see. § 256

- The Penal Code § 182 first-ordination first alternative

- Tax Assessment Act § 12-2 no. 1 and 2 see. § 12-1 no. 1a

- Accounting law § 15 first-ordination other things sentence meaning. § 7 first-ordination

- Accountant act § 14 cf. § 1

to prison for 4 - four - years and 6 - six - months. Penal Code § 62 first-ordination and Penal Code § 61st.

Lars Brorson was also convicted to seizure of property, such as his family house, two vacation houses, two cars, money, computers, and bottles of wine and cognac.

DISCUSSION OF THE BLAME GAME AND ROTTEN APPLES

Chief executive officer and managing director John Ottesen at Hadeland and Ringerike Bredbånd got the blame and resigned. Private investigator Gunnar Holmen Ringen at PwC (2014a, 2014b) pointed at Ottesen in his report and the board used the report to force Ottesen to resign. It may seem an obvious result that the CEO responsible for controlling the CFO had to resign.

However, the story is slightly more complicated. Ottesen did not really hire Lars Brorson as CFO. Brorson came from the mother company Hadeland Energy, and others higher up than Ottesen decided that Brorson should get the CFO position. More importantly, accounting systems that were later abused by Brorson, were inherited by HBR from Hadeland Energy. Therefore, Ottesen had to believe that Brorson was his boss's choice and that Brorson enjoyed complete trust above himself. Ottesen would be a fool if he started to control Brorson, since it might lead to an unfavorable outcome for Ottesen rather than for Brorson. Ottesen started in

the position of CEO at HRB on February 1, 2010, while Brorson left his position of accounting clerk at Hadeland Energy and assumed the position of CFO at HRB on October 26, 2010.

Based on the blame game hypothesis, a group of people in management and board positions at Hadeland Energy and Hadeland and Ringerike Bredbånd plaid the blame game since something had gone wrong: The CFO of HRB was caught and convicted for embezzlement. The board paid PwC (2014a, 2014b) to conduct a private investigation, and investigator Gunnar Holm Ringen passed the blame to CEO John Ottesen.

As long as only the CFO was convicted to prison and the CEO had to leave his position, the rotten apple hypothesis may seem appropriate. However, investigation reports by PwC (2014a, 2014b) as well as court documents and newspaper reports indicate otherwise. They indicate that a closed circle of men made it possible for board members to be reelected and the CEO to remain in his position. This happened despite the fact that people at all levels failed and looked the other way. It was a rotten barrel leading to systems failure in both companies. The chairman of HRB, Kai Glemmestad, a former politician for the social democrats in Norway, seemed to survive in his position along with the others on the board. The CEO of Hedmark Energy, Jan A. Olsen, was up for retirement in December 2014, which is probably the reason why the crime had no consequence for him.

THE CASE STORY GOES ON

This case study of Hadeland and Ringerike Broadband was written in October 2014. By that time both investigation reports by PwC (2014a, 2014b) were released and publicly available after the boards of HBR and HE failed to keep them secret. Dismissed CEO John Ottesen had threatened with consequences if the HBR report was disclosed:

From: John Ottesen [mailto: joottese@online.no]

Posted: 19th September 2014 3:38 p.m.

To: morten@knutstadmarka.no

Cc: haraldwestby@hotmail.com

Subject: Eventual publication of the investigation report HRB

Importance: High

Hi

I see that you are head of the supervisory board in Gran municipality.

I read in Hadeland that you intend to publish the internal investigation report by PWC. This is a decision that is not quite easy in legal terms. I reckon that Kai Glemmestad has informed you that HRB has signed an agreement with me that neither party (HRB or I) should go out with information on the case beyond the joint press release that was sent out. From what I know, the municipality has been advised that the report contains confidential information and that it therefore is to be kept secret. This means that HRB has broken the agreement with me if the municipality publishes the report. Moreover, it must be said that the county has violated the confidentiality that was required when they were granted insight into the report.

For municipal information I have today contacted my lawyer to get detailed these issues legally, and it is highly likely that I will take legal action if the report is published. In case of publication I will be in an impossible situation, in that I signed an agreement with HRB where both parties are bound by confidentiality, while the other party has not complied with its part of the agreement – the board of HRB has already violated the agreement by sharing the report with you in the supervisory board. This means that I cannot comment on what might come up. This is very problematic given that the report appears to be a purely commission work, where the board obviously has an agenda: to absolve / redeem themselves (...).

I assume that the supervisory board understand that this is not an objective and independent process. If the supervisory board is interested in finding out the truth, you should take quite different actions than to publish the report. If “the truth” is to emerge on the table, an objective investigation from an independent third party is needed, where roles are clearly defined, where one goes much more thoroughly to the inquiry than what seems to be the case for the PwC report.

I do understand that board members who sit in glass houses are not interested in this, but it should be irrelevant in this context for the supervisory board. Is it the case that the supervisory board really thinks that one brings out the objective truth only through interviewing board members as it has implications for the objective truth that emerges? You should expect to hear from my lawyer if the report is published.

The content of this e-mail is considered confidential (to the extent the municipality supervisory board takes such considerations into account).

Regards

John Ottesen

The report was published. Resigned CEO John Ottesen never took legal actions. The supervisory board did not treat Ottesen's email confidentially. Rather, it was distributed to the press.

The case story went on in November and December where some expected that board members in both HRB and HE would be replaced, and the CEO of HE would resign at normal retirement age. But none of this was certain.

Kai Glemmestad, still chairman at HRB in the fall of 2014, was mayor of Lunnestad for the labor party from 1992 to 1999, and he has held a number of board positions in the local community since then. According to the internal revenue service in Norway, Glemmestad had

a total taxable income equivalent to one hundred thousand US dollars in 2009. Glemmestad was born in 1945.

In addition to Kai Glemmestad, HRB had the following board members: Ingeborg Ådnanes, Jan Ansgar Olsen and Margrethe Smith. After Lars Brorson resigned as CEO and was convicted to prison, Jakob Seem took over as CEO.

In early November, Lasse Lehre from the conservative party was one of several Lunner politicians who were critical of how the board of Hadeland Energy had handled the situation in the aftermath of the embezzlement court case in August. He emphasized trust and reputation when he demanded all board members resignation. Owners of HE were to assemble at an extraordinary general meeting on November 26. Chairman of the board at HE was Lars Velsand, while Jan A. Olsen was CEO at HE (Nielsen, 2014b).

Lars Velsand, still chairman of HE in the fall of 2014, was a member of the Norwegian parliament for the center party from 1985 to 1989. He is a farmer and has held a number of board positions in the local community since then. According to the internal revenue service in Norway, Velsand had a total taxable income equivalent to one hundred thousand US dollars in 2009. Velsand was born in 1941.

In addition to Lars Velsand, HE had the following board members: Pål Skjæggestad, Ole Edvard Backe, Bjørn Niklas Sjøstrøm, Kai Glemmestad, Margrethe Smith, Tore Morten Wetterhus, Tron Arne Grini og Vegar Haug Slåttum.

After the general assembly on November 26, 2014, Lars Velsand resigned from the post of chairman of the board at Hadeland Energy because of the embezzlement case and how the board had been criticized in recent months. Bjørn Niklas Sjøstrøm who already was a member of the board, was appointed new chairman (Nielsen and Bjerkehagen, 2014). The new chairman of the board, Sjøstrøm, was a council representative in Lunner municipality. He resigned from this position when he became chairman (Nielsen, 2014).

The success of a private investigation can be measured at different stages in the process: the basis for initiation, the work methodology, the investigation result, and the investigation consequence. The latter criteria links result to consequence in terms of whether or not specific findings led to consequences for individuals and organizations. In the case of Hadeland and Ringerike Broadband, the investigation has so far had the following consequences (Nielsen, 2014d):

1. Mr. John Ottesen, the chief executive officer, resigned from his position in August 2014.
2. Mr. Lars Brorson, the chief financial officer, was in September 2014 sentenced to four and a half years in prison because of embezzlement.
3. Mr. Lars Velsand, the chairman of the board of mother company Hadeland Energy, resigned from his position in November 2014.
4. Politicians are no more to nominate individuals for board positions, because a separate election committee was established in November 2014.
5. Mr. Bjørn Niklas Sjøstrøm as newly appointed chairman of the board at Hadeland Energy resigned from his political post in the town council.

The investigation reports from PwC (2014a, 2014b) were completed in June 2014. Five months later, in November 2014, all the above consequences had occurred. These consequences did not only occur because of investigation results, they emerged also because trustees handled the investigation report in a secret and reprehensible way during the summer and fall of 2014. More consequences were expected:

- The resignation of the chairman of the board at Hadeland and Ringerike Broadband.
- The resignation of the chief executive officer at Hadeland Energy.
- Documented limitations of powers in the companies and between the companies.

The general meeting of HRB had in the summer of 2014 set up a committee to consider many factors, including board handling and auditor's work. The conclusion therefrom would not come until 2015. Therefore, Kai Glemmestad was still chairman of HRB.

So the case story goes on.

CONCLUSION

Private investigations by financial crime specialists can be evaluated using theories such as the blame game hypothesis and the rotten apple hypothesis. The case of CEO John Ottesen's sudden departure from Hadeland and Ringerike Bredbånd demonstrates the intentional or unintentional blame game result. The protection of all others linked to both Hadeland and Ringerike Bredbånd as well as Hadeland Energy illustrates the rotten apple victory over the rotten barrel and systems failure hypothesis.

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