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GOING FROM SHAME TO CHANGE

by Richard Bistrong



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Dorie Clark, in *Reinventing You* (a book that I read in prison that moved me from despondency to hope about my future), shares how “reinvention, and overcoming past perceptions, can be a daunting process.” She addresses how “dramatic and painful events can lead to true growth, and a meaningful change in how you, and others, see yourself.”¹ I thought of Clark’s counsel when I read a recent article in *The New York Times*, “Volkswagen’s Effort to Stop Scandals Needs More Work, Report Says,” where Hiltrud D. Werner, a member of the Volkswagen AG Board of Management for Integrity and Legal Affairs, stated during a press event how “it’s not easy going from shock to shame to change.”²

The journey that both Clark and Werner describe can affect individuals as well as corporations. But looking back on our enforcement feeds and reporting of corporate and/or personal

misconduct, can those moments of ethical collapse be embraced by compliance and business leaders as an opportunity to spark what might be difficult and awkward conversations about what happened? In other words, can we collectively use such moments as learning and leaning-in opportunities, not just for a region or limited group, but for an entire enterprise?

I am often asked, “Richard, why not put your experience in the rearview mirror? Why do you keep reliving it?” And I’d like to share the “why,” as to widen the discussion about my own journey from “shame to change,” and what it might mean for corporate and compliance leaders whose organizations have been through an ethics and compliance failure, or who might want to use other real-world examples to strengthen their own integrity initiatives.

The start of my journey

The decision to share my story started in early 2014, when I was released from 14 months in prison for violating the Foreign Corrupt Practices Act (FCPA) and other trade laws. I was counseled during the seven years prior by the Justice Department (DOJ) not to read anything about the FCPA or compliance, so as not to prejudice my testimony as a cooperating witness. Upon my release, it was like emerging from a news blackout. It was an incredible and unforgettable experience to deep dive into what was clearly an experienced and resourced field. It was intimidating as well, and I started to ponder, "What possible value could I bring to the discourse?" I remember writing to one compliance provider who blogged about my case and asking him if he wanted to chat about what happened. I wanted to share my first-hand perspective with him, and he responded, "Thanks, but no thanks." I still remember that comment so clearly, and while I certainly appreciated and respected his decision, I thought, "Well, if that's the reception, better to just move on." As Clark's book warned me in prison, be prepared for the "daunting."

And if you did an online search for "Richard Bistrong" circa 2014, you would have seen a very robust stream of news about a failed government sting where I was the cooperator, with stories of drug addiction, inappropriate text messages with my FBI handlers, and a rehashing of my criminal conduct in legal/compliance blogs as well as traditional print media, including *The New York Times*, *The Wall Street Journal*, and *The Washington Post*. It

wasn't a pretty story, even if it was a self-inflicted one.

And that's when I realized that by embracing that past instead of running from it, including those personal and professional crucibles, that by addressing the "good, bad, and ugly," I could deep dive into what happened, with the hopes of sparking conversations about real-world risk and real-world lessons. By being transparent and thorough, as opposed to minimizing a 20-year journey from a high-flying international sales VP to federal inmate, a world of possibilities could open up. I thought about how elements of my story might provide value to commercial and compliance teams that face similar risks — not based on a hypothetical story board, intranet message, or wall poster, but on what actually happens.

But the path to get there was not an easy one

Without realizing it in 2014, the foundation to consult, write, and speak about my experience reflected back to a decision in 2007 to cooperate with law enforcement authorities, when I was informed that I was the target of a criminal investigation in both the US and UK for violating foreign bribery and trade laws, respectively. And although there's a robust debate about people pleading out for the wrong reasons — such as to avoid what could be an embarrassing trial or to save protracted legal expenses — for me it was quite simple, and exactly why the plea process exists: I was guilty. And from the moment my attorney received the "target" call from the DOJ, I was determined to tell the prosecutors and investigators everything, including crimes they

knew about, and a long list of ones they didn't know about. In other words, that admission of guilt, of coming clean, without my knowing it at the time, would provide me with fortitude later on when I would share my voice with the compliance world. It would teach me about the true meaning of thoroughness, humility, and transparency. As the FBI shared with me at those opening plea meetings, you don't get credit for cooperating halfway. Either you do it, or you don't.

That admission of guilt...would provide me with fortitude later on when I would share my voice with the compliance world.

But why not put a little spin on it?

As Roy Snell once shared on a podcast, "Cheating is always a choice." That's one of the first subjects I address in my corporate work. Although I felt commercial and financial pressures, giving in quickly to rationalizations and temptations, those struggles were ones that I kept to myself. It wasn't my former employer that led me down a path of misconduct, or even the high-risk environments in which I operated. There were always choices, and a world of

alternatives existed, other than going down a road that was a catastrophe of my own making, especially for my family and my health.

I never thought of myself as a fall guy or having been thrown under the bus, which allows me the freedom to share my story, to be vulnerable and transparent, and then to ask colleagues, wherever they might work, for one small favor: "As I share my story, challenge yourselves as to what would guide you under similar circumstances. Ask yourself how this could happen at your organization, on your team, and, yes, how this could happen to you." I can then take my journey, and the decisions that occurred along the way, and lay them out for others to see, without being defensive or engaging in ethical spinning or distortion.

When that happens, I have experienced some of the most introspective and engaging — even if sometimes awkward — conversations among compliance and commercial leaders as to how failure can present learning moments to address challenges that are still a part of our international business world. More often than not, as I walk attendees through the "what actually happens," it prompts discussions and exchanges among compliance, commercial, and support personnel around how similar challenges exist in their organizations. And those conversations, at some level, all address the goal of making sure that people in the workforce understand that they never have to go it alone when facing an ethical dilemma. Some examples of those conversations include:

- ◆ When there's inevitable tension between the pressure to comply



and the pressure to perform, does that get addressed promptly by leadership and mid-level management, through dialog and action?

- ◆ Are compliance leaders present during the planning process to ensure that objectives and targets — and their side effects — are aligned with compliance, ethics, and integrity?
- ◆ Are compliance leaders building consistent and clear relationships with the workforce, focusing on unresolved gaps between stated and operational values, encouraging everyone to embrace and speak up about uncertainty?
- ◆ Does the workforce appreciate that compliance, ethics, and integrity affect society, good governance, and human rights?

That's a discussion around the "why" of compliance.

- ◆ Are integrity and compliance initiatives anchored and intertwined with the real-world work and risks that employees face? Are ethics, integrity, and compliance viewed as a partner to the needs of business growth and success at the front lines via the corporate narrative, not just the compliance one?

But be careful before you start

Roy Snell wrote an article about my work after he heard me speak a few years ago in Minneapolis. The post was titled "We Are All Victims... Except Richard Bistrong," and as Roy well shared, "Victimization is a generally accepted excuse for many of our problems, and that is wrong. We need to understand that victimization is interfering with our ability to be a principled

base society.”³ And that’s the cathartic part of starting a presentation or workshop (I like to think of them as “growthshops”) with the preamble that while I certainly was subjected to all sorts of pressure points and biases, justifications and rationalizations, the outcomes — where I took ethics and compliance into my own hands — well, that’s on me.

When organizations take that same level of responsibility — to embrace what happened, how it could have been prevented, and how might it have been better detected — then difficult dilemmas become discussable, and those moments can become true pivot points and teachable moments for organizations. It’s back to “shame to change.” And some of those conversations start with compliance leaders sharing with commercial teams that they appreciate how:

- ◆ Compliance and ethics might look complex and gray at the front lines, especially in emerging markets where local practices might conflict with the rules.
- ◆ In the pursuit of top-line growth and achieving objectives,

values can get challenged, and the pressures to succeed can sometimes feel in tension with the pressures to comply.

- ◆ It’s critical to identify and address the often-subtle influences and financial pressure points on decision-making that can lead personnel astray and obstruct turning principles into practice.

And when multinationals drill deep into those complex issues (among others), showing vulnerability, humility, and humanity, growth and learning abound. We know it’s not always easy or intuitive to look inward to truly grasp what happened where there was an ethical failure, and even to ask, “Why did this person think what he/she did was permissible,” with all of the embarrassment and discomfort that it might bring upon individuals and the corporation as a whole. But when we do so, then perhaps those

who face similar challenges — and those who are tasked with keeping them successful and safe — might see what went wrong and how it can be avoided, mitigated, and addressed in the future. In other words, if we want to help people understand and address the behavioral, social, and commercial risks that they face in their work, first we have to have a very deep understanding of what they are, and it’s not a one-size-fits-all problem or solution.

Dorie Clark was kind enough, to my great surprise, to mention my work in the paperback version of *Reinventing You*, which was published in 2017. Clark shared, “If Richard can reinvent himself, so can you,” but as she states thereafter, “Reinvention can be terrifying or exhilarating.” From my experience, the more you are willing to be terrified by what you might find from the past, the more possibilities there are about being exhilarated by the future! 

Endnotes

1. Dorie Clark, *Reinventing You: Define Your Brand, Imagine Your Future*, Gildan Media LLC, April 2, 2013, <https://amzn.to/2QEvk6J>
2. Jack Ewing, “Volkswagen’s Effort to Stop Scandals Needs More Work, Report Says,” *The New York Times*, August 27, 2018, <https://nyti.ms/2RSkMku>
3. Roy Snell, “We Are All Victims... Except Richard Bistrong,” *The Compliance & Ethics Blog*, May 3, 2016, <http://bit.ly/1OdgjjU>

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- ◆ Lessons learned by individuals may also apply to organizations.
 - ◆ Compliance leaders can use real-world examples of ethical conflict to drive home the importance of facing challenges as a team.
 - ◆ Having awkward and difficult discussions about real-world risk can help employees see that they are not alone when facing ethical dilemmas.
 - ◆ It’s important to discuss ethical dilemmas and the possible consequences of decision making “in a safe place,” so as to reduce the element of surprise.
 - ◆ Organizations need to look at the financial pressures of targets and incentives that may lead employees to go astray.