# Corporate Governance scandal: The case of Waste Management

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#### 1. Introduction

Waste Management was founded in 1968 in Chicago, Illinois by a merger of two companies owned by cousins Wayne Huizenga and Dean Buntrock. Waste Management is a company that provides collection, transfer, recycling, and disposal services to public and private areas and customers. Essentially, these are the individuals with the garbage trucks who come pick up your waste once a week and take it off to a waste distribution center and then to a landfill.

In its first year, Waste Management generated \$5.5 million in revenues, but soon began to grow very rapidly by acquiring its competitors across the country and eventually North America. Waste Management then began operating in the United States of America, Mexico, and Canada. Waste Management went public in 1971 and used the proceeds to acquire even more of its competitors.

Acquisitions played an important role in the significant growth of Waste Management during the 1970's, and at the end of the decade, the company generated almost \$400 million in revenues. Along with this, more and more individuals were being born in what is known as the "Baby Boomer" time period, and because of this, more individuals were buying things and the usage of plastic packaging had recently been introduced. So, the more individuals buying items and using items creates even more waste. Because more waste was created, North America required more services from Waste Management.

Coming to the 1980's, the firm continued to grow, and it hit almost \$1 billion in revenues already in 1982. Three years later in 1985, the revenues exceeded \$2 billion dollars. Despite the significant growth during the 1980's, co-founder Wayne Huizenga left Waste Management in 1984. While Huizenga continued his noteworthy career elsewhere, the other co-founder, Dean Buntrock faced a new problem.

By the early 1990's Waste Management had become a mature company after decades of growth, and due to an aggressive acquisition strategy, there were less competitors to acquire and thus, to be used as a fuel for that growth. So far, their exceptional growth had appealed to investors, and Wall Street in general, and even though the company was entering into its mature phase, investors and analysts continued to expect Waste Management to maintain its exceptional growth.

With executives' compensation tied to stock performance, it wasn't in the interest of the CEO Buntrock or other executives to report figures that would indicate to stakeholders that the company's days of growth are over. Instead, management decided to distort its financial statements to signal continued growth to its stakeholders. Fraudulent accounting took place between the years 1992 and 1997. After restating its financial reports for those years, the SEC became interested and started an investigation, which eventually led to a lawsuit against the Waste Management. The SEC's findings in 2002 were that Waste Management had defrauded investors out of over \$6 Billion between the years 1992 and 1997 due to fraudulent accounting.

While investors had been defrauded of over \$6 Billion, top executives at Waste Management received ill-gotten gains. According to the SEC, Dean Buntrock the Founder and Chairman of the Board stole \$16.917.761. But other top executives also took a hefty share of ill-gotten gains. Phillip Rooney the President and CEO stole \$9.286.124, James Koenig the VP and Chief Financial Officer stole \$951.005, Thomas Hau the VP and Chief Accounting Officer stole \$640.100, Herbert Getz a Chairman stole \$472.500, and Bruce Tobecksen the VP of Finance stole \$403.779. All these top executives were found guilty by the SEC of receiving ill-gotten gains from the false growth and ill-reported financial reports.

## 2. Empirical findings

### 2.1. Strategic changes before the fraud

As discussed above, much of the growth experienced by Waste Management had been fueled by an aggressive acquisition strategy, and by 1990 Waste Management was the biggest waste management company in the US (Diamond, A. & Diamond, R.V. 2019). However, that was not enough for "growth addicted" CEO Buntrock (Elkind, P. & Rao R.M. 1998), who in the late 1980s led Waste Management to strategic decisions that failed on every possible way. Waste Management had become so large that it couldn't acquire enough smaller companies to maintain its growth. The new strategy was to expand massively overseas and to expand the company's product portfolio. Waste Management moved to hazardous-waste disposal, recycling, water treatment, and even lawn care, and Buntrock recast the company as a portfolio of global environmental-services businesses and completed it with a new name: WMX Technologies (Elkind, P. & Rao R.M. 1998).

While the revenues continued to increase and the service portfolio to expand, the strategic decisions started to become costly. Waste Management had overpaid for the abroad

acquisitions, the hazardous-waste business started to decline, and returns from recycling were poor. As a result, Waste Management failed to meet its own pre-determined targets (and the growth expectations by its stakeholders), but it wasn't in the interests of the CEO Buntrock or other executives to report figures that would indicate to stakeholders that the company's days of growth are over as their compensation was tied to the stock. Instead, they decided to adopt fraudulent accounting policies to create an illusion of maintained growth (Diamond, A. & Diamond, R.V. 2019). These poor strategic decisions were pointed out by Nigel Wilson, who had joined Waste Management in 1993 as finance director for international operations, as he recommended Buntrock to change the company's strategy towards cutting the costs. However, Buntrock refused to change his mind nor the strategy, and Wilson resigned after two years in 1995 (Elkind, P. & Rao R.M. 1998).

### 2.2. Fraudulent accounting

In 1992, Waste Management started to commit profit manipulation by using a variety of methods (Complaint: SEC v. Dean L. Buntrock, Phillip B. Rooney, James E. Koenig, Thomas C. Hau, Herbert A. Getz, And Bruce D. Tobecksen. 2002). They avoided depreciation costs of their garbage trucks by extending the useful life of the trucks and overstating the salvage values of those trucks. In addition, Waste Management assigned salvage values to assets that should not have had salvage values or that previously had no salvage value. They failed to report the expenses related to decreases in the value of their landfills as they were filled with waste and neglected to report the expenses related to unsuccessful and abandoned landfill development projects to keep these costs out of their income statement.

They also improperly capitalized a variety of expenses to avoid deducting the costs in full in the period they were used and deferred the amounts to its balance sheet as an asset. For example, if they purchased a small equipment that was an immaterial amount to the company, they should have expense that equipment. As they did not want to report the purchase as a cost on income statement, they decided to create an asset of it to the balance sheet which allowed them to write off the cost in smaller amounts over time. Waste Management also failed to maintain enough reserves to cover their income taxes and other expenses.

### 2.3. Exposure of the fraud

Buntrock's retirement in 1996 triggered a series of events that led to an investigation of accounting irregularities at Waste Management followed by an announcement of restatements

in February 1998. Financial reports were restated for each year between 1992 and 1996 and for the first three quarters of 1998. Restated financial reports revealed that Waste Management had overstated its after-tax earnings by over \$1 billion (Complaint: SEC v. Dean L. Buntrock, Phillip B. Rooney, James E. Koenig, Thomas C. Hau, Herbert A. Getz, And Bruce D. Tobecksen. 2002). After the restatements the stock price wavered for the next year before collapsing in July 1999. After the stock crashed, it took over 15 years for Waste Management stock to reach the price level that it had prior the crash. Also, because of the restatements, the SEC became interested and started their own investigation, which eventually led to a lawsuit against the Waste Management in 2002.

The top management's personal gains were also huge, as already mentioned in the introduction. The co-founder and CEO Buntrock gained the most with almost \$17 million of ill-gotten gains, and he's been said to be the one who set the culture of fraudulent accounting in Waste Management. The total ill-gotten gains of the executives summed up almost to \$28.7 million (Complaint: SEC v. Dean L. Buntrock, Phillip B. Rooney, James E. Koenig, Thomas C. Hau, Herbert A. Getz, And Bruce D. Tobecksen. 2002). In his first interview after the scandal, he claimed that it was the stakeholder expectations which put the pressure on Waste Management to continue its growth and led the company to misstate its financial figures by saying that the market, shareholders, and their own employees expected them to continue to grow, and that it was his job as the CEO to set a strategy that would ensure the growth also in the future (Elkind, P. & Rao R.M. 1998). Buntrock's comments can be seen, at least in part, as an attempt to shift responsibility away from Buntrock and other executives, but the truth is that investors were the biggest losers in the fraud - they lost more than \$6 billion when information about the falsified financial statements became public (Complaint: SEC v. Dean L. Buntrock, Phillip B. Rooney, James E. Koenig, Thomas C. Hau, Herbert A. Getz, And Bruce D. Tobecksen. 2002).

Thus, it can be argued that another driver behind the scandal was CEO's and top management's personal traits. Also, the SEC concluded in its complaint that the fraud was motivated by greed and a desire to preserve professional and social status. Finally, the external assurance, or the lack of it, made the fraud possible. It was the Artur Andersen auditors who spotted the fraud in its early stages. The SEC confirmed in its investigation of the case that Arthur Andersen had been involved in helping Waste Management hide the fraud from its stakeholders, instead of requiring them to correct the financial reports and disclose the information to its stakeholders.

### 3. Theory

### 3.1. Fraud Triangle

To Answer the questions of what was missing at Waste Management that led them to commit fraud as well as what they should have done differently, the Fraud Triangle will be employed. The Fraud Triangle was developed by Cressey (1973) and is a model for explaining the factors that cause someone to commit occupational fraud.



Figure 1: The Fraud Triangle (Source: Cressey, 1973)

The triangle has three sides indicating three drivers that force people to commit fraudulent actions. The first side is Opportunity referring to circumstances that allow fraud to occur. In the fraud triangle, it is the only component that a company exercises complete control over. Examples that provide opportunities for committing fraud include weak internal controls, poor tone-at-the top and inadequate accounting policies.

The second side of the Triangle is Pressure which discusses the mindset of employees towards committing fraud. Examples of things that provide incentives for committing fraud would be bonuses based on a financial metric, investor and analyst expectations and personal incentives such as maintenance of social image and status.

The final side of the Triangle is Rationalization. This talks about an individual's justification for committing fraud. Examples of common rationalizations that fraud committers use include excuses like "others are doing it as well" and "there is no other options".

#### 3.2. Dean Buntrock

# 3.2.1. Analysis with Fraud Triangle

The Fraud Triangle shall act as a tool to analyze the actions of those who are involved in the scandal at Waste Management. The first person that is going to be investigated is the mastermind, the biggest driver behind the fraud, Dean Buntrock. As a starting point, the first side of the Fraud Triangle, Opportunity, will be analyzed. Buntrock was the Founder and Chairman of the Board of Directors of Waste Management. Because of the power he had as the Chairman, he was in a very convenient position shall he want to falsify the financial records. Moreover, Waste Management started as a small waste business in Colorado owned by the Huizenga, Buntrock's ex-wife's family. It was Buntrock and his team that led Waste Management to expand across North America. Hence, it is expected that Buntrock would gain certain respect from employees of Waste Management, especially those with high seniority and probably have reached high positions within the company. Not to mention the Huizenga family members would have a close-knit relationship with him and would be more likely to overlook his mistakes or even collide with him in committing unethical actions. Additionally, people with management positions like Rooney, the CEO, was scouted by Dean and was groomed to become his successor. It would be no surprise if Rooney obeyed requests from Buntrock, including those of fraudulent nature.

Besides internal factors, there are external circumstances that contribute to the opportunities of Buntrock to commit frauds. Specifically, other Executives such as Koenig – the CFO, Hau – the CAO and Tobecksen – Vice President of the Finance Department had either worked or trained at Arthur Andersen, the auditor of Waste Management, leading to a lack of independence in the relationship between an auditing company and its client. There is also a lack of ethics from Arthur Andersen itself as the firm received additional fees outside auditing agreements to issue unqualified opinions on Waste Management's financial reports. The lack of ethics then came from the side of Waste Management as well. It was stated in the complaint by SEC that the executives at Waste Management were known to be controlling and did not allow others to question their actions. Furthermore, by persuading others to join his scheme, Buntrock formed a very aggressive accounting culture at Waste Management where accounting

changes were made to fit the targeted earnings set by Buntrock himself and phony numbers were given during financial results announcements.

Next will be the discussion on the next side of the Fraud Triangle, Pressure. As mentioned previously, Waste Management had started to exit the fast- growing state and entered a more mature, stable state. This causes the firm to fail to meet the predetermined targets that Buntrock set. As Buntrock is the Founder and had enjoyed the high growth that helped him expanded the company, he must have wished to maintain his empire, causing him to think of fraudulent actions. Not to mention the analysts was getting comfortable with the high growth and expected more to come. In terms of personal benefits, Buntrock's income was tied to Waste Management's stocks which added fire to the fuel. Earnings from stock price increases were also used to purchase other companies to accelerate growth but this could not be done because of the declining growth outlook.

Another personal incentive that Buntrock had in committing accounting crimes was that he might have wanted to keep his image as the pillar of the community. Before the scandal, Buntrock was the founder of several local trade organizations and the recipient of various awards like the Horatio Alger Award and was named the inductee of the Sales & Marketing Executives International Academy of Achievement. Even in 1997, 1 year before the fraud got exposed, Dean was named outstanding chief executive in the pollution control industry by Financial World and The Wall Street Transcript.

Finally, Regarding the last side of the Fraud Triangle: Rationalizations, since the fraud was conducted for five years (1992-1997), Buntrock might have thought that he would not be caught. He also got agreements from other executives to join his scheme, making him feel that he had accomplices and that it was fine as others were doing the same. In fact, people like Buntrock love to hire those sharing similar value systems with them. Moreover, Buntrock was an enthusiastic philanthropist who had been a generous benefactor for numerous institutions. Hence, he might consider increasing his wealth to help the unfortunate was a right thing to do. In other words, the end justifies the means.

#### 3.2.2. Some comments on the behavior of Dean Buntrock

Some might question whether Dean Buntrock is really a "villain" in this case since he appeared to be an enthusiast in terms of charitable activities and might just really have wanted to grow

the firm. However, what is notable is that Buntrock chose to do these under whatever means it took which left no excuses for him. Another factor that would decide whether Buntrock should be considered a good or bad person is the motive behind his actions: did he participate in charitable activities and was eager to move Waste Management forward because he truly wanted to contribute to the society and that he cared about the business as well as the employees of Waste Management. From the evidence that was collected, this did not seem to be the case.

To illustrate, while being the Chairman at Waste Management, Buntrock capped his employees' salary raises to about 4% while he was claiming that the company was growing and making great profits. He was also making over \$6 million a year in estimated wages as well as other compensation and could afford to donate \$26 million to his alma mater. About Buntrock's attitude towards society, there were few environmental fiascos under his management, like the explosion and consequential shutdown of Chemical Waste Management Inc., Chicago Incinerator. Despite being a leader of a waste company, Buntrock had a stuffed bear outside his office in Oak Brook. Not to mention him having a facade and entryway of imported Italian marble installed at the 3001 Butterfield Rd headquarters, at a time when the company was denying the purchase of simple things like inkjet computer printers because of a "tight budget". To add fuel to the fire, Buntrock was said to be coming and going by helicopters and taking stretch limousines. Colleagues who visited his home told that he had 6 car garages with a rotating turntable so he would not have to ever back up his car to get out of the garage or driveway.

It thus seems from the details above that Buntrock was a selfish individual who committed all the crimes to satisfy his ego and sustain his "empire" in spite of the consequences. Even after the scandal had happened, he did not seem to have any remorse for those who were affected by his actions. In fact, he even claimed that his pension was worth \$12 million.

#### 3.3. Other executives

Before analyzing the actions of the other executives, it is beneficial to go through the specific crimes that they have committed:

 Phillip Rooney, the CEO: ensured that required write offs were not recorded and overruled accounting decisions offs were not recorded and overruled accounting decisions that would have a negative impact on operations.

- James Koenig: ordered the destruction of damaging evidence, misled the Company's audit committee and internal accountants, and withheld information from the outside auditors
- Thomas Hau: acted as Koenig's sous-chef for cooking the books
- Herbert Getz: blessed the Company's fraudulent disclosures
- Bruce Tobecksen: handled Hau's overflow

To explain the logic behind their fraudulent actions, the Differential Association theory (Sutherland, 1947) will be employed. According to this theory, most of the learning of criminal behavior happens within close, personal groups rather than from detached communications. Furthermore, the learning of criminal behavior also includes the learning of techniques used to commit crime as well as the motives and rationalizations that are associated with crime. Of course, the Fraud Triangle also applies to other executives as they also had some of the same opportunities and pressures as those of Buntrock, like working in an unethical environment and benefitting from stock-based compensations. However, the Differential Association theory reveals that it is possible that more criminal acts were conducted as the executives learned among themselves, especially from Buntrock. This also holds for the excuses they made.

# 3.4. Other theoretical frameworks

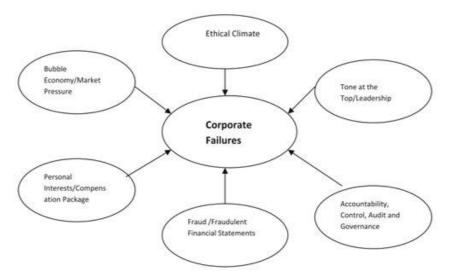


Figure 2: Theoretical framework indicating the possible major causes of corporate failure (Source: Soltani, 2014)

The above figure is a theoretical framework by Soltani (2014) on the factors contributing to corporate failures. According to the framework, there are six factors that together result in corporate failures: ethical climate, leadership, accountability, control audit and governance, fraudulent financial statements, personal interests/compensation packages and market pressure.

In regard to ethical climate, it was earlier stated that there was an unethical culture of aggressive accounting at Waste Management and fraudulent activities were conducted in groups. In terms of leadership, Buntrock, the Chairman was the main driver behind the accounting scandal alongside other executives. Buntrock was also controlling and set illogically high earning targets to suit his own goods. For accountability, the management took no consequences for their actions for five years before the case was exposed to the public. The audit and governance aspects also suffered as Arthur Andersen, the auditor, had a highly cozy relationships with managers hence lost its independence.

On the personal gains and compensation packages, Waste Management has a equity-based compensation system and the management would probably want to maintain the status of a high-growth company for Waste Management, not to mention Buntrock would wish to put up a good image for himself in the community. Lastly for market pressure, the fact that Waste Management observed declining growth put pressures on the managers on how to meet investor expectations.

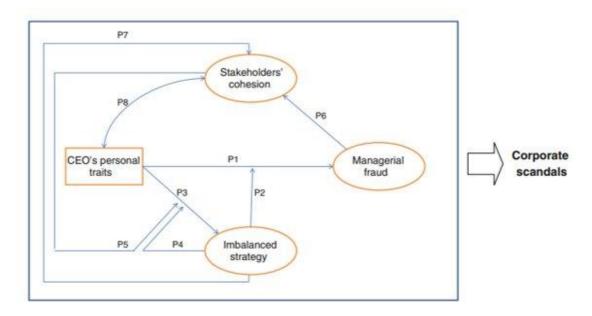


Figure 3: The antecedents of corporate scandal (Source: Zona et al., 2013)

Another useful framework that could be employed to explain the scandal at Waste Management is that of Zona et al. (2013) on the antecedents of corporate scandal. Many points in the model could be filled be details in the Waste Management case. Particularly, managerial fraud is reflected through the unethical actions of the Board and executives. There was also imbalanced strategy within Waste Management since the target for high growth did not match the more mature state of the firm. Problems in CEO's personal traits also shown the lack of moral values, controlling, ambitious or even greedy nature of the management. Such high aspirations by the managers enhance the undertaking of an imbalanced corporate strategy. Finally, stakeholder's cohesion is shown through high expectations from investors in terms of growth, probably affected by the fraudulent numbers given by the company.

#### 3.5. Recommendations

Since the fraud started from Buntrock, it is recommended that Waste Management fired him from the Board of Directors. The company should also hire a new CEO as Rooney was determined as the successor of Buntrock. The new hire should have a different value system from Buntrock and someone who is ethical and could rebuild the culture of Waste Management in that way. Moreover, Waste Management should choose a different auditor that did not have such as cozy relationship to the officers of the firm. Last but not least, in order to eliminate the opportunity factor of fraud, other officers such as the CFO and CAO that have more direct influence on the financial statements of the company would have had to be replaced as well.

However, even after all these actions, it would still be hard for Waste Management to turn around if not able to change the culture within the firm. Moreover, not only one or a few people of the management were involved in the crime, but every one of them. Hence, the only solution for Waste Management would be for it to be acquired by another company that would then replace the whole management team and the Board of Directors. The acquirer could then develop a new culture which would focus on the sustainability of the firm, its people and the community. Trainings could be given to employees and mechanisms that would ensure ethics and compliance inside the firm like whistleblower could be put into practice.

Another important detail that Waste Management should keep in mind should the firm wish to turn around is the role of internal auditing. Although there were not any reports on the internal audit practices at Waste Management, one thing that could be confirmed was that such practices were unsuccessful. Since internal audit is the key to the assurance that an organization's risk management, governance, accounting and internal control processes are operating, it is crucial that Waste Management pay careful attention to this. Internal auditors also play a significant role in implementing Sarbanes Oxley Act (SOX), which was introduced after the scandals at Waste Management and Enron. SOX protects the public from fraudulent or predatory practices by corporations and other business entities. The act increased transparency in financial reporting by corporations and established a system of internal corporate checks and balances. One of the most crucial things to keep in mind when developing internal audit functions is to make sure they are independent from senior management. Other tips for effective internal audit include:

- Having clear goals: in the case of Waste Management would be to have accurate financial reporting numbers and details as well as to ensure the ethical climate within the firm
- Planning and undertaking audit systematically
- Keeping records of the audit to track progresses
- Making sure that the internal audit process is well understood by people within the team
- Evaluate the effectiveness of the internal auditing process regularly

To enhance the quality of internal control, Waste Management should also engage in Enterprise Risk Management practices like following the newest ISO and COSO frameworks. Additionally, awards and recognitions could be given to employees with excellent performance in internal control and who contribute positively to the ethical culture at Waste Management.

#### 4. Results

#### 4.1. After the fraud

Waste Management replaced their CEO, management, and auditor. The company had several CEOs between the years 1996 and 2004, since many of them stayed only for a short period of time due to the situation in the company. Waste Management was unattractive for externals, such as investors and analysts, and it certainly was that for the short-term CEOs as well. The company was acquired by USA Waste Services in 1998, which resulted in new CEO from the acquiring company, new board composition and completely new outside Chair of the Board. After the acquisition the name remained Waste Management since it was seen as more commonly known. At the time auditor Arthur Andersen was replaced after the fraud. In 1997, the current CEO, Lemay, started the inspection of the fraud. In early 1998, the financial restatements for 1992-1997 were made, revealing \$1.7 billion worth of pre-tax earnings. The company was profitable, which enabled them to survive the scandal.

#### 4.2. Consequences

People involved, the company itself and their auditor faced consequences. The main directors responsible for the fraud were suspended, banned from serving as officers or directors in publicly listed U.S companies and many of them were filed civil cases against. The officers received \$31 million fines in total. For Waste Management, the settlement costs were \$26,8 million in addition to being liable to shareholders for \$457 million. Arthur Andersen faced \$7 million settlement cost and significant reputational damage, but these consequences were not efficient enough to stop them. While they were not penalized effectively, they also participated in Enron Scandal soon after this one, and after that they lost the auditing permit. The auditor was the only factor that Waste Management and Enron shared, although they operated in the same country and under the same laws. Sarbanes-Oxley Act was constructed in 2002 due to Enron and WorldCom scandals to mandate record-keeping and reporting in publicly listed companies in the U.S.

#### 5. Conclusions

To conclude the main points, family relations and other dependencies can potentially enable these kinds of immoral actions seen at this case. It has been studied that financial restatements

are more likely to occur when a founding member is the CEO and less likely when the Chair of Audit Committee is independent. In this case, the CEO was the founder of the company, which can partly explain the action causing the need for restatements. Even though there was not available specific information about it, we strongly assume the Chair of Audit Committee to have not been independent and that enables key actions of the fraud. We also have learned that external revisors are better off as completely independent, which was definitely not the case here. Lastly, this case reassures us that regulations and laws are necessary for ensuring quality of auditing. There is no indication of actual learning happening among the managers or the auditor, and they probably went on with their careers after the fraud since there wasn't really anything stopping them from doing so.

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