

## **What are the Odds in Your FCPA Compliance Investigation?**

The experts have spoken and the Astros are a 75-1 long shot to win the World Series. But that is just what the experts predict and as we are 3 weeks away from pitchers and catchers reporting for Spring Training I prefer to take the pink cloud approach, that at least as of now, the Astros have as good a chance as any team to make it to the Fall Classic. Of course, in the 50+ years of professional baseball in Houston, the Astros (and their predecessor Colt 45s) have made it that far only once. But at least it happened in my lifetime...

All of which brings us to this posting's topic, Catelas software. In my transaction lawyer life, I do work for some medium to small software companies, which license software generally related to the energy industry. One of the best pitches you can make about a software product is along the lines of the following, "I have this software which can do some really cool stuff." I recently saw a demonstration of Catelas software and came away thinking, this is some really cool stuff. But even more than such platitudes, the software allows the FCPA compliance professional a different way to continuously monitor within a company for possible Red Flags and to begin, organize and implement a FCPA compliance investigation in a more cost effective manner.

The Catelas software imports and analyzes communications data, like email, IM, telephony and SMTP log files from systems such as Microsoft Exchange Servers and Lotus Notes. The Catelas product then leverages social network analysis and behavioral science algorithms to analyze this communications data. These interactions are used to uncover and display the networks that exist within companies and between the employees of companies. Additionally, relationships between employees and external parties such as private webmail users, competitors and other parties can be uncovered.

From this data, Catelas creates visual relationship maps. These maps can assist a company focus resources in any FCPA compliance investigation on any persons within the company an individual under investigation has interpersonal relationships. The thesis of this approach is that data and information move through trusted relationships. A person who may be involved in a FCPA compliance matter, would be more likely to use such trusted relationships within a company, rather than involving others, to transmit data and information or to engage in any FCPA violative activity.

This approach can assist an investigator in not only finding out what may have transpired in the past but it also allows the investigator to focus who should be questioned going forward. Such relationship maps can also inform the overall investigation protocol by allowing a company to key in on certain persons and transactions; rather than simply running the entire company's email database through a key word search program, or worse yet, having a law firm (presumably young associate) read every email, at the earliest, preliminary investigative stage.

By automatically uncovering who is talking to whom, when they connected and how well they know each other, the Catelas software product identifies both the internal and external people most likely to be involved. This allows a company to review more relevant data and from that point, expand the scope of any FCPA investigation as warranted. The Catelas approach can assist a FCPA compliance investigation in at least three ways.

1. Early Assessment: quickly ascertain the scope, cost and risk associated with an incident or case making you better prepared, earlier. Determine if there is a FCPA violation, who is involved, both internal & external and uncover all relevant content.
2. Data Identification & Collection: determine who and what to investigate before collecting a single email or pulling data from computers. Eliminate the need to re-collect later, avoid spoliation. Eliminate early irrelevant custodians and avoid over collection.
3. Compliance: quickly uncover inappropriate relationships, non-obvious connections and webmail information theft by dynamically monitoring communications patterns of employees, partners and consultants inside and outside your organization.

If any of this piques your interest, I would suggest you check out the Catelas website. It provides visuals on what I have been describing. You are probably wondering how the Catelas product relates to the Astros and their 75-1 shot at making the Big Dance next fall. Well, if you utilize this software product, I believe it would put your odds at much better than the Astros winning the World Series. Moreover, Catelas will allow you to conduct a more efficient, more cost effective and focused FCPA compliance investigation.

*This publication contains general information only and is based on the experiences and research of the author. The author is not, by means of this publication, rendering business, legal advice, or other professional advice or services. This publication is not a substitute for such legal advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified legal advisor. The author, his affiliates, and related entities shall not be responsible for any loss sustained by any person or entity that relies on this publication. The Author gives his permission to link, post, distribute, or reference this article for any lawful purpose, provided attribution is made to the author. The author can be reached at [tfox@tfoxlaw.com](mailto:tfox@tfoxlaw.com).*

© Thomas R. Fox, 2011