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Issue

1. After discovering the suspicious items in JWP's accounting records, should he have taken a different course of action than he did? 2. What measures can and should be taken to make it easier for corporate employees to "blow the whistle" on a fraudulent scheme they uncovered within the firm? 3. Should business, accounting firms, and other organizations explicitly reward ethical behavior by their employees and executives? 4. What measures can accounting firms take to reduce the risk that personal relationships between client personnel and members of an audit engagement team will not adversely affect the quality of an audit? 5. Was the 1988 "retention agreement" that Ernst & Young made with JWP appropriate? 6. Why did Ernst & Young agree to pay a large settlement to JWP's stockholders but chose to contest the lawsuit filed against it by the insurance companies?

Facts

This accounting fraud involves a company called Jamaica Water Properties Inc. with based in the New York-based. The person who found the fraud was David Sokol. In his early career, he faced some problems that typically interferes the careers of many business executives, such as favoritism and corruption. However, in 1992 David obtained the position of president and COO of Jamaica Water Properties. JWP had an impressive history of sustained profitability and revenue growth that was being threatened by its sprawling operations and heavy administrative burden. In early 1992, the company had 117 offices and 23 subsidiaries scattered across the country several overseas operating units, and a huge new division that was competing in a lucrative and rapidly developing market JWP's CEO Andrew Dwyer knew

that despite being soft-spoken and thoughtful, Sokol had a well-deserved reputation of being an effective corporate manager who could quickly “whips a company into shape.

Sokol eventually succumbed to Dwyer’s persistent recruiting efforts and agreed to assume responsibility for directing JWP’s day-to-day operations. The Jamaica Water Supply Company began operations in 1886 as a small business that delivered water to a few neighborhoods in the Queens borough of New York. City Gradually the company expanded its geographic market and eventually became one of New York State’s largest water utilities. In the mid-1960s, Martin Dwyer took control of the company Dwyer realized that the heavily regulated water utility industry limited his company’s profit potential, so he decided to branch out into other businesses. Because of his familiarity with governmental agencies, Dwyer began offering various contracting and construction services to local municipalities. Soon, Dwyer’s company was installing telephone lines, working on street lighting projects, and developing traffic control systems. Over the next several years, the company expanded into other lines of business by acquiring a varied assortment of small firms in the New York City metropolitan area.

Throughout its long existence, Jamaica Water Supply had been characterized by financial stability slow but steady growth, and modest profits. During the 1960s and 1970s, the company grew rapidly, while its profits—and losses—vacillated sharply from year to year. To finance the company’s expansion program, Dwyer borrowed heavily from banks and other lenders. By the mid-1970s, high interest rates, a severe nationwide recession, and a series of poor decisions by Dwyer and his management team had driven the company

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to the verge of bankruptcy To salvage the company, Martin Dwyer stepped down as its top executive in 1978 and placed his 30-year-old son, Andrew, in charge. The younger Dwyer quickly disposed of the company's weakest divisions, paid off much of its debt, and developed a new, more focused business plan. This business plan called for the company to become the "premier technical services" firm in the world. 2 By the mid-1980s, the company, renamed JWP (Jamaica Water Properties) inc. by that time, offered a wide range of services involving the design, development, and maintenance of complex mechanical, electrical, and computer systems.

JWP targeted its services to high-tech industries, including the financial services industry The company developed sophisticated control systems that helped major Wall Street firms, such as Merrill Lynch and Goldman Sachs, more efficiently and cost-effectively manage their operations. In addition in the early 1990s, Andrew Dwyer's new business model for JWP had converted the company into a multibillion-dollar firm with a workforce of more than 20, 000 employees. The company's stock was listed on the New York Stock Exchange and included in the Standard & Poor's 500. Probably most impressively, the company reported increased revenues each quarter over a 12-year period from 1979 through 1991. Although JWP still had a water utility division that division accounted for only 2 percent of the firm's annual revenues. In early 1991, Dwyer made a key decision that he hoped would catapult JWP to among the largest and most prominent companies in the nation.

Dwyer purchased the large computer retailer Business land, Inc. Business land's operations were integrated into a new division of JWP that marketed <https://assignbuster.com/jamaica-water-properties-essay-sample/>

computer hardware, business software applications, and information systems development services. Dwyer believed the new division would provide JWP with the means to compete with companies such as IBM and Microsoft that were profiting enormously from the computer revolution sweeping through the business world. Despite Dwyer's lofty plans for his new division, he realized that it only worsened a problem that JWP had been battling over the previous few years. The company's rapid growth during the 1980s had resulted in a far-flung and unwieldy organization that was difficult to manage and weighted down by disproportionately high administrative expenses. To remedy this problem, Andrew Dwyer went in search of an individual with a proven track record of managing companies facing difficult circumstances.

In a matter of weeks, Dwyer identified David Sokol as the top candidate for JWP's COO position. David Sokol accepted Andrew Dwyer's offer to become JWP's COO in January 1992 because he enjoyed tackling challenging assignments. But Sokol was unaware of the biggest challenge he would face at JWP. Over the previous several years, the company's financial data had been embellished by a pervasive accounting fraud. The abusive accounting practices included misapplying the purchase method of accounting for acquisitions, recording fictitious assets, improper accounting for net operating loss (NOL) carryforwards, failing to record appropriate allowances for uncollectible receivables, and misapplying the percentage-of-completion method of accounting for long-term contracts. Collectively, these accounting abuses had a significant impact on JWP's reported profits. For example, in 1991, JWP reported a net income of \$60.1 million. A subsequent investigation by the Securities and Exchange Commission (SEC) revealed

that the company's actual profit for that year was \$28.9 million. The principal architect of JWP's accounting fraud was Ernest Grendi, JWP's chief financial officer (CFO).

Three of the company's senior accountants helped him carry out and conceal the fraud. Each of the four individuals was a CPA and a former employee of JWP's audit firm, Ernst & Young. Similar to most accounting frauds, simple greed was the factor that apparently motivated Grendi and his three lieutenants. Over the course of the JWP fraud, the four individuals received sizable bonuses linked to the company's overstated earnings and cashed in large gains in the stock market by selling JWP securities at prices inflated by the fraudulent earnings figures. Although they benefited financially from Grendi's scam, Andrew Dwyer and the company's other top executives were never implicated in the fraud. Grendi's subordinates often joked that rather than applying generally accepted accounting principles, or GAAP their company applied EGAAP—Ernest Grendi's Accepted Accounting Principles. These subordinates used another distinctive phrase in referring to the unusual revenue pattern apparent in JWP's internal financial reports.

Near the end of a quarterly accounting period, JWP's accounting staff often “frontloaded” the revenue recognized on long-term construction contracts to ensure that the company sustained its unbroken chain of quarterly revenue increases. The resulting accounting entries produced sharp spikes in JWP's revenue charts near the end of quarterly accounting periods. These recurring spikes became known as the “High Sierras” by Grendi's co-conspirators.

Prior to David Sokol's arrival at JWI Grendi relied on the far-reaching authority granted to him by Andrew Dwyer and on his “intransigent and

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intimidating” 3 personality to establish complete control over JWP’s accounting function. He also used his menacing personality to neutralize JWP’s various control functions, particularly the company’s internal audit staff. A JWP internal auditor subsequently reported that fear of being fired had deterred him from challenging the company’s improper accounting treatments.

Another JWP internal auditor expressed a similar sentiment when he reported that he had feared being “ crushed like a flea” if he questioned the company’s improper accounting decisions. Court records document that Ernest Grendi was concerned that David Sokol would prove to be a “ hands-on” COO when Andrew Dwyer hired him in January 1992. Grendi was right. Just as he had done after being appointed CalEnergy’s CEO, Sokol immediately immersed himself in his new employer’s accounting records. By the early summer of 1992, Sokol had uncovered several suspicious items, including a \$46 million receivable in JWP’s corporate general ledger that had gone uncollected for an extended period of time. Sokol determined that the large receivable was actually a series of smaller receivables that had originated within one of the company’s divisions. Shortly before Sokol arrived at JWP, Grendi had attempted to conceal the past- due receivables from the new COO by transferring them to JWP’s corporate general ledger.

In the given division’s accounting records, Grendi had replaced the collective dollar amount of the transferred receivables with a large intercompany receivable. After discovering the series of accounting entries involving the long overdue receivables, Sokol met with the CFO of the division to which the receivables actually belonged. That individual explained to Sokol that his

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division's impressive profits in previous years had been inflated by aggressive revenue recognition policies, which, in turn, had overstated the division's receivables and total assets. Sokol then arranged a meeting involving himself, the divisional CFO, and attorneys representing the law firm that JWP used to help collect overdue receivables. The attorneys informed Sokol that they had previously told Grendi that the past-due receivables in question should be written off as bad debts. The relentless Sokol then met with the CFOs of several other JWP divisions.

These individuals reported similar problems in their accounting records. In July 1992, David Sokol met with Andrew Dwyer to discuss the troubling items he had uncovered. During that meeting, Sokol told Dwyer that he believed JWP needed to record \$125 million in write-offs to correct the company's accounting records. Sokol also told Dwyer that he wanted to delve further into those records. To help him complete his investigation,, he requested that Dwyer authorize him to retain an accounting firm other than Ernst & Young, which had issued unqualified audit opinions on JWP's financial statements the previous six years. Sokol was apparently concerned by the close relationships between and among members of the Ernst & Young audit team and JWP's senior accountants, which included Ernest Grendi and his three accomplices. Many of these relationships had been formed years earlier when the JWP accountants had been Ernst & Young employees.

" I insisted that I wanted a different auditing firm brought in to assist me in the process, because I seriously ' questioned whether or not I was receiving accurate information from Ernie Grendi. Also I was not comfortable that I could trust Ernst & Young, and I wanted an outside auditing firm brought in

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to help me Dwyer agreed to retain Deloitte & Touche to carry out a large-scale investigation of JWP's accounting records. While Deloitte & Touche mapped out its planned investigation, Sokol continued his intense and persistent one-man effort to determine the extent to which JWP's financial statement data had been misrepresented. In early September, Sokol interviewed two of Ernest Grendi's subordinates. These individuals showed Sokol the "High Sierras" charts that documented the unusual fluctuations in. After Sokol reviewed the High Sierras charts he sought and obtained further evidence from Grendi's subordinates that JWP's financial data had been systematically manipulated.

Sokol then called another meeting with Andrew Dwyer. Sokol told Dwyer that he had been misled prior to joining JWP and was considering leaving the company. Dwyer pleaded with Sokol not to leave; at least until the extent of the restatements that would be necessary to JWP's financial data had been determined. If Sokol left before the investigation was completed, Dwyer insisted that the impact on JWP would be "devastating To persuade him to remain, Dwyer offered Sokol a \$1 million "stay bonus:" Sokol was unmoved by Dwyer's offer. Shortly after meeting with Dwyer, he met with JWP's board and turned over all of the information he had collected regarding the company's accounting irregularities. The following day, David Sokol resigned as JWP's president and COO and terminated all ties with the company. Moreover, the Deloitte & Touche's investigation continued for several months. When the investigation was completed, JWP restated (reduced) its previously reported earnings for 1990 and 1991 by approximately \$40 million.

The investigation also resulted in a \$653 million write-down of the company's assets. In April 1993, Andrew Dwyer resigned as JWP's CEO; three months later, he resigned as the company's chairman of the board. Ernest Grendi had been forced to resign as JWP's CFO in late 1992. JWP filed for bankruptcy in October 1993. The reorganization plan subsequently approved by the federal bankruptcy courts wiped out the common stockholders' equity and resulted in the creation of a new company known as Emcor Group Inc. JWP's former creditors became the principal owners of this company when it emerged from the bankruptcy courts in December 1994. In 1995 and 1996, the SEC issued a series of accounting and auditing enforcement releases focusing on Ernest Grendi and the three other senior JWP accountants involved in the accounting fraud. The SEC dealt with Grendi's subordinates first. Each of those individuals agreed to repay the bonuses they had received due to JWP's overstated net income for 1991. These amounts ranged from \$20,000 to \$51,000.

Two of the individuals forfeited profits of approximately \$165,000 that they had earned by selling JWP's common stock in the early 1990s. Finally, two of the three individuals agreed to pay civil fines totaling approximately \$90,000. None of the individuals admitted or denied the allegations that the SEC had filed against them but did agree not to violate federal securities laws in the future. The SEC permanently banned Ernest Grendi from being involved as an accountant with any future registration statements filed with the agency. Grendi also agreed to pay restitution of approximately \$700,000, which represented his 1991 bonus and the trading profits that he had earned on the company's stock during the early 1990s. The SEC waived additional

civil fines and repayments totaling nearly \$250, 000 because of Grendi's inability to pay those amounts. In agreeing to the sanctions, Grendi neither admitted nor denied the allegations that the SEC had filed against him.

The SEC did not sanction or even criticize Ernst & Young in the various enforcement releases that focused on the JWP accounting fraud. But Ernst & Young was not so fortunate in the courts. JWP's former stockholders and creditors, who suffered huge losses as a result of the company's bankruptcy, targeted the " deep pockets" of Ernst & Young in their efforts to recover those losses. No doubt, David Sokol's candid admission that he lost trust in Ernst & Young during his investigation of the massive accounting fraud buoyed the plaintiffs' hopes that they would be successful in their lawsuits filed against the prominent accounting firm. Ernst & Young officials agreed to settle the lawsuits filed by JWP's former stockholders. In total, Ernst & Young paid those plaintiffs a reported \$23 million.

The other major class of plaintiffs that sued Ernst & Young was a group of insurance companies that had incurred approximate, \$100 million of losses on loans made to JWP. For years, these insurance companies doggedly pursued Ernst & Young in the federal courts. Finally in October 2000, the claims of the insurance companies against Ernst & Young were resolved. The federal magistrate who presided over this lawsuit was Judge William C. Conner. The series of legal opinions that Judge Conner handed down in the case provide a colorful and insightful history of Ernst & Young's tenure as JWP' independent audit firm. In 1985, Ernest Grendj dismissed Arthur Andersen & Co. as JWP's audit firm, damming that the firm's audit fee was too high. Grendi then contacted a close friend and former colleague at Ernst <https://assignbuster.com/jamaica-water-properties-essay-sample/>

& Young who was an audit partner. After JWP retained Ernst & Young as its new audit firm, Grendi's friend was appointed Jwp's audit engagement partner. In 1988, Grendi negotiated a three-year "retention agreement Ernst & Young.

This agreement capped the audit fee JWP would be required to pay for the 1988, 1989, and 1990 audits. Judge Conner was surprised that Ernst & Young agreed to this arrangement "without knowing what those future audits would entail." Judge Conner documented repeatedly that the close relationship between Grendi and the JWP engagement partner appeared to have influenced judgment made by Ernst & Young personnel on the annual JWP audits. The judge's legal Opinions in the case contrasted the intense efforts of David Sokol to pursue and uncover the fraud despite the intimidating persona of Ernest Grendi with Ernst & Young's "willingness to accommodate Mr. Grendi." The Ernst & Young auditors frequently uncovered improper entries in the company's accounting records but failed to persuade Grendi and his subordinates to make the appropriate, adjustments for those items.

Judge Conner attributed the deficient JWP audits to the "spinelessness" of the Ernst & Young auditors. Judge Conner concluded that Ernst & Young "knew about the accounting irregularities that were pervasive at JWI?" irregularities that had materially inflated the company's profits." In the face of this knowledge, Ernst & Young abandoned its 'watchdog' obligations to bark an alarm. Instead, Ernst & Young issued clean audit Opinions and no-default certificates, thereby lending the considerable prestige of Ernst & Young's imprimatur to JWP's erroneous financial statements:'

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Despite this conclusion and despite: the caustic tirades he directed at the Ernst & Young auditors, Judge Conner ruled in late 2000 that the insurance companies that had sued Ernst & Young could not recover their losses from the accounting firm. He reached this decision after determining that JWP's bankruptcy in 1993 and the resulting losses suffered by the insurance companies were not due to Ernst & Young's malfeasance but rather to poor management decisions on the part of Andrew Dwyer and other JWP executives. Those management decisions had undermined JWP's financial health even as the company continued to release impressive (but bogus) financial statements to the public.

Analysis

1. After Mr. Sokol discovered the suspicious items in JWP's accounting records, the best decision that he could do was saying all the fraudulent issues that he found to Andrew Dwyer, CEO and the board of executives. Mr. Sokol responsibility as COO was to revise, supervise and monitor the company transactions. One of his duties must be focus on checking the daily operations of the company and report the strong and weakness of the internal control to the CEO. There is no doubt that his performance was well addressed, because the accounting irregularities that he found was a massive fraud done by the CFO (Mr. Ernest Grendi) and three others company's senior accountants. Including, one of them which were partner at the audit firm Ernest & Young. Due the tide relationship between all of them Mr. Sokol assert in not trusting Ernest & Young audit performance for the company.

And it was keyed to change the auditors and hire a third party such as Deloitte & Touche in order to carry out the large scale of investigation in company's accounting records. While more inquiries Mr. Sokol did more and more visible was the fraud in JWP's revenues. He understood that JWP's financial data was intentionally distorted and manipulated. Due to the evidence and all the massive fraud behind the reputable company, he decided to quick his job as a presidents and COO. After all Mr. Sokol has done a great career and it was his duty to revel the true and leave the company.

Although, Mr. Dwyer offered him \$1 million as a stay bonus. And also to be in the company when determinate the financial data. He preferred to leave and respect his value and integrity as a responsible professional. 2. Employees are afraid to "blow the whistle" because they feel unprotect by the company. There are cases in which employees after blowing the whistle they can lose their jobs or putting in a lower job position. Company must implement awareness between their employees and not feel unsecure of being punish for doing something right. A company's environment must be on favor of a following the company's ethic code and erase the wrong concept of being punished when an employee blow the whistle.

The company should protect whistleblower's employment because at the end of the day they are helping the company from large losses and fraud. Employees are in the daily operating company's activities; are the ones that can detect any indication of any irregular or strange operations. Therefore they are more susceptible of any fraudulent scheme and it's their responsibility to uncover the scheme as professionals and for moral values.

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If the firm or company, openly talks about the topic of fraud and company's code of ethic by providing a course or lecture once a year. In addition, inside company's campaigns could be a good way to direct the attention of employees that are afraid to report any suspicious fraudulent scheme. If the company offers a confident work environment employees will feel more comfortable and without fear of retaliation, discrimination or disciplinary action. The company should protect the whistleblower's employment, remuneration and career opportunities for a reasonable period of time.

In the case that whistle blower needs to be presented in a court as part of the legal proceedings requiring physical presence of the employee. This time would lead the employee to not be doing his or her job and would need to be protecting from any loss of wage.

Whistleblowers must receive and accurate compensation during the course of the investigation. In addition all Whistleblowers' legal fees or non-financial such as psychological stress (if any) it must be responsibility of the company. Moreover, between the whistleblower and the company must be a good relation in which the confidentiality of company's information is keyed as long as possible, subject as required by law.

The company must considerate any type of rewards for whistleblowers such as be promotion, increase of salary, acknowledgement of a loyal employee who must be consider for a promotion in case is need. This reward could be financial or not financial but the employee must feel secured and does not feel that he or she will be punished.

Considering the case of JWP, and the way how the company is structured and its deficient in their internal control and the poor communication with their employees assure the lack of a whistle- blowing system in the company. Therefore, the new employee Mr. Sokol as COO did not want any kind of implication on the massive fraud committed by Mr. Ernest Grendi and the three others senior accountant employee.

3. The reward ethical behavior does not address well enough for business, accounting firms, and other organizations because at some point this reward can be opened for employees to abuse and start asking for rewards than must not be taken place. In the case of an employee who intentionally blow the whistle because he or she wants to cover a fraud scheme, this type of rewards can be dangerous and expensive for the company. On the other hand, if the company does not promote compensation but encourage its employee to practice ethical behavior but if a fraudulent act is committed and someone blow the whistle the company must act in support this valuable employee finance or not finance for all the implications of say the true.

Ethical behavior must be encouraged in the company environment. It is proper to have course, lectures or perform campaign inside the company in order to create awareness of the values of ethical behavior. The best way to address this issue is by calling the attention of employees and offers them a normal and fair growth position according with the performance of the employee. The company must show the employees that it's fair and look forward for the welfare of all. It is important to provide a confident and secure work environment so each employee can act honestly.

Overall, the company must go for a proper corporate structure in which any kind of fraudulent activity can be reduce. The internal controls, the segregation of duties and supervision of third parties are keyed to perform a successful business which it will avoid any type of fraud scheme.

4. In order to reduce risk with personal relationships between client personnel and members of an audit engagement team there should be rotation of in the audit team since (Partner, Manager, Senior and staff). Meaning that the team must me changes for such a period of time.

According with the U. S. Securities and Exchange Commission there is important to have a General Standard of Auditor Independence, meaning that the independence of an engagement is fundamental. And all “ relationships between the auditor and the company, the company’s management and directors, not just those relationships related to reports filed with the Commission”, needs to be considered. The audit committee should consider the following with a service provided by an auditor; (a) “ creates a mutual or conflicting interest with their audit client; (b) places them in the position of auditing their own work;

(c) results in their acting as management or an employee of the audit client; or (d) places them in a position of being an advocate for the audit client”. If one of these elements applies the auditor must not be in the team of the client’s engagement. It is not proper to have a conflict of interest between the firm and the client because it will drastically damage the integrity and certainty of an auditor opinion.

Moreover, the U. S. Securities and Exchange Commission indicates that in the “ Independence Standards Board Standard No. 1 requires that the auditor disclose to the audit committee in writing all relationships between the audit firm and the company that may reasonably be thought to bear on the audit firm’s independence”. It is important to indicate any ty of relationship with the client.

Furthermore, the Sarbanes-Oxley Act of 2002, SEC. 203 and the Section 10A of the Securities Exchange Act, which indicates the audit partner, must “ rotate off the audit (client) every five years for public companies. This Act does not apply to non-public entities”. The partner have the responsibility for decision-making on significant matters that affect the financial statements for this issue is better to rotate the partner so does not get to involve with the client. 5. The 1988 three-year “ retention agreement” with Ernst & Young was not appropriate because the partner and the CFO, Mr. Ernest Grendi had a tide relation with the partner of the engagement at JWP. The negotiation stablishes to cap the audit fee JPW would be required to pay for 1988, 1989 and 1990 audits.

The judgment of the audit team at Ernst & Young was distorted until the point that auditors frequently uncover improper entries in the company’s accounting records. As a result, the annual audits done to JWP violates the US Generally accepted accounting principles (USGAAP) because the irregularities were done with the purpose of materially inflated company’s profit until the point to in bankruptcy. 6. Ernst & Young agree to pay a large settlement to JWP’s stockholders because they cause damage to the company. And also choose to contest the lawsuit against the insurance <https://assignbuster.com/jamaica-water-properties-essay-sample/>

companies considering that stockholders are in a stronger position than other to sue the firm. It is important to consider that stockholders qualify as main beneficiaries in an audit sue. There are jurisdictions where only primary beneficiaries can demand auditors for negligence. And there is another type of jurisdiction in which it must be prove that auditors were by fact guilty for negligence during the audit engagement.

Conclusions/Recommendations:

Based on the case analysis research of the Jamaica Water Properties accounting fraud;

1. After Mr. Sokol find that the irregularities his correct duties was to say the problem and the main fraud that he found. After, blowing the whistle he should stay around in the company and not run away. It was good to do not accept the sales bonus offer by Mr. Andrew but he should stay in the company and not quickly go away. He should receive a reward for the evidence and fraud found. His quick resignation does not talk good on his loyalty with the company. He must stay and confront a bigger challenge rebuild this reputable company after the fraud.

2. The environment offered to the employees must be appropriate in which whistle blower must not be afraid to denounce a fraud scheme. The company is structured and its deficient in their internal control and the poor communication with their employees assure the lack of a whistle- blowing system in the company.

3. The reward ethical behavior could not be healthy for the company because the employees can abuse and use the reward for themselves and be compromised in the fraud. If the company does not promote compensation and do not encourage its employee to practice ethical behavior fraudulent acts can be committed

4. In the case of audit teams it is necessary to rotate personal and give them different engagement experience. According with the Sarbanes-Oxley Act of 2002, SEC. 203 and the Section 10A of the Securities Exchange Act, which indicates the audit partner, must “ rotate off the audit (client) every five years for public companies this Act does not apply to non-public entities”

5. The 1988 “ retention agreement” between Ernst & Young and JWP was not appropriate due to the relationship with the partner at Ernst & Young and the CFO, Mr. Ernest Grendi of JPW. This tide relation definitely influences in the audit reports which damage the auditor s opinion. Moreover, the judgment of the audit team was distorted at some point that auditors uncover improper company’s entries. This means that the annual audits were not proper and also was not following the USGAAP. The documentations of the audits was lacking of documentation.

6. For the firm Ernst & Young were much simpler to agree and pay a large settlement to JWP’s stockholders than fight with the insurance company. In the case insurance companies considering that stockholders are in a stronger position than other to sue the firm. The stockholders are the primary beneficiaries.

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