



Choose Wisely

The investigation of an HR services vendor for misappropriating funds earmarked for clients' medical bills, 401(k) claims and payroll shows once again why choosing the right vendors can make all the difference. Selecting consultants offers the same risks as mergers or acquisitions -- and the consequences of choosing poorly can be "disastrous."

By Jared Shelly

For many companies, purchasing the naming rights to a professional sports arena is the ultimate show of success. The company name is displayed in bright lights at the facility and news anchors and newspaper reporters mention the company's name while reporting on sporting events and concerts.

In Nashville, Sommet Group owned the naming rights to the hockey arena -- the Sommet Center -- home to the NHL's Nashville Predators from 2007-2010. (It is now called the Bridgestone Arena.)

But recent events appear to show that Franklin, Tenn.-based Sommet was anything but a wildly successful organization.

A third-party vendor that managed HR functions including payroll, employee benefits and other administrative services, Sommet is now under investigation by the FBI, IRS and Department of Labor for misappropriating funds that should have been used for medical claims, 401(k) claims and payroll, according to court documents. The company's headquarters was raided in early July.

Sommet is being investigated for potential wire fraud, money laundering, embezzlement and false healthcare statements, according to various news reports. Specifically, it is suspected of failing to fund \$2.1 million in insurance claims and regularly failing to provide funds for its third-party administrator of health benefits, Health First Solutions.

When Health First terminated its contract with Sommet in January, there were \$738,000 in claims left unpaid, according to reports.

The company could not be reached for comment. As of press time, [Sommet's website](#) was inactive.

Allegations such as these underscore once more the importance of doing due diligence in choosing vendors to make sure there are no signs of weakness, inadequacy or ethical issues.

Sherri Elliott-Yearly, CEO of Plano, Texas-based human resource consulting company Optimance Strategies, offers this checklist:

- * Has the vendor been practicing for at least three to five years?
- * Does it have a website with client names, case studies and/or testimonials?

* Does it have referral letters from current and prior clients that can be contacted for feedback? (Past client feedback can be very enlightening.)

* Does it have risk insurance to cover errors and omissions? (Client companies can be sued for actions taken by their consultants.)

* Does its contract include specific objectives and detailed deliverables with target dates and times?

* Is it providing an outline of costs with projected hours with time and expense?

Eric Keller, a partner in the Los Angeles office of law firm Paul Hastings, says such decisions should be taken as seriously as making an acquisition or an investment in another business.

"It can, and often does, have the same level of risk and can, in some instances, have the same level of cost," says Keller. "The consequences of retaining a party that is not adequately able to perform the services, or fails to perform, can be disastrous."

Consulting is particularly complicated because it "is not a regulated profession," he says.

"It's not subject to professional-responsibility rules or anything like that," says Keller, "so it behooves anyone who is dealing with these organizations to make sure they do their due diligence and understand who it is they're contracting with."

"Companies can say and do things that give the appearance that they are well-experienced and fully capable to perform when they aren't," says Keller.

Even if a potential client does its due diligence, specific individuals within those companies may still be unqualified or even dishonest.

"Depending on how well the company does background checks, there could be people who've had issues before, so you want to understand ... not only who you are going to be contracting with [but] who are the individuals who are going to be servicing your account? What is their background? What is their education? What is their prior job experience?" says Keller. "You want to know substantively why are these people qualified to give me advice?"

August 3, 2010

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