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The Foreign Corrupt Practices Act Turns 40: "Reflections on Walmart's Enhanced Ethics & Compliance Program"

Jay T. Jorgensen

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KEYNOTE

THE FOREIGN CORRUPT PRACTICES ACT TURNS 40

“REFLECTIONS ON WALMART’S ENHANCED ETHICS & COMPLIANCE PROGRAM”

by: Jay T. Jorgensen*

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I. INTRODUCTION

Thank you for inviting me to be part of this conference examining the impact of the Foreign Corrupt Practices Act (FCPA) forty years after it was enacted. I’m Jay Jorgensen. I currently serve as the Global Chief Ethics & Compliance Officer of Walmart. In this role, I develop the company’s strategic vision for our ethics and compliance program. A major part of that effort involves compliance with the FCPA and other anticorruption regulations in the countries where Walmart does business.

* This article is based on the keynote address that Jay Jorgensen delivered to the Foreign Corrupt Practices Act Turns Forty conference on October 12, 2017. The Speaker would like to thank Soraya Rudofsky, Frederic M. Levy of Covington & Burling LLP, and Anthony J. Dick of Jones Day for their assistance in preparing this keynote. Copyright © 2017 Jay T. Jorgensen

Several years ago, Walmart voluntarily disclosed allegations of potential FCPA issues that it uncovered during an internal review, and it has been cooperating with the U.S. government on those allegations ever since. At the same time, the company has undertaken a sustained effort to build a world-class global ethics and compliance program.

As this is an academic conference, I'd like to offer Walmart's recent experience as a case study in how large multinational companies can create an effective ethics and compliance program. It's my hope that these observations will prove useful to companies, lawyers, and academics working to understand and combat the plague of corruption.

II. WALMART'S BUSINESS SUCCESS

To begin, it may be helpful to provide some information about Walmart's history and current operations.

Sam Walton was a serial entrepreneur. With support from his family, he ran several franchise stores and a successful five-and-dime store in Northwest Arkansas before opening the first Walmart in 1962. Sam's idea was to provide customers with low prices by keeping his own business costs low and passing those savings along. He also focused on convenience, offering a wide assortment of items in one place, and opening stores in underserved locations. This mix of convenience and good prices was well received by the American consumer. Walmart grew quickly domestically and then began to expand internationally.

Walmart Retail Markets

By most measures, Walmart is the world's largest retail business, with over 11,600 retail locations worldwide. Walmart is the largest retailer and private employer in the United States, employing 1.5 million individuals domestically. We operate retail operations in twenty-

eight countries on five continents and employ over 2.3 million worldwide. In addition to those locations where we sell items, Walmart sources products from a large number of additional locations around the globe.

This success presents an opportunity to serve people and to improve the communities where we do business. On a personal level, I grew up in rural Utah. I remember when a Walmart store opened in a neighboring town. That store brought convenience and good prices to our area, which our family appreciated. As studies have shown, my personal experience has been shared by millions of other consumers. By keeping costs and prices low, we have made the essentials of life more affordable for hundreds of millions of people who shop in our stores, immensely improving the quality of their lives. In addition, our competitive prices have caused products to be more affordable throughout the marketplace. Due to the beneficial effects of competition, Walmart’s presence in the market saves the average family several thousand dollars per year no matter where they shop.¹

The size of Walmart also provides an opportunity to serve the community in ways beyond convenience and price. For example, our stores often provide good locations for solar panels, and Walmart has become a leader in renewable energy.² We also use our buying power to shape the manufacturing industry for good, by letting the companies that produce products know that we want to buy products that

1. See, e.g., IHS GLOBAL INSIGHT CONSULTING, THE PRICE IMPACT OF WAL-MART: AN UPDATE THROUGH 2009 1–2 (2010) (finding that the existence of Walmart led to a decline in overall consumer prices in the United States saving consumers approximately \$2800 per household in 2009).

2. See WAL-MART STORES, INC., 2017 GLOBAL RESPONSIBILITY REPORT 3, 56–58 (2017).

are free from certain chemicals,³ and insisting that our suppliers adhere to certain standards for their workforce,⁴ among other initiatives.

Sam Walton changed the face of retail with the creation of Walmart, and now the retail business is transforming once again. Technology has triggered a seismic shift in our industry. Customers expect retailers to use technology to provide not only low prices, but also a convenient, time-saving shopping experience. As a result, retail is changing fast. Thirty-five retail companies have filed for bankruptcy in the United States since the beginning of 2017⁵ and other major retail chains are closing hundreds of stores.⁶

Walmart recognizes these changes and is focused on how we can make every day easier for busy families. We realize that customers want technology to reduce the cost of shopping in terms of time and hassle, in addition to financial cost. Over the last two years, we have expanded the number of items available on Walmart.com to over 67 million,⁷ and that assortment continues to grow. We've created new, convenient shopping options for customers, like online grocery pickup and two-day delivery of items from our website. Just over a year ago, we celebrated the acquisition of Jet.com, and since then have added Shoebuy.com, Hayneedle.com, Moosejaw.com, and digitally-native vertical brands Modcloth and Bonobos to our e-commerce business. In March, we launched "Store No. 8," a technology incubator named after the store in Arkansas where Sam Walton used to experiment with new ideas. Store No. 8's mission is to be a cradle of innovation for retail—virtual reality shopping, self-driving vehicle and drone delivery, personalized shopping, and more. We believe that the biggest changes in retail haven't been imagined yet, but they will become reality in just a few short years. Saving our customers money and time means leading the way on these innovations.

3. See *id.* at 3, 88, 125–26, 134; see also Dev Gowda & Zach Polett, *A Fresh Start: Wal-Mart Takes Stand On Chemicals*, ARK. DEMOCRAT-GAZETTE (Oct. 20, 2017), <http://www.arkansasonline.com/news/2017/oct/20/a-fresh-start-20171020/> [<https://perma.cc/WL9K-KHAA>] (noting that Walmart announced a new policy to restrict harmful chemicals in its products and stating that "Wal-Mart is now a national leader on this issue").

4. See WAL-MART STORES, INC., *supra* note 2, at 130–38; see also *Responsible Sourcing*, WALMART, <https://corporate.walmart.com/responsible-sourcing> [<https://perma.cc/4GAH-FUEU>] (last visited Oct. 20, 2017).

5. *Retailers that have filed for bankruptcy in 2017*, CBSNEWS.COM (Sept. 19, 2017), <http://www.cbsnews.com/news/retailers-that-have-filed-for-bankruptcy-in-2017> [<http://perma.cc/537T-TMKG>].

6. Mike Timmermann, *These Major Retailers Have Closed More Than 5,000 Stores in 2017*, CLARK (Oct. 13, 2017, 4:00 PM), <http://clark.com/shopping-retail-major-retailers-closing-2017> [<https://perma.cc/3FQU-M2AA>].

7. Doug McMillon, *One Year Ago We Welcomed Jet. . . and the Winners Are Our Customers*, WALMART TODAY (Sept. 17, 2017), <https://blog.walmart.com/business/20170919/one-year-ago-we-welcomed-jet-and-the-winners-are-our-customers> [<https://perma.cc/NYY8-SRGW>].

III. THE TRANSFORMATION OF WALMART'S ETHICS AND COMPLIANCE PROGRAM

As Walmart's business has been changing, the company has also evolved and changed in our corporate governance. In 2012, the company started a significant effort to enhance our ethics and compliance programs. Prior to that time the company maintained separate compliance efforts in different countries. For example, Walmart's business in the United States had a well-developed compliance program. The company had separate compliance-related activities and personnel in our businesses in Canada, China, Mexico, and elsewhere. All of these compliance programs operated independently of each other, reporting to their local business leaders.

One of the first orders of business in transforming our compliance efforts was to reconceive the program as a single, comprehensive global group. We sought to increase transparency, expertise and accountability by bringing our resources together in an integrated team.⁸

Our reforms began by laying a solid foundation of corporate governance. As the Global Chief Ethics & Compliance Officer, I report not only to the company's Corporate Secretary and Executive Vice President of Global Governance, but also to the audit committee of Walmart's board of directors. The board of directors plays a critical and active role in overseeing the company's ethics and compliance program. In addition to receiving a regular flow of information about ethics and compliance issues, each year the audit committee and our compensation committee have established goals and metrics relating to ethics and compliance. The board has assigned these goals to relevant executives and business units, established accountability for achieving adequate progress on the goals, and monitored their implementation.

With this governance foundation in place, we began building a unified group of professionals dedicated to ethics and compliance. For each of our retail businesses, we appointed a full-time Chief Ethics & Compliance Officer ("CECO") with a direct reporting line back to our company's home office in Bentonville. Each of these CECOs now leads a dedicated team of ethics and compliance personnel, accounting for more than 2,300 associates worldwide. Each CECO sits on the leadership team of their local business, so that they each have a close relationship and influence in local operations. They also report back to the home office, thus providing increased transparency, consistency, and accountability that can be enforced in a centralized manner. By establishing a unified team, we also gained the ability for the

8. For additional discussion of our program's transformation and structure, see Jay T. Jorgensen & C. Kevin Marshall, *UC Davis Law Review Symposium "Corruption and Compliance: Promoting Integrity in a Global Economy" Keynote by Jay Jorgensen*, 49 U.C. DAVIS L. REV. 425 (2015).

entire company to learn from the variety of experiences in different parts of our business.

Defining the Ethics & Compliance Scope

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Around that centralized structure, we shaped the contours of our compliance program to address the particular risks of our business. We recognized that the types of compliance risk can vary widely from one business to the next: a pharmaceutical manufacturer, a bank, and a retailer all face unique challenges, and thus the compliance organization for each should be tailored to that company’s unique risks. By formally specifying which compliance risks are managed through the company’s compliance program, a company can avoid the situation where lack of clarity results in conflicting management of the same risk by more than one corporate department, or a lack of activity due to confusion and the belief that a risk is being managed by others.

After conducting an intensive analysis, we designed Walmart’s program to manage the compliance risks associated with fourteen different subject areas, ranging from anticorruption to food safety. While many companies task their compliance programs with managing a smaller set of issues, these fourteen subject areas reflect the complexity of Walmart’s global business.

To provide the relevant expertise in each subject area, we designated fourteen Global Subject Matter Leaders and installed Subject Matter Experts for each of the fourteen risk areas in each retail market. These Subject Matter Leaders and Subject Matter Experts work together to identify and coordinate common standards and procedures, share best practices, and provide training, monitoring, and support in their subjects. They report to their respective CECOs in each of their business units.

Although Walmart gained a number of benefits from unifying our ethics and compliance program, we recognized that centralization produces its own risks. We wanted to avoid the possibility that business leaders would become less involved in shaping the company's culture of integrity, and we wanted to ensure that the ethics and compliance team remained part of the regular flow of business information and decision-making. We implemented several structural and procedural changes to avoid these risks. One of the most significant was the creation of ethics, compliance, and risk committees at the global level and in each of our retail markets. Walmart's most senior executives, including CEO Doug McMillon, are members of the company's Global Ethics, Compliance, and Risk Committee. That committee meets regularly to discuss current issues related to ethics, compliance, and other enterprise-level risks, with meetings structured to ensure follow-up and accountability for action items. Each of Walmart's retail markets has its own similar committee for the senior executives of that market. These committees consist of the market's senior management and its ethics and compliance leaders, including both the market CEO and the market CECO. The open and continuous dialog created by these committees has helped keep Walmart's leaders active in managing the company's risks, enhancing its policies and processes, and developing its corporate culture.

Finally, in response to a variety of guidance provided by governments and private agencies,⁹ we developed six basic building blocks of our unified program:

- Leadership
- Risk assessment

9. See, e.g., CRIMINAL DIV., U.S. DOJ, EVALUATION OF CORPORATE COMPLIANCE PROGRAMS, <https://www.justice.gov/criminal-fraud/page/file/937501/download> [<https://perma.cc/DLJ9-8RAM>] (last visited Oct. 23, 2017); A Resource Guide, HCCA-OIG COMPLIANCE EFFECTIVENESS ROUNDTABLE, MEASURING COMPLIANCE PROGRAM EFFECTIVENESS (Mar. 27, 2017), <https://oig.hhs.gov/compliance/101/files/HCCA-OIG-Resource-Guide.pdf> [<https://perma.cc/4L4J-VXDP>]; MINISTRY OF JUSTICE, THE BRIBERY ACT 2010 – GUIDANCE (2011), <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf> [<https://perma.cc/XU3M-2K9U>]; ORG. FOR ECON. CO-OPERATION & DEV., GOOD PRACTICE GUIDANCE ON INTERNAL CONTROLS, ETHICS, AND COMPLIANCE (2010), <https://www.oecd.org/daf/anti-bribery/44884389.pdf> [<https://perma.cc/XU7P-E22N>]; ORG. FOR ECON. CO-OPERATION & DEV. ET AL., ANTI-CORRUPTION ETHICS AND COMPLIANCE HANDBOOK FOR BUSINESS (2013), <http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>; U.S. DOJ & U.S. Sec. & Exch. Comm'n, A RESOURCE GUIDE TO THE U.S. FOREIGN CORRUPT PRACTICES ACT (2012), <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf> [<https://perma.cc/6TGF-836U>]; COMPLIANCE MANUAL, WORLD ASS'N OF NON-GOVERNMENTAL ORGS., CODE OF ETHICS & CONDUCT FOR NGOS, <http://www.wango.org/codeofethics/ComplianceManual.pdf> [<https://perma.cc/4JJC-DMDK>] (last visited Oct. 20, 2017); James P. Joseph, et al., *Building an Ethics & Compliance Program for Nonprofits* (Nov. 1, 2016), <https://m.acc.com/chapters/ncr/upload/Slides-NPEthicsAndCompliance.pdf> [<https://perma.cc/5TX7-BDPM>].

- Standards and controls
- Awareness
- Training
- Monitoring and response.

These six building blocks function together in a cycle that we repeat each year: (1) We evaluate whether we have the right leaders for each aspect of our program; (2) those leaders conduct an assessment of the company's risks and measures for managing them; (3) the results of that assessment inform the continual development of our standards and controls; (4) we make our associates aware of those standards and controls; (5) we provide training for our associates on how to implement and use those standards and controls; and (6) we continually monitor and assess the execution of our program to provide data for making informed decisions. This process keeps our compliance program nimble and responsive as our business and the external environment change.

IV. FOCUS ON ANTICORRUPTION

Anticorruption has been a key focus of Walmart's enhanced ethics and compliance program. We realize that a world-class anticorruption program requires expertise. The ways in which corruption occurs and the most effective methods of combatting it are topics of specialized knowledge and experience. Accordingly, we created a dedicated anticorruption team, led by a Global Anticorruption Officer, that consists of over 100 associates from legal, accounting, finance, and other professional backgrounds.

As we have developed Walmart's anticorruption capabilities, we have focused on several areas including third-party due diligence and payments, licenses and permits, donations and charitable contributions, financial controls, and enhanced training.

A. *Third-Party Due Diligence and Payments*

Much of the corruption risk that companies encounter stems from the use of third-party intermediaries ("TPIs") to assist with functions such as licensing and permitting.¹⁰ Accordingly, Walmart has en-

10. See, e.g., Ellen Leinfuss, *Managing the Risks of Third Party Intermediaries* 1, 3 (2013), https://www.ulcomplianceperformance.com/hubfs/eduneeringresources/Resource_Center/White_Papers/UL/ULEwp14_Managing_the_Risks_of_Third_Party_Intermediaries.pdf [<https://perma.cc/YJX7-HM5W>] (noting that 90% of FCPA investigations brought by the US Department of Justice involve third-party intermediaries); see also Press Release, Office of Pub. Affairs, U.S. Dep't of Justice, *Avon China Pleads Guilty to Violating the FCPA by Concealing More Than \$8 Million in Gifts to Chinese Officials* (Dec. 17, 2014) <https://www.justice.gov/opa/pr/avon-china-pleads-guilty-violating-fcpa-concealing-more-8-million-gifts-chinese-officials> [<https://perma.cc/524M-N3BL>]; Press Release, Office of Pub. Affairs, U.S. Dep't of Justice, *Gabonese National Pleads Guilty to Foreign Bribery Scheme* (Dec. 9, 2016) <https://www.justice.gov/opa/pr/gabonese-national-pleads-guilty-foreign-bribery->

hanced every aspect of our processes for managing TPIs, including measures to strengthen screening and diligence procedures, standardize anticorruption contractual commitments, expand risk-based TPI trainings, process compliance certifications, and conduct proactive targeted audits of TPIs.

Under our program, Walmart's business units are required to identify all potential TPIs. Once identified, those TPI candidates must undergo a detailed due-diligence review. To assist with this review, we have developed a customized anticorruption portal with Dun & Bradstreet. The portal automates data collection and workflow, delivery of due-diligence reports, and the monitoring of TPIs' compliance with all of our contracting and certification requirements. The portal also allows for TPI monitoring more broadly, including alerts such as for new convictions or other red flags. From 2013 to 2015, Walmart spent approximately \$22 million to develop and maintain this electronic system.

Finally, Walmart proactively audits our TPIs. These proactive audits are selected by Walmart not in response to allegations of any irregularities in the TPI's services, but based on factors such as risk ranking, TPI expenditures, input from relevant stakeholders, and monitoring results. In 2015, we conducted sixty-three proactive audits, gaining valuable information about our TPIs and the effectiveness of our processes.

B. *Licenses and Permits*

Walmart manages more than 50,000 licenses and permits for our facilities located outside of the United States. Given the scale and complexity of these licensing and permitting obligations, we made it a priority to strengthen the policies, procedures and processes in our licensing and permitting compliance program. Among other measures, we established a dedicated team in each of our retail markets to manage licensing and permitting. These teams are part of our independent ethics and compliance group, not market management. We also enhanced our licensing and permitting standards and controls by adopting a global licenses policy along with supporting procedures, mapping out the processes that must be followed to obtain and renew licenses and permits, and adopting comprehensive training, monitoring and tracking programs.

Some examples of our enhanced controls include creating written work flows for our team members, obtaining documentation of the fees required for each permit, and requiring multiple approvals before

scheme [<https://perma.cc/6ZWT-TKY7>]; Press Release, U.S. Sec. & Exch. Comm'n, SEC Charges Three Oil Services Executives With Bribing Customs Officials in Nigeria (Feb. 24, 2012), <https://www.sec.gov/news/press-release/2012-2012-32.htm> [<https://perma.cc/F4D7-LHK9>].

any cash payments can be issued. With these controls, we strive to know as much as we can about how a license should be obtained and what the lawful fees may be, so we can spot any variances.

To keep track of all these requirements and permitting processes for each of our retail markets and to provide a single repository for documentation, we created a global license management system. Our international ethics and compliance team uses this system to manage all license and permit information and activity, including applications, payments, and approvals, and to track the status of licenses and permits for each market. This centralized system provides consistency across markets and visibility at our home office.

C. *Donations and Charitable Contributions*

Walmart operates in thousands of locations. We want to be a valuable part of each neighborhood where we do business—to integrate into those communities and give back to them. One way we do this is through charitable giving. We are one of the largest supporters of charitable causes. In 2017 alone, Walmart and the Walmart Foundation will give \$1.4 billion throughout the world.

To support this giving, we have adopted enhanced controls for donations, including giving procedures that apply in all of our international markets. These procedures outline requirements for donations to municipal improvements and public works, corporate-level and store-level donations to government entities and non-governmental organizations, and emergency donations. The procedures also prohibit some types of donations and sponsorships.

D. *Anticorruption Financial Controls*

As a corollary to our global anticorruption compliance program, in 2012 Walmart launched a global effort to enhance and strengthen our anticorruption-related financial accounting controls, both in our home office and our international retail markets. Walmart's finance and business teams finished implementing the program in all of our retail markets in 2014, and as of April 2016, the equivalent of sixty full-time associates were dedicated to the program.

The program takes a risk-based approach to financial controls and addresses six primary risk areas: (1) licenses and permits, (2) fines and penalties, (3) gifts or donations to government officials, (4) payments to expedite movement of goods, (5) entertainment of government officials, and (6) direct payments to government officials. As part of this program, the anticorruption financial control team has documented the processes and controls related to these risks in each market. This documentation takes associates step-by-step through each relevant process and illustrates where the controls are placed within the pro-

cess, so that each transaction relating to these risks can be handled appropriately.

E. *Enhanced Training*

Walmart reinforces its commitment to integrity and ethical conduct through a multifaceted training program that includes both live sessions and electronically delivered content. We strive to provide associates clear, easy-to-understand information so they can manage each of our compliance risks as part of their regular duties. Last year Walmart provided ethics and compliance training to more than 1.2 million associates in the U.S. alone.

Walmart also has invested to update and expand our global anticorruption training. Our enhanced program is far-reaching and, as a result, has had a significant impact in enhancing anticorruption awareness. From 2012 to 2015, Walmart associates completed more than a quarter million computer-based training sessions, and 96,632 attendees participated in instructor-led anticorruption training. These training materials are tailored to various audiences and to the risks presented by their respective positions and responsibilities.

V. COMMON PRINCIPLES FROM WALMART'S EXPERIENCE

In preparing for this conference, I reviewed and thought about these and other changes that Walmart has made over the last several years to build a world-class ethics and compliance program. I also thought about the millions of dollars that Walmart has invested in ethics and compliance, and specifically in anticorruption, over that timeframe. Since this is an academic event, I treated Walmart's experience as a case study, asking: What can we learn from Walmart's efforts? What has Walmart experienced that would serve as a guide to other companies and to anticorruption professionals?

A. *Company Culture Is Profoundly Important, But Must Be Supported by Effective Compliance Processes*

First, Walmart's experience shows that a culture that emphasizes integrity is vital to a company's ability to govern itself and its employees, act responsibly, and ultimately succeed.

Numerous studies have shown that an organization's culture has a significant impact on a company's success. A company's culture can shape brand identity, affect employee motivation, and either foster or hinder innovation. The importance of a company's culture is reflected in statements by former IBM chief executive officer Lou Gerstner and famed management consultant Peter Drucker that "[c]ulture is every-

thing”¹¹ and a company’s culture “eats [its] strategy for breakfast.”¹² A recent commenter noted that an organization’s “[c]ulture is like the wind. It is invisible, yet its effect can be seen and felt. When it is blowing in your direction, it makes for smooth sailing. When it is blowing against you, everything is more difficult.”¹³

One thing I discovered upon joining Walmart is that the company has a strong and distinct corporate culture. This is no accident. From the company’s beginning its founder and the leaders he selected believed that a company’s culture could and should be thoughtfully shaped.¹⁴ They noted that “[e]very organization has a culture—whether orchestrated by its leaders or not” and determined that they

11. Liz Ryan, *How Important Is Corporate Culture? It’s Everything*, FORBES (Sept. 16, 2016, 3:31 PM), <https://www.forbes.com/sites/lizryan/2016/09/16/how-important-is-corporate-culture-its-everything/#1f5db3266883> [<https://perma.cc/PCT9-ECQL>].

12. The phrase “culture eats strategy for breakfast” is commonly attributed to Peter Drucker, though it does not appear anywhere in his published works. See, e.g., Shep Hyken, *Drucker Said ‘Culture Eats Strategy For Breakfast’ And Enterprise Rent-A-Car Proves It*, FORBES (Dec. 5, 2015, 9:02 AM), <https://www.forbes.com/sites/shep-hyken/2015/12/05/drucker-said-culture-eats-strategy-for-breakfast-and-enterprise-rent-a-car-proves-it> [<https://perma.cc/XKL2-3JEQ>]. In recent years, the phrase was popularized by Mark Fields, former President and CEO of Ford Motor Company, who kept a copy of it on the wall at Ford. See Jeffrey McCracken, *‘Way Forward’ Requires Culture Shift at Ford*, WALL ST. J. (Jan. 23, 2006, 12:01 AM), <https://www.wsj.com/articles/SB113797951796853248> [<https://perma.cc/6CHJ-4GR6>] (“High on the wall, hangs a big, white sheet of paper on which is written: ‘Culture eats strategy for breakfast.’”).

13. Bryan Walker & Sarah A. Soule, *Changing Company Culture Requires a Movement, Not a Mandate*, HARV. BUS. REV. (June 20, 2017), <https://hbr.org/2017/06/changing-company-culture-requires-a-movement-not-a-mandate> [<https://perma.cc/7ED6-LHM7>].

14. Don Soderquist, *Culture, The Bottom Line Advantage*, VIMEO (June 17, 2013), <https://vimeo.com/68539676>.

would plan and create a culture to support the company's mission.¹⁵ As a result, Sam Walton and leaders such as our former chief operating officer Don Soderquist intentionally selected the attributes and behaviors they wanted to encourage in the company and sought to encourage those through their communications and actions. These leaders explicitly made the connection between good and bad events that occurred in the company and the company's culture so that each event provided an opportunity to teach and reinforce cultural values.¹⁶ In fact, creating and maintaining organizational culture was such a passion for Don that he founded a leadership institute to research and teach about values-based leadership and organizational culture.¹⁷ These efforts to create and maintain our culture are a significant part of life at Walmart to this day.

The culture that Walmart's early leaders created emphasizes respect, honesty, integrity and trustworthiness. One of the oft-quoted statements from Walmart's founder summarizes this outlook, noting that "[p]ersonal and moral integrity is one of our basic fundamentals, and it has to start with each of us." From the earliest days of the company Walmart has considered even the appearance of impropriety unacceptable. As just one example, it has been a longstanding company policy and cultural practice at Walmart to decline gifts or entertainment from suppliers and potential suppliers. Sam Walton believed that if a supplier gave a Walmart associate even a small gift like lunch, it might create a perceived conflict of interest or change the associate's willingness to bargain for the best prices and terms for our customers. We want to maintain transparency and objectivity in our interactions with suppliers and other third parties, and we want our suppliers to keep costs low so we can pass the savings on to our customers, so we have a cultural expectation of declining these gifts.

This strong corporate culture has been a significant reason for our success in enhancing Walmart's formal ethics and compliance program. Those many changes have required significant investments in time and money, but the company at all levels has been quick to adopt these enhancements because they fit with the company's cultural expectations. Rather than spending time on explaining or justifying these investments, the company has been able to move forward.

Second, in an organization of any size, a strong culture of integrity is essential but not sufficient. For appropriate corporate governance, effective processes are also required.

15. *Soderquist Culture Survey*, SODERQUIST LEADERSHIP, <https://soderquist.org/pages/culture> (last visited Oct. 20, 2017); see also Soderquist, *supra* note 14.

16. See Doug McMillon, *Remembering Don Soderquist, Retired Walmart COO*, WALMART TODAY (July 22, 2016), <https://blog.walmart.com/heritage/20160722/remembering-don-soderquist-retired-walmart-coo> [<https://perma.cc/8A4N-6B2U>].

17. See SODERQUIST LEADERSHIP, <https://soderquist.org> (last visited Oct. 20, 2017).

In light of the emphasis that commentators have placed on the importance of company culture, it may be controversial to say that a strong culture isn't enough. Let me explain what I mean. I agree that cultural expectations provide a strong motivation and guide for employees' decisions. With the right culture, a company's employees will want to act with integrity. Without that expectation, an organization would incur an extra burden to monitor for wrongdoing. We can all think of communities where regulation and policing is light because the residents largely seek to follow the law and treat each other with kindness and respect. Sadly, we can also all think of communities where even a heavy police presence seems to be insufficient. This same phenomenon applies inside large organizations.

But in an increasingly complex business environment, even people who want to do the right thing don't always know what actions to take or avoid. As an example, Walmart operates stores in twenty-eight countries and ecommerce websites in eleven. Through these outlets we provide a variety of goods and services to millions of customers each week. To manage these businesses well, we must educate our employees on the best way to fulfill their responsibilities. We also need to provide them with a way to ask questions. Even with excellent training, not every employee will handle each situation the right way. Accordingly, we must have processes to monitor our performance and to provide correction where needed. Finally, we must provide mechanisms for allegations of wrongdoing to be appropriately reported, investigated and resolved. Only through these types of processes can the cultural desire to act appropriately be realized across a wide group.

Third, to have effective governance, companies must recognize limits on how much company culture can shape employees' behavior. Culture in part is defined by a set of unwritten rules and practices that govern everyday activities. It takes time for new employees to learn both a company's written policies and unwritten expectations. In a business with high turnover, there will always be employees who are new. While recent hires are acclimating to their new jobs, they will be guided by the cultural expectations they learned over their entire lifetime before coming to the company. Additionally, a large company's culture is rarely uniform. As a business grows and expands, the way employees perceive and interpret the company's unwritten rules may vary across different locations.

B. *Global Companies Must Communicate Specific Details to Their Employees About Behavioral Expectations and Cultural Norms*

It can be easy to assume that many of the norms we take for granted are universal. Because of that assumption, companies often communicate behavioral expectations in broad terms such as "work safely" or "do the right thing." One lesson from Walmart's recent ex-

perience is that these types of pronouncements can be useful in reminding us of our obligations, but only if a common understanding of those obligations has already been achieved. In other words, for companies with diverse locations, it's important to be specific in communicating how employees should behave when faced with different situations.

For many years Walmart has espoused three basic beliefs: (1) providing excellent service to our customers; (2) showing respect for each individual; and (3) striving for excellence in all we do. As I noted previously, the company expected and communicated that all of our work should be done with integrity. That expectation was so fundamental that it wasn't included in the list of our basic beliefs. It seemed so obvious that nobody felt a need to include it.

We've changed that. Walmart's three basic beliefs are now our four basic beliefs, with "acting with integrity" added as an explicit injunction. By calling out this expectation, we have found that we have more opportunities to talk about what integrity means in various situations.

One example in particular stands out to me. I was told about a buyer in one of our markets who was looking to buy a particular product, and when he negotiated with the seller, the seller offered him a bribe. The buyer refused that offer and was recognized by the company for doing so. When a member of the buyer's family found out that he had declined the bribe, she was extremely angry with him. Her argument was that caring for one's family should be a person's foremost priority, and therefore in her view the buyer had failed to act with integrity. In this instance, the clarity with which Walmart had expressed our anticorruption expectations was helpful in achieving the outcome we wanted.

We can't assume that everyone will understand and interpret our culture the way we intend. That's why we need to follow up on these more general and aspirational cultural discussions with processes and training that help specify and reinforce the behavioral patterns we want our associates to follow and the choices we want them to make.

VI. CONCLUSION

Corruption hurts everyone. Studies have shown that companies engaging in corruption grow weaker over time because they aren't required to win business through merit¹⁸ and that the people living in communities where corruption occurs are made poorer by its presence.¹⁹ I've summarized some of the major investments that Walmart has made in our ethics, compliance, and anticorruption programs during the past several years. We consider this to be money well spent. We are proud to be a leader in the fight against corruption, not only because it makes us stronger as a company, but also because it furthers our goal of improving the lives of people in the communities we serve.

18. See Anna Kochanova, *How does corruption affect economic growth?*, WORLD ECON. F. (May 6, 2015), <https://www.weforum.org/agenda/2015/05/how-does-corruption-affect-economic-growth/> [<https://perma.cc/T87E-ATRJ>]; MARIE CHÊNE, TRANSPARENCY INT'L, *THE IMPACT OF CORRUPTION ON GROWTH AND INEQUALITY* (Mar. 15, 2014), https://www.transparency.org/files/content/corruptionqas/Impact_of_corruption_on_growth_and_inequality_2014.pdf [<https://perma.cc/28X4-6YSK>].

19. See Paulo Mauro, *Why Worry About Corruption?* INT'L MONETARY FUND, ECON. ISSUES 6, (Feb. 1997) <http://www.imf.org/external/pubs/ft/issues6/issue6.pdf> [<https://perma.cc/A642-78MH>]; CHÊNE, *supra* note 18, at 2, 6–8.