

# THE RULES OF BACKGROUND CHECKS

*Ignore these at the peril of  
your organization*

By Paul Jaeb

don't mean to scare you. But this is typical.

7:00 a.m. The caller, a metro-area building contractor, is apoplectic. I hear myself repeating the number. "Nine hundred and fifty thousand dollars!" Gone. Thin air.

Meanwhile, the IRS is making a friendly inquiry as to why the company's federal income tax withholdings for 23 employees mysteriously ceased 18 months earlier. The firm's trusted accountant, who is, incidentally, building a \$650,000 McMansion on an annual salary of \$55,000, is sure it's all a huge mistake.

Mistake is right. By 9 a.m. our preliminary check into 15 databases has already uncovered three felony convictions, two bankruptcies, one misdemeanor theft, four judgments and an unpaid traffic ticket attached to Mr. Integrity.

Astonishingly, a company that routinely runs its cleaning staff through a veritable meat grinder of Green Card checks and random drug tests neglected to conduct so much as a Google-level investigation into someone whose sticky hands were handling millions of dollars a year.

Know what? Relax a little about the people who clean the board room. Statistically speaking, when a low-level employee steals something, it's less than a \$100 hit. The suits who sit around the table? Be afraid. Be very afraid. According to the Association of Certified Fraud Examiners, when a senior executive earning \$200,000 or more perpetrates fraud, the median loss is more than \$1 million.

Reagan used to say about the Soviets, "Trust but verify." I say forget trust. Just verify. In today's post-Enron/WorldCom world, I wouldn't hire my own mother as a senior VP, appoint her to my board or go into partnership with her without background-checking her DNA.



Twenty years of lying cost George O'Leary his dream job at Notre Dame

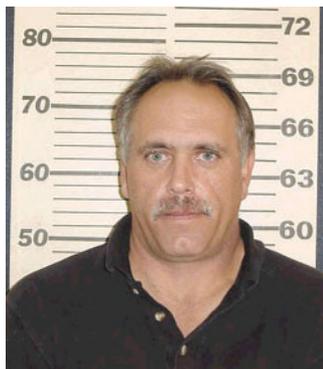
The financial industry has it right. They don't care whether you pump gas or run Exxon. If you want a house loan, you're expected to supply everything from your first-grade report card to last year's income tax return. That's the attitude lawyers and their clients need to have about high-level background checks. Just do it.

Awhile ago, we were hired by a Twin Cities law firm to run a routine investigation on a prominent Las Vegas businessman who had approached a client to invest in a high-tech start-up. We tracked him for several days and found *absolutely nothing*. An astounding lack of data on a living human being. Then, while digging into civil records, we discovered a document detailing — guess what — *a name change*. Everything lit up after that.

Bankruptcy. Stock fraud. Dozens of civil suits. A nasty, expensive divorce. Needless to say, the client was extremely grateful — to us *and* to his lawyer.

When you feel the need to justify launching a professional background check into your prospective partner, client, executive, top vendor or superstar, take my advice. Buy six cheap frames and position mug shots of the following poster children prominently on the wall facing your desk.

And every time you look at them, remember that these folks ignited public relations catastrophes that by the sheer force of stupidity, benign neglect and/or cockeyed optimism, drove the public's "What were they *thinking*?!!" barometer downright nuclear. In no particular order of infamy:



A new line-up for Backman

**WALLY BACKMAN — ARIZONA  
DIAMONDBACKS MANAGER FOR A DAY**

Actually it was four days before the *New York Times* revealed that the D-backs' new manager, former Minnesota Twin Backman, had a history of arrests, bankruptcy and court-ordered anger-management treatment. The Diamondbacks, who insist they really did ask Backman if he had anything sketchy in his past, are background-checking everybody these days.

**BERNARD KERIK — EX-SECRETARY OF HOMELAND SECURITY NOMINEE**

The business partner of former New York mayor Rudy Giuliani and recent director of Taser International Inc. was derailed when news sources revealed what the White House had missed: Mafia ties, a secret ex-wife, bankruptcy, a civil arrest warrant and an illegal Mexican nanny. "The most cursory checking would have shown this guy has more skeletons than a haunted house," one Capitol insider told the *Washington Post*.

**JAMES HATFIELD — UNFORTUNATE AUTHOR OF *THE FORTUNATE SON***

St. Martin's Press was forced to recall and destroy 90,000 copies of the book, in which then Texas governor George W. Bush was accused of cocaine use, after it was discovered that the author had been convicted of attempted murder in 1988 — paying a hit man \$5,000 to obliterate his former boss with a car bomb.

**DIMITRIUS UNDERWOOD — 1999 VIKINGS FIRST-ROUND DRAFT CHOICE**

The Vikes signed Underwood to a five-year, \$3.5 million contract knowing he could play football, but apparently not much about his mental condition. The star defensive end from Michigan State left training camp after one day, pronouncing the conflict between serving God and playing football irresolvable. Later diagnosed as bipolar, Underwood caught on with the Dallas Cowboys. While there, he attempted suicide by running into traffic. Recovered from his injuries, he was subsequently charged with robbing a wheelchair-bound paraplegic and assaulting a Dallas police officer.

**GEORGE O'LEARY — NOTRE DAME COACH FOR A WEEK**

That's how long it took the legendary Georgia Tech coach and now former Vikings defensive coordinator to resign as coach at Notre Dame, admitting to two decades of inadvertent misstatements about his academic and athletic background. "I can't understand how you could go all those years and not catch or correct it," former Notre Dame coach Ara Parseghian told him. Neither could anyone else. The Vikings must have had déjà vu in February, when incoming coach Reggie Fowler gave out a résumé riddled with inaccuracies.

**DONALD BLOM — ALIAS EXTRAORDINAIRE**

How did someone with a seven-page criminal history of sexual assault and other offenses pass a Bureau of Criminal Apprehension background check and end up working in a Minnesota Veterans home? The murderer of teenage convenience-store clerk Katie Poirier fooled investigators with a dizzying array of aliases and alleged birthdays. The Blom debacle has fostered one positive outcome — establishment of Minnesota's high-tech CriMNet program to make criminal data available to law enforcement officials at every level.

So, short of hiring me, how can you avoid being snookered by people who think nothing of stealing your money, damaging your reputation or destroying your company? A few things to keep in mind:

If you attempt to conduct the check yourself, *really* know what you're doing. You'll be sorting out scores of databases, thousands of court records,

credit reports, complex criminal histories — and do you have any idea how many John Smiths there are in the world with the same birth date?

Remember, there is no such thing as a national criminal search. Each of America's 3,500 counties operates its own system.

Go to [www.ftc.gov](http://www.ftc.gov) and download a copy of the Fair Credit Reporting Act that covers background checks. Read it thoroughly.

If you background-check one employee in accounting or media relations or whatever department you're eyeing, check them all — in exactly the same way. Otherwise, you're risking a discrimination suit. And remember, if you decide not to hire — or to fire — an employee based on a background check, you're legally required to offer him or her a copy of the information.

Use the relevancy test in evaluating background. A speeding ticket may not disqualify someone seeking a comptroller's position. But a bankruptcy or judgment should be a skyrocketing red flag.

Watch for fudged employment dates. Between 1981-1985 and 1985-1990 might lurk eight or nine months of jail time on a felony conviction.

Again, I really don't mean to scare you. But industry studies report that 40 percent of all job applications contain misstatements. And 30 percent of all business failures are directly related to employee theft. Sleep well. **L&P**

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## The School District Learns a Lesson

*It's not nice to arbitrarily  
fire old people*

**G**erald Brenden just wanted to go back to work. The 62-year-old had undergone quadruple bypass surgery and, after recovering from that and a back injury sustained on the job, was ready to return to his post as the facilities coordinator at Westonka Public Schools. One problem — the school didn't want him back. Brenden sued in August 2003 for age discrimination and workers' compensation retaliation, and a Hennepin County District Court jury ruled against the school district to the tune of a near-\$1.28 million judgment.

"When he came back, school officials suggested that he might want to consider retirement," says Brenden's lawyer Clayton Halunen of Halunen & Associates. "He had no intention of retiring. It was very out of the blue and unusual."

Then, according to Halunen, the school district, citing budget cuts, eliminated Brenden's job and creat-

ed a new one in the same department with similar duties — a job Brenden even applied for and did not get, despite being highly qualified. All of this, Halunen argued to the jury, because the school district was loath to shoulder the burden of "skyrocketing medical insurance rates."

The award, which is believed to be the largest in state history involving workers' comp retaliation, resulted from a number of factors, says Halunen. "In the very beginning of the voir dire process, we opened the jury up to the idea that we were going to seek a significant amount," he explains. "They saw that we caught the employer in various lies — they eliminated him, not the job — and the jury thought it was not fair."

"[Mr. Brenden] is a very genuine, good person," says Halunen. "The jury saw that and sent a strong message to employers that this treatment of employees is wrong."

— Ross Pfund