2018 PENNSYLVANIA STATEWIDE HIGH SCHOOL MOCK TRIAL COMPETITION

Silva Morel

v.

Tiger Tail Technologies, Inc.

SPONSORED BY THE YOUNG LAWYERS DIVISION OF THE PENNSYLVANIA BAR ASSOCIATION

By: Jon Grode, Paul W. Kaufman, Jonathan D. Koltash & Talia Charme-Zane
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Problem Questions & Contact Information

Questions concerning these case materials should be sent to David Keller Trevaskis at the Pennsylvania Bar Association (PBA). Case material questions will be answered by the Mock Trial Executive Committee. Questions regarding mock trial procedure, including any questions involving the Rules of Competition or Rules of Evidence, should be directed to your District or Regional Mock Trial Coordinators.

Answers to legitimate and non-repetitive questions will be posted periodically in a supplemental memo on the mock trial website, which can be found on the PBA website here: http://www.pabar.org/site/Public/YLD/YLD-Projects/Mock-Trial.

You may begin submitting questions anytime. The deadline for submitting questions is noon on January 12, 2018. The final update will be posted no later than January 17, 2018.

Questions must be sent in writing using email. Please be sure to include return contact information in the event we need to reach you to clarify a question. No questions will be considered unless submitted under this procedure.

E-mail: david.trevaskis@pabar.org
Introduction and Acknowledgments

Welcome to the 2018 Pennsylvania Statewide High School Mock Trial Competition - the 34th year of one of the top secondary level academic competitions in the Commonwealth! The competition, which commenced in 1984, is sponsored by the Young Lawyers Division of the Pennsylvania Bar Association (PBA\YLD). It provides high school students with firsthand experience of the American judicial system. The Mock Trial Competition is one of a series of law-related and civic education programs conducted by the PBA to demystify the law for Pennsylvanians, including Freedom's Answer, I Signed the Constitution, Project PEACE, Law Day, and Stepping Out for Seniors.

This year's case, Silva Morel v. Tiger Tail Technologies, Inc., is a civil case to determine whether the plaintiff, Silva Morel, was wrongfully terminated from employment after “blowing the whistle” on bribes that a Tiger Tail Technologies officer had paid to a foreign official. 

The case was written by Jonathan A. Grode, Paul W. Kaufman, Jonathan Koltash, and Talia Charme-Zane, assisted by Michael Schwoerer. Mr. Grode and Mr. Kaufman have co-written the Pennsylvania problems since 2011, and they co-wrote the national problems in 2010, 2012, 2014 and 2015. Mr. Grode also adapted and modified the 2007 mock trial problem and wrote the 2008, 2009, and 2010 mock trial problems. Mr. Kaufman was a four-time Delaware state champion mock trialer in high school and is a current member of the National High School Mock Trial Championship Board of Directors. Mr. Koltash co-authored the 2014, 2015, and 2016 Pennsylvania cases and is the PBA/YLD Mock Trial Co-Chair. Ms. Charme-Zane co-authored the 2015 and 2016 Pennsylvania cases and is a graduate of Stanford University and an alumna of the Pennsylvania mock trial program, where she captained the Central High School (Philadelphia) team that won the John S. Bradway Philadelphia High School Mock Trial Competition.

Mr. Grode thanks his wife, Jayne Bird, who tolerates his ongoing obsession with mock trial drafting, notwithstanding the fact that he promises each year that “this one will be the last he works on.” Mr. Grode also thanks Roberta West for introducing him to the wondrous world of Pennsylvania Mock Trial. Mr. Grode offers special thanks to his co-authors for the patience, humor, and most of all mock trial vigor.

Mr. Kaufman thanks his wife, Sarah, Acting United States Attorney Louis D. Lappen and Chief of the Civil Division Margaret L. Hutchinson for more things than he could count, much less mention. Mr. Kaufman also especially thanks senior counsel Grode and Koltash, and he continues to be grateful beyond words for Ms. Charme-Zane and, now, Mr. Schwoerer, Bradway alums doing amazing things. Truly, this is a friendship like no other.

Mr. Koltash thanks his wife, Alaina, for her patience and support each year during "mock trial season" - which never seems to end. He also thanks Mr. Grode and Mr. Kaufman, whose leadership in writing the problem each year is greatly appreciated. Their countless hours and
dedication to ensuring a balanced, creative problem for the participants of the competition makes them the unsung heroes of the competition. For that, he is in their debt.

Ms. Charme-Zane thanks Mr. Grode and Mr. Kaufman for humoring her in her refusal to ever move on from Philly mock trial and her former mock trial coach, Julian Thompson, who is an ongoing source of inspiration. Ms. Charme-Zane also thanks the amazing attorneys she works with at Sanford Heisler LLP, who work hard to defend real whistleblowers and employees against retaliation, discrimination, and wrongful termination every day.

Special thanks are owed this year to Richard Barrett and Leo Tsao of the United States Department of Justice. Thanks also to Secret Squirrel, a dear friend of mock trial who advised on several key details, and to our reviewers and editors. You know who you are.

Thanks also goes to the other co-Chair of this year’s Competition, Jennifer Menichini, Esq., for her efforts in organizing and implementing the many facets of this competition. The Mock Trial Committee would also like to express its appreciation to Jon Koltash, current PBA/YLD Chair, and Alaina Koltash, the PBA/YLD Chair Elect, for their support of the competition.

Additionally, we thank David Trevaskis, PBA Pro Bono Coordinator and recent winner of the Isidore Starr Award for Excellence in Law-Related Education from the American Bar Association, for his continued involvement and experienced guidance in implementing the 2018 Mock Trial Competition, and we thank the incomparable Jane Meyer, whose tireless work over the years has ensured that the many errors that reach her desk do not leave it.

Finally, we thank the hundreds of volunteers who annually contribute their time and energy to the overall organization and running of the program. Last, but certainly not least, we thank the PBA staff, headed by Executive Director Barry Simpson and Deputy Executive Director Fran O’Rourke, and the many PBA staff members who provide valuable time and talent throughout the mock trial season. Without their assistance, this competition would not be the tremendous success that it is each year.

Special thanks go to Maria Engles, the PBA/YLD Coordinator, whose contributions to the program are so numerous as to defy description.

We hope you find these materials interesting, and wish you all the best of luck!
Case Summary

TigerMix! It’s GRR8! Or so that’s what they say at Tiger Tail Technologies, Inc. (TTT). An amazing packing product made from 100% organic material, completely biodegradable, customizable, cost effective, and Ozone friendly, TigerMix is perfect for a world that wants to be greener.

A company with such an optimistic trajectory was the perfect place for a bright upshot like Silva Morel. An immigrant from Xanadu, one of the world’s smallest nations, Silva comes to the United States with a dream, a desire to change the world, and an aspiration to make it big. Silva was one good internship, and a job, away from getting a permanent visa and being able to stay in the United States. That is what Silva landed at TTT. Or so s/he thought.

This case is either the story of doing what is right and standing up to corporate greed or an examination of how a good job can go wrong if not taken seriously. With top grades, a reputation as one of TTT’s best interns, and a mass following of YouTube viewers who tuned in each week to see Silva’s legendary pranks, Silva was a rock star. To TTT’s HR Director, Madison Blewitt, Silva appeared to be as good as advertised, and Casey Porcini, TTT’s Business Development Manager, took an interest in Silva’s success. Silva was on the way to TTT’s Leadership Development Program and a sponsored visa.

Then something changed. In a small café in the outskirts of the Xanadu capital, Casey and Silva met Henry Buttone, a high-ranking Xanadu official. Silva claims to have witnessed bribery. Casey denies it. After trying unsuccessfully to get TTT to pay attention to her/his concerns, Silva contacts Harley Agaricus, an SEC investigator. Together, TTT and the SEC quickly realize that money is missing, and so is Buttone. It looks like Silva may be on to something, but the case goes nowhere. Just like Silva’s career. Interns – and competitors – like Paddy Straw come out of the woodwork. Accusations circulate about Silva’s work. And then Silva’s final prank video backfires, potentially exposing TTT’s secret business strategy. Just like that, Silva’s offer to TTT’s Leadership Development Program was pulled and so is her/his future. Now back in Xanadu wondering what went wrong, Silva believes s/he knows the answer: TTT found some of the excuses it needed to fire a whistleblower and make up the rest.

Silva will call three witnesses: her/himself; Harley Agaricus, the SEC investigator who handled the case against TTT; and Madison Blewitt, TTT’s HR Director. TTT will call Casey Porcini, TTT’s Business Development Manager; Paddy Straw, another intern who worked with Silva; and Riley Enoki, Vice President and General Counsel of TTT.

Trial is joined and a jury must decide: was rescinding Silva’s offer retaliation against a whistleblower to cover up a bribe or a business decision to cut ties with an unreliable employee?
A NOTE TO TEACHERS AND COACHES

This year’s case contains a simple question painted on a complicated canvas. In recognition of the fact that the “background complexity” is high, we wanted to write briefly to you and take a couple of steps to assist with narrowing this concern for you and for your students.

First, while we encourage you to read the entire case every year, we would urge you to take your time with this year’s pleadings and preliminary documents. This is doubly true of the judicial opinion, which even more than in some years is a useful road map for your teams.

Second, we felt that it would be useful to give your students the background that they need on several of the issues behind the issues for trial. We recognize that curricula differ statewide and that some students may not have reached the point of studying these topics. Accordingly, here is a summary relating to these areas, simplified and focused on the parts of each pertinent to this case.

The European Union

The European Union (EU) is a treaty-based organization of 28 (for case purposes, 29) European nations. Over the last sixty years or so, its form has changed, but in its modern incarnation, it involves a limited political confederation and a somewhat more federated economic union into which member states can opt. Membership is limited to democratic states that respect human rights and the rule of law and that have a functional market economy.

The EU is governed by a series of directives and regulations which are either adopted by member states or which go into force EU-wide immediately, depending on their form. These establish certain areas of power (called “competences”) that are either held by the EU, by the member state, or by both. This division of power is similar – although not identical – to the retention by state governments of certain areas of responsibility and the exercise by Washington of others.

Although the example in our case of an environmental or importation union is drawn on real life, it is not necessarily true that the EU treats genetically-modified organisms with the “privileges and immunities” the case uses. However, that is how the EU treats some issues, and it is a plausible legal construct.

Supplemental resources:

www.europa.eu


Genetically-Modified Organisms

A genetically-modified organism (“GMO”) is any organism (typically, a plant) that has had its DNA (or other genetic code) altered intentionally by humans using any of several genetic
engineering techniques. Most often in the modern legal context, GMOs are food-plants that have been modified to give them more attractive characteristics for farming. For example, crops can be made resistant to pests or pesticides, to have higher or different nutritional characteristics, or to be hardier in the face of environmental conditions. More than 10% of crops worldwide (and more than 90% of certain types of crop) are genetically modified, and they are especially popular in developing countries and areas in which the unmodified crop would not normally be able to grow. (Genetic modification of animals is increasingly common as well.)

GMOs have raised a variety of legal and political concerns. Some individuals worry about their impact on human health and diseases. Others are concerned with the environmental impact of these crops, including their impact on the animals and insects that interact with them, which some fear could cause considerable secondary environmental damage. There are also a set of legal questions surrounding GMO crops, including the use by seed companies of end-user agreements binding farmers.

As a result of these issues, GMOs are typically subject to greater regulation than unmodified crops. There is considerable variation in the degree of this regulation between localities, based on their degree of need to use GMOs and their local political cultures.

Additional resources are available via a Google search. However, in light of the controversies about GMOs and GMO science, the authors do not feel competent to curate which are the most authoritative.

The Foreign Corrupt Practices Act

The Foreign Corrupt Practices Act (“FCPA”) is a federal statute that – in broad terms – makes it illegal for any United States citizen, company, resident, or any foreign company traded on a U.S. stock exchange to pay bribes to any government official of any foreign nation. The FCPA is enforced by both the Department of Justice and the Securities and Exchange Commission. In recent years, there have been a number of prominent companies involved in FCPA prosecutions, including Siemens AG, which paid over $800 million in fines and disgorged profits in 2008, and ALCOA, which paid in fines or disgorged over $350 million in 2014.

The FCPA has been criticized for putting U.S. companies and individuals at a competitive disadvantage in countries where bribery or payment of gratuities is an engrained part of the commercial, legal, and political culture. Because a large company can be responsible for the actions of a small number of employees, there are also concerns about over-prosecution of this area and about the substantial cost of compliance to avoid FCPA violations.

Additional Resources:

https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act


http://www.fcpablog.com/
A NOTE REGARDING WHISTLEBLOWERS AND WHISTLEBLOWING

This case is unlike many of our typical cases, because it is based on a legal structure that does not exist. Although it closely tracks several real-world state and federal statutes, the Pennsylvania Whistleblower Protection Act of 2010 is an invention of this Committee.

Whistleblowers play a vital role in our nation, letting local, state, and federal governments know about illegal actions, fraud, waste, and abuse. Whistleblowers have been responsible for billions of dollars in civil recoveries, have helped workers earn the money they are owed, and have ended innumerable threats to health and safety. Some whistleblowing statutes even permit whistleblowers to recover a portion of the money returned to the government, resulting in millions of dollars in income for these individuals.

But the protection of whistleblowers’ activities varies considerably from state to state, from business to business, and based on how the whistleblowing was done. Not every whistleblower receives the same level of protection, and not every whistleblower receives the protections of our invented statute. Nor could whistleblowers in every state wait as long as Silva Morel to file their claims. While we as citizens might welcome such a law, depending on where and how they bring wrongdoing to the government’s attention, whistleblowers may receive full protection, some protection, or no protection at all.

In addition, many whistleblower statutes have administrative or regulatory hurdles that a whistleblower must clear or particular pathways that a whistleblower must follow. Following these rules and regulations is often essential to ensuring that a whistleblower is afforded legal protection.

Fortunately, Pennsylvania has a deep bench of talented employment attorneys, some of whom even specialize in whistleblower cases. We urge you to bring to the attention of local, state, or federal officials any fraud, waste, or abuse you see, particularly when those activities endanger health or safety. But do so in consultation with a trusted advisor, and do not rely on the Whistleblower Protection Act. It is only real for us.
SILVA MOREL, : IN THE COURT OF COMMON
Plaintiff, : PLEAS OF LAUREL COUNTY
v. : CIVIL ACTION – LAW
TIGER TAIL TECHNOLOGIES, INC., : Docket No.: 2017-CIVIL-9780
Defendant. : JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Silva Morel avers as follows:

The Parties

1. Plaintiff Silva Morel is a citizen of the Sovereign Principality of Xanadu.

2. Defendant Tiger Tail Technologies, Inc. (hereinafter, “TTT”) is a Delaware corporation with principal places of business in Chester and Laurel Counties in the Commonwealth of Pennsylvania.

3. Defendant TTT is a publicly-traded corporation.

Factual Averments

4. At all times relevant to the instant action, plaintiff was a resident of Laurel County, Pennsylvania, where s/he attended Kalmia University.

5. Silva Morel had stellar academic and professional credentials in international business.

6. During the period May 12, 2014 through August 29, 2014, plaintiff Silva Morel was an employee of TTT in its summer internship program.

7. Silva Morel was permitted to work for TTT by the terms of her/his F-1 visa pursuant to valid Curriculum Practical Training (CPT).

8. Silva Morel performed exceptionally throughout the summer internship, taking on additional work and receiving accolades for her/his work.

9. In July 2014, plaintiff received an electronic mail message from the CEO of TTT, Nanae Kinopio, inviting plaintiff to join TTT’s leadership development program, and an offer of employment in an intensive and prestigious position.

10. On July 18, 2014, Silva Morel traveled to Xanadu with Casey Porcini, a TTT executive, at TTT’s direction and as a part of her/his summer internship.
11. While in Xanadu, Porcini and Morel acted at all relevant times within the scope of their employment by TTT.

12. While in Xanadu, Porcini and Silva Morel met with Henri Buttone, a government official of that nation.

13. TTT’s goal was to have Buttone allow TTT’s TigerMix to be marketed in Xanadu without being considered a Genetically Modified Organism (GMO).

14. If TTT was allowed to market TigerMix – unlabeled as a GMO – in Xanadu, it would soon be allowed to market it that way throughout Europe, generating billions of dollars in revenue.

15. During this meeting, Porcini offered Buttone a cash payment in order to have TTT’s TigerMix marketed in Xanadu.

16. In making this offer, Porcini acted on behalf of TTT.


18. As Porcini and plaintiff left the meeting, Porcini threatened to prevent plaintiff from obtaining a visa to remain in the United States if plaintiff told anyone what had occurred.

19. Distraught at the violation of federal law s/he had witnessed, plaintiff reported what had happened to Riley Enoki, an attorney acting on behalf of TTT.

20. A few days later, after a scant investigation, Enoki advised plaintiff that no violation of the Foreign Corrupt Practices Act had occurred.

21. In receiving, investigating, and addressing plaintiff’s whistleblower complaint, Enoki acted within the scope of her agency with TTT. Enoki was a proper point of contact for a whistleblower under TTT’s “See Something, Say Something” whistleblowing policy.


23. The SEC is a federal agency charged with investigating and prosecuting violations of law by publicly traded companies, including violations of the Foreign Corrupt Practices Act. The SEC ultimately reached a civil resolution with TTT regarding the matters it investigated. That resolution resulted in the payment of a penalty by TTT to the SEC.

24. Following plaintiff’s revelation to Riley Enoki of Porcini’s attempt to bribe Buttone, and because of that revelation, plaintiff was subjected to immediate adverse employment actions, including:

   a. Withdrawal of the offer of a position in TTT’s intensive leadership training program;
b. Hostile comments and actions by members of the TTT staff, amounting to a change in the conditions of plaintiff's employment;

c. TTT's refusal to sponsor plaintiff for an H-1B visa allowing her/him to remain in the United States.

25. Plaintiff was unable to find other employment in the United States.

26. Plaintiff is now in middle management at a home furniture manufacturer in Xanadu, in which position s/he is paid tens of thousands of dollars less than s/he would have earned at TTT.

27. Plaintiff has suffered extreme emotional distress by her/his expulsion from TTT.

Count One

28. By acting in the foregoing manner, TTT has retaliated against plaintiff for taking a protected action, in violation of 43 P.S. § 5113(b).

29. Wherefore, plaintiff seeks the following relief:

   a. Instatement in the TTT intensive management training program;
   
   b. Back pay;
   
   c. Emotional damages in the amount of $150,000; and
   
   d. Reasonable attorneys' fees and costs.

_______________________
Hiroko Maruyama
Koribo LLP
Attorneys for Plaintiff
SILVA MOREL, Plaintiff, v. TIGER TAIL TECHNOLOGIES, INC., Defendant.

IN THE COURT OF COMMON PLEAS OF LAUREL COUNTY

CIVIL ACTION – LAW

Docket No.: 2017-CIVIL-9780

JURY TRIAL DEMANDED

ANSWER AND NEW MATTER

Defendant Tiger Tail Technologies (“TTT”) responds to plaintiff’s complaint as follows:

1. Admitted.
2. Admitted.
4. Upon information and belief, admitted.
5. Denied.
6. Admitted. TTT’s summer internship is paid, temporary employment, and TTT’s interns are treated as employees for purposes of Pennsylvania and federal law, consistent with TTT’s longstanding commitment to being one of the best places in the country to work, a true team environment where each employee is treated like family.
7. Admitted.
8. Denied.
9. Denied as stated. Defendant admits that Plaintiff received an electronic mail message.
10. Admitted.
11. Admitted.
12. Admitted.
13. Denied as stated. TTT was devoted to entering the Xanadu and European Union markets legally, whatever process that required.
15. Denied.

16. Denied as stated. TTT admits that Porcini acted on its behalf, but denies strenuously that any such offer was made.

17. This paragraph states a legal conclusion to which no response is required. Defendant TTT states only that it is a good corporate citizen dedicated to following the highest traditions of corporate ethics and that it has never attempted to circumvent any local, state, or federal law.

18. Denied.

19. TTT admits only that Plaintiff contacted Riley Enoki, then an outside counsel to TTT, and made claims about what s/he had supposedly observed. Enoki was one point of contact for TTT’s robust “See Something, Say Something” employee program, which encourages open lines of communications for any TTT team member.

20. Denied. TTT admits only that after an independent investigation conducted by a prestigious law firm following its own procedures, TTT was cleared of any wrongdoing.


22. Defendant lacks information sufficient to form a belief regarding the truth or falsity of this claim. Accordingly, it is denied.

23. Admitted.

24. Denied.

25. Defendant lacks information sufficient to form a belief regarding the truth or falsity of this claim. Accordingly, it is denied.

26. Defendant lacks information sufficient to form a belief regarding the truth or falsity of this claim. Accordingly, it is denied.

27. Defendant lacks information sufficient to form a belief regarding the truth or falsity of this claim. Accordingly, it is denied.


29. This is a statement of relief sought, to which no response is required. TTT denies it is liable to Plaintiff in any way.
NEW MATTER

1. Plaintiff Silva Morel was denied future employment at TTT for legitimate, non-retaliatory reasons, including at least the following:

   a. Failure to meet job requirements

   b. Failure to show appropriate discretion when handling company trade secrets

   c. Violation of company policy relating to outside employment

   d. Conduct unbecoming of a TTT employee and evidencing poor judgment, including:

      i. Pranks

      ii. Drunkenness

      iii. Inappropriate language

      iv. Using YouTube and other social media in violation of TTT policy.

______________________________________________
Alice Liddell, Esquire
Charles, Ludwidge, & Dodgson, PC
Attorneys for Defendant Tiger Tail Technologies
1. Denied. The plaintiff denies each of these factual allegations and denies that, if true, any caused the adverse employment action. To the contrary, the adverse employment action was caused by plaintiff’s reporting of TTT’s illegal actions.

Hiroko Maruyama
Koribo LLP
Attomeys for Plaintiff
SILVA MOREL, : IN THE COURT OF COMMON
: PLEAS OF LAUREL COUNTY
Plaintiff, : CIVIL ACTION – LAW
v. : Docket No.: 2017-CIVIL-9780
TIGER TAIL TECHNOLOGIES, INC., : JURY TRIAL DEMANDED
Defendant.

Stipulations

1. All documents, signatures and exhibits, including pre-markings, included in the case materials are authentic and accurate in all respects; no objections to the authenticity of the documents will be entertained. The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.

2. Jurisdiction, venue and chain of custody of the evidence are proper and may not be challenged.

3. All statements were notarized at the time they were initially made and all statements were reviewed by their authors shortly before trial. No changes were made.

4. All evidence was legally recovered, and all statements were legally obtained in civil discovery.

5. Exhibit 4 was produced by YouTube, LLC, a subsidiary of Google LLC, in response to a civil discovery subpoena.

6. Exhibit 5 was produced in discovery by defendant TTT from its intranet archives. Exhibit 5 is an official bulletin posting shared by TTT management with its employees on or about July 21, 2014. These bulletins are routinely removed from the company intranet after one month. The images associated with the bulletin were not archived with it, but they were: the TTT logo, the official government headshot of Henri Buttone, the official company headshot of Silva Morel, and an outside picture of the Agencee Nautrvard headquarters taken from its website.

7. Exhibit 8 was obtained by the government of San Lorenzo from San Lorenzo Federal Savings Bank in accordance with the standards of the United Nations’ Global Programme Against Money Laundering, Proceeds of Crime, and the Financing of Terrorism. It was provided by the government of San Lorenzo to the requesting agency, the Securities and Exchange Commission, and Harley Agaricus was the custodian of record for the SEC.

8. Exhibit 8 was pulled by San Lorenzo Federal Savings from its computer system. The information contained in Exhibit 8 was created and retained by San Lorenzo Federal Savings as a part of its operation as a consumer bank.
9. At the time that the bank account in Exhibit 8 was opened, San Lorenzo banks were not required to take identifying information (name, passport, etc.) from depositors. The security of deposits was ensured by the secrecy of the account number and two passwords associated with it.

10. Out of respect for the privacy of its depositors, until early 2015, the San Lorenz National Bank had no security cameras.

11. Exhibit 10 is a photo of Casey Porcini’s office taken on August 29, 2014 by Silva Morel, prior to Porcini’s arrival at the TTT office. It was taken separately from the YouTube video.

/s/ H. Maruyama     /s/ Alice Liddell

Attorney for Plaintiff  Attorney for Defendant

Date: December 18, 2017
APPLICABLE LAW

43 P.S. § 5113: Protection of Whistleblowers

(a) Definitions – For purposes of this section:

1. “Whistleblower.” Any person who brings to the attention of a local, state, or federal legislative, judicial, or executive body or official – including but not limited to law enforcement officials – information regarding a violation or perceived violation.

2. “Protected activity.”
   A. Any act which is intended to or does bring to the attention of a local, state, or federal legislative, judicial, or executive body – or any official, employee, or agent thereof – any activity that is a violation or perceived violation, or
   B. An act, such as internally reporting the violation or perceived violation, which:
      i. Comes before a contact with a government official, and
      ii. Brings the violation or perceived violation to the attention of:
         a. The individual who committed the violation or was perceived to have done so;
         b. That individual’s employer; or
         c. An officer, agent, or other designee of that individual’s employer.

3. “Violation.” Any act which is rendered illegal by any local, state, or federal rule, regulation, or statute.

4. “Perceived Violation.” Any act which the whistleblower reasonably believes to be a violation.

5. “Employer.” Any real or artificial person or entity which pays or has paid compensation to any individual for work performed on behalf of that person or entity as an employee within the meaning of law.

6. “Adverse employment action.” Any act which changes the terms or conditions of present or future employment, including but not limited to termination, reduction in pay or benefits, reduction in work hours, and denial of hiring, promotion, or future employment or advancement.

(b) Prohibition on Retaliation – No employer may take any adverse employment action against any whistleblower because that individual engaged in protected activity against the employer.

(c) Any individual who believes that he or she has suffered a violation of this Section (43 P.S. § 5113(b)) may bring an action in the Court of Common Pleas of the
county in which he or she resides or in which the alleged violation occurred, provided that:

1. The complainant is a resident of Pennsylvania; or
2. The complainant was employed by a resident of Pennsylvania; or
3. The alleged violation occurred within the Commonwealth.

(d) Remedies – Should an employer be found to have violated this section (5113(b)), judgment may be entered against him/her/it for:

1. Reinstatement to the position the whistleblower held at the time of the violation of this section, including any future opportunities or promotions promised or reasonably foreseeable based on the whistleblower’s position prior to the retaliation;
2. If the individual was denied employment by the adverse employment action, reinstatement to the position;
3. Back pay;
4. Compensatory damages not to exceed $250,000; and/or
5. Reasonable attorney’s fees and costs.

(e) This Section shall be known as the “Pennsylvania Whistleblower Protection Act of 2010” or the “Whistleblower Protection Act.”
SILVA MOREL, Plaintiff, v. TIGER TAIL TECHNOLOGIES, INC., Defendant.

IN THE COURT OF COMMON PLEAS OF LAUREL COUNTY

CIVIL ACTION – LAW

Docket No.: 2017-CIVIL-9780

JURY TRIAL DEMANDED

MEMORANDUM OPINION

This Court is once again called upon to address a series of meritless arguments by counsel for a party that refuses to accept that a jury must decide factual controversies in this Commonwealth.

The Pennsylvania Legislature has made a powerful statement that whistleblowers in this Commonwealth are to be protected. Whistleblowers protect the health and safety of our citizens, and may not suffer retaliation.

Counsel for defendant Tiger Tail Technologies (“TTT”) moves for summary judgment, arguing that it cannot have violated 43 P.S. § 5113 because it has not been found to have engaged in conduct that violates any local, state, or federal statute or regulation. The Court offers no opinion on the question of what happened in Xanadu or whether it was or was not illegal. However, TTT is simply wrong to assert that Pennsylvania’s Whistleblower Protection Act requires a criminal conviction – or even a civil or administrative judgment – against a company before its employee is protected. To the contrary, 43 P.S. § 5113(a)(4) specifically defines a category of “perceived violation,” which explicitly provides that no actual, proved violation was required to trigger the law’s protection.

A “perceived violation” is one that a claimant has a “reasonable belief” occurred. Thus, the whistleblower-claimant must actually believe that there was a violation, and that belief must be reasonable, i.e. one others would accept is something a normal person would agree with in broad terms. Plaintiff must prove that there was either an actual violation of law or a perceived violation of the law to succeed on her/his claims.

Thus, this case is not really about whether a bribe actually took place, except insofar as it might give TTT a motive to retaliate against the plaintiff or might give plaintiff a reason to believe that something illegal was occurring. Plaintiff can win even if no bribe occurred, and plaintiff can lose even if one did.

The Foreign Corrupt Practices Act strictly prohibits U.S. companies from bribing foreign officials. A conviction may result from a violation, or it may not, depending on many factors. But whether the conduct is reasonably believed to be a violation of the FCPA is a different question. Plaintiff is protected so long as her/his belief is reasonable, even if it is wrong. Thus, if plaintiff


reasonably believed that a bribe had been offered, s/he is entitled to blow the whistle and to whistleblower protection. Accordingly, the plaintiff can succeed in this matter even if there was no bribe actually offered. (Of course, if plaintiff is simply lying about the content of the conversation in Xanadu to try and get money, that is not a good faith belief, and the Whistleblower Protection Act offers her/him no protection.)

Plaintiff can also be a whistleblower and not have suffered retaliation, if s/he was fired for other legitimate reasons. Let us suppose, for example, that some other claimant comes to this Court having blown the whistle on misconduct but also having assaulted a coworker. If the adverse employment action was in response to the assault, then it is not illegal, even if plaintiff is a whistleblower. The prohibited action is retaliating because of the whistleblowing.

Plaintiff has alleged – and has provided at least some reason to believe – that s/he was on track to be hired into TTT’s intensive management training program. As defendant admits, that would have continued plaintiff’s employment with TTT. Plaintiff was not, ultimately, hired into that program. If the decision to rescind this offer was made because plaintiff blew the whistle on an actual bribery or something reasonably perceived as bribery, plaintiff is entitled to recover here.

Let us review the actual elements of proof required. Plaintiff is first required to show that s/he engaged in something that is or could be a protected activity. That is not seriously disputed here; defendant admits that its “See Something, Say Something” policy at the time permitted an employee to contact its outside counsel. Plaintiff did so. Plaintiff also contacted the Securities and Exchange Commission. Both are protected activities under § 5113(a)(2).

And, if plaintiff’s offer to join the management training program was rescinded because of the whistleblowing, as plaintiff alleges, that could be an adverse employment action (denial of future employment/hiring) pursuant to § 5113(a)(7). If true. Once plaintiff has alleged that s/he engaged in protected activity and s/he suffered an adverse employment action, the defendant submits some business reason it took the adverse action. TTT has done so, claiming that plaintiff showed poor judgment, acted improperly, and performed badly.

What remains are entirely questions for the jury. First, did plaintiff reasonably believe that s/he had witnessed a violation of law? The parties are free to submit any evidence that makes this question more or less likely to be decided in their favor, including evidence that there was – in fact – a bribe offered or paid. Then, second, if plaintiff reasonably believed that there was a violation of the law and reported it, did defendant take an adverse employment action against plaintiff because of it? If plaintiff’s choice to report a perceived violation proximately caused TTT to treat her/him differently, s/he is entitled to damages. If TTT would have taken the same actions anyway, plaintiff is not.

Why did plaintiff do what s/he did? Why did TTT do what it did? Such factual questions are for the jury. Trial is set for a date no later than March 31, 2018.

BY THE COURT:

__________________________________________
J. B. Polquelin, J.
JURY INSTRUCTIONS

At the conclusion of a jury trial, the judge will instruct the jury how to apply the law to the evidence. Hypothetically, if the judge in your mock trial case were to provide instructions to the jury, they would look something like the following:

[NOTE: Teams cannot use a copy of these instructions as an exhibit during the mock trial competition; however, students may use these concepts in fashioning their case and making arguments to the jury.]

ROLE OF THE JURY

Members of the jury, all of the evidence has been presented to you and you have heard the arguments of the lawyers. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence that you have heard and seen in court during this trial. That is your job and yours alone. I play no part in finding the facts. You should not take anything I may have said or done during the trial as indicating what I think of the evidence or what I think about what your verdict should be.

Your second duty is to apply the law that I give you to the facts. My role now is to explain to you the legal principles that must guide you in your decisions. You must apply my instructions carefully. Each of the instructions is important, and you must apply all of them. You must not substitute or follow your own notion or opinion about what the law is or ought to be. You must apply the law that I give to you, whether you agree with it or not.

Your verdict does not need to be unanimous. Rather, you will discuss the case among yourselves, but ultimately each of you will have to make up his or her own mind. This is a responsibility that each of you has and that you cannot avoid.

Perform these duties fairly and impartially. Do not allow sympathy, prejudice, fear, or public opinion to influence you. You should also not be influenced by any person's race, color, religion, national ancestry, or gender.

JURY SOLE JUDGE OF FACTS; SYMPATHY OR PREJUDICE NOT TO INFLUENCE YOUR VERDICT

You are the sole judges of the facts in this case. It is your duty to determine the facts from the evidence produced here in court. Your verdict should not be based on speculation, guess, or conjecture. Neither sympathy nor prejudice should influence your verdict. You are to apply the law as stated in these instructions to the facts as you find them, and in this way decide the case.

Although the lawyers may have called your attention to certain facts or factual conclusions that they thought were important, what the lawyers said is not evidence and is not binding on you. It is your own recollection and interpretation of the evidence that controls your decision in this
case. Also, do not assume from anything I may have done or said during the trial that I have any opinion about any of the issues in this case or about what your verdict should be.

**BELIEVABILITY OF WITNESSES GENERALLY**

As judges of the facts, you decide the believability of the witnesses’ testimony. This means that you decide the truthfulness and accuracy of each witness’s testimony and whether to believe all, or part, or none of each witness’s testimony.

The following are some of the factors that you may and should consider when determining the believability of the witnesses and their testimony:

- a. How well could each witness see, hear, or know the things about which he or she testified?

- b. How well could each witness remember and describe those things?

- c. Was the ability of the witness to see, hear, know, remember, or describe those things affected by age or any physical, mental, or intellectual disability?

- d. Did the witness testify in a convincing manner? How did the witness look, act, and speak while testifying?

- e. Was the witness’s testimony uncertain, confused, self-contradictory, or presented in an evasive manner?

- f. Did the witness have any interest in the outcome of this case, or any bias, or any prejudice, or any other motive that might have affected his or her testimony?

- g. Was a witness’s testimony contradicted or supported by other witnesses’ testimony or other evidence?

- h. Does the testimony make sense?

- i. If you believe some part of the testimony of a witness to be inaccurate, consider whether that inaccuracy cast doubt upon the rest of that same witness’s testimony. You should consider whether the inaccuracy is in an important matter or a minor detail.

You should also consider any possible explanation for the inaccuracy. Did the witness make an honest mistake or simply forget, or was there a deliberate attempt to present false testimony?

- j. If you decide that a witness intentionally lied about a significant fact that may affect the outcome of the case, you may, for that reason alone, choose to disbelieve the rest of that witness’s testimony. But, you are not required to do so.
k. As you decide the believability of each witness’s testimony, you will at the same time decide the believability of other witnesses and other evidence in the case.

l. If there is a conflict in the testimony, you must decide which, if any, testimony you believe is true.

As the only judges of believability and facts in this case, you, the jurors, are responsible to give the testimony of every witness, and all the other evidence, whatever weight you think it is entitled to receive.

**CONFLICTING TESTIMONY**

You may find inconsistencies within the testimony of a single witness, or conflicts between the testimony of several witnesses. Conflicts or inconsistencies do not necessarily mean that a witness intentionally lied. Sometimes two or more persons witnessing the same incident see, hear, or remember it differently. Sometimes a witness remembers incorrectly or forgets. If the testimony of a witness seems inconsistent within itself, or if the testimony given by several witnesses conflicts, you should try to reconcile the differences. If you cannot reconcile the differences, you must then decide which testimony, if any, you believe.

**INTENTIONALLY FALSE TESTIMONY**

If you decide that a witness intentionally lied about a fact that may affect the outcome of the case, you may, for that reason alone, choose to disbelieve the rest of that witness’s testimony. But, you are not required to do so. You should consider not only the lie, but also all the other factors I have given you, in deciding whether to believe other parts of the witness’s testimony.

**EVIDENCE**

I have mentioned the word "evidence" and will use that term more during these instructions. "Evidence" includes the testimony of witnesses. Evidence also includes documents and other exhibits admitted during the trial. Certain things are not evidence and you cannot base your verdict upon them. I will now describe what is not evidence:

1. The lawyers are not witnesses and what they say is not evidence in the case. Their opening statements, arguments, questions, comments, and closing arguments are not evidence.
2. Anything you see or hear about this case outside the courtroom is not evidence and should never be considered by you in reaching your verdict.
3. I may strike from the record certain statements or exhibits. If that happens, I will tell you what you may not consider as evidence.
STIPULATIONS OF FACT

The stipulation of facts that has been offered and received in evidence constitutes an agreement by the opposing parties, through their lawyers, that these facts may be accepted as undisputed. These facts require no further proof, and no contradictory evidence will be permitted. These facts are to be accepted by you as binding and conclusive for the purposes of this trial.

NATURE OF THE CASE

This is not a criminal case. It is a civil case involving an alleged violation of the Pennsylvania Whistleblower Protection Act. Plaintiff has alleged that s/he engaged in whistleblowing activities, and that, as a result, defendant rescinded its offer to join the management training program because of the whistleblowing. Defendant has alleged that its decision to rescind its offer to join the management training program was because of Plaintiff showed poor judgment, acted improperly, and performed badly.

The relevant law is the Pennsylvania Whistleblower Protection Act, which prohibits an employer from taking any adverse employment action against any whistleblower because that individual engaged in protected activity against the employer.

DEFINITIONS

For the purposes of your deliberations, “whistleblower” means any person who brings to the attention of a local, state, or federal legislative, judicial, or executive body or official – including but not limited to law enforcement officials – information regarding a violation or perceived violation.

“Protected Activity” means any act which is intended to or does bring to the attention of a local, state, or federal legislative, judicial, or executive body or official activity that is a violation or perceived violation, or an activity designed to such as internally reporting the violation or perceived violation, which comes before a contact with law enforcement.

A “Violation” means any act which is rendered illegal by any local, state, or federal rule, regulation, or statute.

A “Perceived Violation” means any act which the whistleblower reasonably believes to be a violation.

An “Adverse employment action” means any act which changes the terms or conditions of present or future employment, including but not limited to termination, reduction in pay or benefits, reduction in work hours, and denial of hiring, promotion, or future employment or advancement.
This is a civil case in which the plaintiff, Silva Morel, seeks a judgment against his former employer, Tiger Tail Technologies. Plaintiff claims that s/he is entitled to judgment in his/her favor because the defendant violated the Pennsylvania Whistleblower Protection Act.

The Plaintiff has the burden of proving his/her case by what is called the “preponderance of the evidence.” That means Plaintiff has to prove to you, in light of all the evidence, that what s/he claims is more likely so than not so.

Under the law, the plaintiff has the burden of proving the elements of his/her claim for violation(s) of the Pennsylvania Whistleblower Protection Act.

As I said before, this is a civil case, not a criminal case. The burden of proof in a civil case is different from the burden of proof in a criminal case. In a civil case, the plaintiff must prove his or her claims by a legal standard called a "preponderance of the evidence." Preponderance of the evidence means that a fact is more likely true than not.

Think about the scales of justice or an old-fashioned balance scale with a pan on each side to hold objects. Imagine using the scale as you deliberate in the jury room. Place all the believable evidence favorable to the plaintiff in one pan. Place all the believable evidence favorable to the defendant in the other. If the scales tip, even slightly, to the plaintiff's side, then the plaintiff has met his or her burden of proving that fact. If, however, the scales tip even slightly on the defendant's side, or if the two sides of the scale balance equally, the plaintiff has not met his or her burden of proof.

In this case, Silva Morel has the burden of proof. Plaintiff has to prove the elements of his or her claim by a preponderance of the evidence.

Plaintiff must prove the following elements are more likely than not:

1. Plaintiff must show that he or she engaged in something that is or could be protected activity;
2. Plaintiff must show that plaintiff suffered an adverse employment action;
3. Once Plaintiff has alleged that s/he engaged in protected activity and s/he suffered an adverse employment action, the burden shifts to the defendant to submit a legitimate, non-retaliatory, business reason for taking the alleged adverse action; and
4. If the defendant submits a legitimate, non-retaliatory, business reason for the taking of the alleged adverse action, the burden shifts back to the plaintiff to demonstrate that the alleged reasons proffered by defendant were merely a pretext to retaliate against plaintiff for engaging in protected activity.

Here, the plaintiff has alleged that s/he reported something that was or was perceived to be an illegal action first to TTT itself and then to the Securities and Exchange Commission. If you find that plaintiff made these reports, believing that s/he had actually seen an illegal action, you must
find this element was met. The parties agree that an offer of a bribe to a foreign official in order to induce that person to take an official act is an illegal action.

The parties agree that the plaintiff has suffered an adverse employment action. That is not in dispute, although the reason it occurred is. Likewise, the parties agree that the defendant has posed reasons that, if they are true, could be legitimate, non-retaliatory business reasons for an adverse employment action.

Therefore, the questions for you are two: (1) did plaintiff reasonably perceive that an illegal action occurred and (2) if so, was plaintiff’s reporting of that action the cause for the adverse employment action or was that action taken for reasons that are ‘separate,’ ‘legitimate,’ and ‘non-pretextual,’ that is, not merely a pretext for exacting retribution.” In other words, if there was whistleblowing activity, you must decide whether the adverse action would have occurred even if the protected activity or “whistleblowing” had not occurred.

**LIABILITY OF EMPLOYER FOR ACTS OF ITS EMPLOYEES**

Under the law, an employer is liable for the wrongful acts of its employees and agents acting within the course and scope of their employment. Thus, if you find that any employee(s) or agent(s) of TTT caused harm to plaintiff Silva Morel by violating the Pennsylvania Whistleblower Protection Act while working for TTT, then TTT is liable for that harm.

**DAMAGES**

Do not concern yourself with the question of damages. If that question is at issue, I will instruct you with regard to it later.

**CONCLUDING INSTRUCTIONS AND VERDICT**

That concludes my instructions explaining the law regarding the testimony and other evidence, and the offenses charged. Now let me explain some things about your deliberations in the jury room.

1. You now have all the rules of law to properly reach a verdict in this case. In a few minutes, you will begin your deliberations. Before you do so, I would like to give you a few final guidelines on conducting your deliberations and properly arriving at a verdict.

2. My responsibility, as judge, is to decide all questions of law; therefore, you must accept and follow my rulings and these instructions as to matters of law. But I am not the judge of the facts. You, the jurors, are the only judges of the facts. So your responsibility is to consider the evidence and decide what are the true facts. By applying the rules of law as given to you, to the facts as you find them, you must decide whether the plaintiff has proven his/her claims.

3. The decision in this case, as I am sure you understand, is a matter of considerable importance. Your responsibility, as jurors, is to reach a verdict based on the evidence
presented during the trial, and upon your evaluation of that evidence. You must consider all the testimony you have heard, and all the other evidence presented during this trial, in order to decide the facts.

4. In deciding the facts, you may properly apply common sense and draw upon your own everyday practical knowledge of life. You should keep your deliberations free of any bias or prejudice. All parties have the right to expect you to consider the evidence conscientiously, and to apply the law as I have outlined it to you.

5. Before you begin to deliberate, you should select one of your group to be the foreperson. The foreperson will announce the verdict in this courtroom after you have finished deliberating. If, during deliberations, you have a serious doubt about some portion of these instructions, write your question in a note, signed by the foreperson. Give the note to the bailiff. The bailiff will give it to me for response. You should not, however, reveal to anyone how the jury stands numerically.

6. The verdict should be rendered only after careful and thoughtful deliberations. In the course of your deliberations, you should consult with each other and discuss the evidence freely and fairly, in a sincere effort to arrive at a just verdict. It is your obligation to consider the evidence and the issues presented with a view toward reaching agreement, if you can do so without violating your own individual judgment. Each juror must decide this case for himself or herself, after examining the issues and the evidence with proper regard to the opinions of other jurors. Proper consideration of the issues before you means that you should be willing to reexamine your views and change your opinion, if convinced that it is erroneous; but you are not required to surrender an honest conviction as to the weight or effect of the evidence only because of another juror's opinion, or solely for the purpose of returning a verdict.

7. Your verdict must represent the jury's considered, final judgment. While the view of every juror must be considered, your verdict need not be unanimous. A verdict rendered by five-sixths of the jury shall constitute the verdict of the entire jury. Five-sixths of twelve is ten. So when ten of you have agreed that you have reached a verdict, indeed, you have. You should tell the bailiff, and we will reconvene court to accept your verdict. [If this is a jury of less than twelve, the appropriate numbers should be inserted. For example, five-sixths of eight requires a verdict of seven.]

8. Please keep in mind that this dispute between the parties is, for them, a most serious matter. They and the court rely upon you to give full and conscientious consideration to the issues and the evidence before you. Neither sympathy nor prejudice may influence your deliberations. You should not be influenced by anything other than the law and the evidence in this case, together with your own judgment and evaluation of that evidence. All parties stand equally before the court, and each is entitled to the same fair and impartial treatment in your hands.

9. I am well aware that in daily life, you may regularly communicate with friends and family through text messaging, e-mail, Twitter, social networking sites, chat rooms,
Facebook, MySpace, LinkedIn, YouTube, blogs, or other website. Remember--you must not communicate about this case in any way, even electronically.

10. I also am well aware that in daily life, many of you regularly use the Internet to obtain all types of information. As I told you at the beginning of the trial, anyone can put anything on the Internet and that information may or may not be accurate or reliable, and probably would not have been admissible as evidence during this trial. During this trial, I had to decide that the information you heard was sufficiently reliable to be admissible under the Rules of Evidence and the law. Relying on any information you obtain outside the courtroom is not only a violation of these rules, it is unfair because the parties would not have the opportunity to refute it, explain it, or correct it.

Thank you. You may begin your deliberations.
VERDICT FORM

To the Jury:

To further clarify instructions given to you by the trial judge, you are being provided with the following verdict form. At the conclusion of your deliberations, one copy of this form should be signed by your foreperson and handed to the court clerk. This will constitute your verdict.

Question 1:

Do you find that the plaintiff, Silva Morel, has proven it more likely than not that the defendant, Tiger Tail Technologies, Inc., took an adverse employment action against Silva Morel because Silva Morel had engaged in protected whistleblower activity?

Yes ________  No __________

You have finished your deliberations. Please sign at the bottom of this form. Please return to the courtroom. You need not concern yourselves with damages at this time. If you have to consider the question of damages, that will be addressed after your return to the courtroom.

__________________________________________
Jury Foreperson

________________________
Date
List of Witnesses

The plaintiff and the defendant must call each of their respective witnesses.

For Plaintiff, Silva Morel:
- Silva Morel: Plaintiff Whistleblower and Former Summer Intern, TTT
- Madison Blewitt: Director of Human Resources, TTT
- Harley Agaricus: Investigator, Securities and Exchange Commission

For Defendant, Tiger Tail Technologies:
- Casey Porcini: Former Director of Business Development, TTT
- Pat Straw: Former Summer Intern, TTT
- Riley Enoki: Vice President and General Counsel, TTT

PRONUNCIATION GUIDE AND GLOSSARY

Agencee Nautrvard ay-jenn-see naut-ri-vard
Drinkert Ewracken drink-ert ew-rackin
Henri Buttone on-ree boo-tone
Justitiedepartmentet jus-tee-tee-dee-part-ment-tet
Politie po-lee-tee
Wisawe wizz-a-wee

Please note that for many proper nouns and scientific and foreign terms used in the problem (ex. Agencee, Agaricus, Morel, Xanadu), pronunciation assistance is easily found on the web by searching “[term] + pronunciation”
Statement of Silva Morel

When life gives you lemons, sometimes there’s no lemonade, just a bitter bite and a sick stomach. I guess that is what happened to me. I was born in a small village to a family of farmers in one of the world’s smallest countries, Xanadu. My folks thought I would just stay in the family business, but I dreamed of more. I wanted to be an American. You always hear of immigrants going to America and making it big! In America, you can carve out your own destiny no matter how humble your beginnings. Anyone can become anything! I knew if I could just get there, the rest would take care of itself. And when I made it in 2011, I made it in style. Arriving in the hallowed halls of Kalmia University for winning the top prize in my country’s annual engineering contest, I thought my future was certain.

Now I spend my days in a cubicle, designing inexpensive, modular pine furniture, and my nights sending resumes across the European Union, trying to get a chance to use the skills I built. I lost my future suburban house, the six-figure job, the 1.9 kids. I lost it all – because I did the right thing. But, I don’t regret going to the authorities and telling them all about Casey Porcini’s bribe and the way Tiger Tail Technologies tried to cover it up. Maybe I can’t make things right for my country, but what TTT did when it retaliated against me cannot stand.

Growing up, I was a total geek, but I still craved popularity. So I sort of invented a second persona: the trickster. I got into practical jokes around my thirteenth birthday. You know, standard stuff…. whoopie cushions, joy buzzers, Chinese finger traps. When YouTube took off, I started my own channel, XanaduGotYou. Being in front of the camera all the time got me over my shyness. I loved the attention and the feedback from my friends and subscribers. As I got older, my pranks got louder and larger, and the trickster and my real personality merged.

On camera, of course, the pranks had to be different. Nobody wants to watch somebody else play with a finger puzzle! Video pranks depend on the reaction, the bigger the better. I particularly loved scaring people by dressing in costume and catching their reaction. After my sophomore year at Kalmia, I was up to around 50,000 followers, and I started making some good money from the channel based on advertising revenue. One video in particular, where me and about 10 of my friends crashed a fraternity and sorority mixer dressed as zombies, got 1.5 million views! Income got steadier after that. I know it was against the terms of my student visa to make money that way, but that is like saying that it is wrong for college athletes to make some extra scratch from boosters.

I did really well at Kalmia academically and was super into my work for the robotic team as well as my engineering classes. And my videos made me popular on campus. I was tapped for Zeta Iota Pi, a very selective co-ed fraternity, within a week of move-in. Unfortunately, I was having a hard time finding internships and interest from local companies, because none of them wanted to take on the expense and hassle of sponsoring my work visa after graduation. That’s when I realized that I had to start taking international business classes alongside traditional courses if I had any hope of sticking around. It worked! TTT hired me into its renowned summer internship program for the summer between my junior and senior years.
TTT is a cool company. No doubt about that. They took a completely useless strain of mushroom and turned it into TigerMix, a substance so versatile that you can use it for packaging foam as easily as you can use it for an automotive seat cushion. It is completely moldable and 100% biodegradable. The only catch is that making it requires a genetically modified organism (GMO). At TTT, we didn’t see what the big deal was. I mean, we know that burning oil and coal isn’t great for health or the environment, but we still do that, right? And this wasn’t even for human consumption! Still, it was a GMO, so it carried a stigma.

Anyway, no matter what anyone from TTT tells you about how much they cared about me or how much they value their interns and how everyone is an equal, it’s all lies. You can dot as many foosball tables around an office as you like, but at the end of the day, a corporation is just that – a corporation. And when it comes to money and success they’ll cut all the same corners and throw anyone under the bus to get out of trouble.

But it didn’t start out that way! The first few months of my internship were amazing. First impressions are almost indelible, so I would show up early and stay late, working as hard as I possibly could. That way, when I inevitably made a mistake in the future or when one of my signature pranks would go wrong, I would get the benefit of the doubt. Sure, this behavior would upset my fellow interns, especially Pat Straw, but I didn’t care. If I made friends, that was fine, but I was there to make my American dream come true. I’d have done anything to make it in America. Or so I thought.

Anyway, working long hours meant that I saw an odd mix of people, and none was odder or more important to get to know than TTT’s Business Development Manager, Casey Porcini. Casey fancies her/himself as some sort of Francophile, you know, a person who is all about anything French. S/He was always sipping espresso and eating croissants. I don’t even think s/he liked those things! I found it funny that a person could be so in love with the French culture and s/he couldn’t speak a word of the language.

Maybe it was because we were the only ones around the office before 7:30 a.m., but Casey took an instant liking in me. Casey was very interested in my background and learning more about Xanadu. I figured it didn’t hurt, since Xanadu was only a couple hundred miles from the Lille area, or maybe I just fit the French theme better than that Lucky Charms reject, Paddy Straw.

At first, I didn’t realize that s/he was angling for information rather than really caring about me, so I opened up to Casey about my visa woes and my strong desire to stay in the U.S. after graduation. Casey said that s/he could serve as a patron within TTT, since we were both focused on Europe. I didn’t dare say that I could not have cared less about Xanadu at that point. Even so, I focused my work on European markets whenever I could. Casey was a senior officer and a shareholder as well. Whatever I thought of all the France nonsense, Casey could make or break my career – and my future. On my own initiative, I completed a report about how the conflict in the Ukraine could affect sales of TigerMix in non-EU Europe, and Casey was so impressed that s/he encouraged me to apply for the Leadership Development Program (LDP). The LDP is only for two or three employees, but in one year it gets you on the management
track that usually requires four to seven years at the company! I had thought landing one of those spots was impossible, but with Porcini on my side, I had a chance.

When I received the email form TTT’s CEO, Nanae Kinopio, admitting me to the program I was on top of the world. I sent a note of thanks to Casey. I expected some bland response, but instead Casey wrote, “Now you don’t have to worry about your visa anymore, I got your back as long as you will always have mine.” I had no idea what that meant – then – but I didn’t care. I figured I’d back Casey on anything if it kept me in the States.

Pat Straw, on the other hand, only had my back if s/he was trying to stab me in it. Pat’s from Ireland, and s/he liked to compare her/himself to me because we were both foreign nationals. But we are nothing alike. Pat is a classic sycophant, always gunning for extra face time with the bosses and more than willing to steal from others to get it. At one point, in June 2014, all the interns had pieces of the main project in Business Development: expanding into the European Union. Pat and I were working together and made what we thought was a breakthrough on the areas our projects overlapped. Pat said that s/he was going to clean up the white paper a bit before sending it along to senior management. I found out the next day that s/he took my name off the report entirely! I didn’t want to seem petty, so I didn’t say anything, but I was steamed. Of course, it was frustrating to find out a few weeks later that Pat was also invited to join the leadership development internship because of her/his work on the white paper.

Speaking of pranks, July 2014 started off as a banner month. I had been at the company for a while and now that I was invited to the LDP, I decided I could run a prank on someone at the Company and get away with it. It would be fun and, frankly, I needed the cash. Given that July 4th was right around the corner and we worked close to the cradle of liberty, I decided to dust off the old zombie costume and add a bit of George Washington flare to it. I didn’t really care who my victim was, I just wanted a great reaction for the camera. Eventually, the company lawyer, Riley Enoki, appeared carrying a large cup of coffee and staring at her/his phone as s/he slowly made her/his way to the office s/he used. I didn’t know Riley all that well, but deep down we all know everyone loves a good prank, and people hate lawyers. So as soon as Riley was about three or four feet from my hiding place, I jumped out in front of her/him and screamed, “Give me liberty, I’m already dead!” Well, poor Riley jumped and screamed and spilled the entire cup of coffee. It was quite a mess, but great footage for the channel. Riley seemed upset at first, but after I helped her/him clean up and gave her/him a “I just got pranked on XanaduGotYou” t-shirt, s/he lightened up. S/He wore the shirt like a badge of honor all day long, but I heard from others that day that Riley was one to hold a grudge. Still, my subscribers were delighted I was back in the business, and so was my bank account. Classic!

The next day, Casey told me that I would be accompanying her/him and a couple of the other TTT executives on a trade mission to Xanadu. I knew why I was going… what better way to endear yourself to a small but easily lovable country than to have one of their own represent you?! What I didn’t get was why Pat Straw had to come along, too. I knew somehow s/he would try and take the credit for whatever accomplishments I made.

We left on July 18th for Xanadu. I prepared extensive briefing papers on our history. Lots of people think that countries like Germany and Belgium have been around forever. But Belgium
only left the Netherlands in 1830, and one province stayed, that of the Duke of Xanadu. Despite this loyalty, the Dutch treated us Xanaduians terribly, because the Duke had married a member of the Swedish royal family, and the Swedish had sided with the French during the Napoleonic wars. Eventually, the Duke’s son seceded, but he was too fiercely Dutch to join Belgium. So Xanadu became independent. If you mix up this history, it’s a dire offense. And about half of all Xanaduians refuse to learn English, mostly out of spite. So the week before and the entire flight all I was obsessed with was conveying our history, our people, and our passion for food and drink. I went over customary greetings and tried to explain that my people are quick to judge and find trust difficult. A blank Xanadu stare is often misinterpreted as disdain, but it is really a sign of careful consideration.

Upon arrival at the Agencee Nautrvard (AN), Xanadu’s equivalent of America’s Environmental Protection Agency (EPA), we were greeted by some of my country’s top officials, including the Director of the AN, Henri Buttone. TTT had a good pitch: adding any significant industry, especially one as well-known globally as TTT, would be a huge injection of capital and clout to the country. For the younger generation of Xanaduians, who grew up with the world wide web, it would mean a real future for their nation. Even so, the meeting started off slow, like the dancefloor at a junior prom. After about ten minutes of trying to serve merely as a translator for Casey, I plucked up the courage to take the stage and went into a full dissertation of the virtues of TigerMix and how it would impact the national economy. Casey nodded and handed me the clicker, and I took off, going through the slides as though they were my own. I even managed to inject some humor using regional dialect. Best of all, when Buttone tried to trick Casey with a reference to Xanadu history, Casey played it perfectly into a comment on the virtues of early Swedish rule.

After the initial meeting ended, the entire executive team lauded me with praise. Casey was so impressed with my effort that s/he started calling me “the natural” and said that I showed the instinct of a seasoned veteran – easily mixing humor with business and currying the favor of all who listened. As the compliments piled in, you could see Pat become more and more removed from the discussion. S/He sat there brooding over a tall glass of Xanadu sour – the local gin drink with basil and grapefruit juice. As we were leaving the restaurant, Casey pulled me aside and whispered in my ear, “No matter what happens the rest of this trip, I’m convinced you are the perfect fit for my department. Stick with me and I’ll get you that American dream.”

If July 19th was the apex of my career with TTT, the 20th was the nadir. The day started off amazing. Casey had invited Buttone to a private meeting, and s/he wanted me to accompany her/him. Just the two of us in possibly the most important meeting in the history of TTT’s European expansion. When we arrived at a small café on the outskirts of town, I immediately thought something was amiss. Why were we not meeting in the government administrative building? For someone who fancied her/himself as Frenchman, the bluntness of Casey’s approach during the meeting was decisively American. Casey said, “What will it take to get it so you don’t label TigerMix a GMO under EU law?” Buttone looked confused and started to recite the steps Xanadu required to apply for a non-GMO designation, which mirrored those of other EU nations. Casey then said, “What if I were to ensure you received some very direct
investment from our company in appreciation for your hospitality during our visit – say, $5 million US?"

Buttone’s response would haunt me. I thought he would stone-face Casey, if he didn’t flat out walk away or even call the Politie, our national police. Instead, Henri just walked through the entire application process in detail, even though we had already discussed it fully just the day before. Buttone was speaking broken English, even though he had insisted on translation the day before, and he was smiling broadly the entire time, which is completely unlike any standard Xanaduian business mannerism. When we parted company, Casey leaned over to shake Buttone’s hand — a faux pas, because Xanaduans clasp forearms – and, staring right into Buttone’s eyes, said “we look forward to investing in both you and Xanadu - $5 million, a facility, import/export jobs… these are just the start.” Buttone shook Casey’s hand back, and winked! If you just heard the voices, you would never have realized what was happening. Then Buttone climbed back into his compact Peugeot, whistling all the way.

When we got in the taxi to head back to the hotel, Casey told me to never repeat anything from that meeting to anyone – especially if I valued my internship and my future work visa. I assumed that this was a twisted test of loyalty, but it tore at me the rest of the day. To me this was a threat of deportation if I said anything. That night, at our closing reception, I could barely hold myself together. I even gave a handshake to the Mayor’s wife, instead of kissing her hand! I was able to cover it, but I could barely think straight. I tried to drown my anxiety in drink. I had just turned 21 a few months before, and even though the drinking age in Europe is 18, I had rarely been home. I had rarely drunk alcohol, and I should have known better, but I was trying to fit in and calm myself. I got too intoxicated and probably said some stupid things to the wrong people, but I really do not remember much of it at all. I am ashamed of drinking to excess, and I regret the offense I gave. Most of all, though, I wish I could remember the night.

When we got back to Wisawe, I couldn’t sleep and was overcome with guilt. Not even being put on the front page of the company’s website, with a picture of me shaking hands with the Duke himself, could make me feel better. I knew my new home was corrupting the government of my homeland, and I could not just forget it ever happened. Unfortunately, the right person to contact was Riley, who was still probably sour because of the 4th of July prank. But I had no choice. On Friday, August 1, 2014, after two weeks of no rest and constant panic attacks, I walked into Riley’s office and told her/him everything about Casey’s bribe of Buttone. I mean, see something, say something, isn’t that what we were supposed to do?! Riley took notes, looked concerned, and gave some reassurances. S/He said that this report would be held in confidence. But the next work day, as I walked around the building, Riley was nowhere to be found and I was definitely a persona non grata. Casey completely ignored me. I was taken off engineering work and given filing to do. No one would look at me in the eye, and the only person who only had any interaction with me was Pat Straw, who just gave me this silent, superior smirk for like three minutes when we get stuck in an elevator together. It was horrible, but I didn’t let Straw see me sweat!

The following week, Riley called me into her/his office and said, without any explanation, that there was no evidence of a bribe or attempted bribe in violation of the Foreign Corrupt Practices
Act (FCPA). I knew then that the company was committed to sweeping this under the rug. I
mean, in the business law class I took, we learned that FCPA investigations were, like, months
long. This was only a couple days, and Riley had been on vacation for most of them! So I did
what anybody with half a conscience would do – I went to the SEC and reported TTT. They told
me I would be protected, but it did not matter. I was a snitch and I was hated for it.

Then I heard that there was some kind of meeting with the other interns, but not me, right before
we were leaving for the summer. Gee, I wonder who that was about?! That’s why I decided I
would try and reset things with Casey before I went back to school. I mean, Casey was my
mentor, and kind of my hero. I wanted to celebrate the relationship we had had, and nobody
loved the pranks more than Casey. S/He showed them to everybody! I knew my only shot at
getting back to good with Casey was a good laugh we could bond over. That’s why, on the last
day of my summer internship, I arrived extra early at the offices and proceeded to cover every
corner of Casey’s office with sticky notes. I didn’t realize that Casey had TTT’s five-year
expansion plan out on her/his desk. That binder looked to me like sales orders, not some sort of
master plan. I set the camera up and let it roll. When Casey arrived, s/he couldn’t help but
laugh. I entered Casey’s office and s/he gave me a hug and said, “I should have explained
myself better before the Buttone meeting. Keep your mouth shut from here on out and there will
be no hard feelings.” But I had already called the SEC, and there was no turning back. At that
point, there was no harm in posting the video to my YouTube channel. It was moderately
popular – getting about 45,000 views. But it was something.

Over the course of the next year, the SEC investigation ramped up and I was in and out of the
SEC offices several times. I didn’t contact TTT for fear of them pulling my appointment to the
LDP, but I still had not gotten a formal offer in the mail. In May 2015, as I was getting ready to
graduate, the SEC contacted me and said there was not enough evidence to bring charges
against TTT or Casey. There was some sort of settlement between them instead. A week later I
got a letter from the LDP informing me that my offer was rescinded due to my inability to keep
trade secrets secure. That was a clear and utter lie. If anything, I was great at keeping secrets.

I couldn’t find another job in such a short period of time and had no choice but to return to
Xanadu a failure. I read in the paper that summer that Buttone resigned under the specter of
bribery charges and disappeared before he could be arrested. Last anyone saw him, he was
boarding a train for Bern. When TigerMix was labeled a non-GMO, I was shocked. But the
paper just trumpeted all the new jobs it would create. For the past two years, it’s been a living
hell, hearing all around town about how great TTT is because they have a day care for kids and
a ball pit! And to top it all off, because of her/his EU citizenship, they made Pat the operating
officer of the new facility! I even have seen pictures of Casey herself, now fully decked out
in a French beret, listed as an “advisor.”

With a mountain of student loan debt and dismal job prospects, I decided to sue TTT for
retaliation. At least this way I could get a piece of the action and let the world know that TTT, no
matter how cool they try to be, is just another example of corporate greed, willing to do whatever
it takes to make money. I was a golden child before I saw Casey grease Buttone’s hand with
gold. I know now that if I ever go up against Goliath again, my slingshot better be properly loaded.
Statement of Madison Blewitt

In business, people are a company’s greatest asset. I'm Madison Blewitt, age 42, Director of Human Relations for Tiger Tail Technologies (TTT). In my position, I am responsible for overseeing TTT’s payroll and benefits, investigating discrimination complaints, and, my favorite part of the job, overseeing the development of all of TTT’s now 650 employees and interns.

I have been with TTT since September 2010, when we were just 50 employees strong. There is something awesome about getting in on the ground floor. Prior to that, I worked as an HR Analyst for WNB, a national bank headquartered in Wisawe. I'd been with WNB almost thirteen years, since shortly after I graduated from the University of Pittsburgh with a degree in Human Resources Management. Although I was a native Pittsburgher, graduating from Bethel Park High School, I took the first job I could find, even though it meant moving.

For the most part, I liked working for WNB. I only left because I was tired of making other people money with no hope of advancement. I kept applying for new positions within the department, but getting passed over by other employees. Management kept telling me “you were so close,” but the reality is less qualified people were getting jobs I clearly deserved. When I finally questioned why I was not being promoted, I was accused of doing “sloppy work” and “not being reliable” enough for a higher-level position. They also accused me of not having a good “business sense.” Before I knew it, I started to get poor performance evaluations. That is why I took the opportunity to work for TTT, a company that was trying to do something good.

Having spent years with no hope of advancement, I had a good view on how to advise interns in TTT’s internship program. I was responsible for handing out assignments, collecting and reviewing the interns’ work, and working with their project managers to ensure that the interns received detailed, helpful evaluations. I was also responsible for recruiting interns to come work for TTT. Now that TTT is a lot bigger, I have my staff manage the program.

Not all managers feel the need to provide an intern with feedback, positive or negative. An internship, however, is intended to help someone grow professionally while in school. My theory is that if management does not provide feedback, younger employees can never get better or learn from their experiences. Heck, can you imagine where I could be if I had gotten actual feedback at WNB?! Evaluations are also important to help HR decide whether to recruit an intern for a fulltime position. Let’s face it, we don’t have interns just to teach; this is a business!

Our HR department had a bad run of interns during the summer of 2013, and management was dissatisfied with how we were handling the program. To restore my reputation, for 2014, I needed to find good interns and boy was Silva one of them! S/he had nearly perfect grades in one of the best international business programs in the world. S/he was fluent in two languages, well read, had traveled the world, and was frankly one of the most affable people I had ever met. A Junior at the time, Silva gave one of the strongest interviews I’d ever seen. It is as if s/he...
I knew what I was going to ask before I knew what I was going to ask. You could tell you wanted to work with this person.

Silva’s interview was the perfect window into what Silva would be as a worker. From day one, s/he was the hardest working intern TTT had. S/he did whatever it took to make sure she was recognized by senior management. I know that s/he had a reputation among some senior management at TTT as a self-promoter and a showboat, but that isn’t what I saw. I saw a go-getter. Silva was the first person at work and the last person to leave. Whenever I had a particularly challenging assignment, Silva was always up for the task, and s/he always volunteered to take on extra work.

Like I said, part of my job was to “track” the interns. I was supposed to check in with them, make sure everything was ok both personally and professionally. That first dose of office life, even at a hip company like TTT, can be traumatic. If something was wrong, I tried to help them work through it. Sometimes it was just personalities clashing, but sometimes interns needed a little bit more. It’s a core value at TTT that workers should be happy. As a part of that job, I also inputted performance reviews the interns received into the computer system. We had an issue a few years back with – how shall I say – inappropriate comments in a work evaluation about an intern, so I screen them now. Once they are inputted, senior staff has access to them. If the document is accessed later and saved by another executive – whether or not anything is changed – that executive’s name replaces mine in the log.

In addition to being a hard worker, Silva was an asset in making this group of interns more than just people that work together. S/He was always playing practical jokes and making people laugh. I never had to worry about Silva on the personal front. Our best shot at retaining the interns we wanted could very well have been Silva. That was something I was mindful of. I am well aware of Silva’s YouTube hobby. I loved it! Again, another great recruiting tool. I definitely encouraged her/him to make videos at TTT as long as no one got hurt. Sure, it was against Company policy to post images of the office on social media, but there are always exceptions to every rule. The videos got emailed around the office, and senior leadership never seemed to care. If anything, people like Casey loved them more than the other interns! I guess I should also mention that we had a rule against moonlighting while an employee of TTT, but I never considered YouTube ad revenue as another job.

Silva also produced quality work. S/he not only got work done on time, but it was always very thorough. I remember one assignment where someone on the project team needed information about the conflict in Ukraine. It was not really even a project, just something discussed around the office. Before I could even ask someone to do some research, Silva presented me with a complete and detailed analysis on the conflict.

I didn't have to promote Silva to management, her/his work did that. But I did help. I wanted to make sure our star intern shined. Finally, it appeared as if those of us in HR caught a break: an amazing intern who both had the skills, the knowledge, and personality. A people person. Someone who could really excel at TTT after graduation.
I distinctly remember senior management being very impressed with the level of dedication Silva put into that Ukraine research project. I insisted that Silva’s work be evaluated. I remember all of the extra stuff I used to do at WNB without any recognition. I wanted to make sure Silva’s project was clearly documented, her/his success noted in her/his personnel file. That was one of Silva’s first evaluations at TTT – and, if my memory stands correct it was outstanding! We have lots of interns, but I’m certain all of Silva’s evaluations were like that. How could they not be? I definitely remember that two evaluations always led the pack, Silva’s and Paddy Straw’s.

Don’t get me wrong, the entire internship class was good. But these two were better. Pat Straw, for instance, did a white paper in mid-to-late June that was superb. Everyone was talking about how impressive it was to have interns who could work alone on high-level projects.

But, Silva was a cut above. It seemed like Silva was everywhere at TTT. In the morning, s/he was at work. At lunch, s/he was out with her/his manager. In the evening, s/he was at happy hour with her/his coworkers before heading back to the office. Everyone said that Silva was the type of person you just wanted to sit down and chat with, of course when s/he wasn’t working. Even her/him fellow interns, or at least most of them, seemed to gravitate towards her/him.

Right before the July 4th holiday, Silva came into the office dressed as a zombie of George Washington. S/he set it up as a prank to scare someone, record it, and post it on her/his YouTube page. Shortly after the work day began, Silva jumped out and scared Riley. Riley spilled coffee everywhere. I have to admit, it was funny, but probably not appropriate for the workplace. Then again, who is going to punish an intern for having a little bit of fun, especially right before a holiday weekend? Plus, everyone laughed, even Riley, at least after s/he got over being pranked.

In late June, management at TTT all started to meet and look at possible candidates for TTT’s intensive Leadership Development Program. I immediately suggested Silva. The fact is, s/he was already doing the work, how could we NOT include her/him in the program, even if we had to spend extra money to sponsor her/his work visa and green card. It was a no brainer. In early July, Silva got an informal invite to participate in TTT’s LDP after s/he graduated from college. I was shocked that we even discussed it as long as we did. Who could with her/his evaluations? Everything pointed to Silva being a superstar – a superstar I discovered. And management at WNB said I had no intuition or business sense!

In the middle of the summer, Casey Porcini, our Business Development Manager, invited Silva to go with a team of individuals to Xanadu to advance our European initiative. I knew that Silva was from Xanadu and would be able to provide some insight into the people. I also saw that Silva was getting very close with Casey Porcini. Just another example of the kid’s good instincts: Casey was sure to head up the expansion to the EU once it happened. Some of the other interns were jealous that Silva was getting a free “vacation” and all that extra face time with management, but that is how the cookie crumbles. I figured Casey was going to use the trip as a test run to see which of our “Euros” (Silva and Paddy) had what it took for leadership training. I knew that would be an easy call.
I couldn’t have been more right! When the delegation returned from Xanadu, everyone was super positive and very happy with Silva. Leadership essentially credited Silva for single-handedly bringing us one step closer to finally landing a manufacturing plant in the EU. The Communication team even highlighted Silva’s efforts on our website. I couldn’t have been prouder! I waited for Silva’s evaluation to come in from Casey, but it didn’t. That was odd to me, because Paddy’s slightly-above-average appraisal came in as usual. I followed up, but Casey didn’t respond.

But, on August 5th, all that seemed to change overnight. I received Casey’s evaluation of Silva’s performance in Xanadu and it was extremely poor. Casey claimed that Silva got into some type of incident at a business dinner and embarrassed TTT. Casey was outraged and claimed that Silva almost botched the entire deal. It was hard to believe that Silva acted unprofessionally and even harder to believe that this was not mentioned as soon as they got back. Meanwhile, all of a sudden, Paddy was Casey’s star pupil, getting all the best Eurozone assignments, espresso breakfasts, and all that. I even saw Paddy with a French-English dictionary. On August 7th, Casey came by my office and asked, “hypothetically speaking” whether it was possible to fire an intern even if s/he was associated with an internal investigation. When I pressed for more details, Casey said, “forget I even asked, I was just curious.”

Silva also changed. S/He became far more reserved. Her/his happy greetings around the office stopped. Her/His bright smiles and warm hellos disappeared. Silva became aloof and distant, as if s/he did not want to be there anymore. A couple times I asked what was wrong. Once s/he almost told me, but after mumbling something about “one cup of coffee,” s/he clammed up, and I couldn’t break through.

I didn’t think her/his work product changed, but senior management seemed to. All of a sudden, Silva started receiving poor evaluations. Eventually, they ordered me to remove her/him from a series of projects. I was told to give her/him work to keep her/him busy, but nothing that was terribly important. The entire thing was odd. It was like the way we treated interns who proved flat-out incompetent, not ones tabbed for the executive suite!

At one point, during the second week in August, Casey came to me and started to ask me some odd questions. Casey wanted to know TTT’s policies about “whistleblowing” and what laws there were on the topic. I had no idea what Casey was talking about, but I gave the best answers possible. Casey also asked what “disciplinary options” existed for employees that were not full-time and whether whistleblowing mattered. I said if an employee – such as an intern – was leaving soon, the only real punishment we would have is to no-hire them if they wanted a fulltime job in the future. I also suggested Casey go speak to Riley, but s/he seemed to dismiss that suggestion.

As August came to a close, Silva seemed like s/he snapped out of whatever was wrong. On one occasion, Silva placed sticky notes all over every corner of Casey’s office. Everything was covered – Casey’s desk, her/his chair, the trash can, every picture, every file, even the floor! It was nothing but a sea of brightly colored sticky notes. Silva even set-up a GoPro video camera to record Casey’s reaction when s/he arrived at his/her office door. The entire thing was
hilarious! To Casey’s credit, even though everyone could sense the tension between Silva and Casey, Casey seemed to enjoy the joke, commending Silva for ending the summer with a bang. We all had a chuckle about what happened.

Silva posted the video on her/his YouTube channel. It was some of the best promotion we could get, amassing over 45,000 views in less than a week. Let’s face it, who doesn’t want to work for a company where the people have fun? Around that time our internship applications started rolling in, and boy were they rolling! You know how colleges get more applications, even from non-athletes, if their sports are good? It was like that, only for a company. I reported it to senior management at our monthly meeting, and everyone was excited, except for Casey. S/He just snarled at Riley Enoki, “Great. More loose lips to sink our ships.” Riley has the coldest poker face you can imagine, but I could swear I saw her/his eyes flare at Casey in warning. Anyway, Casey shut up for the rest of the meeting. Not even a “Voila!”

At the same time, all of these allegations began to come out regarding Silva’s conduct while in Xanadu. Casey and Riley even brought the interns together (other than Silva) on August 27th and they were ‘encouraged’ to give their ‘real thoughts’ about Silva. In all my years in HR, I never saw a meeting like this. I have been trained and have given training on how to do performance assessment, and this is not how it is done. In an environment like that, of course people were coming up with the bad things. They wanted the job Silva would not get, and Casey and Riley made it really obvious that’s what they wanted. They even asked leading questions like whether anyone felt that Silva had stolen their work or their ideas. And every time, Paddy Straw was the first hand up. The fix was in! Even though I was the intern coordinator and the only one trained in human resources management, I was forbidden by management to say a word, much less to stop the proceeding. And it was all old stuff! Riley asked the interns if any of them had talked to Silva since the thing in Xanadu, and every person shook his or her head “No,” even Riley. Poor Silva, so isolated by her/his own peers!

Summer ended, and all of the interns returned to school. Everything seemed to be ok, before things took a turn for the worse. In late September, the SEC began investigating the company and Casey specifically. I heard that nothing ever came of it, but I am not a lawyer. I do know that TTT paid a pretty large fine and HR was required to work with the legal department to create all sorts of new training programs for various individuals, including senior management.

I also started getting asked for Silva’s personnel file, much more than any other intern we have ever employed. First, Casey requested to see Silva’s file, then Riley, then the SEC, then, like, everyone. Unfortunately, all we had were the score summaries. The actual reviews were deleted with the employee files when summer ended. Casey said s/he had documents on her/his desk that contained the company secrets the day that Silva made the sticky note video. I’m not really sure how that is even possible given that everything was covered with sticky notes, but when I went to go look at the video myself, Silva had removed it from her/his channel. There went my best advertising for our internship!

In April 2015, when we were making our formal offers for the Leadership Development Program, it felt like all of Silva’s work was being reviewed again, only this time, Silva was considered a subpar employee. Casey kept asking me why we had continued to give Silva all of these top
projects if her/his evaluations were so bad. I was stunned – Silva’s evaluations were very high, as I remembered them. Casey kept pulling things out of the file and telling me to read them again, but they were definitely not what I remembered. It was like someone had changed the evaluations after the fact. Before I knew it, TTT rescinded Silva’s offer for the LDP but didn’t want me to send it until early May. It seemed like they were being particularly harsh. Usually, if we are not going to hire someone after telling them they had a job, we want to give them as much notice as possible to find another role and in Silva’s case, another visa sponsor. The LDP is a fast track to management, and it comes with a six-figure salary, benefits, and annual performance bonuses that are more than some of our team members make in salary! Over a career, that job can be worth millions, and even if you don’t stay at TTT, other companies covet our young stars. And management pulled the offer without even consulting HR!

Shortly after that, Riley joined us permanently, and Casey left to start her/his own business in Europe. I drew up that consulting arrangement with Casey just the way Riley said and started trying to figure out how to get our payroll system to work in Euros! As bad as I felt about what was going on, I had seen this before. Silva was being pushed out, I mean, on some nonsense claims, and then the tracks were getting covered. I felt bad for Silva, but what was I to do about it, take on senior management and our new general counsel? Sometimes bad things happen to good people.
Harley Agaricus

Follow the money. That’s what Deep Throat told Woodward and Bernstein, and it might as well be the motto of every white-collar crime investigator worthy of the name. Follow the money, because the rest, the rest is just words. You want to know why an obvious GMO is being sold all over Europe as though it’s natural? That’s simple, my friends: follow the money.

Now you might be saying, oh, that’s just Harley again, with her/his spreadsheets and her/his models, and her/his wire transfers. To that I say, you’re 100% right it is. And then you say, oh, it’s just old Harley the Accountant, the hammer for whom every case looks like a nail. And maybe you’re right there, too. After all, I am an accountant, and I’m proud of it. I earned that CPA the hard way, working for the Post Office on nights and weekends to pay my way through St. Joe’s and then grinding out seventy-hour weeks at H&R Block while I got my masters in forensic accounting from Villanova, then again while I got my law degree at Temple. So you’ll forgive me if I think I’ve learned a thing or two.

Look, I know that this deposition is for use in court, so we might as well get this out of the way. No, I’m not a licensed attorney. When I was working as an accountant, I helped a few clients dispose of documents that the IRS had subpoenaed. I was young, I was dumb, and it was wrong. But when the feds came to me, I was smart enough that I told the truth from the start. My mom didn’t spend thirty years teaching at St. Joan’s to see her kid in the back of a cruiser. But that’s also when I learned that things don’t always work out for the good guys. The Character & Fitness people at the State Bar refused to let me become a lawyer, and having dimed on my last company, I had to grind out a decade doing people’s taxes in Salem County, New Jersey. In 1999, I was working for a local power supplier, Atlantic City Electric, and I noticed all these weird reports we were getting from our electrical power broker. They were called Enron; maybe you’ve heard of them? Like any good citizen and Microsoft user, I broke out Excel and tried to make the math work. When it didn’t, I made some phone calls and tried to get answers. When I didn’t, I picked up the phone and called the FBI.

I know, right? Just like every other mook out there, I figured “It’s a crime, it’s gotta be the FBI.” How wrong I was. Turns out I should have called the SEC, the Securities and Exchange Commission. You know, where I work now. We are the guys and gals who make sure that the U.S. markets are fair, that companies don’t cook the books, and that the playing field is level for U.S. investors. Let’s just say that there was a group of folks at the SEC having the same problems making Enron’s columns add up, and they were impressed that I put two and two together with a fraction of the data that they had. I took a Junior Analyst position at the SEC, outworked every agent in the place, and here I am ten years later, a Senior Principal Investigator, with a badge and a gun to show for it, just like those goofuses at the Bureau who told me to bug off. All from the simplest of lessons: follow the money.

Which brings us to the crooks at TTT. Remember how I told you that I worked harder than everybody else? Well, that’s how I was there to answer the phone at, like, 6 a.m. on August 18th, when a scared kid named Silva Morel called to let us know that Pennsylvania’s own venture capital darling, TTT, was trying to bribe its way into Europe. We can’t have that. You see, there’s a federal law called the Foreign Corrupt Practices Act, and like the name says, it’s
all about stopping U.S. businesses from corrupting foreign officials. We want America’s
corporations to be the envy of the world, and that means that we always play fair. Maybe
bribery and payoffs are how other countries do it, but not the good ol’ U S of A. Our companies
have to work harder if that’s what it takes! Just as importantly from the SEC perspective, we
want to make sure all businesses get a fair shake. And bribing foreign officials is Target
Number One for us.

Anyway, Morel calls, talking a mile a minute, and it’s all garbled. So I grab Morel for coffee, and
I make her/him explain it real slow, like to a fifth grader or something. Here’s the deal. The
European Union is a union, right? That means that EU countries respect each other’s
decisions, like when you can drive in Pennsylvania on your New Jersey driver’s license. No
biggie, right? Well, for driving, sure, but this ain’t about driving. This is about billions of dollars,
because the EU doesn’t like Genetically Modified Organisms (GMOs), you know, like com
where the lab coats tweaked the genes to resist pests or whatever? TTT had a foam it had
developed that was super-valuable for packing and machinery. And it was green, organic-like,
so the EU would normally lap that up. Only this kind of green was made with GMO mushrooms,
so the EU wouldn’t let it in. TTT had tried all the major doorways – France, Spain, Germany –
no dice.

But you can’t give up easy when you’re talking billions with a “b” in profits. So TTT got clever.
Instead of going to Pennsylvania to get the driver’s license, or New Jersey or whatever, they
found somewhere poor, somewhere easier to manipulate. You know how all the politicians are
lining up to get Amazon to build their new facility, offering tax breaks and whatever? And the
poorer your place is, the more you’ll offer? It’s like that, only bigger.

So TTT has tried the biggest countries. Now it tries the smallest, this little nowhere nation called
Xanadu. I looked it up on Wikipedia and zoned out when I got to some crazy nonsense about
German princes. But Xanadu is EU just like the rest of them, see, so if Xanadu says that this is
not a GMO then everyone has to accept that, just like if New Jersey says that you can drive,
Pennsylvania has to let you cruise I-76 like you own the place.

So now it’s the oldest story in corruption: you’ve got some guy making the equivalent of fifty
grand in Euros, driving a Honda Accord or whatever, whose signature on a piece of paper is
worth a ton of cash to some company. Ladies and gentlemen, meet Henri Buttone. Here in
America, heading the EPA is a big deal, but in Xanadu, Buttone’s just another paper-pusher.
Heck, the whole country has a population of, what, a hundred thousand people? That’s about
the size of Erie, Pennsylvania! For the whole country! And Xanadu has no heavy industry, so
Buttone’s not busy inspecting factories. He probably spends most of his days worrying about
sewer overflows or whatever. So one day, when Henri gets a call that the Americans are
coming, that is a very big deal. Now Buttone’s no longer a nobody. Now he’s got the keys to
the kingdom. Watch it, now, folks, because the payoff is coming.

There are a lot of ways to offer a bribe, and the SEC trains us about all of them. For smaller
amounts, it’s pretty easy. You can bring an envelope of cash, or drive up in a car and leave the
keys, or even arrange for a subsidiary to do some work on somebody’s house. But once you
get into the six and seven figures, that’s harder. And as cute as diamonds are in all the Bond
movies, nobody brings a certified appraiser to their coffee table buyouts.

So how are the deals done? There’s a pattern. First, there’s always something in it for the local
government. They call it “direct investment;” you build a factory in that place, you hire some
locals to do the work, you pay your taxes like a good corporate citizen. And before you get all
high and mighty about it, did you know that there’s a special way to get a green card to live in
America for anyone who brings direct investment of $500,000 or more and creates 10 jobs? We
can be bought, too, in the name of economic development! So that’s all legal. Investment in a
country is ok. That’s what they talk about at the first meeting, with all the staff there.

But the deal doesn’t stop there. There’s a second meeting, and that one offers some direct
investment in Henri Buttone as well, if you know what I mean. The number I hear is five million
American dollars. That’s a pretty penny for you or me or Buttone. But it’s nothing for TTT, if
there’s a billion-dollar market on the line.

And that’s the story Morel tells me. There’s a meeting at the department. Nothing bad happens,
because it usually doesn’t. Not where the staff can see it. But then there’s another meeting, far
away from everybody and that’s where the deal gets made. Only this time, Porcini can’t do the
deal alone, the way you want your bribery done, because he doesn’t speak Xanaduian, and our
buddy Henri Buttone may not speak English. So Morel’s gotta be there, and Morel has a
conscience.

So I’ve got Morel’s story, but I need more. I thought Morel was a good kid, but you don’t bet a
prosecution on the word of a twenty-something. You need real evidence. So what do you do?

I start looking, helped by our Enforcement Branch. We get records for TTT’s banking, and we
get all of TTT’s disclosures to the SEC. We grab their accountants at Ernst & Young for a chat.
We even call over to Xanadu and see if their Department of Justice, the Justitiedepartementet,
is willing to play ball. Lucky for us, we had an American tourist who had wrecked a hotel room
or something who they wanted us to extradite, so they were happy to help. Turns out that our
friend Buttone took his autumn 2014 vacation to San Lorenzo, a little island in the Caribbean
known for two things: calypso music and money laundering. And Buttone doesn’t play the steel
drums, if you get my drift.

By this time the investigation was obvious, even to TTT, and their fancy lawyer from Drinchert &
Ewracken, Riley Enoki, was pounding on our doors to present us with the results of their
“investigation.” While it was otherwise a total whitewash, Enoki’s internal investigation did find a
number of companies that were paid for work that was never done… Marie Antoinette
Consulting supposedly did a management review, for which Enoki could find no actual work
product, and Bastille Technologies supposedly supplied specialty grow lamps. Only the actual
grow lights all had serial numbers from a local firm, Xenopharma Industrial Technologies, which
had already been paid!
Then we got lucky. In November 2014, San Lorenzo joined the United Nations Financial Action Task Force. That meant it was no longer going to use numbered accounts, and it was willing to open its historical books to us, with a subpoena. Sure enough, we were able to find a numbered account into which all of the deposits from the shell companies Enoki identified were made. Although they had been cleared out just a month before, there were a string of odd-numbered deposits from various corporate entities in the United States through summer and early fall 2014. Wanna guess what they added up to? $5 million.

Here’s the crazy thing, though. You would think that the people in Xanadu would be excited to get to the bottom of this, right? Nope. They could not care less. In fact, when we sent subpoena requests for Buttone’s files, they turned us down flat. I later learned that the tourist had paid for the damages, and I figure Xanadu didn’t want the embarrassment of us arresting a cabinet minister unless there was something in it for them. As for TTT, they gave us emails, but none of the other files from Porcini’s system. They said those had trade secrets or something.

I went nuts. Here was this great whistleblower case, and they were stonewalling us! For a while, my bosses backed me, but then Enoki got to them, too. S/He was selling some line about how this was embezzlement, not corrupt practices, and so it should go to the FBI. It was nonsense, but my boss starts getting calls from high-up people, a Senator, the U.S. Trade Representative, even someone from the EU! It doesn’t take long before my bosses tell me to pack the file up to send to the FBI for an embezzlement inquiry. They had decided that TTT was only going to pay a fine for its failure of accounting compliance, not bribery. That meant no criminal penalty, and it also meant that Morel would not get any share of the recovery or any of the potential visa protections afforded to whistleblowers so that s/he could remain in the U.S.

I lost my cool. I went off so hard I wound up getting suspended for a week, without pay! I guess wanting to catch bad guys isn’t in the job description?! My bosses said that I had gotten too personal, that I was seeing conspiracies around every corner, and that I needed to take a break. I suspect the whole thing was really because my last prosecution fell apart when my numbers didn’t add up, and they had to dismiss an indictment against some corporate bigwig. It made the cover of the Wall Street Journal, egg on everyone’s face. This was just the excuse.

Anyway, this ain’t about me. It’s about the kid. You know, we have whistleblower protections for people like Silva Morel, good, honest folks who come forward when they see something. When our investigation was just beginning, in October 2014, I met with the Compliance Officer and the CEO at TTT in their… playpen or whatever it is. Sure doesn’t seem like an office. Anyway, I asked them about a dozen or so employees, including Morel (to hide who I was really interested in), and they were mostly complimentary. They even said s/he was invited to some special executive training track. The CEO even asked me if I had any sway at the INS! But a couple years later, Morel’s got no offer, no visa, and is building furniture for dorm rooms? While Porcini makes bank as a “consultant” sipping wine in Provence or whatever, Enoki is in-house, and mushroom foam is all the rage at Ferrari?

In the words of the late, great Troy Gentry, “If you look and listen close, a man will show you what he is.” All you need to know about what happened here is to look at how things went
down. If you shut your mouth and toed the company’s baloney line? You got paid. If you told the truth, you got blackballed. You want to know who TTT really are? Follow the money.
Statement of Casey Porcini

America’s relationship with Europe has always been crucial to our very survival, from our very founding. The Marquis de Lafayette marshalled guns and ships from France for the American cause, and also won a decisive victory for us over the British in the battle of Yorktown. This debt to France and its children can never fully be paid. During World War I, when General Pershing and our boys finally arrived in France to repel the Germans, they visited Lafayette’s grave, pledged our nation’s treasure, hearts and honor to aid the French and proclaimed, “Lafayette, we are here!” Without Lafayette, without the French, America would probably not exist. Like the great Thomas Jefferson, I love France. I am a Francophile, and proud of it!

My mother’s side of the family is from the French side of Belgium, so growing up, I spent summers in Paris, passing lazy days watching the boats on the Seine and exciting nights cheering on the fireworks over the Champs-Élysées. Too bad I never had a flair for language.

To this day, French remains foreign to me. That said, when it comes to culture, I do not think a single American understands France – or the EU, for that matter –better than I. I did a joint B.A. and M.B.A. at Kalmia University, and when I saw that Wisawe’s newest start-up, Tiger Tail Technologies (TTT), was looking to hire a Business Development Manager to begin the September after I graduated, I applied right away.

TTT wanted to get a foothold in the foreign markets, and I was just the right person to help them do that.

For anyone who doesn’t know, TTT makes TigerMix, an organic, fungus-based material derived mostly from a genetically modified version of the Lion’s Mane mushroom. TigerMix is a game changer, the kind of product that foreign leaders should be tripping over themselves to get in line for, not the other way around. Foam peanuts? Polystyrene? Heck, even cardboard? They’ll soon be as out of date as a flip phone. And TigerMix sells. It sells and sells and sells.

So TTT hires. We hire and hire and hire.

TTT hired Silva in May of 2014 as part of our internship program, our first decent group in years. I know that TTT is a family, but as I told Madison, that doesn’t have to mean that your near-dropout kid automatically gets to be an intern. It’s not very familial at the end of the summer when we have to tell them that they don’t have the experience, talent, or frankly the capacity to stay with us. I took a special interest in motivating HR to get the cream of the crop, not the chaff left behind by the bigger firms. If we were going to expand to other markets, we would need talented young executives.

Silva was a top-student at my alma mater. What stood out to me about Silva during the interview process wasn’t his his/her science smarts – although s/he clearly had those in abundance – but his/her enthusiasm for innovation and for the possibilities we were unleashing through TTT. Silva thought outside of the box. Also, Silva was just a really fun person. Our culture at TTT is more Silicon Valley than Kennett Square. We believe that employees work best when they have a good time at work, they don’t take themselves too seriously, and they know how to blow off steam. It seemed like Silva embodied this perfectly. Well, at least at first it did.
It might sound weird that I, TTT's Business Development Manager, took notice of Silva, an intern, but that's exactly the kind of company TTT was. TTT is small enough that everyone at the company knows and likes each other – regardless of whether you're a new entry-level employee or a senior executive. It's expected. Our CEO, Nanae Kinopio, knows the names of the kids of every employee in the grow room, and people pay as much attention to the Laser Tag team standings as they do the salary structure. I like to start my days early – with a croissant and a shot of espresso – and I'm used to being the only person at TTT before the sun is really up. A few days into Silva's internship though, I started noticing her/his bike locked outside the office before I walked in every day. Sure enough, I would find Silva in the intern lab, eagerly typing away for a project s/he had been given.

These early mornings certainly demonstrated Silva's impressive work ethic, but they also gave me the opportunity to get to know Silva beyond his/her intern role. I would usually ask Silva what s/he was working on when I came into the office, and these conversations about current projects often lapsed into chitchat about our weekends and our lives outside of the office. Although I knew that Silva was from Xanadu when I hired her/him, I hadn't given the matter much thought. After talking to Silva though, it became clear that Silva's lack of American citizenship was a concern that occupied much of his/her time and energy. Silva explained that s/he was quickly approaching her/his final year at Kalmia, and would need to find a company to sponsor her/his work visa, or s/he would have to return to Xanadu, while all of Silva's friends and opportunities remained in the United States. Silva told me that s/he had received return offers from several smaller companies s/he had interned at over the years, but that s/he knew none of them had the resources to sponsor her/his visa.

I was determined to do everything in my power to help her/him. A little over a month after Silva's internship began, I convinced Nanae to invite Silva to join TTT's one-year intensive leadership development program after s/he graduated from Kalmia. I made sure to tell Silva myself, and I hinted that TTT would sponsor Silva's visa, although to be honest, I didn't quite know if the company would be able to deliver. We had to try at least, right?

In July, an opportunity arose that I thought would allow Silva to demonstrate everything that s/he could do for TTT. I had spent most of the preceding three years contacting the heads of different European environmental agencies, trying to convince them to put TigerMix on the shelves. Usually to receive authorization to sell a GMO product in the European Union, Europe's version of the EPA has to approve the product. The application process alone takes years, and most products are rejected. However, if an EU member state's own EPA declares that the product is not a GMO, the process ends right there. Italy and France had already turned me down, but representatives I had been in contact with from Xanadu were expressing serious interest in our product. The Xanadu officials had requested an in-person meeting to talk more about TigerMix and instead of hiring a translator, I decided to bring Silva.

When I excitedly broke the news to the rest of TTT's management that Silva would be accompanying me to Xanadu, the reception was lukewarm. There was no denying Silva was a hardworking, talented employee, but management was worried that some of Silva's exuberant behaviors – which I found charming – might be a little too exuberant for high-level Xanadu
officials. Let me explain. Silva would play pranks on TTT’s employees from time to time, documenting everything on an old-school video camera or a GoPro headset. Silva had a YouTube channel with thousands of followers, and s/he was constantly creating new material to keep his/her fans happy. Silva’s sense of humor wasn’t too different from my own, and most of his/her jokes seemed harmless enough at first, so I tolerated them. Not all of my colleagues were amused though. Just because we are more Silicon Valley than Kennett Square does not mean we are still not a place of employment.

On the Thursday before July 4th weekend, just over two weeks before Silva and I departed for Xanadu, Silva decided to start the holiday off with a bang. Riley Enoki, our lawyer, is great at her/his job but isn’t a whole lot of fun. Silva tried to put a smile on Riley’s face by dressing up as a zombie George Washington and jumping out at Riley when s/he walked into her/his office. Unfortunately, the zombie costume seemed a little too real, and Riley poured her/his entire cup of coffee on herself/himself in fright. Of course, Silva filmed the entire thing and put it on YouTube a few days later, and Riley was furious. I don’t think s/he ever forgave Silva for it.

Because Riley had made me promise to do so, I talked to Silva about letting up on the practical jokes when we were in Xanadu.

On July 18, 2014, me, Silva, and a couple of other TTT executives made the eleven-hour journey to Xanadu along with our other EU intern, Paddy. The next day, we met with Xanadu’s equivalent of an EPA – the Agencee Nautrvard or “AN.” At first, it was hard to know whether or not the meeting was going well – the Xanaduians are notoriously difficult to read – but after about ten minutes Silva spoke for the first time, and the Xanadu officials warmed up considerably, comforted no doubt that one of their own was vouching for TigerMix. I know a chance when I see one, and I handed the clicker to Silva. Did s/he do as well as I would have? No, but I’ve been at this game for years. And the Xanaduians were charmed.

The next day, I awoke in my hotel room to find that a cream-colored envelope had been slipped under the door. It was a letter from Henri Buttone, the director of AN, inviting me to coffee that afternoon. I decided I would invite Silva to accompany me, in case something needed to be translated. It seemed from the letter like Buttone wanted to have a private chat away from all the fanfare and posturing of the previous day’s events, and I was happy to oblige him. A lot of business abroad is done that way. You posture for your coworkers, but you get things done in person. I told the other TTT executives that Silva and I were meeting to discuss his/her future at the company. I didn’t want them to get their hopes up about what a private meeting with Buttone could mean, since I had so little information myself.

Shortly after 2 PM, Silva and I took a cab to a small café on the edge of town. I spotted Buttone right away, and Silva and I joined him at his table. Buttone explained – in English, even if it was a bit rough – that he simply wanted to have a direct, to-the-point conversation with me and Silva about TigerMix. At that point, I asked the question we were all thinking: “what will it take to get it so you don’t label TigerMix a GMO under EU law?” Of course I only meant what legal things would it take, but Buttone had other ideas. He leaned forward and said that he needed to know whether I was willing to invest in Xanadu’s future. I smiled, still not aware of Buttone’s nefarious intentions, and clapped Silva on the back, exclaiming “Xanadu’s future is sitting right
here! I’m happy to invest in Xanadu’s future!” Buttone shook his head and said something about that not being what he meant. Then he said, “I need a more direct investment. Five million U.S. dollars sounds about right. Otherwise, you can forget about your stupid mushroom mix ever making it across the Atlantic.” In an effort to keep the teetering relationship strong, I remember telling Buttone, “of course, we will be investing in you, the country, and all of the EU. $5 million is just the beginning. But TTT is an American company, and I’m sure you understand that we cannot do anything that could be considered a bribe, even if it was done with the very best of intentions.”

I was shocked and horrified that blatant corruption had so clearly infiltrated the ranks of Xanadu officials, but I wasn’t about to let it infiltrate TTT. I’ve done deals all over the world, and this wasn’t the first time I’d been asked for a bribe. And it wasn’t the first time I refused, either. I promptly thanked Buttone for the coffee, and left the café with Silva. I told Silva to forget what s/he had heard and not to repeat the conversation to anyone at TTT or any of the Xanaduian officials. If we told anyone what Buttone had tried to pull, it would be our word against his. And there’s no way to win that kind of fight, especially in a place like Xanadu. Plus, now we had a little leverage, because Buttone knew we always could reveal what he had tried to do. There was no way I would authorize a bribe, but I still wanted a good relationship. Xanadu was still our best shot into the European market. It was not meant to scare Silva or to let her/him think for a second that I was threatening her/him. Quite the opposite; I was afraid that Silva would be so offended that s/he would feel the need to say something and cause an international incident. Silva hasn’t been in these situations before, but I have, and I know how to handle them.

So why did I tell TTT to rescind their offer to sponsor Silva’s visa and enroll her/him in our leadership program if not to punish him for witnessing me bribing a public official? I’ll tell you why. That night was our last in Xanadu, and some of the officials we’d been meeting with invited us to a reception. I thought that if we made a good enough impression at the reception, the Duke might pressure Buttone into giving TigerMix a chance. The benefits were real, and even if TigerMix was from a genetically modified mushroom, it wasn’t edible. That’s the real concern with GMOs. But Silva ended up having one too many Xanadu sours and completely embarrassed me and the rest of the TTT delegation. S/he talked loudly about how the food was better in Wisawe, openly mocked the traditional Xanaduian waltz, and worst of all, spilled a full drink on Henri Buttone’s shoes. I couldn’t wait for the night to end, and when it did, I was left with a far less rosy image of Silva. Weakness is not an option in business. You do what has to be done. Always.

When we returned to Wisawe the following day, I didn’t tell anyone at TTT about what had happened with Buttone at the cafe. I was still figuring out our play. I couldn’t bring myself to tell them that after Silva’s showing at the reception, TigerMix had as much chance of getting on EU shelves as gluten-free diets had of catching on in France. I guess I should’ve at least told Riley Enoki, but Riley tends to make mountains out of mole hills, and I didn’t want to make what happened a bigger issue for the company than it had to be. No one wants an unnecessary and cumbersome disclosure to the Board, or the government for that matter.
Anyway, back to Silva. I had my doubts about Silva now, but I tried to focus on the positive. Even so, I told Madison to make sure the critical projects went to others. We could not have another fiasco like that. TTT is a profitable company, but we are in the business of business, not a home for wayward college students. We almost made it through the rest of Silva’s internship without any more embarrassing incidents, but then on the his/her last day, Silva did something that made it impossible to ignore how unfit s/he was to work at TTT. When I walked into my office on August 15, 2014, I found it covered head-to-toe in sticky notes. Realizing that this must be one of Silva’s elaborate practical jokes, I whipped around to find him/her crouching in the corner of the office, camera rolling. I think I laughed at the time, but breaking into someone’s office, much less a C level executive, is a serious error in judgment. I mean, who knows what company documents could be there? I told Silva that there were no hard feelings, but really I couldn’t wait to get her/him out of my hair.

I was even more upset when I watched Silva’s video of the prank on YouTube and noticed that our expansion plan is visible on my desk throughout the video! Merger targets, potential acquisitions… the crown jewels! I called Silva and demanded that s/he take down the video. To my shock, Silva said the video already had 85,000 views and there was no way s/he was taking it down. The video resolution is low enough that there’s no way you’d be able to read any of it, but that’s not the point. For all I know, some geek could figure it out, but the bigger point is that TTT can’t have an employee that embarrasses the company in public, compromises trade secrets, and consistently puts his/her social media presence above his/her job.

As I realized the darker side of Silva, I started to get closer with Paddy Straw. And what I was hearing about Silva’s behavior was not good at all. On August 27th, Riley and I even pulled the other interns together after work to get their thoughts, to make sure we weren’t overreacting. They were 100% supportive. We even learned that Silva had a history of stealing ideas or taking peoples’ names off joint work product.

That’s why I was not totally surprised when I later learned that Silva was trying to get whistleblower protection for something that didn’t happen. After the SEC investigation was well under way, sometime in autumn 2015 or so, we all had to go through compliance training. There was a focus on whistleblowers and how what matters is not whether something bad actually happened but whether the whistleblower thought something bad had happened. That’s when Paddy got this look on her/his face like s/he’d just realized something important. During the question and answer session, Paddy told everyone about a conversation with Silva where Silva had asked about whether you could get damages even if the thing never happened. So I have to think now that any great reviews Silva got were a sham. Not that there were as many as I’d been led to believe by Madison Blewitt! As I looked through the folder, the ratings were actually below what I’d expect, not above it. Of course, by the time we pulled the reviews months later, all we had was a summary report. The actual comments had been deleted pursuant to our usual document retention policy for the intern program. Anyway, rescinding Silva’s ill-gotten offer wasn’t personal; it was business.

It was also business when TTT and I parted ways in February 2017. I longed to live in France, and that was not in TTT’s plans. Plus, the accounting irregularities in my Department were
problematic for the company, and they needed someone to take the fall for that to look good with the SEC and FBI. We struck a mutually-beneficial solution: I left to start an independent consulting firm, and TTT became a client like any other, paying hourly for my time and experience. It remains my largest client, but it only accounts for about 35% of my annual income. Riley Enoki bought out my shares, which – combined with other prudent investments – gave me the funds to purchase a home in Chardonnay. So I still work with TTT in Europe and am still well paid for it by TTT through my consultancy, but my departure put a bow on things. Paddy Straw was able to move up in the company, and I’m proud to say that I work with her/him from time to time on matters in which we overlap. S/He has become the impressive executive we all knew s/he would be.

Besides, there were no hard feelings. I understood that the audit showed money had disappeared, and even though I rarely handled financial matters, I was ultimately responsible for all functions in my division. The accounting failure was Accounting’s, yes, but it was a lesson for me that even the most expansive minds must still pay attention to details. I have no idea what happened with that money, and TTT was right to expect me to be able to account for every penny in my Division. I offer no excuse beyond my focus on the big picture vision for expansion that has been such a tremendous success.

You can imagine my surprise when I heard in November 2014 that Xanadu, at the recommendation of Henri Buttone, had determined that TigerMix was not a GMO and granted us permission to launch manufacturing operations in their capital. I can only assume that Buttone didn’t want Xanadu to stay a pathetic backwater for the next century and knew a good deal when he saw one. When we parted, did he seem set firmly against it? Sure. But I am very persuasive, and my success with Buttone has landed me many additional clients as a consultant since I left TTT.

Plus, stranger things have happened. Look at Louis XVI – he went from ruling France one day to having his head chopped off by the guillotine the next. Maybe Buttone knew enough European history to understand that corrupt officials almost always get what’s coming to them.
Paddy Straw

My name is Paddy “Pat” Straw. I am twenty-seven years old and am currently employed at Tiger Tail Technologies (TTT). Although I am originally from Ballina, a small town in County Mayo, Ireland, I have lived in the States for most of the past decade, working for TTT since I graduated in 2015 from Kalmia University with a B.A. in International Business. Plus, with my dad being from the Boston area, I was a dual national and didn’t need visa sponsorship.

Working at TTT, I also paid witness to Silva Morel – charlatan and traitor extraordinaire – and saw firsthand the fraud s/he really was. When you say her/his name, everyone thinks of the wacky character from YouTube, but that’s just a mask. Underneath lurks a ruthless thief and competitor.

Of course, Morel and I were both competitive individuals. How could we not be! Anyone who gets into a top-tier university like Kalmia has a little bit of a cutthroat hidden in them. The Trapsman Program – one of the best international business programs in the world – attracts talent from every continent on the globe and has an acceptance rate of 0.5%!

Silva always presented her/himself as that type of “international talent” the school always bragged about. S/he'd always proclaim (in the most casual of manners) that folks born in the United States could never compete with someone like her/him on the international stage. This matter-of-fact arrogance turned me off from the start. But no one else seemed to care; in fact, you could say Silva was popular! S/he was even tapped for Zeta Iota Pi (a super-selective co-ed fraternity, they call themselves ZIPs) almost immediately! I heard that s/he got kicked out after a year or so for upsetting the pledge master, but that is just conjecture. What infuriated me more than Silva’s arrogance, though, even more than her/his popularity, was her/his pretending to completely lack seriousness. I worked, and I worked hard. So did Silva, but Silva wanted it to seem like s/he was so smart and so cool s/he didn’t have to work at all. It seemed like s/he was constantly pranking people, always missing class, and never paying attention, when really s/he was pulling all-nighters in the stacks of the science library. Typical ZIP.

In the summer of 2014, TTT offered two internship opportunities for international students from Kalmia University. Everyone knew that TTT was an up-and-coming powerhouse. TigerMix was a business school dream product. I remember everyone in the Trapsman Program applying for those positions – everyone in the entire Barton School of Business, for that matter. Everyone was at their wits’ end with nerves. And we all admitted to it, supported each other. Everyone except for Silva, that is; s/he kept walking around telling everyone s/he was a shoe-in. I was elated when I was selected, but not so much when I noticed Morel was too.

At the beginning of the summer, everything at TTT was just like at school. Morel was loved by everyone, much to my chagrin. Telling jokes, pranking people’s offices – s/he was the proverbial class clown. People didn’t even mind getting pranked, because they’d get to be “internet famous” for a few hours. S/He always bragged about how many subscribers s/he had.

But it was all an act. Everyone in the program knew that there were only two, maybe three jobs open at the end of the summer. TTT is tiny relative to most publicly traded companies, and it wasn’t going to bring in seven or eight new executives. We all competed, and we competed hard. But no one viewed Silva as a threat, because s/he seemed to be so silly. I knew better. Everyone in the Trapsman Program knows that Silva is ruthlessly competitive and would do anything to get ahead. I didn’t warn the others, because I figured if it hurt them, it would help me.
And hurt them it did. Every one of those ping-pong games or coffee dates or foosball
tournaments? Silva was taking mental notes, figuring out what the company was thinking by
what work others were getting, and taking their best ideas. I heard about it from them, but I also
saw it happen! One time, I got roped into a ball pit session with Silva and another intern,
Chanterelle Sanchez. Chanty was talking about how she had been doing an analysis of the
North African market for the company, and how there wasn’t the right growing conditions there
but it had packing plants that could use TigerMix. Two days later, Silva turns in a research
project on markets in Italy and Turkey, which was assigned, only his paper then talks about the
impact of getting into Italy and Turkey on the North African markets, blatantly stealing Chanty’s
entire analysis. She turns in her paper two days later, only it’s old news by that point. She
looks like she just took Genius Silva’s idea, when really Silva stole hers!

That happened all the time. Silva would take other people’s best ideas or best work and
incorporate it into her/his own. Managers thought Silva had this brilliant “strategic vision” for the
company and how it could expand, but Silva really just had a pair of ears and no conscience.

Because we knew each other before starting our jobs at TTT, I was often the butt of Silva’s
jokes. One time, during the end of our first month at TTT, I went to staple a few papers together
and found my stapler encased in a block of gelatin! Green gelatin! As I dealt with the sticky
mess, I heard giggling behind me. There s/he was, camcorder in hand, filming me. Then there
was the time around July 25th when Silva gift-wrapped everything in my office – even the desk.
The worst part was getting the ribbon out of the ceiling fan. S/he even convinced the entire
office – including the maintenance staff – to use these terrible Irish accents all day on my
birthday. I was mortified. I was becoming the laughingstock of TTT, all for this poser’s e-
popularity. It was so unprofessional, it made TTT look like a sham.

What people don’t get, though, is that these jokes weren’t just to fill out content on YouTube.
Silva had a plan. All the jokes, the nicknames, the gags… the people getting embarrassed were
competitors, coworkers, other interns. When company management would check out the latest
posts, they saw their own potential hires embarrassed, humiliated, and laughed at. The only
one who was immune, the only one who looked good, was Silva. So of course, management
would have a better opinion of Silva; they hadn’t seen Silva slip on a banana peel or spill coffee
or try to drink vinegar that was served in a water cup. Silva made the other interns into fools not
only for her/his subscribers, but to increase her/his own shot at the future jobs.

But I knew what was happening, and I turned the tables. One time, Silva and I were working on
something together. After Silva left for the night to find her/his next victim, I just pulled Silva’s
name off the white paper. I knew that Silva would never complain, because s/he was more
guilty of that kind of thing than anyone! I figured it balanced the scales a little for all the other
work s/he stole, and if I was the one to benefit, well, who deserved it more than I did?

That summer, everyone at TTT was focused on how to take our product “global.” The first step
was getting into Europe. That was going to be a challenge based on the European Union’s
(EU) rules regarding genetically modified organisms (GMOs). GMOs are basically living things
that have had new DNA introduced to their genome to improve their size, flavor, and pretty
much anything you can think of. Usually, the concern is with human health eating GMOs, and
the EU is really strict about that, and even though TigerMix isn’t edible, they were still applying
those rules.

Towards the middle of the summer, Casey Porcini, TTT’s Business Development Manager,
started including Morel and me on helping prepare the company for meetings with high-level
European officials. Specifically, we were working on logistical stuff with the AN, the EPA for a
small European Nation called Xanadu. Of course, Xanadu is Morel’s home. Although we were both given research assignments at first, s/he was suddenly pulled into meetings with the company leadership. This filled me with a rage I can’t convey in words. I tried to calm myself down by telling myself that hard work does pay off in the long run. I figured important people at TTT would see Morel for the fraud s/he was, sooner or later.

The summer of 2014 took off after that. Before I knew it, Morel and I were on a jet for Xanadu. S/he claimed that TTT was only taking me because they had to seem like they were treating both interns fairly. Being a native Xanaduian, s/he made it seem like s/he could “close the deal” for TTT all by her/himself! I knew I was there based on my work. TTT was not that large a company, and quality people were still quality people. While there, I attended a lot of important meetings, but not as many as Morel. I really stayed in the hotel and did research – making sure TTT executives were briefed on how different companies were approaching GMOs. It was intense, but there was always time for a little fun at night. Still, I was a bit shocked when the execs were lauding the praise on Silva when all s/he really did was translate and tell jokes in the local dialect.

On our last night in Xanadu, we had dinner and drinks with some of the AN officials. To me, it seemed like an important event. Silva’s fun-loving attitude finally caught up with her/him. S/He drank way too many Xanadu sours, was loud about how the food was no good, s/he mocked how people were dancing, and spilled her/his drink all over Mr. Buttone’s shoes. The head of the AN and s/he spilled a drink all over him! Everyone was mortified. How could we not be?

The entire way home, Morel was no longer her/his “jovial self.” S/He made up some stupid excuse that jetlag was catching up with her/him – but I knew the truth – her/his facade was finally starting to wear thin. S/He wasn’t talking to anyone, not telling stories, nothing. The true Morel was starting to show through. You can fool the world for a little, but you cannot do it forever.

Stories began to swirl around TTT that Silva claimed to have witnessed a bribe during the trip. S/he allegedly informed Riley Enoki, TTT’s general counsel, that Casey Porcini had attempted to influence the Xanadu AN officials by paying them off. I know the SEC got involved, but nothing much ever came of it, or at least not to my knowledge. I am no lawyer, but what I know is that nothing bad could possibly have happened. I do know that Morel’s pranking ultimately got her/him in hot water with TTT. Some video s/he made raised a lot of red flags for TTT.

I didn’t see Silva much after that. Nobody wants to hang out with a leper, right? But one day we got stuck in the elevator together, on the way to a meeting. The elevator at TTT will stop randomly sometimes. It’s supposed to encourage “spontaneous communication” or something. Anyway, so we’re stuck there, just the two of us, and out of nowhere Silva turns to me and starts baring her/his soul or something, talking about how s/he can’t remember what happened and everyone hates her/him now. I just stayed quiet, but then Silva asked if I had taken Business Law at Kalmia. I said I had, and s/he got this weird look in her/his eye and asked me if a whistleblower would be protected by the law even if you’d done other bad things. I started to answer, but as I was just starting to explain the law, Silva cut me off and asked if a whistleblower would be protected even if the thing that the whistleblower said didn’t really happen. I did not get a chance to answer before the elevator started moving, and Silva said never mind. The whole thing was bizarre, and it really stuck with me.

On August 27th, we were all called together by Casey Porcini and Riley Enoki. Casey led the meeting, which was about Silva’s behavior. They asked what we thought about it, and everyone was quiet. I spoke first, and I told them exactly what I thought. It was clear that they were not
the biggest fans of Silva by that point, so why hold back? Once the other interns saw that Casey and Riley were happy with what I said, they joined in, telling Casey how upset the pranks made them. Some of the interns even told stories of how Silva stole their ideas or took their names off work, taking full credit for it. You could see the concern on Casey’s and Riley’s faces – finally someone realized Silva was not as smart as s/he appeared. Madison Blewitt was in the corner, looking like s/he had eaten a lemon, but once the floodgates opened, all the interns were happy to take some shots at the “strategic genius” Silva Morel.

When we returned to school, Silva was a changed wo/man. For a little while, s/he stopped making so many prank videos. I heard that her/his grades slipped a bit as well. At one point, one of the professors accused her/him of being involved in this huge cheating scandal, but nothing ever came of it. Of course, it didn’t stick; this was Silva Morel – human Teflon. But at least one thing did stick: TTT rescinded the offer s/he allegedly received.

In November 2014, Xanadu determined that TigerMix was not a GMO. A lot of this was based on my research. New markets opened up for TTT, and I was offered a fulltime position with a great company upon graduation. I even threw TTT’s logo on my mortarboard at graduation (partially to spite Morel)! I can proudly say that I was the only intern who got a job, even if we were both offered one. I completed the Leadership Development Program and returned to Europe as the chief operations officer of our new facility in Xanadu. I am only one step below our European lead, and Casey Porcini is now my personal mentor in the business, even if s/he is only around as a consultant once every few weeks for a day or two.

That’s the difference between me and Morel. I have a different constitution. I have a different heart. I’ve got Tiger Tail blood!
Good morning. My name is Riley Enoki, and I am honored to be a Vice President of Tiger Tail Technologies as well as its General Counsel and Chief Compliance Officer. I wish I could be here under better circumstances, but I understand that in my role as counsel at the law firm of Drinchert & Ewrack I have become a fact witness. I am here of my own volition to assist in clearing TTT’s name of the vicious slander that has been directed against it by Silva Morel and to explain why Special Agent Agaricus’s vendetta is misguided.

Perhaps I should explain. I graduated from Kalmia University in 1995 with a degree in International Business. After a year working in Japan, I returned to the States for law school at New York University. I graduated NYU in 2000 with a joint J.D./M.B.A. and was immediately hired at D&E as an associate in the international corporate group. (My J.D. was summa cum laude.) After a few years, I left to join the Securities and Exchange Commission as counsel in the Enforcement Division, where I prosecuted companies for four years. I worked on matters from as small as transitioning businesses with accounting issues to the largest corporate prosecutions. In 2009, I received a Director’s Award for my work as a part of the team that prosecuted Siemens for violations of the Foreign Corrupt Practices Act. That 800 million dollar payment by Siemens is considered an FCPA landmark. In 2010, I left the SEC to rejoin D&E as counsel and made partner shortly thereafter. I practiced at D&E, focusing my practice on advising small- and medium-sized businesses in developing technology, until I left to join TTT in January 2017.

The work I liked best was in helping companies go international or helping international companies open business in the United States. Unfortunately, that work is very tough to get, and I spent most of my time on internal investigations, including investigations into alleged violations of the FCPA. Companies like to use outside attorneys for internal investigations, because it saves them the expense of having a specialist on staff, gives the investigation greater credibility, and can strengthen the attorney-client privilege over the investigation. It is a lucrative field.

The FCPA is a very challenging rule for American businesses, and it comes with extremely harsh penalties. While we like to say – whether it is true or not! – that American business and government is based on law, that has been less true in much of the world for much of history. In some countries, what we would call corruption is even part of the legal system! For example, in dynastic era China, magistrates were under-paid, with the expectation that they would extract fees and taxes as they were doing their official duties. And in many countries, giving a “tip” to the customs officer, border guard, or local zoning officers for a “job well done” or as a “service fee” is the only way to get business done. No company can afford to do business without paying these bribes; its goods would remain at customs forever, or it would never be approved to build. That the American government has forbidden these payments is honorable, but it puts American businesses at a tremendous disadvantage: our foreign counterparts can do “business as usual” in these countries and jump ahead of Americans who are following the law. But if the Americans break the law, following the local culture, they can be jailed or fined hundreds of millions of dollars!
In any case, I was not surprised when I received a call from TTT. TTT is a small company, and a local one, and I had “pitched” D&E’s services on several occasions and had taken several executives to dinner or sporting events as firm-sponsored marketing of my practice. And being from Western Pennsylvania myself, I knew a couple of employees from school. I was initially called in 2012, to assist with the company’s Limited Initial Public Offering. A LIPO is when a company sells some of its shares to the public, but not all of them. This lets the company raise money from people who believe in its product to pay off debt (often to the venture capitalists who initially funded it), to invest in expansion, or to fund operations. Even so, once a company “goes public,” it is subject to many additional legal limitations, including SEC regulation. Going public is not a decision that is taken lightly, and I spent hours advising TTT’s executives on the ins and outs. Even though I typically had a team working with me on these kinds of matters, I worked this one almost all myself. I could sense even then that this might be a company that matched my values and would allow me to fulfill my true dream of becoming a senior executive. I even learned to play pool and to use dragon sticks so that I could fit in better during senior staff meetings.

TTT was impressed with my work – unsurprisingly – and gave me an office to use at their headquarters whenever I needed it. Soon I was working on international business strategy and advising senior management on a variety of issues, from employment law to taxation to intellectual property. The last of these was in many ways the most critical. A company like TTT has a choice. It can patent a design like TigerMix, in which case it owns it and can aggressively enforce its exclusive rights in court, but only for a time. Patents expire, and when they do, your competition can make the technology without restriction. Alternatively, the company can just keep the technology a secret. It doesn’t have the same kinds of legal rights, but as long as the technology is secret, it lasts forever. That’s why only Coca-Cola can make Coke and only KFC has the “Colonel’s special blend of herbs and spices.” Those are trade secrets, not patents. Choosing to keep a technology as a trade secret is risky, but it can have immense long-term benefits. Ultimately, that’s what the TTT executive staff decided to do. Very few people in the company have seen the entire set of instructions for making TigerMix. Indeed, I’m now one of the five chief executives at TTT, and even I don’t have a need to know.

By 2014, I was spending almost half of my work time on site at TTT’s campus, rather than D&E’s offices. Both firms were happy with the arrangement, TTT because it was getting the attention it needed and D&E because I was billing a ton of hours, making me quite profitable. In fact, people started calling me the “general counsel,” even though I really worked for the law firm. I didn’t discourage them; I thought perhaps the name would stick, and if that meant that I got involved in helping out people with speeding tickets and mediating nonsense employment disputes, I was willing to pay that price. That’s why I was in the building on that Thursday before July 4, when Silva Morel burst out of her/his office and ruined my Dolce shirt. I’d bought it at Fashion Week!

By then, of course, I knew of Silva. Everyone said the same things about her/him: gifted but wild. Lawyers hate hearing that sort of thing, but some people found it utterly charming. I had advised the company against hiring Morel, because I felt that the YouTube antics would be bad for our image, but when I showed a couple examples at the executive staff meeting, everyone
else was laughing too hard to care. I just had to stand there at the top of the skate park ramp, wondering why no one else could see what a problem this could be, especially if someone got hurt. I mean, had no one at TTT ever heard of tort law? Of insurance rates? Not to mention the fact that it set a bad precedent as it was against company policy to post photos of the facility on social media. Madison Blewitt really should have handled that, but I guess s/he was too busy running the fantasy baseball league or something.

In any case, I was shocked when Silva burst into my office on August 1st, looking totally strung out. For a moment I thought I was going to be a drug counselor, or that this was a particularly ill-conceived practical joke. But the story that Silva told made my hair stand on end, because it was every company’s nightmare: a straight up bribe offered to a critical overseas official. But, I mean, I guess it was not the real nightmare, which is when they don’t come to you. That’s why TTT has a strong policy encouraging employees to bring us concerns. See Something, Say Something. It means what it says! I took careful notes and, once Morel left, I immediately called our CEO. I had him expand the scope of my retainer to include the investigation of these claims, and I called in one of my D&E associates to get to it.

Because the investigation involved a senior officer I knew well, Casey Porcini, I went straight to the source. I explained to Porcini why I was there and asked, in an open-ended way, what had happened in Xanadu. Casey looked stricken, and s/he launched into this story about Morel spilling a drink and saying something about food! I was there for bribery, and instead I needed to investigate food slander! But Porcini didn’t seem that bothered. S/He said that Morel had always been a good employee and just got a little drunk because s/he was back home. I couldn’t believe that Casey was still defending the hire, but that was definitely my impression.

Eventually I redirected Porcini to the conversation with the AN executive, Henri Buttone. Casey’s mood darkened immediately, and s/he glowered at me as s/he said, “So the kid told you about that, huh?” There was no point in denying it; Silva was the only other person at the meeting! But I protect my source, so I said nothing. In any case, Porcini explained that Silva had it wrong, that Buttone was seeking the payoff, not that Casey was offering it. Casey also said that the whole thing was done in a joking manner, and it probably was nothing anyway. I was very relieved. As long as the company did not offer a bribe, and the company does not pay a bribe, the FCPA does not apply, even if it is solicited for one. TTT was in the clear!

I spent the rest of the day tracking down what I could of the story. I even called Buttone’s office, but he was out for the afternoon. I left a message explaining what things were about. The next day, before I left for a family trip to Iceland, I told Casey that there was nothing to worry about.

When I got back ten days later, on August 11, I started to try and pull the electronic data that we might need to figure things out. The system was a nightmare! TTT had been a small company, and they had never integrated any of their information systems. Some data had already been deleted, and other data was only available on backup tapes that would cost tens of thousands of dollars just to restore. And none of it was organized to search it. Needless to say, I billed a lot of hours the next couple weeks, but even with everything I could do, there was lot of data that seemed lost, and the company was not willing to pay to restore the data that was on tapes. I
had advised TTT years before about information technology, but no company likes spending
money unless there’s a return on that investment, and TTT’s business side was fine.

So I’m trying to figure this all out when I start hearing that Silva is wrapped up in other things,
like plagiarism. We’ve barely held a meeting to get to the bottom of that when I find out that,
Silva Morel had filmed another one of these pranks, and I have the COO screaming at me that it
contained our five year business plan! Plus, I finally get a voice mail from Buttone’s office,
saying that Buttone was on a Caribbean vacation and referring me to Porcini!

After an interminable meeting with our computer team, I was able to confirm that the GoPro
camera that Morel was using did not have the resolution to pick up the text on the document on
Casey’s desk. I even called a buddy of the firm who used to work for the National
Reconnaissance Office, and he agreed. The business plan was safe. But it was a close call!

I was able to give the CEO some good news, but at the staff meeting, that dullard Madison
Blewitt, the head of HR, thought it was all just great. Just because you didn’t get hit by that car
doesn’t mean you should keep walking in the road! It was clear from my conversation with Silva
Morel that s/he never even considered the fact that there was a trade secret on the desk. This
wasn’t a deliberate sabotage, no, but for all the attention Morel paid, it could have exposed our
most precious intellectual property! All so some other college morons could laugh at Post-

I understand that kids make mistakes. You would not know it now, but I once disrobed during a
scavenger hunt for points! And yes, we have had other interns who made errors, like Paddy
Straw claiming credit for work that wasn’t hers/his. But first Silva nearly starts an international
incident and then this? I don’t care what “good publicity” we were getting, Morel destroyed
company property and nearly exposed our confidential projections to our competitors. It was
clear that her/his judgment was not up to par for an intern, much less an executive development
trainee. Fortunately, by this point Casey agreed, as did the rest of the executive staff. And it
turns out that the performance reviews that Madison Blewitt had been reporting were bunk.
That winter, when the SEC requested Morel’s performance reviews, I pulled them up, and they
were middling at best. When the interns left on August 29th, it was a relief!

Not that I got to enjoy it much. Just a couple weeks later, on September 20th, I got a call from
my old colleague Harley Agaricus at the SEC. I knew Harley well; s/he is a dogged investigator.
S/He also lacks any judgment as to what matters and what doesn’t. It was well known around
the office that s/he was trying to relive her/his Enron glory and thought everyone in corporate
America was a crook. Exactly the person I didn’t want on the other side.

I met at length and on several occasions with Special Agent Agaricus, and I made it clear that
TTT would cooperate in the investigation fully. I provided emails to the SEC, and I allowed them
to interview my clients. I know that Agaricus is upset that s/he did not get all of Casey’s
computer files, but that’s just crazy. TTT is a small company, and spending hundreds of
thousands of dollars on computer forensics over a single teatime conversation? Just too much.
Also, I know that Harley is very upset that I did not immediately preserve all documents related to Porcini and Morel, so some documents were lost or corrupted. In fact, spittle flying, s/he threatened me with obstruction of justice! I had had enough! So I had a conversation with Belle Baybee, my old colleague at the SEC who is now Harley’s boss. She sat Harley down and explained that threatening people is not nice. Once the investigation was formally announced a few weeks later, we properly preserved all data. And when Harley demanded that we go into our backup tapes to get the missing information, I had Belle remind her/him that we were cooperating and that the request was totally out of proportion for the case. Not having to restore those saved us five figures, maybe six.

That’s not to say that I just closed my eyes to the issues, though! Our own D&E team piled through the company’s financial records, and we did find that money was being syphoned off through some shell companies. The vast majority of money we could not account for were payments approved from Casey’s division, and only four or five people could have approved those transactions. With regret, I advised the executive staff that Casey could be a liability. TTT is such a family, though, and we didn’t want to treat him like a criminal. Nothing was proven, other than sloppy oversight, and we all know Casey was more of an “ideas person” than a bean-counter. So we arranged to hire Casey as an independent consultant for our EU expansion, and Casey was finally able to move to France. It was a win-win, and I’m proud that I thought of it. Though to this day, I don’t think Casey has figured out how to speak French!

As soon as we found this embezzlement, we brought it to Harley with the list of shell companies involved, and we worked with Belle and the Enforcement Division on a reasonable fine for the accounting failure. In truth, TTT needed to grow up a little and get a real compliance officer. The systems that work when you’re two guys in a garage don’t work for international business. Fortunately for everyone, I was able to convince senior leadership of that. I bought out about two thirds of Casey’s stock with savings and my end of year bonus, and I joined the leadership team. Casey and I agreed to split the profits if the options were exercised in the next five years, so that we would both benefit from the expected European expansion. And that has certainly proved true!

Anyway, I’m confident that the SEC will not have any reason to bother us with the systems I have put in place. And, of course, we still use D&E for all outside counsel work.

I know that people think that TTT has something to hide, but we are committed to transparency. And our investors, our shareholders, have a right to expect that we will make certain that the valuable property of the company is not jeopardized. I liked Silva well enough, I guess, and I am happy that Silva did the right thing and raised concerns with the SEC if s/he had them. But that’s not why s/he was asked not to return to TTT. We cannot have an employee who other employees don’t trust, which is what we learned on August 27th, when Casey led that meeting. I am still miffed about that shirt, but who would have thought that the other interns had such a bad opinion of Silva? I am glad that Casey brought that to my attention, and I am grateful for the interns with the courage to speak, especially Paddy Straw. And, of course, we simply cannot have someone that obsessed with social media fame that close to our trade secrets.
An irresponsible prankster who other employees dislike? The next time we might not have been so lucky, so we had to be sure that there would not be a next time. If that sounds cold to you, I'm sorry. In this business, you do what you have to do to protect the company. That's what I do. That's what TTT needed, and that's what it needs. That's why I'm here.
Exhibits

Exhibit 1: TigerMix Advertisement
Exhibit 2: Silva Moral’s Leadership Development Program Invitation
Exhibit 3: Casey Porcini Email to Silva Moral regarding Leadership Development Program Invitation
Exhibit 4: XanaduGotYou YouTube Page Comments Excerpt
Exhibit 5: TTT News Wire Regarding EU Expansion
Exhibit 6: Silva Moral TTT Performance Summary Report
Exhibit 7: TTT/SEC Settlement Agreement
Exhibit 8: Bank Statement
Exhibit 9: Note to Casey Porcini from “H.B.”
Exhibit 10: Photograph of Silva Moral’s Prank on Casey Porcini
Exhibit 11: Email Exchange between Silva Moral and Patty Straw
TigerMix® is the right solution for your packaging and molded foam needs.

- Made from 100% organic material
- 100% Biodegradable
- Completely Customizable
- Cost Effective
- 21st Century secret genetically modified mushroom
- Built to last
- Ozone friendly

- Available in all colors
- Can be used as a source of nourishment in a post-apocalyptic universe
- Featured in a number of trade magazines and journals
- Used by the world’s largest shipping agencies
- Beloved by car manufacturers

The World’s Second Most Versatile Substance
Hey, TE, hope the start of the new year is treating you well. Listen, we have some serious issues going on in production and I am very worried that 2016 is going to go up in a blaze, if you know what I mean (not kidding). Sorry, couldn’t help myself, but you get it… we need solutions for issues that have no solutions. It is a software thing and beyond my area of expertise. I know you will not really get it, but please do what you can to support me and keep me in line. I do not want to add stress to an already stressful situation. I have already been up for 3 days straight!

Nanae Kinopio
January 6, 2016

Dear Silva:

It is rare these days to find an employee who puts the company before themselves who values the greater good of all over the individual. I know we do not know each other all that well. In some ways, I think you are more famous around here than me – and I run the place! But, whenever the topic of the intern program comes up, your name is associated with it. Whether it be from our HR Director, or Casey Porcini, every one sings your praises! And while I know you like to have a good time and keep the atmosphere light, you exemplify that old school spirit of hard work and dedication. For that, we have all taken notice and applaud you. Mind you, if you put a whoopee cushion on my chair, we might have a problem – just saying! - kidding, not kidding!

My father told me long ago (he had his own company) that when you spot good talent – no matter how young – when you see that special potential, you do what it takes to retain that person because that is how you turn a business into an institution. It is how you create a legacy. You must find and groom the next generation. While not official until we make the official selections in Spring 2015, I want to let you know that we have selected you for next year’s intensive 12 month Leadership Development Program. Welcome to the management team!

Congratulations!!!

Nanae
CEO

Tiger Tail Technologies
Re: UR Awesome

Casey Porcini
To: Silva Morel
July 1, 2014
10:55:32

Ha! I knew the Boss would listen to me... As soon as I told him you were here at dawn, I had him hooked. Loves that work ethic stuff!

Now you don’t have to worry about your visa anymore. I got your back as long as you always have mine. There will come a time when this makes sense for sure – but just remember that this is the way corporate politics works.

For now, I am just super happy for you – you got something you deserve! Just be careful with the pranks. Not everyone is as cool as me. In fact no one is! 😊

CP
Tight Tel Technologies

Silva Morel
To: Casey Porcini
July 1, 2014
09:45:13

Casey, I do not know what to say... and I do not know how to thank you enough, but I just got the most amazing email from the CEO – I’ve been admitted in to the Leadership Development Program!!! WOW!!! I am so excited. This is beyond belief. Finally, finally, my dreams have come true! I don’t know what you said or did, but I know you are responsible. I am forever in your debt. Anything you need, just ask!

Silva
Exhibit 4

773,516 views
Freaky Founding Father

XanaduGotYou
Published on July 5, 2014
I call this one “Freaky Founding Father” for good reason. I really got the lawyer for the company good on this one. Spilled coffee and ruined a perfectly good shirt in the process. The look on the lawyer’s face at the 1:27 mark is one of the best reactions ever in the history of the XandueGotYou channel.
SHOW MORE

2,365 Comments

Add a public comment...

KalmiaClover 3 years ago
This has to be the dumbest channel on all of youtube, and that includes the one that’s just ten hours of Rick Astley on loop. I hate you and always will. You’re a fraud, you’re a thief, and you’re in my way. You might be able to trick some people, but not me. I will find a way to stop you before you have the chance to hurt anyone else.
REPLY 628

Hide replies ▲

XanaduGotYou 3 years ago
Makes sence coming from the 2nd best intern in our class. Remember, I’ll always be a step ahead and I’m willing to do whatever it takes. I’d turn my own mother in to the cops if I had to. #donthatetheplayerhatethegame
REPLY 3

KamiaClover 3 years ago
You think you can get ahead because you think you can cheat and lie and that the rest of us won’t, because we have limits. Well, you set the rules of this game, player, and there are no limits. There can be only one, and it will be me. How’s that green card coming along? You’re not going to have a job after this summer is over, so you better get working on that fake marriage.
Heroes Return from Odyssey Victorious!

Five years ago, no one could have imagined TTT and TigerMix taking the United States by storm. It was an idea trapped in a mushroom waiting to bloom and spread its spores across the country. We all knew it then and we were all proven right.

Today, no one in the industry thinks we can expand our business to the European Union because of their strict GMO rules. But we know better. We know that a product not intended for human consumption is not what the EU is after. TigerMix is the answer to all of the problems with chemical based packaging materials. We just needed a hook and a home base. We needed the right message and we needed the right people to deliver that message.

This past week, that message was delivered!

A trade delegation led by our very own Casey Porcini travelled to the small in size, but big in smarts nation of Xanadu. But it was not Casey who ultimately is the hero of this odyssey; it is our rising star, Silva Morel, a Xanadu native who elicited applause from all in attendance that gave hope to our European mission. As Casey reported to the Board this week, “Silva is a natural. S/He showed the ability to command a room only someone with years of experience normally can . . .” Casey, Silva, and the rest of the team were honored at a reception hosted by Xanadu’s leading citizens, and we are confident that Silva Morel will soon be one of them.

While TTT must still undergo a rigorous application process, 2015 promises to be a banner year for TTT as we take TigerMix international!!!
## Exhibit 6

**Intern Performance Summary Report – Summer 2014**
**Intern: Silva Morel**

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<th>PROJECT DATES</th>
<th>SCORE (out of 10)</th>
<th>REPORTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 (May 19 – May 23)</td>
<td>8</td>
<td>Blewitt</td>
</tr>
<tr>
<td>2 (May 25 – May 30)</td>
<td>9</td>
<td>Blewitt</td>
</tr>
<tr>
<td>3 (June 2 – June 6)</td>
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<tr>
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</tr>
<tr>
<td>5 (June 16 – June 20)</td>
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<td>Porcini</td>
</tr>
<tr>
<td>6 (June 23 – June 27)</td>
<td>8</td>
<td>Kinopio</td>
</tr>
<tr>
<td>7 (June 30 – July 4)</td>
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<td>Blewitt</td>
</tr>
<tr>
<td>8 (July 7 – July 11)</td>
<td>3</td>
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</tr>
<tr>
<td>9 (July 14 – July 18)</td>
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<tr>
<td><strong>11 (July 28 – Aug 1)</strong></td>
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<tr>
<td><strong>12 (Aug 4 – Aug 8)</strong></td>
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<td><strong>13 (Aug 11 – Aug 15)</strong></td>
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<tr>
<td><strong>14 (Aug 18 – Aug 22)</strong></td>
<td>4</td>
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</tr>
<tr>
<td><strong>15 (Aug 25 – Aug 29)</strong></td>
<td>7</td>
<td>Blewitt</td>
</tr>
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</table>
EXHIBIT 7

AGREEMENT IN PRINCIPLE

The following is a summary of the terms of the agreement in principle dated today, April 22, 2015, between the United States Securities and Exchange Commission (the “SEC”) and Tiger Tail Technologies, Inc. (“TTT”):

1. The SEC maintains that it has civil claims against TTT for violations of Generally Accepted Accounting Principles (“GAAP”) and for violations of the Foreign Corrupt Practices Act (“FCPA”).

2. TTT admits its violations of GAAP insofar as it failed to account for certain payments in its compliance efforts. TTT neither admits nor denies liability for violations of FCPA.

3. TTT shall pay a fine of $5 million to the SEC for its GAAP violations.

4. This payment of $5 million shall resolve any liability TTT has for any violation of GAAP, and the SEC will withdraw its pending subpoena and close administratively its pending investigation into any violations of FCPA.

5. TTT shall engage in enhanced compliance efforts, including developing enhanced policies relating to GAAP accounting, FCPA avoidance, and whistleblower protection.

6. Every TTT employee shall receive training annually on these policies. Such training shall be not less than eight hours in the first year and two hours in each subsequent year.

7. TTT shall – at its expense – commission an audit of its GAAP and FCPA compliance to be conducted by an outside company each year from 2016-2021. TTT shall comply in all respects with the auditor’s request for information. A copy of this independent audit shall be provided to the SEC, c/o Belle Baybee, Regional Director of Enforcement – Northeast, 100 N. F Street, NE, Washington D.C. 20549.

8. The independent audit for 2016 shall be coordinated by Drinchert & Ewracken LLP, Cira Center, 2929 Arch Street, Philadelphia PA 19104-2808, which shall retain an accountant of its choice.

This settlement will be further formalized by a fuller document to be negotiated and executed by the parties forthwith.
San Lorenzo Federal Savings

ACCT: 0003307644448119

Consolidated Bank Statement

Date of Statement: 11 Nov. 2014

Bank Statement for the Period 1 July 2014 – 1 October 2014

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<tr>
<th>Date</th>
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Summary

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<tbody>
<tr>
<td></td>
<td>5 000 000.00</td>
<td>4 999 750.00</td>
</tr>
</tbody>
</table>
Casey,

Kindly join me for coffee would you please at 2 pm?

Say Lakitu’s Cafe?

We have much to discuss!

H.B.
Re: <3 in an elevator

Paddy Straw
To: Silva Morel

Whatever. I still don’t like you.

August 4, 2014
23:11:27

Silva Morel
To: Paddy Straw

Hey Pat:

Sorry for freaking out in the elevator. I hate it when that thing stops. Always gets me going. Nerves got the best of me. Let’s forget the whole thing.

SM

August 4, 2014
21:35:08