

Corporate Investigations Overview

Over the years, *The Capitol Forum's* corporate investigations team has successfully identified companies that have legal, regulatory, or business risk. Below are some examples of companies where *The Capitol Forum* identified and reported on potential risk.

Legal & Regulatory Risk Examples

In each of these cases, regulators or enforcers raised concerns about the company's business practices that were similar to the issues highlighted by *The Capitol Forum*.

Signet Jewelers [December 2015]

The Capitol Forum began investigating Signet Jewelers, raising questions about the company's accounting practices. Over the course of the following year, we continued examining the company's use of recency accounting and the implications for the company's receivables portfolio, as well as consumer complaints and how certain practices raised the prospect of a CFPB enforcement action.

Ultimately, the problems the *Capitol Forum* identified with the company's loan book came to fruition, with the company announcing in May of 2017 the first phase of the strategic outsourcing of its in-house credit program by selling a portion of its accounts receivable to Alliance Data Systems.

In addition, the company disclosed on September 6, 2017, that the CFPB notified it that the Bureau's Office of Enforcement was considering recommending that the CFPB take legal action against the company, alleging violations of the Consumer Financial Protection Act and Truth in Lending Act, relating to its in-store credit practices, promotions, and payment protection products. The company also disclosed that the NYAG was investigating similar issues under its jurisdiction.

Stamps.com [July 2016]

The Capitol Forum started its investigation into Stamps.com highlighting how the company relied on potentially improper relationships with postage resellers for a significant portion of its revenue. *The Capitol Forum* developed numerous industry contacts who confirmed *The Capitol Forum's* reporting and worked with industry experts to demonstrate exactly how much additional money Stamps.com was making by abusing the reseller program.

The Capitol Forum's work prompted the USPS Office of Inspector General to initiate an investigation into the postage reseller program, which eventually grew into three investigations. While the USPS sought to keep the OIG's findings from the public, *The Capitol*

Forum broke the news that the USPS was losing up to \$1 billion annually because of problems highlighted in our reporting. USPS ultimately ended the postage reseller program entirely.

FleetCor [March 2017]

The Capitol Forum wrote its first article about FleetCor's improper billing practices, raising questions about the legitimacy of its fee-based income. Continued investigation revealed the ways in which FleetCor used various means to impose hidden fees on unsuspecting customers, speaking with numerous customers and former employees and obtaining company documents.

In late 2019, the company disclosed that in October of 2017, it received a civil investigative demand from the FTC, relating to the company's advertising and marketing practices.

In December of 2019, The FTC sued FleetCor and its CEO Ronald Clarke, alleging that the company charged customers at least hundreds of millions of dollars in hidden fees after making false promises about helping customers save on fuel costs.

InnovAge [March 2021]

The Capitol Forum highlighted quality of care concerns at the company's Program of All-Inclusive Care for the Elderly facilities. *The Capitol Forum* spoke with current and former employees, including nurses and doctors of the company, and received internal emails that detailed years of delayed medical care for some of the company's neediest patients.

In response to *The Capitol Forum's* reporting, Colorado regulators, in coordination with CMS, conducted surprise audits of the company's Colorado and Sacramento facilities in May of 2021.

In December of 2021, CMS and Colorado halted all Medicare and Medicaid enrollments at many of company's facilities across the country. There are also additional ongoing investigations by state attorneys general and the Department of Justice regarding potential False Claims Act violations.

Health Insurance Innovations [December 2017]

The Capitol Forum reported about how third-party call centers with close relationships with Health Insurance Innovations were making misleading statements about what was and was not covered by short-term health insurance policies.

In November of 2018, the FTC obtained a temporary restraining order shutting down a Florida-based call center operation that worked with Health Insurance Innovations. The FTC alleged that the operation collected more than \$100 million by preying on Americans who were searching for health insurance and sold them worthless plans that left them uninsured, causing them to incur significant medical expenses or forgo critically needed care.

In 2022, the owner of that call center, as well as two executives, were also charged with one count of conspiracy to commit mail and wire fraud, four counts of mail fraud, and eight counts of wire fraud.

In August of 2022, the FTC sued the company's CEO and former vice president of sales for lying to consumers and required the company to pay \$100 million in refunds and prohibit the company from lying about its products or charging illegal fees.

Penumbra [August 2020]

The Capitol Forum began reporting that Penumbra's Jet 7 XTRA Flex Catheter was susceptible to malfunction, risking injury or patient death. *The Capitol Forum* continued reporting about device malfunctions, speaking with numerous doctors who were frustrated by the company's messaging around device malfunctions, which sought to minimize company responsibility and instead blame doctors for misuse.

The Capitol Forum proactively tracked injuries and deaths resulting from the Jet 7 XTRA Flex Catheter, indicating that the company's current approach was insufficient and that a recall was necessary.

Ultimately, in December of 2020, the company recalled the device at the request of the FDA.

TransDigm [January 2017]

The Capitol Forum began its investigation into TransDigm, highlighting how the company's private equity like business model resulted in price increases on the Department of Defense for spare aircraft parts. During the course of its investigation, *The Capitol Forum* found that the company was not only simply raising prices on the government, but also using strategies to bend current contracting rules in order to justify those increases, including submitting commercial receipts and breaking up contracts so as not to trigger mandatory cost reporting requirements.

In response to *The Capitol Forum's* work, members of Congress called for the DoD OIG to launch an investigation into the company. In February of 2019, the DoD OIG released an audit finding that the company earned "Excessive Profits" on 99% of the contracts it reviewed.

After the DoD OIG's audit, the House Oversight Committee launched its own investigation in April of 2019, resulting in a Congressional Hearing in May of 2019. Another DOD OIG investigation, as well as another oversight hearing, were performed, resulting in some changes to contracting law.

Business Risk Examples

In some cases, *The Capitol Forum* is early in identifying business risks by revealing how companies may be operating in ways that the general market does not understand. Below are a few examples of where *The Capitol Forum* uncovered business risk for certain companies.

Chegg [June 2019]

The Capitol Forum began its reporting highlighting how Chegg, which bills itself as a EdTech platform, was instead a marketplace for cheating students, connecting them with gig workers in India who will answer their questions for them. *The Capitol Forum* built a tool to scrape questions posed to the company's Q&A service, which served as a proxy for the company's overall financial health.

During the pandemic, as schools switched to remote learning, use of the Q&A service skyrocketed along with the company's stock price. *The Capitol Forum* extensively reported that much of that surge was attributable to students cheating on remotely proctored exams, with dozens and dozens of schools reporting massive cheating scandals involving Chegg.

Over time, it became clear that as students returned to school and teacher's awareness about cheating on Chegg increased, students were less likely to use the company's offerings. Sure enough, the pandemic boom proved to be unsustainable, despite what management had told investors, prompting securities lawsuits.

The RealReal [August 2019]

The Capitol Forum began reporting on the luxury fashion reseller The RealReal, which purported to authentic all goods sold on its platform. However, through interviews with dozens of current and former employees, *The Capitol Forum* learned that the bulk of authentication of luxury goods was being performed by minimum wage workers with little to no training in luxury authentication.

The Capitol Forum learned that these workers had quotas of hundreds of handbags, dresses, and shoes that they had to "authenticate" every day, leading to counterfeit items on a platform entirely devoted to selling authentic goods.

The misrepresentations by The RealReal of its authentication practices prompted securities lawsuits as well as changes in the company's marketing practices.

The Capitol Forum's investigative team also can conduct investigations into a company's business practices after it discloses governmental interest in certain business practices. In those cases, *The Capitol Forum's* work can be instrumental in helping law firms craft securities complaints.

Eargo [September 2021]

The Capitol Forum wrote an article about how Blue Cross Blue Shield Federal Employee Health Benefits Program—the largest provider of health benefits to federal employees—did not cover over-the-counter hearing aids.

Eargo, a hearing aid manufacturer, specifically identified the Blue Cross plan as one that includes reimbursement for hearing aids on its webpage. In addition, the website provided instructions to customers regarding the information they needed to provide to their local BCBS plans to help the local plan locate Eargo in the provider directory to facilitate BCBS approval of coverage for Eargo's products.

Eargo had previously disclosed that it was subject to a claims audit with its largest third-party payer, who accounted for 57% of the company's gross accounts receivable as of March 31, 2021.

Eargo disclosed that on September 21, 2021, it was informed that it was the target of a criminal investigation by the DOJ related to insurance reimbursement claims the company had submitted on behalf of its customers covered by federal employee health plans.

Post-Subpoena Examples

Even when *The Capitol Forum* is not necessarily first to identify legal, regulatory, or business risk, *The Capitol Forum* does, in some cases, conduct investigations after a company discloses that it has received a subpoena or civil investigative demand. *The Capitol Forum's* work in these situations has been used by law firms as they craft their securities lawsuits.

Oak Street Health [November 2021]

In the fall of 2021, Oak Street Health, an operator of primary care clinics for Medicare Advantage beneficiaries, disclosed that it had received a civil investigative demand from the Department of Justice. According to the company, the DOJ was investigating whether Oak Street Health may have violated the False Claims Act and had requested certain documents relating to the company's relationship with third-party marketing agents as well as the provision of free transportation.

Through interviews with dozens of current and former employees, *The Capitol Forum* identified several practices by the company that likely triggered the investigation, including a program that paid \$200 to insurance agents for each referral they made to the program, something that former US Attorneys told *The Capitol Forum* was a clear violation of the Antikickback Statute.

The Capitol Forum also identified diagnosing practices that would have led to the Medicare Advantage program paying the company for illnesses that may not have existed, which would also violate the False Claims Act. This work was used by securities firms who brought a case against Oak Street Health.