

Anatomy of a Fraud (All is Sometimes Not As It Seems)

Our client, a mid-sized logistics and transportation company, is in the business of managing the supply chain, from inventory management through shipping and tracking. Their customers are primarily larger manufacturers and distributors. They were approached by an enterprise (the "Partner") whose business plan called for development of a nationwide network in order to extend the benefits and cost savings of our client's services to smaller shippers, who might not otherwise qualify for quantity discounts or other specialized services from transportation providers. A joint venture was pitched to our client, who agreed, based largely on the Partner's representation that a significant portion of the required resources and infrastructure (local courier services, sales reps, pre-signed customers, trucks, etc.) was already in place. The burden was put on the Partner to develop the business and provide needed funding. After a time, no progress had been made toward establishing a viable business, and the major shipping and trucking companies who had been willing to extend discounted services to the venture dropped out. The Partner then filed an arbitration demand, claiming that our client had essentially abandoned the venture.

Schulze Haynes Loevenguth & Co. was retained as business and damages expert to opine as to (a) the viability of the initial business plan, and (b) the amount of damages, if any, suffered by the Partner.

Upon investigation, to everyone's surprise, none of the purported infrastructure or pre-signed customers appeared to be legitimately in place. We contacted over 60 of 500 identified "customers", who turned out to be genuine businesses and shippers, but not a single one had ever heard of our client's Partner. Same for the supposed courier network and the sales reps - none and none. And no trucks, either. Along the way it turned out that the principal of the Partner had been previously indicted for procurement fraud.

Although our client obviously prevailed in the arbitration, there is a lesson to be learned - do your due diligence. In today's business environment, trust and a handshake, while still important, will take you only so far.

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