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Meet Julia Bailey

Senior Vice President,
Chief Compliance
Officer & Counsel
Herbalife Nutrition
Los Angeles, California





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by Bojan Bajić

Whistleblowing, World Bank's sanctions, and an integrity compliance program

- » The first-ever Whistleblower Protection Bill in Bosnia and Herzegovina was drafted and lobbied for in Bosnia and Herzegovina.
- » Why should someone disclose corrupt practices if they are not protected from retaliation after blowing the whistle?
- » The World Bank carried out a collusion investigation and imposed a four-year debarment on a corporate group in August 2012.
- » The main requirement for lifting the sanction was implementing an effective integrity compliance program.
- » The bigger picture of our mission as compliance professionals helps us to remember why we are doing this job.

Bojan Bajić (bojan.bajic@wefec.org) is CEO of WEFEC in Sarajevo, Bosnia and Herzegovina.

What was my path from receiving a call to assist a whistleblower who was in trouble, to the World Bank's decision to lift sanctions against a corporate group in the Western Balkans?

When Višnja Marilović—who had disclosed a \$2 million corruption scandal in a public company in Sarajevo, Bosnia and Herzegovina—called me in 2011 to ask for help, I could not imagine that it would have a fundamental impact on my career. I

decided to help her as a human being, even though I did not know anything about whistleblowing, compliance programs, or compliance officers. I knew still less about the Foreign Corruption Practices Act, Department of Justice and Securities and Exchange Commission guidance, or other American “marvels” as

we, the citizens of the former socialist bloc, experience them.

During the same time, in 2010–2011 (while Višnja was in the final stage of collecting information and evidence on corruption in her public company and was getting ready to knock on the door of the Sarajevo Canton public attorney's office), on the other side of the country, the MG Mind corporate group made a fatal mistake by bidding for a local road construction project in Bosnia funded by the World Bank. Two companies from MG, owned by the same person, submitted a bid. The two companies were ranked second and fourth under the lowest price criterion. This means that they were not awarded a contract, they did not receive funds, nor did they implement the construction project. Under the World Bank's standards, this is *collusion*. The World Bank carried out an investigation and imposed a four-year debarment on the corporate group in August 2012. This prevented the companies from bidding on



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future contracts financed by the World Bank, the European Bank for Reconstruction and Development (EBRD), etc. The main requirement for lifting the World Bank's sanction was the implementation of an effective integrity compliance program.

Domestic laws are at odds with international standards

In August of 2012, when the sanction was imposed on MG, I was providing assistance to whistleblowers. However, I realized that I was unable to support Višnja and other whistleblowers, because they were not recognized by law nor were they entitled to legal protection. Much like this gap in whistleblowing regulations, collusion was not clearly forbidden by local laws in a bidding process (although it was forbidden by the World Bank), which was the reason it was a standard practice in the market that went unnoticed.

Višnja asked me, "What is the purpose of appealing to citizens to disclose corrupt practices if I am not protected by law after I was fired after blowing the whistle? Am I a good mother if my children have been under too much stress, received threats, and lived under police protection for many months because of me?" So we decided to draft the first-ever Whistleblower Protection Bill in Bosnia and Herzegovina and to lobby for its passage. It passed the parliament and entered into force 17 months later. It was the first Whistleblower Protection Act in Europe to provide protection before the judicial process begins, although we were completely unaware of that.

A compliance program is the logical answer to misconduct

Although we were advocating whistleblowing, we did not know what compliance meant. As we dealt with challenges that arose, we came to understand what a compliance program

and a compliance officer were for. We asked about whistleblowing channels, and somebody told us about hotlines, so we developed a web application for reporting corruption. We inquired about who would be receiving and handling complaints of misconduct, and so we learned about compliance officers.

Then we started learning by doing. Are only violations of law reported? Can other forms of misconduct be reported as well? We realized rules needed to be defined by a code of conduct. Do the rules apply to employees who are not trained? How should risks be assessed? How should the implementation of compliance procedures be monitored and audited? Should corrective measures be applied after misconduct is found? Is a compliance officer well-positioned and equipped with adequate resources to ensure the effective implementation of all elements of a compliance program?

We mastered the elements of a compliance program one by one by developing and applying them, and by 2016, we had implemented each of those elements in different organizations in both the private and public sector. However, one thing was missing: the implementation of a complete compliance program in an organization. At that time, no Bosnian company had a compliance program in place, and we were devastated after realizing that nobody was interested.

Compliance programs are a rare occurrence in a corrupt environment

In order to identify the problem, we decided to send a letter to Roy Snell, CEO of SCCE & HCCA, inviting him to a conference in Sarajevo to explain why Western Balkan companies were refusing to introduce compliance programs, unlike companies in the U.S. Roy came to Sarajevo in March of 2016 to the first-ever compliance conference in the Western Balkans. While waiting for Roy at

the airport, Višnja and I were worried that Roy would not arrive at all or, if he did, that he would be a strange guy. After all, he had accepted the invitation to Sarajevo, 5,000 miles away from his home, and moreover, he told us that he would travel to the conference at his own expense and that our costs were nil. But contrary to our expectations, Roy did arrive. When we met, he said he had similar thoughts while waiting at the luggage carousel. “Who knows what’s going to happen when I exit the baggage claim area,” he thought.

Companies are forced to introduce compliance programs through regulations, Roy told us. Voluntarism is not sufficient for compliance to spread across the business world, so the compliance profession would not strongly develop by that principle. It sounds incredible, but it is true. Until then, we were offering compliance services only in terms of improving corporate culture and achieving more efficient business development. We were not aware of the threat and seriousness of regulatory punishment in the West. We never thought of companies being able to avoid regulatory punishments by implementing effective corporate compliance programs. Later we realized that our way of thinking should not have been a surprise, because those who live in post-communist, post-conflict, partly authoritarian political systems—which are, moreover, largely corrupt—are taught from their childhood that there is no such thing as the rule of law, that laws are to be applied only from time to time, and the threat of regulatory or judicial punishment depends

on whether or not you are part of the ruling political structures.

We acquired a new outlook thanks to Roy, and we saw him off at the airport, believing that nobody in the Western Balkans would ever need a compliance program and that we had probably wasted a number of years developing our expertise in the area of corporate compliance.

Reaction of the business environment to the integrity compliance program

However, we can never understand in real time the long-term importance of what we

do. A multiplier effect from various efforts made in different parts of the globe sometimes grows into something useful and progressive.

Shortly after Roy left Bosnia, we received an unexpected email from a representative of MG requesting compliance and ethics training for the group’s management. Interestingly, they said they had Googled and

found that we had organized the compliance training with continuing credits toward certification with the Compliance Certification Board (CCB)[®], and to meet the World Bank’s requirements, that credible training was precisely what they needed. Apart from training, they asked us to develop some procedures that were also requested by the World Bank, because they could not understand what exactly the World Bank wanted.

It turned out that the World Bank wanted an integrity compliance program, which implied a robust approach to prevent, detect, and respond to any misconduct related

Voluntarism is not sufficient for compliance to spread across the business world, so the compliance profession would not strongly develop by that principle.

to prohibited practices: corruption, fraud, collusion, coercion, and obstruction. It was incredible how we didn't know that somebody very near to us desperately needed our knowledge about corporate compliance and ethics programs. We understood how MG's management could not understand what the World Bank had requested, as all compliance professionals across the world are aware of the problem that they cannot explain to everyone what exactly their job is.

In 2016, for the first time in the history of Bosnia and Herzegovina, the implementation of a robust compliance program began in a local corporate group. It is a particular challenge to implement a compliance program in an environment where the main driver of corruption comes from the political establishment and the public sector. There were all sorts of anecdotes with employees, third parties, and competitors who were at first suspicious about having an anti-corruption clause in contracts, signing different statements, participating in trainings, and implementing various procedures aimed at preventing all sorts of risks. The numerous stakeholders thought it was a "Western thing," because there were too many procedures and too much caution was given to every step. The general impression of a broad range of business partners connected to MG—several hundred of them—was that this "phenomenon" would have to become a standard in the whole market, as is the case in the West, which is the reason why the standard of living in the West is much higher than in Southeast Europe or in similar developing regions. I find their understanding encouraging, despite the fact that they think it is something which will come in the future—not now. In any case, we need first steps today.

When a butterfly flaps its wings in one part of the world...

We worked every day over the course of 20 months, involving four compliance

professionals from my team; six new compliance officers at MG; senior management; dozens of middle managers from 15 companies within the corporate group; more than 1,500 employees; and support, counseling, and monitoring by the World Bank's Compliance Office. In June 2018, the World Bank issued a positive decision on the effectiveness of MG's compliance program and lifted the sanctions against the corporate group.

MG issued a press statement afterward that invited its business partners and the entire business community to become aware of international rules of business operations, because they are significantly different from Bosnian rules. The statement also asked for business partners to take into account the risk of punishment and sanctions imposed by Western regulators, which could be fatal for local companies, even though national legislation is not harmonized and that some forms of misconduct are not punishable under national law.

Compliance efforts made throughout the world are extremely important, and when a butterfly flaps its wings in one part of the world, it can eventually cause a hurricane in another. In this case, the "hurricane" is exclusively a positive consequence.

The compliance movement is growing globally

Could anybody conclude that these seemingly separate events were, in fact, closely linked? Višnja disclosed corruption. SCCE & HCCA developed the CCB's certified compliance training. I learned about compliance programs by helping Višnja protect herself against retaliation. MG made a mistake, and the World Bank imposed sanctions. Lisa Kristin Miller, Head of the Integrity Compliance Office at the World Bank, demanded that an effective integrity compliance program be implemented to lift the sanctions. Now all of us together, including the World Bank and MG, have a

deal to continue to promote compliance standards, programs, and officers in this region.

If we add the fact that SCCE was inspired by the bottom-up approach to the development of compliance in this region and decided to introduce an annual compliance conference for the Western Balkans in Sarajevo—which took place for the second year in a row in October—then we can talk about the growth of the compliance movement too.

I do not know what it looks like in the West, but compliance programs and

compliance officers are some of the most important pieces in a global effort that will bring happiness and prosperity to citizens in regions where corruption is deeply rooted in the whole system. Compliance professionals across the globe must know that each day devoted to the implementation of a compliance program is another small step for man and one giant leap for a new phase of civilizing mankind through the compliance movement. The bigger picture of our mission helps us remember why we are doing this job. *



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