

# What Are They Hiding?

Nineteen fibs, fabrications, and cover-ups that you should be looking out for.

By James B. Mintz

Altogether, he seems like the perfect partner for an important deal. He appears smart and well-spoken, sports a Hermes necktie, and seems to know your business as well as his own backward and forward. Who could ask for more?

You could.

In two decades of performing investigative services for investment banks, law firms, and public companies, we've encountered thousands of "dirty little secrets" that business-people try to hide about themselves. Knowing these falsifications can help you exercise due diligence in your next business decision—and decide when it might be appropriate to bring in an investigative professional. Certainly you should be wary if the person's business life has been far removed from your own and your circle of contacts doesn't know him; you've heard the person has had financial problems; the person comes out of a highly regulated industry; or the person

has a reputation for "toughness" or being "hard to get along with."

Following are the 19 omissions and outright lies that we most commonly encounter, arranged roughly in the order of how often we run across them. One or more of these items turn up in well over half of the background checks we perform on behalf of our clients:

**1. Jobs that fall off résumés.** It's generally assumed that the most common falsehoods found on executive résumés are academic degrees that were never earned or military service that never occurred. However, it's far more common for executives to omit brief stints at jobs that didn't work out or didn't fit well with current career goals, like the airline executive who for several months worked for a gambling-related company. These individuals

often hide the omission by stretching the dates of jobs held just before and just after.

It's often the "little things" that people edit out of their pasts that a prospective business partner most needs to know, and these "little" omissions occur in 30 percent of the résumés we check. That's why we pay close attention to the dates on résumés and verify the stories they tell by cross-checking with such external sources as news articles, press releases, regulatory filings, or even college alumni bulletins.

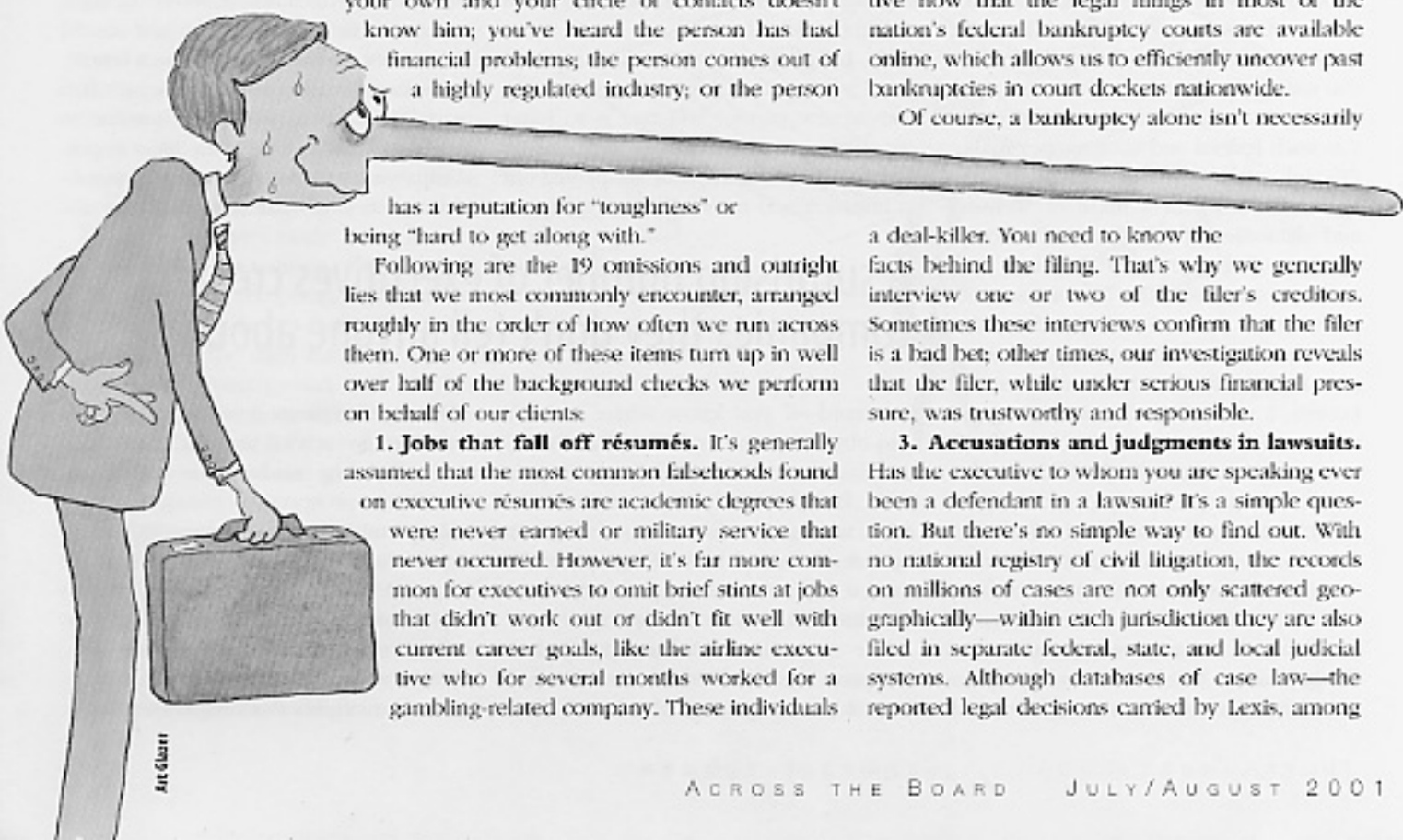
**2. Bankruptcy.** People who have filed for bankruptcy sometimes go to considerable lengths to hide their financial pasts. They may "accidentally" transpose digits in Social Security numbers or use middle names instead of their given names on credit histories. But these tactics are less effective now that the legal filings in most of the nation's federal bankruptcy courts are available online, which allows us to efficiently uncover past bankruptcies in court dockets nationwide.

Of course, a bankruptcy alone isn't necessarily

a deal-killer. You need to know the facts behind the filing. That's why we generally interview one or two of the filer's creditors. Sometimes these interviews confirm that the filer is a bad bet; other times, our investigation reveals that the filer, while under serious financial pressure, was trustworthy and responsible.

**3. Accusations and judgments in lawsuits.** Has the executive to whom you are speaking ever been a defendant in a lawsuit? It's a simple question. But there's no simple way to find out. With no national registry of civil litigation, the records on millions of cases are not only scattered geographically—within each jurisdiction they are also filed in separate federal, state, and local judicial systems. Although databases of case law—the reported legal decisions carried by Lexis, among

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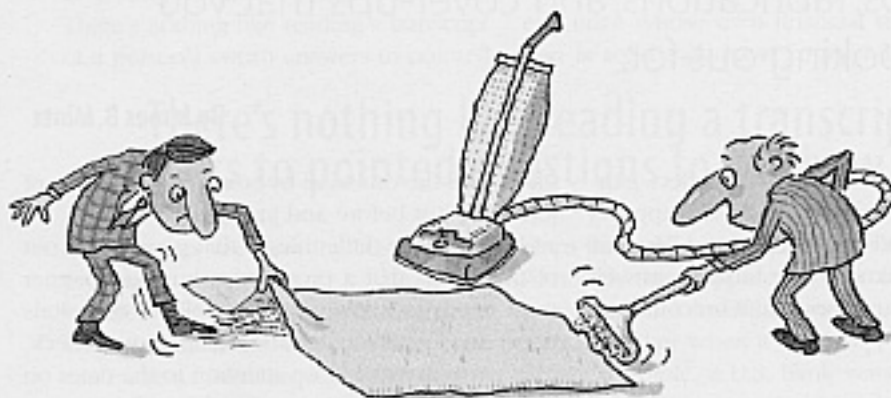


others—are useful, they are far from complete records of a person's or company's litigation history.

In some places, such as Washington state, one database (CourtLink) comprehensively covers past and current litigation. In New Jersey and New York, another database (Superior Information Service) identifies defendants and plain-

erment investigator on the case. A discreet conversation with that person can help you understand what's in the paper record.

**5. Tax liens and disputes.** Liens often indicate that an individual or company is in poor financial health. Red flags include long-term outstanding liens or a flurry of liens filed over a short time period.



tiffs, as well as the lawyers on each side. But old cases or litigations in rural areas are usually inaccessible through computerized databases. It takes local knowledge to find relevant information no matter where it's filed.

**4. Bombs in regulators' files.** Subpoenas. Reprimands. Consent decrees. Sanctions. Hearings. Fines. Criminal charges. Consumer complaints. These are the kinds of documents in regulators' files that some executives hope you won't find.

The challenge in digging them out is that each federal and state agency makes this information public in varying degrees, and through a maze of Websites and databases. To find the documents you are after, you need to know what agency regulates the business your prospective partner is in. Information about a trash-hauling company, for example, might be filed with a local consumer bureau, a state environmental agency, an organized-crime commission, or, if the company is public, with the SEC. Another example: You can get copies of consumer complaints against automobile dealers from the Massachusetts Attorney General's office, but only if you first file a Freedom of Information Act request.

Obtaining the paperwork may be just the beginning. The best nugget in regulators' files is often the name of the gov-

ernment investigator on the case. A discreet conversation with that person can help you understand what's in the paper record.

For example, a business with cash-flow problems may miss a few quarterly payments of federal employee-withholding taxes and be hit with an IRS lien. Likewise, missed payments of unemployment-insurance premiums may result in a state labor-department lien. Investigators know where to look for tax liens, which are filed in local courthouses and often available in databases.

**6. Litigiousness.** The best way to predict how your business relationship with a new partner will fare is to ferret out how his last business relationship ended. The worst disputes are played out in litigation and are available in the pub-

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lic record—if you know where to look. You obviously want to know if an executive has been accused of anything in court, but it's equally important to determine whether he has initiated litigation against others and how often—especially since a fifth of the executives we check out show litigious tendencies.

We use online databases to find an executive's past addresses, and then use these to focus on particular jurisdictions.

Once we have collected the lawsuits brought by an executive over time, we try to assess her litigation style. Some people appear to resolve disputes quickly; others take a more scorched-earth approach.

**7. Secret companies.** A surprising number of executives—more than a tenth of those we've investigated—create companies they don't tell anyone about: not their employers, their bankers, or their prospective business partners. When we uncover these side companies, we think about self-dealing issues, such as whether the company sells supplies to the businessman's employer or leases office space to it.

These secret side companies often surface when we plug an executive's home address or telephone number into a database. Other times, we discover a company because its name is derived in part from personal information like the address of an executive's country house or a combination of his and his wife's first names.

**8. Reason for leaving a job.** There are plenty of reasons why someone might leave a job, but when asked, many corporations will only confirm a former employee's dates of employment. When we are asked to investigate further, our approach is to identify, and quietly interview, knowledgeable former co-workers for an unofficial, confidential, and candid assessment of the ex-colleague's tenure. In these informal conversations, we often read their former colleague's résumé to them to check its credibility. Most importantly, we try to determine how our subject's past employment ended. It's the

only way to separate genuine resignations from "resign or we'll fire you" situations.

**9. Driving under the influence.** Could your prospective colleague or business partner have a problem with drugs or alcohol? One clue may lie in the Department of Motor Vehicles in his home state. A check of driving records will show if someone has ever been charged with driving while intoxicated or under the influence of drugs. The depart-

ment's records provide an abstract that may lead to the actual report written by the officer who made the arrest. We've obtained reports describing arrested drivers who offered a bribe to

was and what he did between college and yesterday.

We begin every due-diligence investigation by compiling a list of an executive's home addresses over the past

porate practices by arranging for its off-shore subsidiary to take a guilty plea. Searches of news articles about the parent company turned up nothing negative, but our investigation led us to a source who tipped us to look at the subsidiary. Only then did the true story unfold.

**14. Ties to organized crime.** Clients sometimes ask us if there's a list we can check to see if someone is involved with organized crime. While there are lists of the "made members" of major crime families, those individuals rarely turn up in normal business situations. Although less than 1 percent of the executives we investigate are connected, it's something that a potential partner should certainly know.

Determining whether an individual or company is mob-influenced is complicated, since organized crime has now infiltrated a range of white-collar business, from stock brokerages to prepaid-phone-card companies. There are several ways to determine whether an individual or a business has unsavory connections. First, we check court records and news coverage. Then, we make dis-

## How much equity does that guy really have in that extravagant house?

avoid a ticket or who blurted out embarrassing personal stories to explain their problems.

**10. Indebtedness.** Businesspeople seeking to obtain financing sometimes entertain their investment bankers in lavish homes or aboard fancy boats. But this show of wealth may be a façade concealing a different reality.

How much equity an executive really has in that extravagant home can be found in the property records at the local courthouse. Subtracting the mortgage amount from the purchase price provides one measure of a person's financial status: how much cash was put down to buy the house. In some jurisdictions, this data is available via computer modem without even a visit to the courthouse.

**11. Lies to win government contracts.** Companies doing business with the government leave a paper trail. We look for misrepresentations they may have made on the record, which occur in 10 percent of the government contractors that we check.

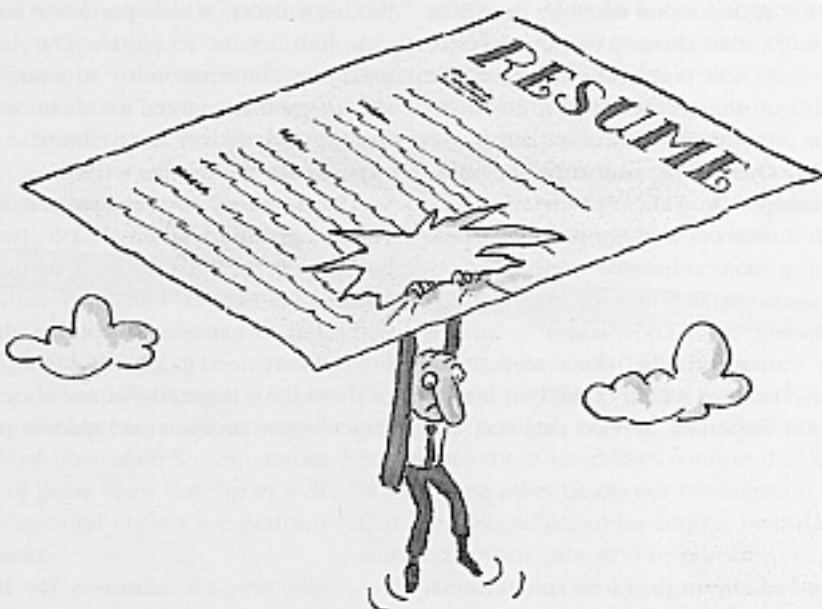
But the trail left behind isn't always made of paper. Some years ago, in order to win a county contract, a waste-disposal company made exaggerated claims about the volume of its business. The company's competitors complained, and the county held a hearing that concluded with the trash hauler withdrawing its bid. Years passed, and the incident was all but forgotten, but we discovered audiotapes of the hearing stored in county records—and played them for our client.

**12. Past criminal trouble.** Would it surprise you that 5 percent of the executives we've dealt with have criminal records? People are happy to tell you where they grew up and where they live now, but really knowing someone's background means finding out where he

decade or so. Past addresses are better identifiers of people than Social Security numbers because they show where to look for criminal convictions, lawsuits, and other on-the-record trouble.

Though personal matters are not generally relevant, they may become important in certain situations, such as learning why someone left one town and moved to another. In these cases, we can make discreet calls to former next-door neighbors, whose names are readily available in a number of databases.

**13. Charges against foreign subsidiaries.** Some multinational corporations that appear to have clean records may in fact have kept their own reputations intact by arranging for a subsidiary



to take the fall for a corporate scandal. We investigated one international construction company that looked solid—except for a subsidiary's central role in a bribe-paying scandal.

In another case, a parent company ended a criminal investigation of its cor-

rect calls to regulatory agencies that monitor such historically mob-connected businesses as trash hauling, casino gambling, and construction.

In one instance, when our initial search proved fruitless in checking a bank's suspicions that a prospective cus-

tomers had organized-crime ties, we called a former government investigator. He steered us to the archives of a weekly newspaper, where we turned up an old article linking the businessman to a prominent mob figure.

**15. Depositions.** Finding past depositions can be extraordinarily helpful in getting to know a businessperson. There's nothing like reading a transcript of a person's sworn answers to pointed

provide detailed information about what goods are imported or exported, the companies on each side of the transaction, and the date of the shipment. Ask the PERS database about a leading coffee-shop chain, for example, and you will identify the suppliers who shipped it coffee from around the world.

**17. Complicated family ties.** An executive whose own financial reputation is solid may have family relation-

ner. The challenge is to pick up any signals that such whistle-blowing is about to take place.

After identifying the relevant activist groups in a particular industry, we often buy past issues of their newsletters. In recent years, sophisticated searching of the Internet has made this kind of risk assessment easier.

**19. Controversy in local politics.** Political campaigns subject candidates

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After the Securities and Exchange Commission takes a deposition, you can make a formal request to see it, and as long as the SEC's investigation is closed, the Commission will usually release a copy to you within a couple of weeks. This was invaluable in one recent case in which our client, a brokerage firm, was accused of fleecing an investor who claimed to be a financial novice. A deposition taken by the SEC a decade earlier showed that the investor not only was highly sophisticated but had been the subject of past investigations regarding stock manipulation.

**16. Customer and supplier relationships.** A company's relationships with customers and suppliers can provide a comprehensive picture of its business dealings around the world—including, for a knowledgeable insider, any transactions that don't seem quite aboveboard. A search of the Port Import Export Reporting Service database can

ships that could put his business at risk. Although this happens in less than 1 percent of our investigations, it can be a deal-breaker when it does.

For example, a U.S. bank wanted to finance a Mexican business owned by the son of a wealthy industrialist. The son's company proved to be healthy, but by interviewing business rivals we discovered that the son's finances were intertwined with his brother's ailing businesses. He had guaranteed his brother's debts, which put his company's fortunes in jeopardy. The bank used our information to structure an agreement that enabled it to finance the healthy company and eliminate its exposure to the brother's debts.

**18. Scrutiny by consumer and rights groups.** When Ralph Nader helped kill the Corvair, he spawned a cottage industry of consumer activists dedicated to exposing corporate abuses. You may need to know whether any of them have targeted—or are about to target—your prospective business part-

to a great deal of scrutiny, revealing information that may be relevant to a later business transaction. We once investigated an executive who years earlier had won an election as mayor of his small hometown, but who had made an enemy of his opponent in the process. After the election, the opponent convinced the local district attorney that the misrepresentations in the mayor's campaign fliers were so egregious that they violated state election law. When confronted, the newly elected executive agreed to resign. While investigating this businessman, we found a news article about his election, so we wondered why his brief stint as mayor had fallen off his résumé. We located the opponent through micro-filmed copies of the local paper, and he sent us copies of the controversial campaign fliers.

An unlikely scenario? Certainly—and so are many of the lies and scams we run across. Nevertheless, they do happen—so be warned. ♦