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What Makes a GC Want to Join a Co. Embroiled in Controversy—or Worse?

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Airbag manufacturer Takata Corp.'s equipment is believed to be connected to the deaths of at least 10 people and injuries of another 180 drivers in the United States. Two years ago, the company's defective airbag inflators were under investigation by the U.S. Department of Justice, the U.S. Securities and Exchange Commission and the National Highway Traffic Safety Administration, and the embattled company was at the center of multidistrict litigation brought by plaintiffs with personal injury claims.

When North American general counsel Bruce Angiolillo announced he was leaving the Japanese company after only six months on the job, it didn't exactly seem like the kind of cushy role in-house lawyers would be lining up to take.

And yet, crises didn't stop C. Allen Parker from stepping in as general counsel at Wells Fargo & Co., Kurt Michels from joining Volkswagen Group as its chief compliance officer and Arthur Chong from replacing Ronald Bell at Yahoo Inc. They're just a few of the notable lawyers who have moved to troubled companies so far this year.

When it came to the job opening at Takata's U.S. headquarters nearly two years ago, Eric Laptook didn't hesitate. Sure, he knew it was a risky career move to join Takata, but today he considers his 16-month tenure with the company a success.

"I knew what I was getting into," he told Corporate Counsel in a March interview. "You'd be hard-pressed to find a company with a greater range of issues and crises than Takata. … Everyone agreed we'd never seen anything like this. It's like there was a curse on this company."

Laptook feverishly worked with regulators and, in the end, felt like he accomplished what he'd set out to do. On Jan. 13, 2017, Takata reached a $1 billion plea agreement with the Department of Justice. Not three weeks later, it was announced that Laptook, along with two other executives, would be parting ways with Takata. He wouldn't comment on the timing or reason for his departure, but he says the settlement was an accomplishment.

"One billion dollars is a big number," he says. "I don't think it's for me to characterize on behalf of the company whether it was a good deal or a bad deal. It was a deal that allowed the company to remain in existence."

There's no question that scandals will continue to shake the corporate world, and that those companies will need lawyers who consider themselves risk takers and who, like Laptook, "keep [their] head on straight when others are losing theirs."

Steven Rossum is another who fits that bill. He served as assistant general counsel of USAir from 1992 to 1998. (The company rebranded as US Airways and was later acquired by American Airlines.) For much of that time, the company was in the middle of a crisis of its own after a series of USAir plane crashes left dozens dead in the years before his arrival. And during Rossum's time there, two 1994 plane crashes left close to 170 people dead.

Rossum recalls that the airline was trying everything it could to regain the trust of customers and shareholders. His job was to help resolve the legal messes the plane crashes had created.

"It was difficult to come to work," he says. "You were obviously concerned with the families and the crew members and the employees and the passengers who lost their loved ones. But you also became consumed with keeping the company alive."

But all the work was worth it, he says: "The couple of years after the really down period at USAir were some of the most exciting times of my career."

Why Take the Risk?

Attorneys are often known for being risk averse. And yet, a number of lawyers have walked into companies that they knew were facing trouble of some sort. The question is: Why?

Part of the attraction to these roles is the challenge, says Rossum, who is now a partner in law firm Smith, Gambrell & Russell's Atlanta office. In the close to two decades he spent in-house, Rossum saw everything from public perception issues, near bankruptcy and the aftermath of pleading guilty to charges related to overbilling, so he's no stranger to going in when the ship is in troubled waters. And he wouldn't shy away from the chance to do it again, he says, at least in part because of the thrill associated with accomplishing what might seem unfeasible.

"It's the excitement of a turnaround, the risk of failure, it's being involved in the center of the controversy where people are relying on you," Rossum says.

The opportunity to revitalize a company was the allure that brought Thomas Russo to struggling American International Group Inc. just over a year after going through Lehman Brothers Holdings Inc.'s bankruptcy as chief legal officer.

When AIG's former CEO, the late Robert Benmosche, approached Russo to fill the general counsel seat, the insurance giant owed just over $182 billion in debt, which at the time, many thought the company would never be able to repay. Russo says he had his concerns too, but the challenge was too great to pass on. So he took the job in 2010, "…and just three years later, the company repaid the debt along with a profit of more than $22 billion."

It's like running a race with 10 people while being projected to come in last, Russo says. "If you lose, it's expected, but if you win, it'd be a major upset," he says. "The challenge was so incredible if you could pull it off, [so] I thought, 'Why not?'"

Another draw is the control in-house counsel, and especially general counsel, are likely to get in order to turn things around. Indeed, in-house lawyers going into a company that's been through the worst may well be given a "blank check" with a mandate to do whatever it takes to right the company, says Sterling Miller, former general counsel at Travelocity and Sabre Corp. and now a lawyer at firm Hilgers Graben. What that means, he says, is not having to fight about resources or the course charted for the company.

"That's very rare ... where you might have the opportunity to go [in] and basically they're just saying, 'Please get this fixed and do whatever it takes,'" Miller says. "And that's really appealing."

In-house lawyers may also gain valuable experience in their dealings with regulators and/or law enforcement, says Robert Graff, a partner and recruiter in the in-house practice group at legal search consultancy Major, Lindsey & Africa. "To be able to say, 'Hey, I've operated with a corporate integrity agreement successfully and we worked through it and now we have a great relationship with regulators' is a real feather in the cap for lawyers or compliance professionals," he says.

A final lure is money. In order to attract the right candidates, a company struggling with a bad reputation may increase compensation packages, says Jonathan Wylie, senior partner at recruiting firm Lucas Group, pointing to findings from the Harvard Business Review. HBR, together with market research agency ICM Unlimited, surveyed just over 1,000 full-time U.S. professionals to reveal in March 2016 that at least a 10 percent pay increase is necessary to draw a candidate to a company with a poor reputation, though in Wylie's experience, "10 percent seems a little low."

"It doesn't always work, of course," he adds. "Especially for attorneys ... but there probably is a higher price tag to entice somebody [to these companies]."

Now What?

When Rossum took the job as general counsel at Reno Air Inc. in 1998, there was significant doubt that the passenger airline company would survive, he says. And with three kids, making a cross-country move for a job at a company with an uncertain future was certainly not without risk, Rossum says.

"But for me, it was an opportunity to be a general counsel, to run my own ship," he says. "I had an opportunity to have an imprint on the company, to work with the CEO ... to make the company profitable in a short period of time and negotiate a sale of the business to American Airlines in 1999."

With the good, though, comes the stress of trying to keep a company afloat or repair its reputation so that thousands of people can keep their jobs, Rossum says. "You work long hours, it's very stressful," he says. "For every inch forward you make, somebody's pushing you back."

From Laptook's perspective, going to Takata while the company was facing a "daily onslaught of issues" created some doubt about the ability to turn it around. "There was so much uncertainty," he says. "Every crisis seemed like an existential crisis."

So the early days at the company were really devoted to thoroughly understanding the inner workings of the company, Laptook says. By touring facilities and talking with people throughout the company, he was able to familiarize himself with Takata's products and business model. It was also critical, Laptook adds, to ensure that everyone in the company was accountable to someone else within the company.

Next came hiring staff who were up to the challenge of turning the company around. So he hired someone to oversee the compliance function within the company and made sure the business side of the company felt the presence of the legal team.

Marjorie Loeb, a partner with Mayer Brown in Chicago, has had to react to regulators in her past in-house roles at Fiat Chrysler Automobiles US, which she left last August, and for automotive parts supplier Delphi Corp.

Loeb worked for Delphi from 2002 to 2009, and midway through her tenure, the company was hit with an accounting scandal. The SEC settled financial fraud charges with the company and several individuals related to allegations of widespread financial fraud that occurred between 2000 and 2004.

She says she helped turn around the culture, to encourage employees to keep "engineering our product, not engineering our books." She says that when a crisis occurs, lawyers must ask: "Did you have the right policy and controls?" and adjust accordingly.

During her time at Fiat Chrysler, Loeb led changes after probes from the SEC, the FBI and the Justice Department over the company's sales practice tactics. Two car dealers filed a lawsuit in January 2016 alleging they had been pressured to report false sales in their monthly reports—which is what caught the attention of regulators. (Loeb declined to comment on whether she had been part of any conversations surrounding the U.S. Environmental Protection Agency's investigation into Fiat Chrysler's emissions testing, which was made public in January.)

The auto manufacturer's reaction to the coordinated federal investigations for its sales reporting, Loeb says, was to take "a very disciplined approach" to reviewing how it calculates sales figures. "We didn't think we did anything wrong but on a go forward basis we're going to be very clear about how we generate those numbers and put in a very disciplined process so that it's trackable and auditable," she says, "and that's in fact what we did."

A Bad Rep Can Stick

Corporate scandals might be a nice thrill for some lawyers, but for many, reputations can be permanently stained. That goes for the businesses and their lawyers.

That's not to say that just because a company is in distress, its entire team of lawyers will be impacted. As Rossum, formerly of USAir, points out, "You could be a lawyer working at [General Motors Co.] working hard every day for years and you didn't cover up ignition problems or you didn't cover up product liability issues that were known," he says. "You have an appreciation for the fact they're trying to work through it and make something of it."

Still, lawyers must be selective when choosing their place of work. D. Cameron Findlay is the general counsel of Archer Daniels Midland Co. in Chicago. When Findlay walked into his previous role at Medtronic in 2009, the company had faced accusations of misconduct ranging from bribing doctors to Medicare fraud.

"When I was considering going to Medtronic," he says, "while they did have some scrutiny from the federal government, it was a company that was universally thought of as a company that valued integrity, good practices of following the law and so forth."

Throughout his career, Findlay has led and hired for robust legal departments, but until recently, has never had to disqualify a candidate for being caught up in a company scandal. He received a resume "that looked terrific except there had been a gap of several years and there wasn't any sign of what that person had done." Sure enough, Findlay discovered the job applicant had been implicated in an issue with an undisclosed company.

"I felt sorry for that person. It may well have been that they had not been fairly treated at the other company," Findlay says, "but I felt like I couldn't take the risk of hiring this person because of the cloud over their head."