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June 3, 2022

## Corporate Misconduct, Fraud & Whistleblowing



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CORPORATE MISCONDUCT, FRAUD &  
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June 3, 2022

Social Media and Corporate Misconduct

Jonas Heese

Harvard University



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H A R V A R D | B U S I N E S S | S C H O O L

# Does Social Media Reduce Corporate Misconduct?

Jonas Heese and Joseph Pacelli

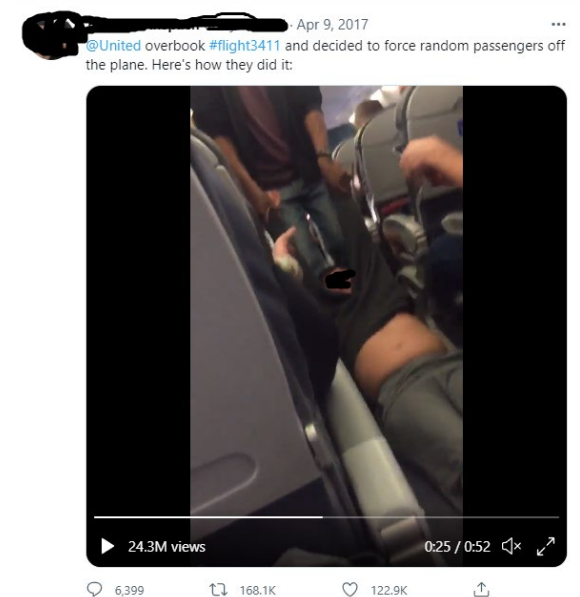
# Research Question

Is social media an effective monitor of firms' corporate misconduct?

- Why is it important to study this question?
  - Corporate misconduct is a big problem.
  - Increasing importance of social media in society, while decrease in traditional media.
  - No systematic evidence on social media as a monitor of firms.

# An Example: United Airlines forcibly removed passenger

- Social media users filmed the incident and posted videos on Twitter.
- Incident became #1 trending topic attracting more than 100 mm views.
- Stock price dropped by \$250 mm.
- CEO apologized.
- Department of Transportation started an investigation related to aviation safety violations.
- Coverage of incident by traditional media.



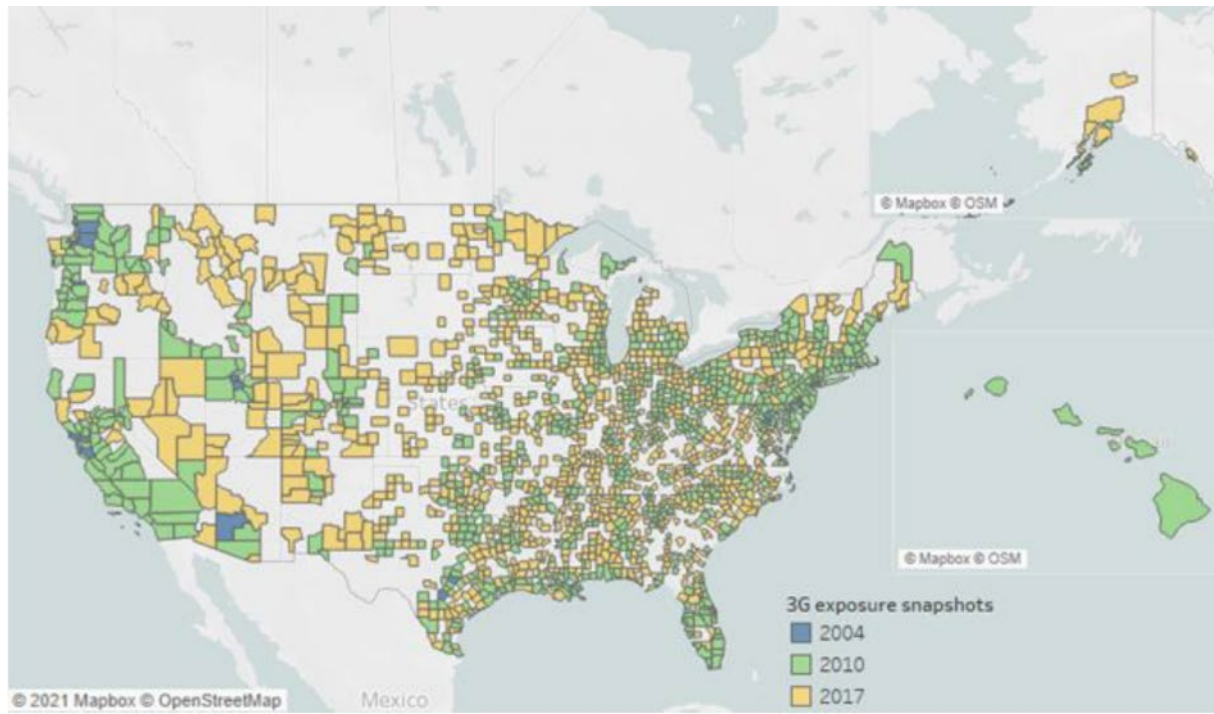
# Social Media and Firm Behavior

- Social media could be an effective monitor of firms
  - Create reputational costs through dissemination.
  - Facilitate information access for other monitors (e.g., traditional media; regulators).
  - Help firms detect misconduct through social media posts.
- Social media could be an ineffective monitor of firms
  - Social media content might often be wrong (“fake news”).
  - Social media content is not substantial enough or short-lived.
  - Firms might not change underlying misconduct, but respond with less costly strategies (e.g., public apology).

➤ Ultimately, it’s an empirical question.

# Empirical Challenges – Social Media

- Two approaches:
  1. Use 3G introduction at zip code level as a shock to strength of monitoring by social media (Guriev et al. 2021); digital maps of 3G network coverage from Collins Bartholomews' Mobile Coverage Explorer



2. Use Twitter data at zip code level to more directly capture social media activity

# Empirical Challenges – Corporate Misconduct

- Data on misconduct (covered on social media) typically not available
- Corporate violations – Violation Tracker:
  - Wide range of violations - 40+ regulatory agencies
  - Sample includes 11,508 violations perpetrated by 10,590 unique facilities of 1,360 Compustat firms (including 80% of Fortune 500 firms) with \$8.5 billion in penalties.
    - Average firm has 1 violation / year (penalties \$715,888)
    - Average facility 0.17 violations / year (penalties \$133,656)
  - Workplace safety represents 66% of violations, only 4% of penalties
  - False Claims Act, environmental, and securities violations are the largest categories in % of penalties.



# Type of Violations

| Offense Type                           | Number of Violations | % of Total  | Penalties (\$m) | % of Total  |
|--|----------------------|-------------|-----------------|-------------|
| Workplace safety or health violation   | 7,608                | 66.1%       | 336.0           | 3.9%        |
| Environmental violation                | 1,009                | 8.8%        | 2,280.0         | 26.8%       |
| Railroad safety violation              | 839                  | 7.3%        | 8.2             | 0.1%        |
| Wage and hour violation                | 639                  | 5.6%        | 189.0           | 2.2%        |
| Labor relations violation              | 504                  | 4.4%        | 159.0           | 1.9%        |
| Aviation safety violation              | 273                  | 2.4%        | 17.7            | 0.2%        |
| Motor vehicle safety violation         | 143                  | 1.2%        | 3.2             | 0.0%        |
| Employment discrimination              | 74                   | 0.6%        | 338.0           | 4.0%        |
| Family and Medical Leave Act violation | 44                   | 0.4%        | 0.6             | 0.0%        |
| Securities violation                   | 37                   | 0.3%        | 1,478.5         | 17.4%       |
| False Claims Act violation             | 32                   | 0.3%        | 2,610.0         | 30.7%       |
| Other                                  | 306                  | 2.7%        | 1,091.7         | 12.8%       |
| <b>Total</b>                           | <b>11,508</b>        | <b>100%</b> | <b>8,511.9</b>  | <b>100%</b> |

# Research Design for 3G Access Tests

- Dependent variables: dollar penalties, number of violations
- Pre vs. post periods of 3 years
- Treated facility vs. non-treated facilities (which can be of the same firm located in the same county)

| Facility  | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|---|------|------|------|------|------|------|------|------|------|------|------|
| Facility of Walmart located in zip code 19030, Bucks County, Pennsylvania | 0    | 0    | 0    | 1    | 1    | 1    |      |      |      |      |      |
| Facility of Walmart located in zip code 18951, Bucks County, Pennsylvania |      |      | 0    | 0    | 0    | 1    | 1    | 1    |      |      |      |
| Facility of Walmart located in zip code 30512, Union County, Georgia      |      |      |      |      |      | 0    | 0    | 0    | 1    | 1    | 1    |

# 3G Access and Facility-Level Misconduct

| Dependent Variable |       | Penalties              |                        |                        | Number Violations      |                        |                        |
|--------------------|-------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Variables          | Pred. | (1)                    | (2)                    | (3)                    | (4)                    | (5)                    | (6)                    |
| 3G                 | -     | -0.1291***<br>(0.0477) | -0.1298***<br>(0.0476) | -0.1298***<br>(0.0476) | -0.0176***<br>(0.0056) | -0.0177***<br>(0.0056) | -0.0178***<br>(0.0056) |
| Employees_Facility |       |                        | 0.0766***<br>(0.0125)  | 0.0768***<br>(0.0125)  |                        | 0.0072***<br>(0.0015)  | 0.0073***<br>(0.0015)  |
| Sales_Facility     |       |                        | -0.0035<br>(0.0103)    | -0.0035<br>(0.0103)    |                        | -0.0002<br>(0.0011)    | -0.0002<br>(0.0011)    |
| Size               |       |                        | -0.0031<br>(0.0163)    | -0.0030<br>(0.0163)    |                        | 0.0024<br>(0.0015)     | 0.0024<br>(0.0015)     |
| Leverage           |       |                        | 0.0468<br>(0.1025)     | 0.0473<br>(0.1026)     |                        | 0.0056<br>(0.0100)     | 0.0056<br>(0.0100)     |
| ROA                |       |                        | 0.2150<br>(0.2254)     | 0.2052<br>(0.2250)     |                        | 0.0269<br>(0.0222)     | 0.0240<br>(0.0220)     |
| Labor_Force        |       |                        |                        | -0.3614<br>(0.4235)    |                        |                        | -0.0932**<br>(0.0470)  |
| Unemployment_Rate  |       |                        |                        | -0.0283<br>(0.0262)    |                        |                        | -0.0084***<br>(0.0031) |
| Facility FE        |       | Yes                    | Yes                    | Yes                    | Yes                    | Yes                    | Yes                    |
| Year FE x State FE |       | Yes                    | Yes                    | Yes                    | Yes                    | Yes                    | Yes                    |
| Adj. R-square      |       | 0.101                  | 0.101                  | 0.101                  | 0.266                  | 0.266                  | 0.266                  |
| Observations       |       | 63,687                 | 63,687                 | 63,687                 | 63,687                 | 63,687                 | 63,687                 |

- 3G introduction results in a ~13% decrease in penalties and ~2% decrease in the number of violations.

# 3G Access and Twitter Activity

| Dependent Variable | Number_Tweets         |                       |
|--------------------|-----------------------|-----------------------|
| Variables          | (1)                   | (2)                   |
| 3G                 | 0.1882***<br>(0.0548) | 0.1890***<br>(0.0550) |
| Controls           | No                    | Yes                   |
| Zip Code FE        | Yes                   | Yes                   |
| Year FE            | Yes                   | Yes                   |
| Adj. R-square      | 0.926                 | 0.926                 |
| Observations       | 4,526                 | 4,526                 |

- 3G access is associated with a larger number of Tweets.

# Twitter Activity and Facility-Level Misconduct

| Dependent Variable    |       | Penalties            | Number Violations    |
|-----------------------|-------|----------------------|----------------------|
| Variables             | Pred. | (1)                  | (2)                  |
| High Twitter Activity | –     | –0.2005*<br>(0.1062) | –0.0183*<br>(0.0102) |
| Controls              |       | Yes                  | Yes                  |
| Facility FE           |       | Yes                  | Yes                  |
| Year FE x State FE    |       | Yes                  | Yes                  |
| Adj. R-square         |       | 0.093                | 0.342                |
| Observations          |       | 13,142               | 13,142               |

- Higher Twitter activity is associated with less misconduct.

# Additional Results

1. Effect of 3G on misconduct is concentrated in facilities of firms with many Twitter followers.
2. Effect of 3G on misconduct is concentrated in non-financial violations.
3. Alternative explanation: 3G increases local IT investments → no evidence.
4. Results are robust to research-design choices:
  - 10-year treatment window or all years treatment window
  - Alternative fixed effects (e.g., county-year FE)
  - Alternative samples + clustering

# Conclusions

- Systematic evidence on social media as a monitor of firm behavior.
- This is important for 2 reasons:
  - Prior research in capital markets primarily examines social media's *informational* role.
  - Prior research in economics primarily examines social media's *political monitoring* role.
- Study improves understanding of the consequences of social media on firm behavior by highlighting a positive effect of social media.

Thank you!



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June 3, 2022

Social Media and Corporate Misconduct

Discussant: Alexander Dyck

University of Toronto

*Will shown own slides*



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# Does Social Media Reduce Corporate Misconduct?

by  
Heese and Pacelli

Discussion

Alexander Dyck

Manulife Financial Chair in Financial  
Services, Rotman School of  
Management





"Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."

—U.S. Supreme Court Justice Louis D. Brandeis, "What Publicity Can Do," *Harper's Weekly*, December 20, 1913

## Important Topic

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Media form of involuntary disclosure, should have beneficial impact.

# Why much to like in the paper



- ‘Modern’ take on Media
  - Social Media, mobile. Matters for firms!
- Great Methodology to study media impact
  - Avoids ‘mirror’ problem with media. Plausibly exogenous staggered variation.
- Intriguing results
  - Improvement in deterrence, lower misconduct

# Review of paper, highlighting key details

## **Exploits exogenous variation in media**

- 3G expansion, driven by technology, occurs at different times geographically, provides exogenous variation in exposure to social media.
  - Largely 2007-2012 (82% of total), 2/3 completed by 2010
- Since technology indirect, to increase confidence provide one indicator of increased social media activity that correlates with technology (Twitter tweet volume), where can track geographically and over time.

## **Uses new measure of misconduct**

- Not material financial misrepresentation
  - financial misrepresentations rarely observed (e.g. AAERs, ~1%), or are noisy (e.g. restatements, 13%).
- Largely non-financial misconduct
  - Violation Tracker, cases from largely federal regulatory agencies, with some private litigation
  - Data shows workplace health and safety, environmental together account for 75% of obs.
  - Much more common than financial misrepresentations ~ Mean of 1 obs/firm year

# Approach and Findings

## Approach

- Main tests use State-of-Art identification
  - Facility level data with facility level fixed effects and controls.
  - Balanced window around 3G introduction.
- Supportive tests to show twitter volume correlates with increase 3G, using twitter, where can geo-locate (much harder to identify impact)

## Findings

- Significant decrease in penalties (13%) and violations (1.8%),
  - on average, comparing 3 yrs before to 3 years after 3G expansion (Tab 4)
  - Robust to alternative FE
- Complementary evidence of mechanism from (more weakly identified) twitter
  - Tweet volume increase with 3G (Tab 5)
  - Twitter activity associated with lower penalties and violations (Tab 6)

# Comments

## ***Taking results as given, what else would I like to see?***

1. Could be more impactful if expand scope and framing from:
  - ‘to what extent social media reduces corporate misconduct’ to
  - what is the impact of social media on deterrence of corporate misconduct?

## ***How to make results more convincing?***

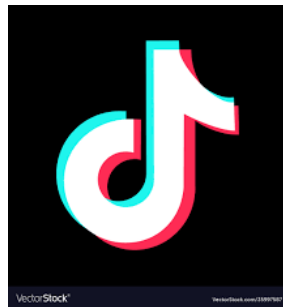
2. Much more on misconduct data from violation tracker
3. Much more on materiality
4. Econometric questions

# Social Media (mobile) impact targets non-financial misconduct. More on this.

Social media from internet to mobile, expect different effects. Make a feature

**'Newsworthiness' changes with small number of words, pictures. Likely extreme events, violate social norms**

Seeking Alpha<sup>α</sup>



- More on non-financial misconduct (less boring)
- Talk about, show more context
  - E.g. has always been an element in security class actions, appears to be increasing; increasingly associated with exec turnover.
- ***Social Media only works for non-financial misconduct (Tab 6 result) should be headline not Tab 4?***



# Acknowledge and Address Negative Aspects of Social Media At Same Time

- Diversion of ad dollars from traditional to social media
- Downside of social media is thus loss of misconduct deterrence provided by newspapers, loss of local newspapers
- Who knows this well?



Potential interactions....

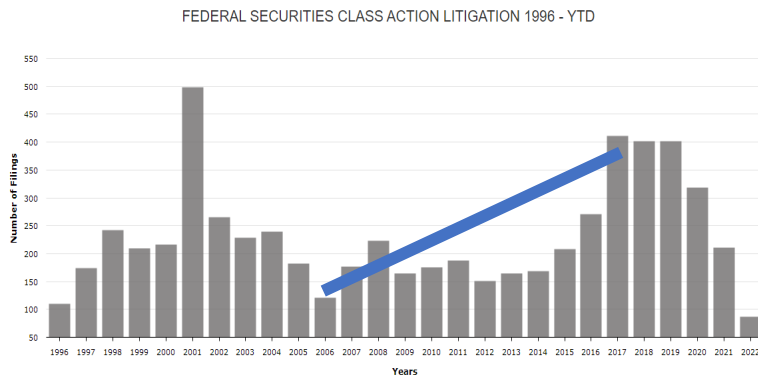
**Traditional Media**



**Social Media**

## 2. Much more on misconduct data from violation tracker

- Raw time trends in violations consistent with huge impact of social media, drive results.
- Not consistent with security class actions trends.



### violations

- changes in enforcement intensity,
- lag in reporting (only after suit resolved?),
- tracking by data collector

Table 1, Panel C

|      |       |       |         |       |
|------|-------|-------|---------|-------|
| 2006 | 158   | 0.4%  | 1,851.1 | 21.7% |
| 2007 | 1,093 | 9.5%  | 513.1   | 6.0%  |
| 2008 | 1,227 | 10.7% | 178.7   | 2.1%  |
| 2009 | 1,610 | 14.0% | 511.5   | 6.0%  |
| 2010 | 1,698 | 14.8% | 1,153.9 | 13.6% |
| 2011 | 1,548 | 13.5% | 649.0   | 7.6%  |
| 2012 | 986   | 8.6%  | 38.3    | 0.4%  |
| 2013 | 576   | 5.0%  | 220.9   | 2.6%  |
| 2014 | 278   | 2.4%  | 34.8    | 0.4%  |
| 2015 | 126   | 1.1%  | 81.1    | 1.0%  |
| 2016 | 142   | 1.2%  | 102.9   | 1.2%  |
| 2017 | 88    | 0.8%  | 1.8     | 0.0%  |

|       |        |      |         |      |
|-------|--------|------|---------|------|
| Total | 11,508 | 100% | 8,511.9 | 100% |
|-------|--------|------|---------|------|

*Most of the entries in Violation Tracker involve actions by government agencies, but we are also gradually adding private litigation in the form of class action lawsuits and multi-district litigation... More categories will be added periodically.*

### 3. Much more on materiality

- Penalties show massive variation.
  - Modal violation – health and safety accounts for 2/3 of sample, appears to be a \$5,000 fine.
  - Massive penalties for very small fraction of data, 0.6% of violations account for almost 50% of penalties

- Almost all violations captured by violation tracker don't appear to be material, (see McDonald's, top fine \$20k)

*To connect with misconduct literature, materiality has to be a primary concern. Needs to be addressed by restricting sample, or convincing otherwise. Social media catches things that don't matter (much) has a different ring to it*

| Company                                   | Parent                     | Parent Major Industry       | Primary Offense Type                 | Year | Agency | Penalty Amount           |
|---|----------------------------|-----------------------------|--------------------------------------|------|--------|--------------------------|
| <a href="#">MCDONALDS RESTAURANT</a>      | <a href="#">McDonald's</a> | restaurants and foodservice | wage and hour violation              | 2004 | MN-DLI | <a href="#">\$20,750</a> |
| <a href="#">McDonalds</a>                 | <a href="#">McDonald's</a> | restaurants and foodservice | wage and hour violation              | 2001 | CA-LCO | <a href="#">\$14,000</a> |
| <a href="#">McDonalds Restaurant</a>      | <a href="#">McDonald's</a> | restaurants and foodservice | environmental violation              | 2009 | TN-ENV | <a href="#">\$11,998</a> |
| <a href="#">MCDONALDS RESTAURANT</a>      | <a href="#">McDonald's</a> | restaurants and foodservice | wage and hour violation              | 2003 | MN-DLI | <a href="#">\$11,000</a> |
| <a href="#">MCDONALDS RESTAURANT INC.</a> | <a href="#">McDonald's</a> | restaurants and foodservice | workplace safety or health violation | 2001 | OSHA   | <a href="#">\$8,000</a>  |
| <a href="#">MCDONALDS</a>                 | <a href="#">McDonald's</a> | restaurants and foodservice | workplace safety or health violation | 2007 | OSHA   | <a href="#">\$8,000</a>  |
| <a href="#">MCDONALDS CORP</a>            | <a href="#">McDonald's</a> | restaurants and foodservice | wage and hour violation              | 2020 | IL-DOL | <a href="#">\$6,211</a>  |
| <a href="#">MCDONALDS #1228</a>           | <a href="#">McDonald's</a> | restaurants and foodservice | workplace safety or health violation | 2003 | OSHA   | <a href="#">\$5,680</a>  |
| <a href="#">McDonalds</a>                 | <a href="#">McDonald's</a> | restaurants and foodservice | wage and hour violation              | 2018 | WA-DLI | <a href="#">\$5,650</a>  |

## 4. Econometric Questions

### Choices

- Industry x year FE (or year) seems much more compelling. Why not baseline?
  - Note, estimated economic impacts almost halved
- Median splits for twitter tests appear odd
  - Median in zip codes in year makes more sense to me than across whole sample period.

### Limitations of Twitter tests/ other ways to validate mechanism?

- Twitter tests don't do much for me
  - All data 2010 on, so not nearly as good for changes brought on by 3G, as 2/3 of sample would already have 3G
- Look at alternatives (like in my whistleblower paper?)
  - Study sub-sample of worker health and safety. See if any ex ante complaints on twitter or other platforms?

# Summary

- Paper well worth reading. You'll learn a lot
- Important topic, careful study, with many intriguing elements.
- Opportunities to make results more convincing
  - Validity of misconduct measure, materiality
- Opportunities to make results more impactful
  - Broaden evaluation and identify weaknesses and limits, along with strengths

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Questions & Answers



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June 3, 2022

CEO Oath and Corporate Misconduct

Gerardo Pérez-Cavazos

University of California San Diego



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# When executives pledge integrity: The effect of the accountant's oath on firms' financial reporting

Jonas Heese, Gerardo Pérez-Cavazos, and Caspar D. Peter



# Research Question

Do executives' pledges of integrity improve firms' reporting quality?

# Motivation

- “Traditional” corporate governance mechanisms often fail
- Integrity oaths have existed for over 2,000 years
- Recent momentum in the use of integrity oaths
  - Low-cost strategy to potentially improve compliance
  - Executives’ integrity is a determinant of firms’ compliance
  - Failure of other mechanisms in deterring misconduct
- Uncertain if requiring an oath has any effect on executives’ behavior
  - Code of ethics reminder, implicit social contract
  - Still a lot of misconduct. Misconduct driven by personal characteristics

# Related Literature

- Regulatory tools to improve financial reporting
  - Regulatory resources, transparency, controls, accountability (e.g., Cohen et al. 2008, Kedia and Rajgopal 2011, Duro et al. 2018)
  - SEC requirement for CEOs and CFOs to state under oath the accuracy of financials (Griffin and Lont 2005, Bhattacharya et al. 2007)
  - Ethics and compliance trainings (e.g., Kowaleski et al. 2020, Park 2020)
- Behavioral economics
  - Truth-telling experiments – moral code reminders (e.g., Ariely 2012, Mazar et al. 2008)
  - What determines whether an individual lies?

# Setting

- Dutch accounting oath
  - Accountants in the Netherlands must register with the Royal Netherlands Institute of Chartered Accountants or NBA
  - On May 17, 2016, the NBA's board required that all active "CPAs" take a professional integrity oath
  - Objective: improve auditing quality
  - Side effect: some CEOs and CFOs required to take the oath
- Consequences of non-compliance
  - Losing one's license
  - Potential reputational costs

# The Oath

I am aware that as a professional accountant I am bound to act in the public interest. I will exercise my profession with an attitude of professional skepticism. When exercising my profession as a professional accountant I am guided by fundamental principles of integrity, objectivity, professional competence, and due care and confidentiality. I will comply with the laws and regulations applicable to my profession. My professionalism implies that I will not execute any acts of which I know or ought to know that these could bring the accountancy profession into disrepute. So help me God / I promise / I declare.

# Hypothesis Development

- Oath can improve financial reporting:
  - Reminder of code of ethics and laws
  - Change understanding of the norms – implicit social contract
  - Commitment device
- Oaths can be ineffective:
  - No new ethical requirements
  - No change in costs: same punishment and detection
  - Execs' behavior is driven by personal characteristics

# Empirical Challenges

Ideal scenario:

- Random assignment of oaths between treatment and control subjects

Our setting:

- 2016 law required all Dutch “CPAs” to pledge an integrity oath
- Law only introduced oath (but no other changes)
- Oath was unexpected when the executives obtained their accounting degree, eliminating *selection effects*
- *Quasi-natural experiment*: As-if random assignment of oath-takers among firms with a registered accountant as CEO or CFO
- CEOs and CFOs that do not hold a Dutch professional accounting degree are not required to pledge an integrity oath, serve as the control group

# Data and Methodology

- Identify 7,579 CEOs and CFOs of Dutch private and public firms
  - Cross-reference with Dutch accountants' register (27,893 individuals)
    - 40 CEOs and 84 CFOs with an accounting degree (~15% treated firms)
    - Manufacturing, wholesale trade, administrative services

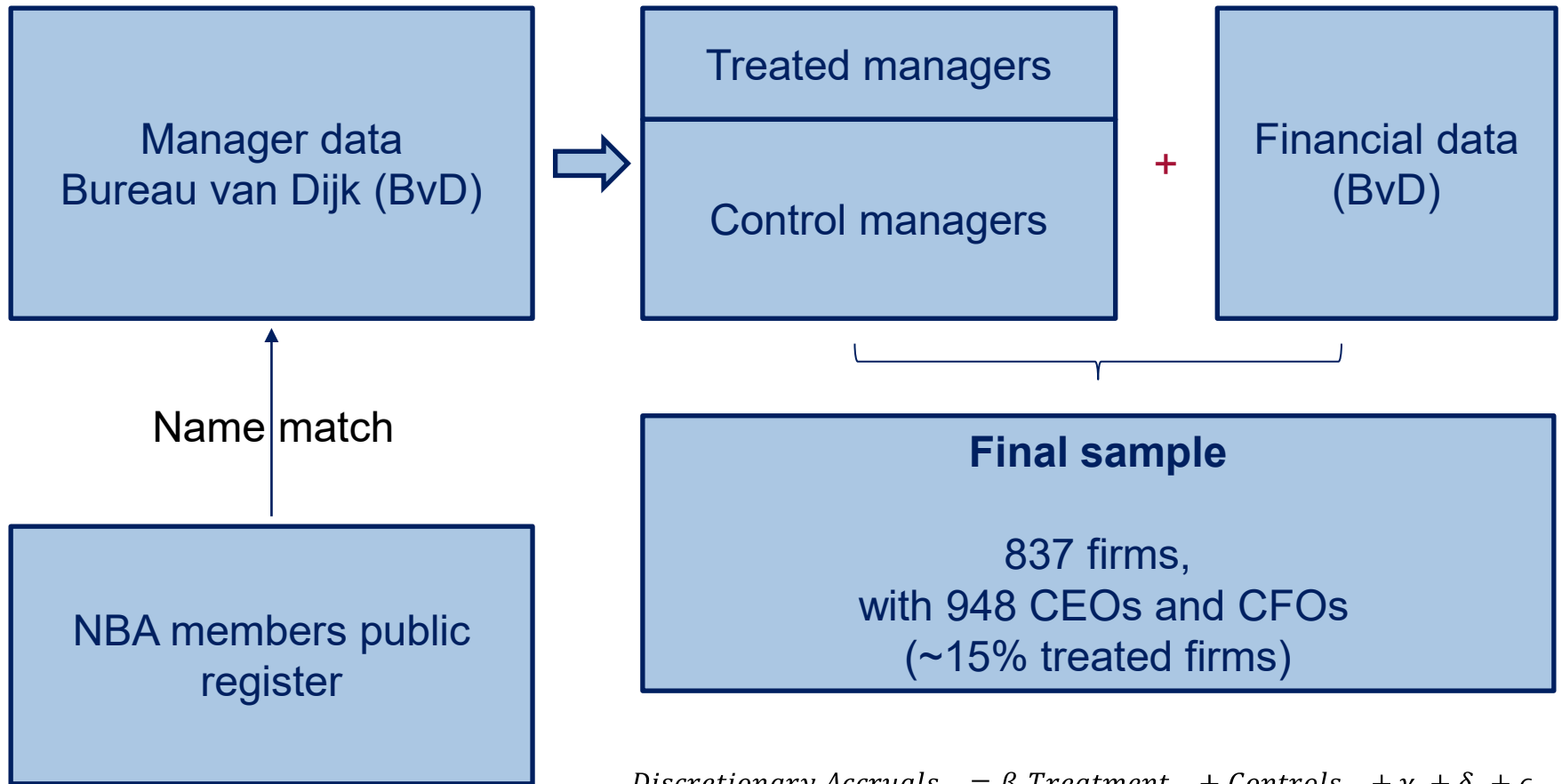
- Difference-in-differences (3 yr pre & 3 yr post)

$$Earnings\ Management = \beta_1 Treatment_{i,t} + Controls_{i,t} + \gamma_i + \delta_t + \epsilon_{i,t}$$

- Earnings management measures:
  - Discretionary accruals: residual from modified Jones model as per Dechow et al. (1995)
  - Real earnings management: abnormal production costs and abnormal discretionary expenses (Roychowdhury 2006)
  - M-Score (Beneish 1999)



# Data and Methodology



$$\text{Discretionary Accruals}_{i,t} = \beta_1 \text{Treatment}_{i,t} + \text{Controls}_{i,t} + \gamma_i + \delta_t + \epsilon_{i,t}$$

# Results – Accruals Earnings Management

| Dependent Variable  | Discretionary Accruals |                      |                      |
|---------------------|------------------------|----------------------|----------------------|
|                     | CEO + CFO              | CEO                  | CFO                  |
| Treatment           |                        |                      |                      |
| Variables           | (1)                    | (2)                  | (3)                  |
| Treatment           | -0.021**<br>(0.009)    | 0.007<br>(0.013)     | -0.031***<br>(0.010) |
| Market Share        | -0.003<br>(0.094)      | -0.001<br>(0.094)    | -0.002<br>(0.094)    |
| NOA                 | -0.008<br>(0.006)      | -0.008<br>(0.006)    | -0.008<br>(0.006)    |
| Size                | 0.042***<br>(0.011)    | 0.042***<br>(0.011)  | 0.042***<br>(0.011)  |
| ROA                 | 0.245***<br>(0.042)    | 0.243***<br>(0.042)  | 0.246***<br>(0.042)  |
| Leverage            | -0.194***<br>(0.028)   | -0.192***<br>(0.028) | -0.195***<br>(0.028) |
| Firm FE             | Yes                    | Yes                  | Yes                  |
| Year FE             | Yes                    | Yes                  | Yes                  |
| Adj. R <sup>2</sup> | 0.02                   | 0.02                 | 0.02                 |
| Observations        | 4,559                  | 4,559                | 4,559                |

- Effect of oath on firms with CEO or CFO accounting degree:
  - Income increasing discretionary accruals decrease by ~0.16 SDs

# Results – Real Earnings Management

| Dependent Variable  | REM Prod  |         |          | REM Disx  |         |          | REM       |         |           |
|---------------------|-----------|---------|----------|-----------|---------|----------|-----------|---------|-----------|
|                     | CEO + CFO | CEO     | CFO      | CEO + CFO | CEO     | CFO      | CEO + CFO | CEO     | CFO       |
| Variables           | (1)       | (2)     | (3)      | (4)       | (5)     | (6)      | (7)       | (8)     | (9)       |
| Treatment           | -0.052*   | -0.009  | -0.063** | -0.059**  | -0.014  | -0.070** | -0.113**  | -0.012  | -0.139*** |
|                     | (0.027)   | (0.051) | (0.030)  | (0.026)   | (0.039) | (0.031)  | (0.049)   | (0.087) | (0.053)   |
| Controls            | Yes       | Yes     | Yes      | Yes       | Yes     | Yes      | Yes       | Yes     | Yes       |
| Firm FE             | Yes       | Yes     | Yes      | Yes       | Yes     | Yes      | Yes       | Yes     | Yes       |
| Year FE             | Yes       | Yes     | Yes      | Yes       | Yes     | Yes      | Yes       | Yes     | Yes       |
| Adj. R <sup>2</sup> | 0.84      | 0.84    | 0.84     | 0.87      | 0.87    | 0.87     | 0.88      | 0.88    | 0.88      |
| Observations        | 1,868     | 1,868   | 1,868    | 2,069     | 2,069   | 2,069    | 1,868     | 1,868   | 1,868     |

- Effect of oath on firms with CEO or CFO accounting degree:
  - Cutting of discretionary production costs decrease by ~0.12 SDs
  - Cutting of discretionary expenses decrease by ~0.13 SDs

# Results – M-Score

| Dependent Variable  | M-Score           |                  |                     |
|---------------------|-------------------|------------------|---------------------|
|                     | CEO + CFO         | CEO              | CFO                 |
| Variables           | (1)               | (2)              | (3)                 |
| Treatment           | -0.045<br>(0.068) | 0.185<br>(0.121) | -0.139**<br>(0.070) |
| Controls            | Yes               | Yes              | Yes                 |
| Firm FE             | Yes               | Yes              | Yes                 |
| Year FE             | Yes               | Yes              | Yes                 |
| Adj. R <sup>2</sup> | 0.10              | 0.10             | 0.10                |
| Observations        | 4,559             | 4,559            | 4,559               |

- M-score is a comprehensive measure of misstating likelihood
- Examining egregious reporting choices:
  - Decrease of 0.139 in M-score (~5.5%) for CFOs with accounting degree

# Additional Analyses

- Performance pressure cross-sectional test
- Enhancing identification
  - Falsification tests
    - Randomly assigning CFOs to placebo firms
    - Placebo treatments in Belgium – CEOs and CFOs with accounting degree
  - Propensity score matching
  - Alternative control group: inactive accountants and business background
  - Concurrent events – changes to the Dutch Corporate Governance Code
    - Using only private firms
    - Excluding firms with intangible assets and extraordinary income
  - Different fixed effects structures (industry x year)
  - Alternative accruals models (Dechow and Dichev, 2002)
  - Alternative window (dropping 2016)
  - Future performance

# Enhancing Identification – Falsification 1 (placebo)

| Dependent variable         | $\widehat{\beta}_1$<br><i>Actual data</i> | $\beta_1$<br><i>Random data</i> | $H_0: \beta_1 > \widehat{\beta}_1$<br>[p-value] |
|----------------------------|---|---------------------------------|---|
| (1) Discretionary Accruals | -0.031***                                 | 0.0002                          | [0.007]   |
| (2) REM                    | -0.139***                                 | -0.0002                         | [0.016]   |
| (3) REM Prod               | -0.063**                                  | 0.0010                          | [0.051]   |
| (4) REM Disx               | -0.070**                                  | -0.0001                         | [0.015]   |
| (5) M-Score                | -0.139**                                  | -0.0017                         | [0.068]   |

- Randomly assign accountant CFOs to firms

## Enhancing Identification – Falsification 2 (Belgium)

| Dependent Variable  | Discretionary Accruals |                   |                   | REM               |                   |                   |
|---------------------|------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
|                     | CEO + CFO              | CEO               | CFO               | CEO + CFO         | CEO               | CFO               |
| Variables           | (1)                    | (2)               | (3)               | (4)               | (5)               | (6)               |
| Treatment           | -0.094<br>(0.128)      | -0.117<br>(0.123) | -0.042<br>(0.082) | -0.045<br>(0.063) | -0.042<br>(0.067) | -0.079<br>(0.085) |
| Controls            | Yes                    | Yes               | Yes               | Yes               | Yes               | Yes               |
| Firm FE             | Yes                    | Yes               | Yes               | Yes               | Yes               | Yes               |
| Year FE             | Yes                    | Yes               | Yes               | Yes               | Yes               | Yes               |
| Adj. R <sup>2</sup> | 0.18                   | 0.18              | 0.18              | 0.72              | 0.72              | 0.72              |
| Observations        | 725                    | 725               | 725               | 396               | 396               | 396               |

- Use Boardex to identify executives of Belgium firms with accounting background
- No effect

# Concern 1: Accounting vs non-accounting firms

- Are there systematic differences between firms led by an executive with an accounting degree vs. other type of degrees/background?
  - DiD usually mitigates this concern
  - But maybe another event happened and accountants reacted better...



# Propensity Score Matching

| Dependent Variables | Discretionary Accruals | REM                |
|---------------------|------------------------|--------------------|
| Variables           | (1)                    | (2)                |
| Treatment           | -0.017*<br>(0.010)     | -0.119*<br>(0.058) |
| Controls            | No                     | No                 |
| Firm FE             | No                     | No                 |
| Year FE             | No                     | No                 |
| Adj. R <sup>2</sup> | 0.00                   | 0.00               |
| Observations        | 929                    | 159                |

- Control observations are determined via propensity score matching
- Effects hold

# Inactive “CPAs” and business background as control

| Dependent Variable  | Discretionary Accruals |         |           | REM       |         |           |
|---------------------|------------------------|---------|-----------|-----------|---------|-----------|
|                     | CEO + CFO              | CEO     | CFO       | CEO + CFO | CEO     | CFO       |
| Variables           | (1)                    | (2)     | (3)       | (4)       | (5)     | (6)       |
| Treatment           | -0.042*                | -0.019  | -0.061*** | -0.062    | 0.053   | -0.489*** |
|                     | (0.021)                | (0.029) | (0.017)   | (0.147)   | (0.143) | (0.077)   |
| Controls            | Yes                    | Yes     | Yes       | Yes       | Yes     | Yes       |
| Firm FE             | Yes                    | Yes     | Yes       | Yes       | Yes     | Yes       |
| Year FE             | Yes                    | Yes     | Yes       | Yes       | Yes     | Yes       |
| Adj. R <sup>2</sup> | 0.06                   | 0.13    | 0.03      | 0.90      | 0.93    | 0.89      |
| Observations        | 776                    | 291     | 503       | 313       | 94      | 213       |


- Control observations are firms with an executive with an inactive accounting degree or business background
- Effects hold

## Concern 2: Concurrent events


- Another event might have taken place at the same time
  - 2016 amendment to the Dutch Corporate Governance Code
    - Only affects publicly traded firms
  - 2016 amendment to the Title 9 provisions
    - Primarily relate to the reporting of goodwill and extraordinary income
    - Small and micro companies are excluded from these amendments

# Alternative Samples


| Dependent Variable  | Discretionary Accruals |                  |                      | Discretionary Accruals |                  |                     | Discretionary Accruals |                  |                      |
|---------------------|------------------------|------------------|----------------------|------------------------|------------------|---------------------|------------------------|------------------|----------------------|
|                     | CEO + CFO              | CEO              | CFO                  | CEO + CFO              | CEO              | CFO                 | CEO + CFO              | CEO              | CFO                  |
| Variables           | (1)                    | (2)              | (3)                  | (4)                    | (5)              | (6)                 | (7)                    | (8)              | (9)                  |
| Treatment           | -0.022**<br>(0.010)    | 0.007<br>(0.014) | -0.031***<br>(0.011) | -0.020<br>(0.022)      | 0.090<br>(0.061) | -0.042**<br>(0.020) | -0.027<br>(0.026)      | 0.003<br>(0.019) | -0.063***<br>(0.016) |
| Controls            | Yes                    | Yes              | Yes                  | Yes                    | Yes              | Yes                 | Yes                    | Yes              | Yes                  |
| Firm FE             | Yes                    | Yes              | Yes                  | Yes                    | Yes              | Yes                 | Yes                    | Yes              | Yes                  |
| Year FE             | Yes                    | Yes              | Yes                  | Yes                    | Yes              | Yes                 | Yes                    | Yes              | Yes                  |
| Adj. R <sup>2</sup> | 0.02                   | 0.02             | 0.02                 | 0.05                   | 0.05             | 0.05                | 0.40                   | 0.40             | 0.40                 |
| Observations        | 4,292                  | 4,292            | 4,292                | 1,371                  | 1,371            | 1,371               | 372                    | 372              | 372                  |



Private firms



No Intangibles and no extraordinary income



Small firms (<50 employees)

- Effects do not seem to be driven by other concurrent reporting changes

# Limitations

## 1. Recency of the rule

- Only examine the first three years after the oath-taking
- Possible that effects fade over more extended periods

## 2. Dutch setting

- Cultural characteristics may influence the magnitude of the effect
- However, it shares many cultural similarities with other European countries and even the U.S.

# Conclusions

- First to examine, in isolation, effect of an integrity oath on financial reporting
- Oath is effective in changing executives' behavior
  - Spirit of the law vs. letter of the law
  - Less accruals-based *and* real earnings management
- Important implications
  - Low-cost measure to achieve higher quality reporting
- Results complement and extend insights of experimental studies in behavioral economics to accounting reporting setting

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WHISTLEBLOWING

June 3, 2022

CEO Oath and Corporate Misconduct

Discussant: Kyle Welch

George Washington University



Professional Accounting Centre

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# When Executives Pledge Integrity: The Effect of the Accountant's Oath on Firms' Financial Reporting

**Kyle Welch**

George Washington University





## Dutch News Pre 2016

- Royal Ahold 2003
- Vestia 2012
- DSB 2010
- Weyl 2013
- SNS Reaal 2015
- Imtech Ballast Nedam 2015

COMPANY NEWS MAY 12, 2014 / 9:18 AM / UPDATED 8 YEARS AGO

### Royal Ahold settles accounting fraud lawsuit for \$297 million

Published May 21, 2014



### Dutch head of KPMG resigns amid criminal investigation



AUDIT & ACCOUNTING TAX TECHNOLOGY PRACTICE MANAGEMENT MORE  
INTERNATIONAL ACCOUNTING

## Voices Dutch Accounting Firms Look to Improve Tarnished Rep

By [Michael Cohn](#) August 28, 2015, 3:35 p.m. EDT 2 Min Read

European companies + Add to myFT

FINANCIAL TIMES

## Bank's downfall opens old Dutch wounds

Matt Steinglass in Amsterdam and Alex Barker in Brussels FEBRUARY 21 2013

### A Dutch crown jewel tarnished

The accounting scandal at Royal Ahold, a giant Dutch food retailer, further undermines the idea that continental European capitalism is more reputable than the transatlantic variety

Feb 28th 2003 (Updated Feb 27th 2010) |

The Economist

## The FCPA Blog

News and commentary about white-collar crime, enforcement, and compliance  
KPMG pays €7 million to settle Dutch bribery case

Geert Vermeulen January 13, 2014 8:58 am



MERGERS & ACQUISITIONS | INVESTMENT BANKING | PRIVATE EQUITY

### DSB Bank Goes Bust

BY DEALBOOK OCTOBER 19, 2009 6:42 AM

## Dutch Response (1 of 2)

- *“In spring 2014, as a result of these scandals, the Dutch parliament conducted a debate on accountancy and audit. There was a lot of anger: the view was that the profession was motivated by profits alone, to the detriment of their duties. “It was front-page news. The Minister of Finance at that time said: ‘this has to stop’. During a public Finance Committee meeting, the Minister of Finance addressed attendees from the profession and told them they had five months to come up with a reform plan.”* <https://www.icaew.com/insights/viewpoints-on-the-news/2021/april-2021/how-the-profession-won-back-trust-in-the-netherlands>
- Dutch Minister of Finance delivered an ultimatum to the audit profession that they needed to improve their business practices. *“You reform your profession or we will do it for you.”*

## Dutch Response (2 of 3)

- Reform plan created by Nederlandse Beroepsorganisatie van Accountants (NBA) and accounting firm



- “And where in the first instance [of accounting professional problems] this appeared to be a case of isolated incidents, the linking together of these indicated a structural problem. This assumption was emphatically confirmed by the AFM reports of recent years, in which sector-wide shortcomings in audit quality were discovered.”
- In a 2014 Authority of Financial Markets (AFM) report *45% of audits reviewed were inadequate*—insufficient documentation of audits, insufficient collection of audit evidence, insufficient audits of internal controls, insufficient examination of accounting fraud red flags, and insufficient skepticism towards management’s reporting choices.

## Dutch Response (3 of 3)

# IN THE PUBLIC INTEREST

MEASURES TO IMPROVE THE QUALITY AND  
INDEPENDENCE OF THE AUDIT IN THE NETHERLANDS

- Proposed **53 measures** in the Autumn of 2014.
  - 1.1 *"The profession is introducing a professional oath for accountants. The oath will be taken at the time of registration in the accountants' register."*
  - Silvia Gawronski calls it a [finishing touch](#) *"an oath can be useful in this respect, but as part of a broader context. This was lacking in the bankers' oath, whereas the accountants' oath is not an end in itself, as can be seen, for instance, in the sector plan of September 2014 containing 53 proposed measures, of which the oath is only one."*
- Measures were accepted by the profession and parliament. Some of them were transferred into legislation, with a period of three or four years to implement.
- Several monitoring groups were put together to keep track of progress, both inside the profession and from the Dutch regulator.

## First Concern—Diff-in-Diff (1 of 3)

### Regulation is not created in a vacuum

- Variable of interest is **one of 53 measures** used to reform the profession implemented over the same period.
  - This is a period of hyper reform in the culture of accounting and the oath is not the only event happening.
  - Many additional efforts implemented around the same time, likely to impact dependent variable in the same way.
- Use of SPE or accruals after Enron and WorldCom
- Do auditors taking the oath not matter? If oaths matter, we might not see any response because of auditors. “That’s why we do a diff and diff?” My point is the Auditors are part of both subgroups being tested, an odd situation for a diff and diff because it is accounting CEO+CFO+Auditor vs. Auditor taking the oath. Would an oath have prevented ArthurAndersen?

## First Concern—Diff-in-Diff (2 of 3)

### **CEO and CFO that don't take the oath as a control**

- These are the CEOs and CFOs less likely to know and navigate the widespread accounting reform. They are also those whose vocational reputation is not being attacked.
- Those with an accounting background have an accounting identity that are likely wanting to be favorable—thus they are likely to be impacted by this WAVE of reforms—not just the oath.

### **Placebo test & Abnormal discretionary accruals**

- Doesn't solve this problem

### **Propensity score matched sample**

- Doesn't solve this problem as currently constructed.
- There are only 3 Inactive CPAs + 15 with “business background” in control
- I would say an “C” suite exec would have a “business background.” This measure is not well defined and has questionable assumptions. Does Bill Gates, Steve Jobs, or Elon Musk not have a “business background”?

## First Concern—Diff-in-Diff (3 of 3)

### Solutions:

- Creative cross-sectional tests
  - Detail of variation in oath ritual (think weddings)
  - Compensation or wealth
  - Age, culture, religiosity, tenure
  - Accounting instruction/inactive
    - Was there an increase in lapsed license because of oath?
- Supplement with other oath opportunities
  - Dutch banker oath?
  - Get data from MBA Oath movement
  - Philippines and Singapore
  - Reach out to National Association of State Boards of Accountancy
    - <https://nasba.org/stateboards/>
    - North Carolina CPA <https://www.ncacpa.org/cpa-oath/>
    - Maryland CPA <https://www.macpa.org/oath-an-exclamation-point-on-new-cpas-milestone/>

## Academic Push for Vocational Oaths

**Make sure you are very clear about what has been done and what you are doing.**

**Use precise words and clear description of what we know.**

### Calls for vocational oaths

- MBA Oath movement (<http://mbaoath.org/>)
- Khurana, R., Nohria, N., 2008. It's time to make management a true profession. *Harvard Business Review*.

### Claims about vocational oaths

- Cialdini, R. B. and Trost, M. R., 1998. Social influence: Social norms, conformity and compliance. In D. T. Gilbert, S. T. Fiske, & G. Lindzey (Eds.), *The Handbook of Social Psychology*, 151–192. McGraw-Hill.
- Gino et al. 2009?

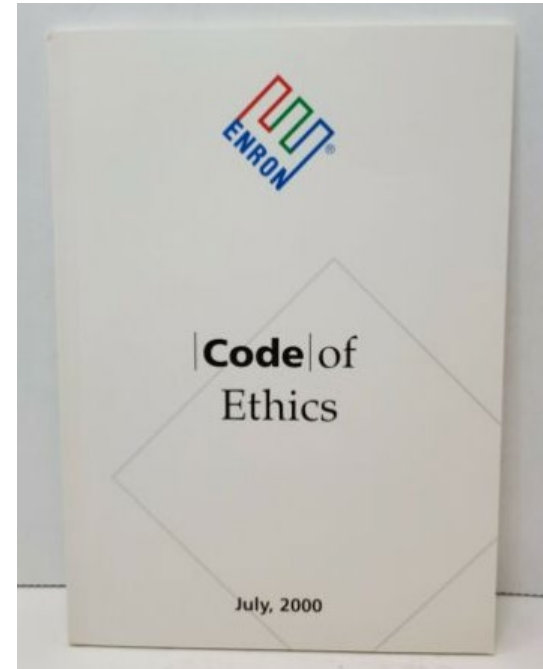
**Very little can be said about the impact of vocational oaths—that is great for your paper. Any result you get matters! I.e., If an oath doesn't work—that is also important to know. Embrace descriptive nature.**



## Why an Oath

Why not a code of conduct?—not much showing that codes of conduct work

- Companies have values posted on the walls. They talk about them, use them in training.
  - Kaptein, Muel, and Mark S. Schwartz. "The effectiveness of business codes: A critical examination of existing studies and the development of an integrated research model." *Journal of Business Ethics* 77, no. 2 (2008): 111-127.
- Companies have values posted on the walls. They talk about them, use them in training. Verbalize them.



Zingales (2015) Gary Becker on amoral students. “He attributed this to the fact that—in spite of the teacher’s intentions—they took Becker’s (1968) descriptive model of crime as prescriptive. We label as “irrational” not committing a crime when the expected benefit exceeds the expected punishment. Most people call this behavior moral. Is being agnostic subtly teaching students the most amoral behavior, without us taking any responsibility?”

## The Dutch Oath

of I am aware that as a professional accountant I am bound to act in the public interest. I will exercise my profession with an attitude of professional skepticism. When exercising my profession as a professional accountant I am guided by fundamental principles of Integrity, objectivity, professional competence, and due care and confidentiality. I will comply with the laws and regulations applicable to my profession. My professionalism implies that I will not execute any acts of which I know or ought to know that these could bring the accountancy profession into disrepute. **So help me God / I promise / I declare.**

- Large meeting with multiple people making a promise
- Done once

## What Makes an Oath Different?

- What is it about an Oath that could make it more powerful? Why is it different from corporate ethics or values? Sense of identity? Deity involvement?

- Boy Scout Oath



- Religious rituals

- Also leveraged against religious groups

- Bosley, S., & Knorr, M. (2018). Pyramids, Ponzis and fraud prevention: Lessons from a case study. *Journal of Financial Crime*.
- Levi, M. (2008). Organized fraud and organizing frauds: Unpacking research on networks and organization. *Criminology & Criminal Justice*, 8(4), 389-419.

## Second Concern/Solutions—Oath (1 of 3)

What do we know about people that commit accounting crimes

They typically don't see what they are doing as wrong?

Especially in Accounting.

- <https://www.youtube.com/watch?v=qo5SJgKdkBQ>

## Second Concern/Solutions—Oath (2 of 3)

How does oath help? Nature of an oath. What is causal? Individual demographics

Motivated by unwritten contracts and eternal truth (i.e., not relative truth or relative values)

Is there anything that would make it more significant? Is there a way we could measure the significance of the oath by individuals?

- Nature of ritual (think wedding)
- Distance to travel for ritual (think pilgrimage to mecca)
- Location of ritual (conducted in a location of significance)
- Time taken to complete oath (3-year window)
- How busy are they

## Second Concern/Solutions—Oath (3 of 3)

Current evidence does not convince me that a one-time oath would impact this behavior as the single causal factor as this paper argues.

Especially since the Dutch oath is not that significant of an oath

Solutions:

Creative cross-sectional tests that line up with understanding of rituals and oaths

- Nature of ritual (how grand is it? “So help me God / I promise / I declare”)
- Distance to travel for ritual
- Location of ritual
- Time taken to complete oath (3-year window)
- How busy are they when they take the oath (i.e., M&A deals)

## Third Concern Capturing Accounting Fraud

What is the moral view of aggressive accounting accruals?

What is the moral view of real-activities management?

**Performance pressure** is most likely to be captured in a meet or beat measure or with close covenant violations

- The current measure (Negative ROA or loss) could be doing the opposite by having accountants have a big bath during times of pressure.



# Thank You



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Break – 15 Minutes



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June 3, 2022

Whistleblowing, Auditing and Enforcement

Minlei Ye

University of Toronto

*Will Show own slides*



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June 3, 2022

Whistleblowing, Auditing and Enforcement

Discussant: Jonathan Black

Purdue University



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# Auditing with a Chance of Whistleblowing

Lin Nan, Chao Tang, and Minlei Ye

**Discussion**

**Jonathan Black**

Purdue University

# Outline of Discussion

---

- 1) Review motivations for whistleblowing programs and empirical findings
- 2) Review implications of the model in the paper
- 3) Provide some thoughts based on empirical findings

# Employee whistleblowers

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## **Internal Whistleblowing**

- Employee concerns raised in a firm's whistleblowing program

## **External Whistleblowing**

- False Claims Act (State and Federal)
- SEC whistleblowing office (IRS, CFTC, PCAOB)
- OSHA – claims of retaliation for internal whistleblowing
- Go public with the information (via the media, etc.)

External whistleblowing allegations are costly to firms (Bowen, Call, Rajgopal 2010)

# Whistleblowing programs

---

## **Whistleblower protection**

- SOX whistleblower protection against retaliation is administered by OSHA
- Unemployment insurance increases whistleblowing (Heese and Pérez-Cavazos 2021)

## **Whistleblower compensation**

- SEC rewards 10%-30% of the money collected as a result of the whistleblowing when sanctions exceed \$1 million
- \$564 million paid to 108 individuals in 2021 (2021 OWB report to congress)



# Benefits of whistleblowing programs to regulators

---

- Motivates those who are informed about fraud to come forward
  - Nearly 40% of all discovered frauds are uncovered by a whistleblower tip (ACFE 2018)
- Whistleblowers facilitate enforcement (Call, Martin, Sharp, Wilde 2018)
  - Higher monetary penalties
  - Enforcement proceedings happen more quickly
- Whistleblowing deters misreporting (Wilde 2017, Berger and Lee 2022)
- Cash for information programs defray costs borne by whistleblowers (Dey, Heese, and Pérez-Cavazos 2021)

# Criticisms of whistleblowing programs

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- Monetary incentives increase frivolous or misleading complaints making whistleblowing programs costly (Miceli and Near 1996)
- External whistleblowing programs may bypass internal whistleblowing programs (Stubben and Welch 2020)
- Perverse hiring and compensation incentives (e.g., employee stock options – Call, Kedia, and Rajgopal 2016)
- Thresholds for whistleblower compensation create incentive to allow the fraud to grow (Berger, Perreault, and Wainberg 2017)

# Overview

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***Research Question: Will auditors increase or decrease their supply of audit quality in response to a higher likelihood of whistleblowing?***

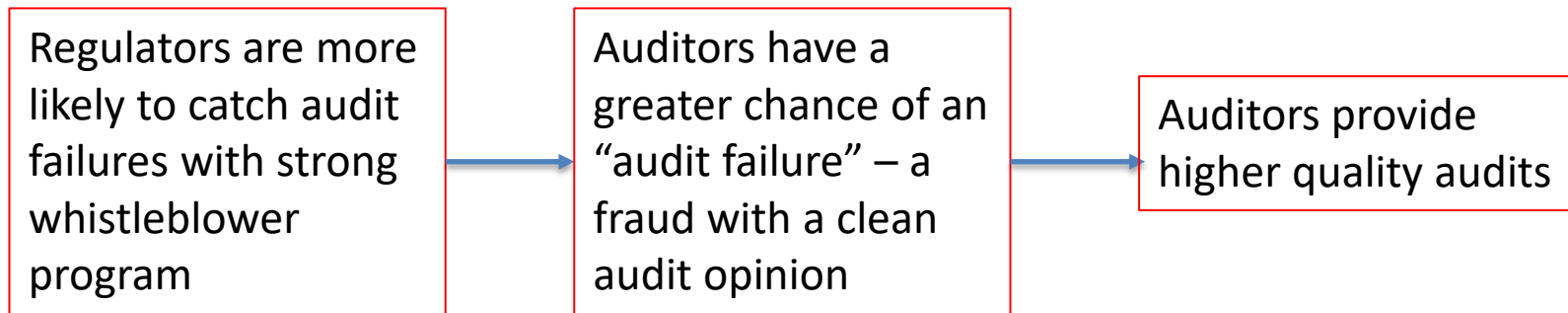
Model provides a framework for thinking about the interaction between whistleblowing, regulators, and auditors.

## **Implications**

Whistleblowing could either increase *or decrease* audit quality depending on regulator reliance on whistleblowers and audit quality's link to regulators

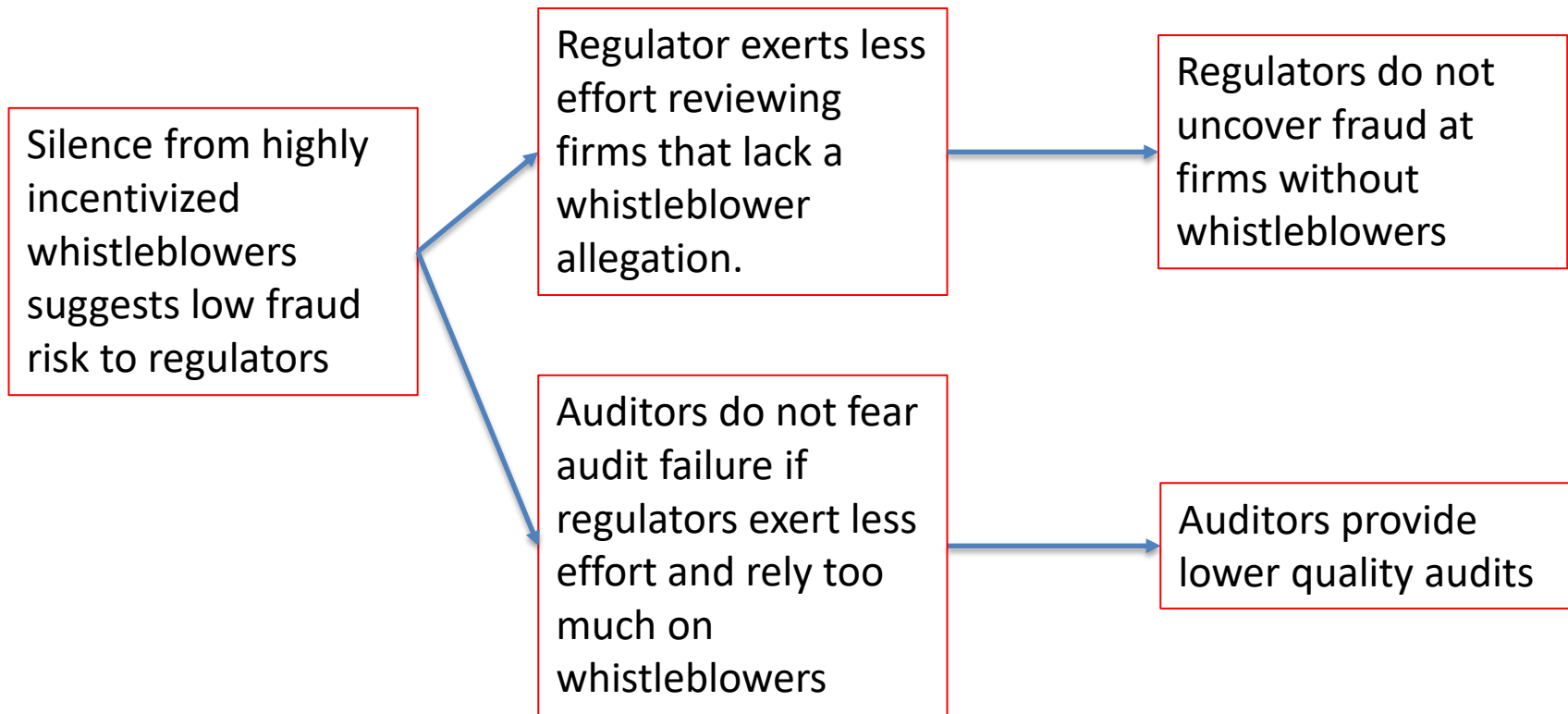
# Overview

## *Increase audit quality:*



# Overview

## *Decrease audit quality:*



# Thoughts

---

- Very interesting to think about what happens if regulators rely *too much* on whistleblowers
- Resource constraints at regulators have been documented
  - The SEC's enforcement program has limited resources which drives focus to targets they are already informed about (Kedia and Rajgopal 2011)
  - DOJ intervention focuses on cases with high chance of winning (Heese, Krishnan, and Ramasubramanian 2021)

# Does regulatory action drive audit quality?

Audit failure (and audit quality) is driven by enforcer/regulator effort either to review filings or to enforce when there is a whistleblower allegation

Fraud detection “takes a village” (Dyck, Morse, and Zingales 2010)

- 10% or more of whistleblowing
  - Employees, Analysts, Short sellers, Media, Industry regulators, Auditors
- Less than 10% of whistleblowing
  - SEC, Clients/competitors, Law firms, Investors

Does the presence of whistleblowers affect other outside monitors?  
Are outside monitors (analysts, short sellers, etc.) whistleblowers or enforcers?

# Whistleblower allegations

---

In the model, everyone knows about whistleblower allegations and they reveal fraud every time.

Allegations are often frivolous, private communications

- Whistleblowing could occur before the audit
  - Audit fees increase when whistleblowing occurs (Kuang, Lee, and Qin 2021)
- Who is actually informed about whistleblowing allegations?
- Who *should* be informed about whistleblowing allegations?



# Summary

---

Employee whistleblowing programs that include monetary incentives are popular and expanding.

Model finds that too much reliance on whistleblowers could reduce audit quality and the likelihood of catching audit failures

It would be interesting to allow for imperfect whistleblowing allegations, and to know the effect of other outside monitors.

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Panel June 3, 2022

***Experience of Recent Whistleblowers, Regulators & Facilitators***

Pavandeep Gill, Senior Legal Counsel, Wirecard *No PPTs*

Alejandro Cardot, Whistleblower, Bridging Finance Scandal

Joe German, Director of Strategic Alliances,  
ClearView Strategic Partners



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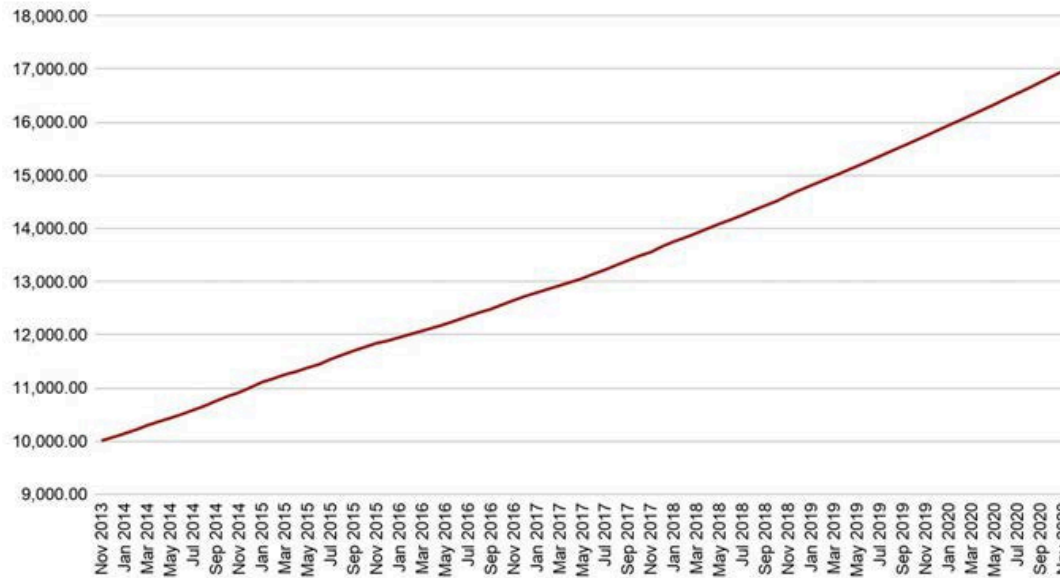
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**Corporate Misconduct, Fraud & Whistleblowing**

# **My Experience as a Whistleblower**

June 3, 2022  
Alejandro Cardot

Value of C\$ 10,000 invested at inception in the Bridging Fund

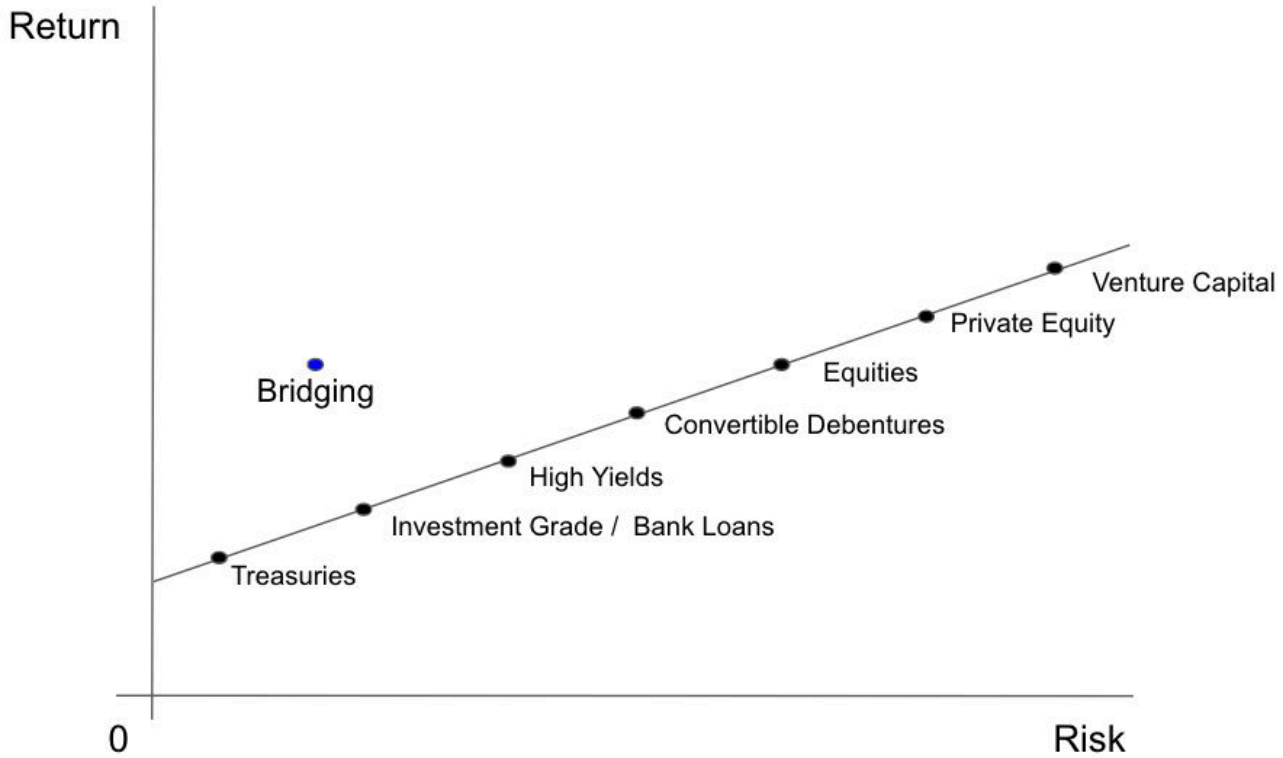


Investment Manager



We are overcollateralized, and Senior Secured

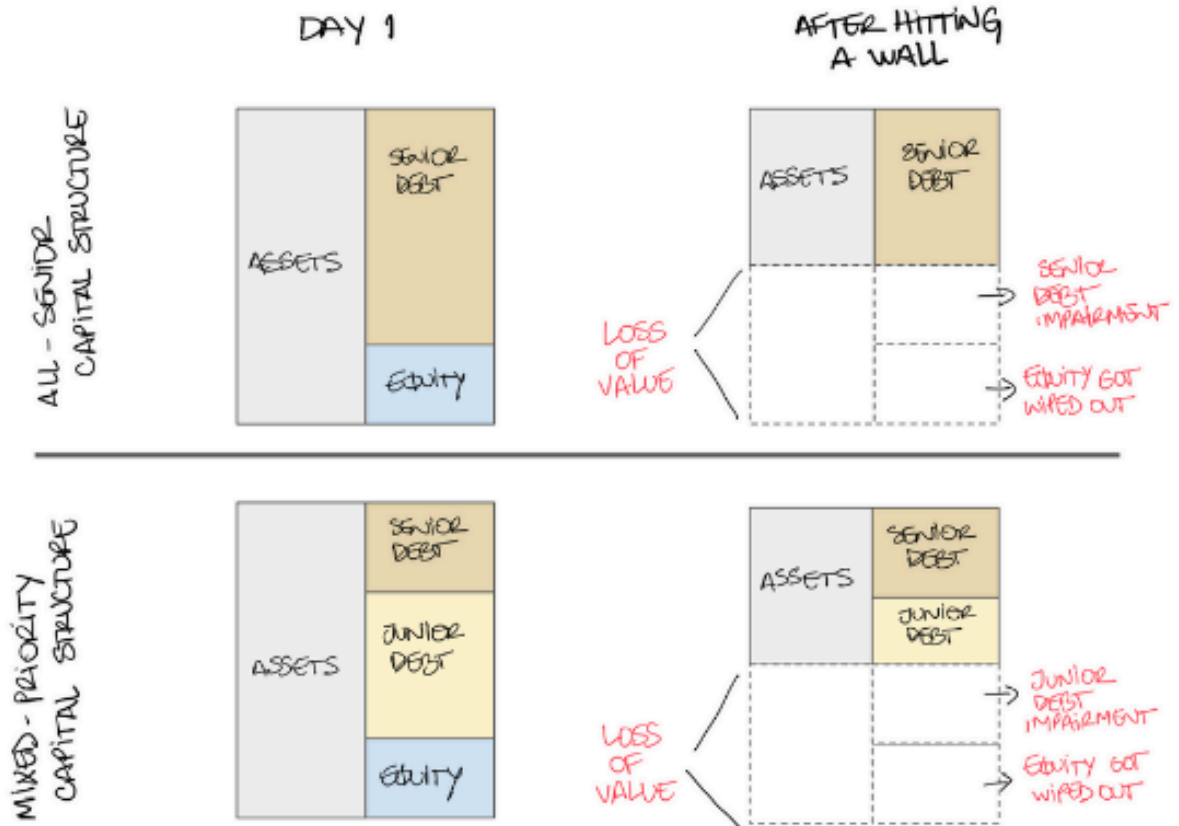
Never experienced loan losses



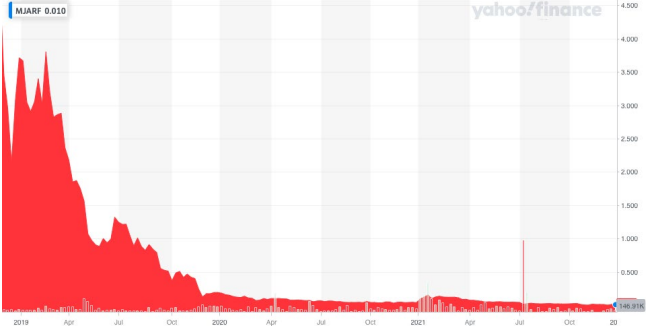
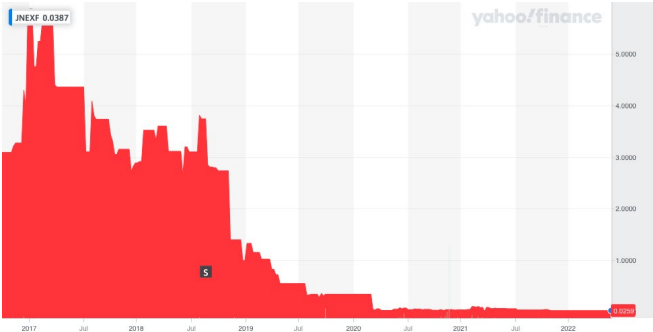
“It sounds too good to be true”

# Senior Secured Loans

# Financial Innovation?



# Looking under the hood



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|                                 |                                    |
|---------------------------------|------------------------------------|
| -----X                          |                                    |
| In re:                          | : Chapter 11                       |
|                                 | : :                                |
| HYGEA HOLDINGS CORP., et al.,   | : Case No. 20-10361-KBO            |
|                                 | : :                                |
| Debtors. <sup>1</sup>           | : (Jointly Administered)           |
| -----X                          |                                    |
| NEVADA 5, INC., and NSHYG, LLC, | : :                                |
|                                 | : :                                |
| Plaintiffs,                     | : :                                |
|                                 | : :                                |
| v.                              | : Adversary Proc. No. 20-50598-KBO |
|                                 | : :                                |
| BRIDGING FINANCE INC.,          | : :                                |
|                                 | : :                                |
| Defendant.                      | : :                                |
| -----X                          |                                    |

**MEMORANDUM OF LAW IN SUPPORT OF BRIDGING FINANCE INC.’S  
MOTION TO DISMISS ADVERSARY COMPLAINT**

Dated: May 25, 2020  
Wilmington, Delaware

**DLA PIPER LLP (US)**  
  
By: /s/ R. Craig Martin  
R. Craig Martin (DE 5032)  
1201 N. Market Street, Suite 2100  
Wilmington, Delaware 19801  
Telephone: (302) 468-5700  
Email: craig.martin@dlapiper.com

“Bridging is woefully undersecured”



# Now what should I do?

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- Why is no one talking about this? Can I be wrong?
  - Formulate a hypothesis and test it against evidence
  - Look out for trusted parties who can find flaws in your analysis.
- Which is the best way to communicate what I found?
  - Writing a description of the facts, not an opinion
    - Must use primary and verifiable sources.
- Who can be interested in this information?
  - Authorities
    - Whistleblowing programs with awards
  - Investors
  - Auditors
  - Media

# What to expect?

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- By definition, you are a contrarian.
- Lonely Experience.
- You will have doubts about your judgement.
- Confirmation bias will be triggered to the point of obsession.
- Unless you provide overwhelming evidence, it will be extremely hard to convince someone about the soundness of your thesis.
- It will take a long time for authorities to take action, probably years, if ever.
- Generally, former whistleblowers will be happy to help. Don't hesitate to reach out.
- “Smart and properly incentivized journalists are often our only financial regulators.” — Jared Bibler

# How whistleblowing programs can improve?

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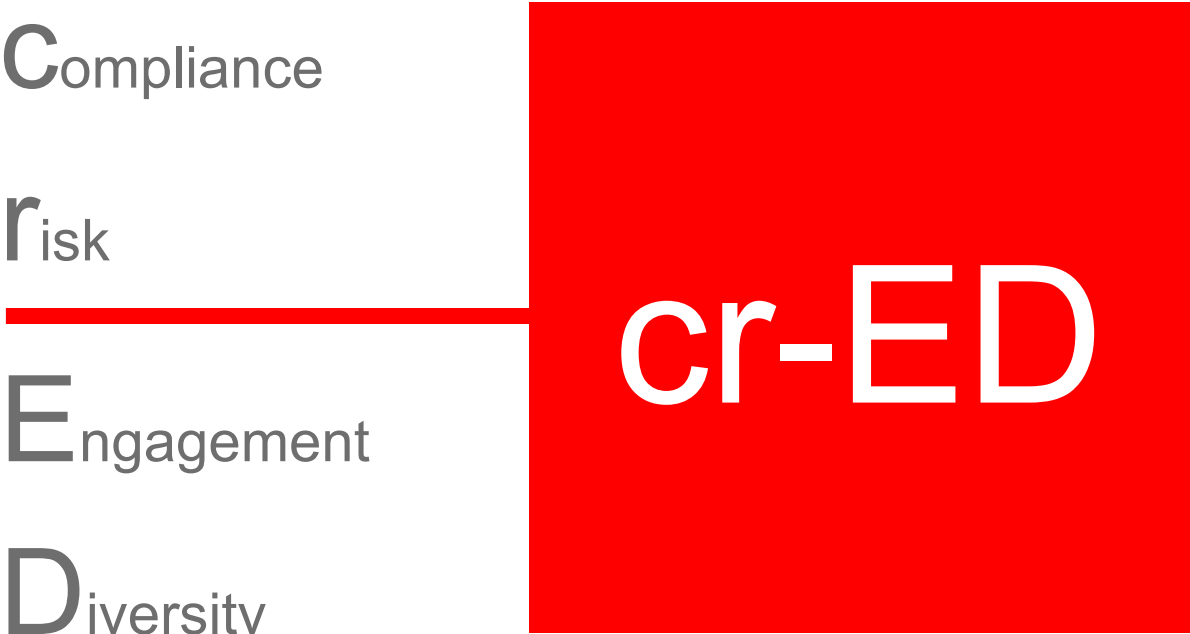
- Improve communication.
  - A whistleblower is a collaborator to an authority. To improve success rates in any relationship, the parties should be able to communicate.
- Programs should let people know what they expect and what they don't expect from whistleblowers.
  - Provide redacted versions of successful tips.
- Canadian Securities Regulators must follow the OSC and establish monetary awards for whistleblowers.
  - Even if you are granted anonymity, It is not a risk-free activity.
  - Whistleblowing consumes a lot of time.

Compliance

risk

Engagement

Diversity



cr-ED



- **Foster equity, diversity and inclusion**
  - Discrimination or (un)conscious bias
  - Concerns about hiring practices or career progression opportunities
  - Encourage ‘ally’ reporting
  
- **Prevent harm**
  - Physical violence or Intimidation
  - Sexual harassment or assault
  - In person or online bullying
  - Domestic violence
  - Alcohol or substance abuse
  - Wage theft / timesheet manipulation
  
- **Garner feedback**
  - ‘Town hall’ or ‘ask the CEO’ questions prior to, or during, a live event
  - Communicate via a 24/7/365 Anonymous Suggestion Box
  
- **Alleviate ‘power imbalance’ relationships**
  - Patient/Doctor or Patient/Administrator
  - Student/Teacher or Parent/Teacher
  - Care home resident/Nurse, Care home patient/PSW, family member/administrator
  
- **Conduct secure auditable investigations**
  - Abuse allegations within faith denominations or other institutions
  - Being used as a tool for special investigations
  
- **Centralize anonymous and non-anonymous sources or reporting including:**
  - Management, Human Resources, Audit, Legal, Safety, Compliance, Board and more
  
- **Support municipalities, Crown Corps and provincial governments**
  - Receive concerns regarding staff and service provision
  - Prevent bid rigging and anti-competitive behaviour
  - Enhance community safety
  - Identify areas for improvement
  
- **Help regulators receive reports about the non-compliance of regulated entities**
  
- **Support the asking of difficult, awkward or nebulous clarifying questions to pre-empt violations**
  - E.g., Gift giving or receiving policies
  - Securities trading
  - Interpersonal relationships
  
- **Track known or potential conflicts of interest**
  
- **Address supply chain risk**
  - Illegally sourced products and counterfeiting
  - Child or forced labour / modern day slavery
  - Unsafe working, mine, or factory conditions
  
- **Address digital security and privacy concerns**
  - Data breaches & network vulnerabilities
  - Privacy violations
  
- **Combat Fraud, theft, misuse of resources**
  
- **Support Covid-19 safety in the workplace**
  - Safety protocols and/or lack of PPE
  - Return to work issues & safety protocol upgrades
  
- **Protect the environment from the**
  - Dumping unsafe materials and pollutants
  - Un/under reporting of emissions
  
- **Combat academic dishonesty**
  - Plagiarism, cheating
  - Admissions irregularities
  
- **Safeguard sport and athletes**
  - Concussion protocols not being followed
  - ‘League bubble’ rules being breached
  - Illegal doping
  - Equipment violations & Doping
  
- **Support factory, plant or job sites safety**
  - Safety protocol violations
  - Covered up or unreported injuries
  - Equipment maintenance issues
  - Enabling contractors or non-union tradespeople to report unsafe workplaces without fear of being blackballed for future work

# Creating a safer listening spectrum

- ✓ Idea generation
- ✓ Question
- ✓ Concern raising
- ✓ Reporting

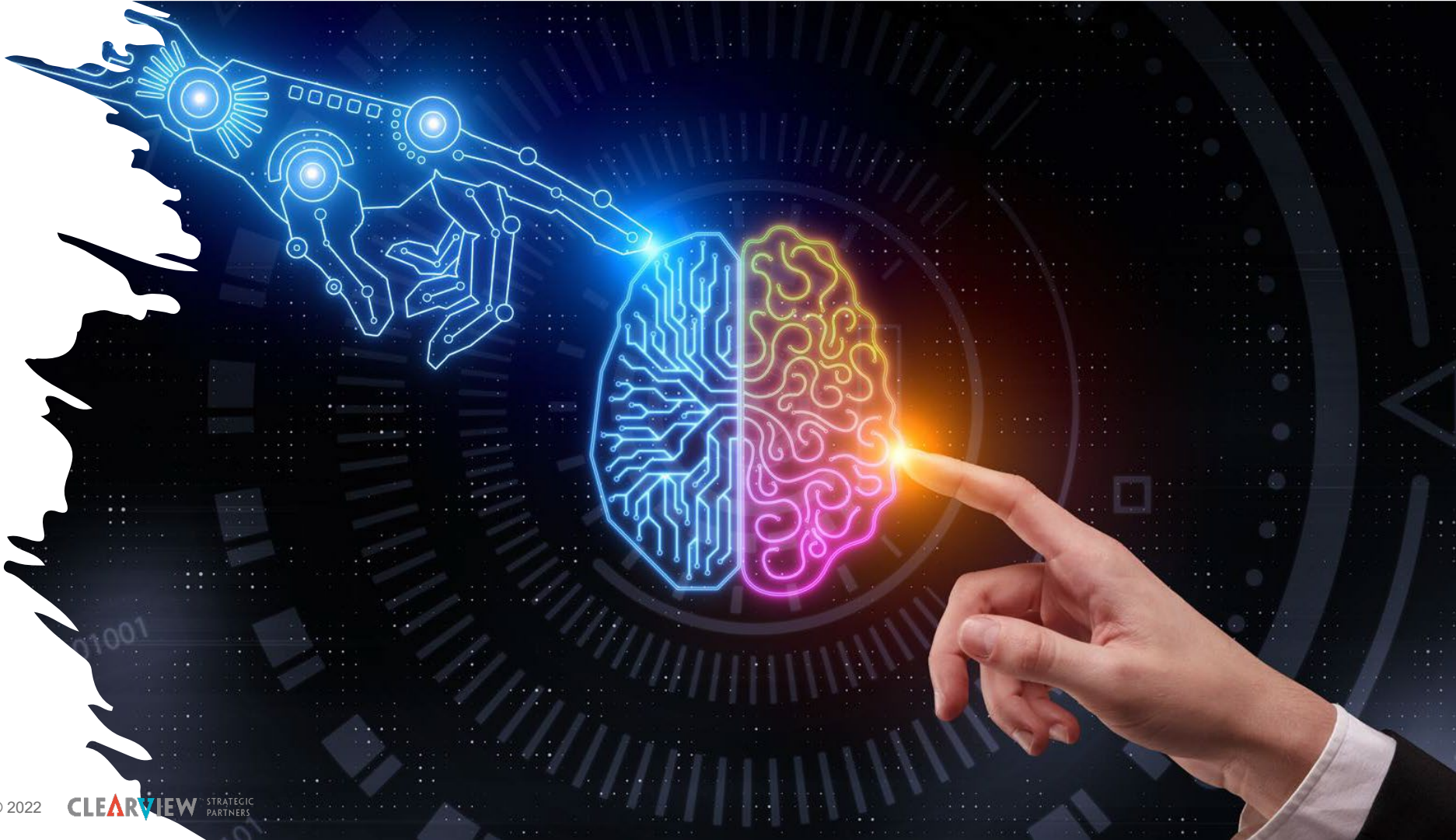
- Named
- Private
- Confidential
- Anonymous



# What the future holds...

1. Integrated approach
2. Increased concerns re: 'unmasking'
3. Focus on being proactive and detection [AI?]





PAC INVITED CONFERENCE  
CORPORATE MISCONDUCT, FRAUD &  
WHISTLEBLOWING

June 3, 2022

Questions & Answers



Professional Accounting Centre

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PAC INVITED CONFERENCE  
CORPORATE MISCONDUCT, FRAUD &  
WHISTLEBLOWING

June 3, 2022

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