

MCC INTERVIEW: Brian Bauer / PHENIX Investigations, Inc.

Corporate Investigations Made Easy

How one firm lets the clients call the shots

Brian Bauer, chief executive officer of PHENIX Investigations, took an unusual path to a career in corporate investigations. He didn't come from a career in law enforcement, as so many investigators have. But his background helped him hone an approach that has served him well during his two decades in business. And it's one that a lot of businesses would do well to emulate. It's all about the clients. His remarks have been edited for length and style.

MCC: How did you come to found PHENIX, and how has your background influenced your work with clients?

Bauer: I studied communications in college, fully expecting to pursue a career in television or radio. Along the way, a friend of mine started working for an investigative company, and he encouraged me to try it out. I thought it would be fun, and so I started working part-time as an investigator. I really enjoyed the work. After college my friend moved to Indianapolis and began working for an investigative company there, and he encouraged me to come along.

After honing my skills there for a while, I decided to strike out on my own. From the beginning of PHENIX Investigations, I wanted to ensure that everything we did was client-centered. While I had the skills and experience to perform quality investigations, I always wanted to keep the client in the driver's seat to make sure that the outcome was what they sought. As the company has grown, I have ensured that each new employee shares our philosophy, and I think that is one of the reasons we have seen consistent growth along with quality results.



Since the recession, the single largest growth area in our business has been helping counsel find the assets to collect judgments.

MCC: How do your investigations help corporate clients achieve results they might not be able to achieve on their own?

Bauer: Employee-related issues cost companies billions in lost revenues each year. Time abuse is one of the largest of these issues, and the challenge is always to prove the theft and to effectively remove the employee without the fear of adverse litigation. An investigative company can assist counsel to get the evidence needed. For example, we do a lot of surveillance each year to help confirm workers' compensation and Family and Medical Leave Act (FMLA) fraud. Over the years, working directly with corporate counsel and insurance adjusters, we've seen some really interesting video of employees who were reportedly injured later doing everything from chopping wood with an ax to hitting ground balls while coaching baseball. When the evidence has been gathered, it is important for the investigators and counsel to discuss the resolution desired. Often we will assist with interviews of employees in order to obtain

written admissions of the wrongdoing, which makes the case rock solid.

MCC: What outcome do you find companies generally seek when working with an investigative company?

Bauer: Each case is unique, and the outcome desired varies as well. Some companies want to go public with the investigation, once it is completed, to reinforce their zero-tolerance-for-theft policy. This is often a great deterrent to prevent losses from other employees. Sometimes, however, we find that employers are sensitive to the issues and feel that widespread knowledge of the problem could harm their business. In these instances we work to obtain written admissions and restitution from employees in exchange for their ability to resign rather than be terminated. Though that may appear as though the employee is getting away with theft, the company is made whole through restitution, and it has no further obligation to pay the employee unemployment or other benefits it might be obliged to pay if the employee was terminated. In some of our assignments we actually negotiate a restitution payment from our subject, and this often includes the cost of our investigation. So our clients are shocked to learn that they owe us nothing for the investigation.

Bottom line? Some companies want to seek criminal prosecution to clear their company's name, while others want to handle the issue privately. By keeping a client-centered approach throughout the investigative process, and modifying our tactics to suit their needs, we are able to achieve the results the clients seek.

Brian Bauer is the chief executive officer of PHENIX Investigations. PHENIX, which Bauer founded in 1996, works with clients to resolve a wide variety of problems involving employees, suppliers, competitors, customers and more. Over the years his team has worked with companies in all 50 states and in 27 countries. Their clients have ranged from giants such as Chrysler, Sony and Philips to medium-size companies to smaller entities and entrepreneurs. Bauer can be reached at: bb@phenix.email.



MCC: What type of clients do you work with? Are large corporations the only companies that can afford to hire investigative services?

Bauer: Over the years we have worked with a full range of clients. We have worked for Fortune 100 corporations to investigate frauds that racked up hundreds of millions of dollars. And we have investigated a problem of sticky fingers taking tools and materials from a small, family-owned manufacturing business. The reality is that if you have employees, you will have problems. One of the things I enjoy most about my job is that no two cases are ever the same. Even when the same type of theft is occurring in two different businesses, the cases are completely different. It makes it vital for us to be constantly vigilant and learning the most up-to-date techniques to identify and deter fraud. We keep our employees informed with the latest information, and we are constantly training. We have multiple employees with designations as Certified Fraud Examiners.

Some of our investigators have backgrounds in the military or law enforcement. Ultimately, life experiences and constantly striving to achieve the client's objectives are the best markers for success that I've found. Sometimes clients think that a good investigator has to be a grizzled former detective in a police department – like the ones you see in the movies. In the end, the

best investigators have a curious mind, pay attention to detail and are determined not to give up. We've spent hours sifting mindlessly through piles of receipts for scrap metal at a scrap yard, and then found the ticket needed to prove that an employee had sold stolen raw materials. If we'd given up, the receipt would have been shredded and lost forever instead of leading to the successful prosecution of an employee for thousands of dollars stolen.

MCC: What are some other ways that companies can benefit from working with an investigative company?

Bauer: Not everything we do is in response to a problem. Often companies find it prohibitive to budget for proactive deterrents to fraud because it seems as though the money is going into a black hole with no ability to see measurable results. This sometimes leads to repeat business, as we are asked to help companies with theft problems over and over every few years when the problem returns. We try to educate clients that fraud is like gardening: If you weed the garden regularly, the vegetables grow strong and healthy, and a few small weeds are easy to see and pluck out of the bed. If you let the weeds grow and you pull out a bunch at a time, the plants suffer, and it becomes hard to keep up.

We have seen time and time again that our clients who work with investigators

to conduct training regularly, and conduct random spot checks while they remain vigilant about increasing fraud awareness, find that they have fewer issues and, in the end, it saves the company money and improves productivity.

MCC: You said earlier that you help some clients obtain restitution. How else can an investigative company help businesses recover from an economic loss?

Bauer: Working to obtain restitution can be a great solution, but sometimes the economic loss isn't from an employee theft. Sometimes companies have judgments against vendors who don't honor contracts. Since the recession, the single largest growth area in our business has been helping counsel find the assets to collect judgments. Getting a judgment is often the easiest part of the process. Knowing where the liquid and physical assets are to levy is the monumental task. Judgments are often written off as a loss and tossed in a drawer. A quality investigative company can find assets for counsel to garnish or levy. This can be used to satisfy judgments in full or get the attention of the debtor to let them know that you mean business and won't let them off the hook. Often we find that debtors make arrangements to settle debts instead of seeing their assets tied up in court.