

‘Above reproach’: The Norman Hsu case

This fiasco offers five important due-diligence lessons for directors and officers in staking your individual and corporate reputation on a person’s character, background, and basic veracity.

BY JAMES B. MINTZ, JAMES H. ROWE, AND JOHN MINTZ

WHEN A CORPORATION enters into a relationship with any individual, it puts its collective reputation, as well as that of its directors and officers, on the line. In

the vast majority of instances, the individual is who and what he claims to be, and is thought to be. But every so often, an individual “everybody knows” to be clean, honest, admirable, and above reproach turns out to be toxic, for any number of reasons.

The recent case of Norman Hsu, the admitted felon and accused fraudster who passed himself off as a successful businessman and major “bundler” of campaign donations, is a classic example. Here’s a case study on how the Hsu fiasco happened, and how Hsu’s shenanigans could have been detected — partly with amateur detective work, partly with expert help. It has valuable lessons that every corporate director and senior executive would do well to heed.

The task at hand

Political candidates for federal office will spend \$6 billion this year trying to get elected. The task of ensuring that none of the big donors are drug traffickers,

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their outside legal and financial advisers. Jim Mintz, who helped pioneer the use of sophisticated investigative resources by law firms in the late 1970s, founded the firm in 1994. Rowe heads the firm’s Washington, D.C., office and its CEO/Board of Director due-diligence screenings. John Mintz joined the firm two years ago after 22 years as a reporter at the *Washington Post*.

Hamas members, or convicted pedophiles commonly falls to harried staffs of twenty-somethings hired to perform cursory checks. But when it comes to background checking, Google and basic news searches can go only so far.

Embarrassing revelations about big campaign donors can happen to any political campaign, of either party. Flawless performance is impossible in this realm. It is not feasible for campaigns to do background checks on America’s hundreds of thousands of individual campaign donors. But it seems advisable to do comprehensive screening of the biggest “bundlers,” or aggregators, who raise huge sums from their personal and professional networks.

Case in point: Norman Hsu, a mysterious man with a shady past and equally shady present who established himself through various wiles as a major bundler of seemingly legitimate political donations. Though he was described by the *New York Observer* as “an apparel magnate with a fat Rolodex,” campaign finance officials apparently knew little about Hsu, other than that the money he provided looked green and clean.

In fact, Hsu was adept at running from his past, even as he vaulted himself to the pinnacle of silk-stocking political networking. He even got himself named a trustee of Manhattan’s prestigious New School for Social Research.

In hindsight, it is clear that Hsu in recent years tried hard to leave as few footprints as possible on the public record, other than the Federal Election Commission records on his donations. That made it hard for anyone to realize he was the same Norman Hsu who had pled guilty in 1992 in San Mateo, Calif., to felony grand theft — and who, facing three years in prison, skipped out on his sentencing and disappeared. It also made it tough for victims of his

alleged financial shenanigans of the past eight years to figure out who he was. Last fall, federal prosecutors in Manhattan brought new charges of committing a \$60 million investment fraud.

Could Hsu have been smoked out by the campaign finance folks he took in? Yes. But it wouldn't have been easy.

First suspicions

For a trained investigator, the first suspicions would have been aroused within 10 minutes of launching an investigation, by the way Hsu, Cherokee warrior-style, had for years assiduously swept away his tracks behind him.

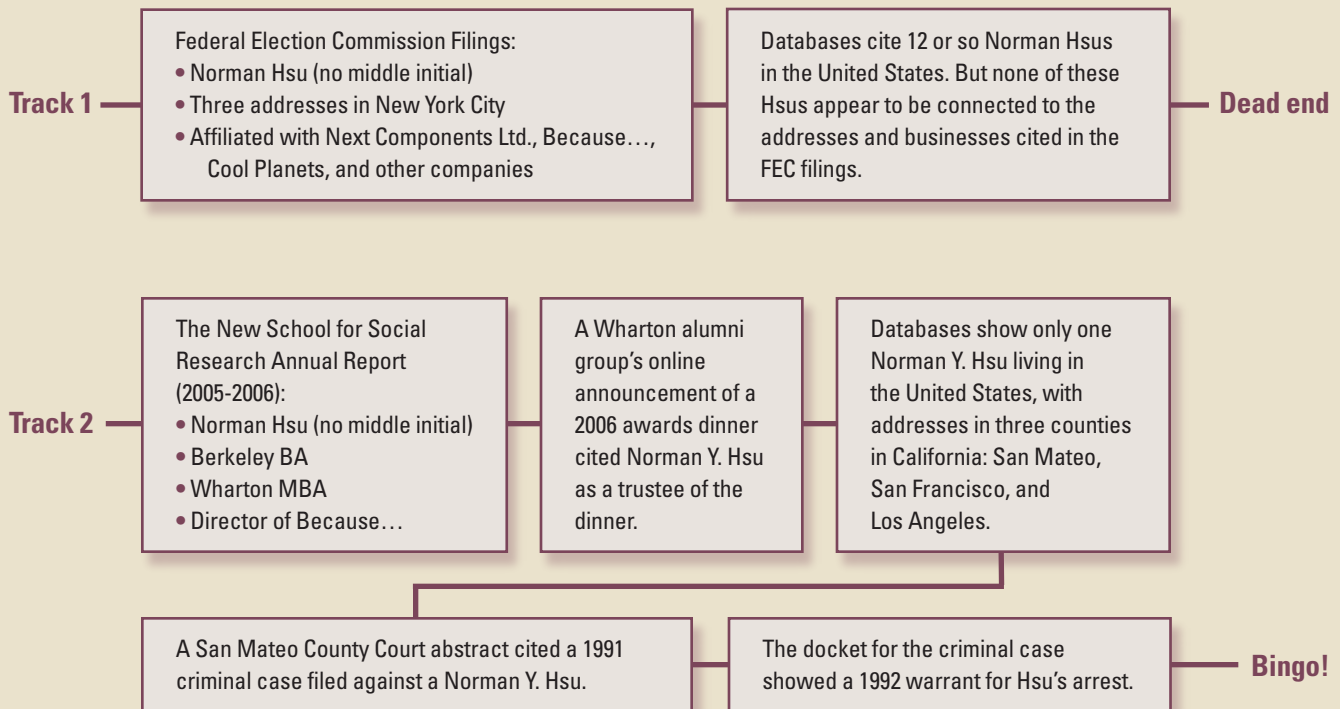
On the surface, Hsu presented an appealing immigrant story. Moving to the United States from China in the 1960s, he received a computer-science degree from U.C. Berkeley and a business degree from Wharton. In the 1980s he started importing Chinese-made clothes that he sold to boutiques, and received modest coverage in the apparel trade press. But there were hints of trouble. In 1990 he declared bankruptcy in California, and that same year a *San Francisco Chronicle* article said he had been kidnapped by a Chinese mob debt collector named Shrimp Boy.

Shrimp Boy wasn't his only creditor. While the press did not cover it, in 1991 he was charged in San Mateo in an 18-count indictment with grand theft for allegedly luring 20 investors into a series of deals in which he bought and sold latex gloves — the only problem being that the gloves didn't exist, according to the criminal charges at the time. In February 1992 he entered a “no contest” plea to one count of felony grand theft, for which he was to receive three years in jail. Yet four months later he failed to appear for sentencing, and the judge issued an arrest warrant for him.

Hsu skipped to Hong Kong, where he quietly opened and closed a series of clothing businesses. In the late 1990s Hsu moved back to California, and obviously hoped to obscure all connection between himself and that unpleasantness in San Mateo. Lesson Number 1 for the due-diligence community: *Even in this age of globalization, cross-border vanishing acts, especially extending over years, can result in effective self-lau-*

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What a background check of Norman Hsu would have revealed



Source: James Mintz Group

dering because of the thinness of international identity checks.

There was something different about Hsu this time around. During his earlier 20-plus years in the U.S., Hsu had intermittently used his middle names and middle initial: Norman Yung Yuen Hsu, or Norman Y. Hsu. Prosecutors in San Mateo used his full name and initial in the criminal case in the early 1990s. But once he returned to the United States from Hong Kong, he was just, and always, plain old Norman Hsu. As he must have figured, dropping his middle names and initial allowed him to melt in among the dozen or so other Norman Hsus in the United States. Lesson Number 2: *People with bad pasts may try to hide in a forest of individuals with the same or similar names.*

Befogging the public record

Hsu also may have befogged the public record with contradictory information about himself. While his birth date appears to be June 26, 1951 — at least that’s the date on the San Mateo criminal case — a number of other birth dates, from 1951 to 1961, appear in various places. Lesson Number 3: *Since most government agencies rely on dates of birth and Social Security numbers as crucial identifiers, using variations on them can leave the world clueless about who’s who.*

After a few years of investing in Los Angeles, Hsu moved to New York in the early 2000s and resumed his business. In 2003 he gave his first federal political donation, \$2,000, to John Kerry’s presidential campaign. Soon he was bundling large sums for political candidates, often putting the arm on his investors to join him in donating if they wanted in on his investments, according to a later federal indictment.

But for the campaign donation-vetters, the information in Hsu’s paperwork — like his truncated name and multiple birth dates — was a dead end. When he wrote

his political checks, he listed various companies with which he said he was affiliated (which were then made public in Federal Election Commission records). The problem is that most of them were not registered with the New York State authorities, and there was no record of them in other databases.

His donations also listed a number of purported New York home addresses, also recorded in FEC records, most commonly an apartment on Wooster Street in SoHo. Yet there was no sign in our data-

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Associated Press

Norman Hsu entering a California courtroom in September 2007.

bases that he had lived in these places, or anyplace else in the New York area, going back to his move to Manhattan years before.

That meant that he either was in the witness protection program or was taking extraordinary steps to avoid creating a profile of any kind in public-record and credit-reporting databases. To do this, he would have had to avoid engaging in any of a number of humdrum financial transactions, such as having a bank account in his name, or a land-line telephone, or a credit card, and avoided generating a utility bill. Strange, indeed, for a wealthy “apparel magnate” tinkling cocktails with some of America’s top politicians. Lesson Number 4: *People on the run who register nothing in their names stand a good chance of never being outed.*

Eyeing the red flags

Connecting these dots would have quickened the pulse of any trained investigator doing a due-diligence check. Were there red flags poking up that a mere “civilian” should have spotted? Perhaps not. But other red flags there were. Last summer, according to press accounts, a California businessman named Jack Cassidy sent emails to high-ranking Democratic officials warning that Hsu

was cheating investors and dropping Sen. Hillary Clinton's name. Based on the party's previous vetting of Hsu and a follow-up check after Cassidy's warnings, one of Clinton's senior finance officials responded in an email, according to published reports, "I can tell you with 100% certainty that Norman Hsu is NOT involved in a Ponzi scheme ... He is completely legit."

Last August 28 the *Wall Street Journal* ran an exposé of Hsu's bizarre fundraising practices. It showed how six members of the working-class Paw family in modest Daly City, Calif., presided over by their 64-year-old mail carrier dad, gave \$200,000 to candidates over two years, tracking closely with Hsu's donations. One campaign spokesman said in the article, "During Mr. Hsu's many years of active participation in the political process, there has been no question about his integrity or his commitment to playing by the rules."

Days later, after news of the 15-year-old felony warrant in San Mateo emerged, the campaign official backed down, saying that the campaign's donor-checkers had failed to find the old criminal case because they never knew of his middle initial Y, which had been used in the court matter there.

An investigation of our own

But a trained investigator would, or should, have found that case. To prove it, we conducted our own *ex post facto* investigation of Hsu, proceeding as if all we knew about Hsu was the FEC records of his political donations. Like the Democrats, we were hobbled by not knowing which of the 12 or so Norman Hsus in the United States he was. We hit Google hard, and found one Norman Hsu who had been named a trustee of New York's New School for Social Research in 2006. Its website contained a bio of him, mentioning that he had gotten degrees at Berkeley and Wharton, and that he was with a company called Because... That was a break — Because... was one of the companies the relevant Hsu had cited in his donations with the FEC.

Googling "Hsu" and "Wharton," we soon found a Wharton fund-raising event for which he had been a trustee, which identified him as Norman Y. Hsu, the name he had used as a business student in the

early 1980s. Bingo! Now we had a middle initial. A few more mouse clicks took us to the felony warrant from 15 years before (*see exhibit on page 35*).

In any case, after surrendering at the San Mateo courthouse last August 31 and posting a \$2 million bond to be released, Hsu, true to form, failed to show up for his next hearing, on September 5. Another arrest warrant was issued, and after being picked up on a train in Colorado, he was returned to San Mateo jail. In January he was sentenced to three years in prison. Meanwhile, federal prosecutors in New York charged him with defrauding investors of \$60 million since 2000 by guaranteeing high rates of return on short-term investments — few of which actually existed. He pressured investors to join him in making political contributions and bulking up his political cash bundles, prosecutors said in a statement, "to raise his public profile and thereby convince more victims to invest in his fraudulent scheme."

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Final lesson

The Hsu case unfolded at a time when it has been getting harder for due-diligence gnomes to do their jobs — more people spend parts of their lives off the digital grid, such as young people who use cell phones instead of land lines, and global nomads, whose jobs and interests keep them on the move.

What does all this add up to — for directors and officers, corporate counsel, or anyone seeking to vet a prospective director, business partner, senior-level hire, or the like? Maybe it's this, which we'll call Lesson 5: *If you're planning to stake your individual and corporate reputation on a person's character, background and basic veracity, better do your due-diligence homework — and if there's any question in your mind about your ability to do it right the first time, don't hesitate to seek professional help.* ■

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