

Former CEO Facing Prison Sentence after Company's Pay-to-Play Scandal Exposed

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By D. Mark Renaud and Louisa Brooks

A former CEO is expected to face four years in New Jersey state prison after pleading guilty to corporate misconduct following the discovery of a scheme to evade the state's pay-to-play laws.

According to a press release by the New Jersey Attorney General's office, Howard Birdsall must also pay the state \$49,808—the amount of his own illegal political contributions. His sentencing date is April 22.

As we previously reported, seven executives of Birdsall's successful engineering firm Birdsall Services Group (BSG) were indicted by a grand jury in 2013 on charges of conspiracy and money laundering after authorities discovered the company was illegally reimbursing employees for political contributions. The scheme involved disguising more than \$1 million in corporate political contributions as personal donations from its employees. The employees would make donations of less than \$300 to avoid reporting requirements and would then be reimbursed by the company, either directly or in the form of a "bonus" payment.

Now, along with former Birdsall's expected prison sentence, the wreckage of this once-respected firm leaves the remainder of its indicted former executives awaiting sentencing or trial. The company itself paid more than \$1 million in criminal penalties, as well as \$2.6 million to settle a civil forfeiture action, and was eventually sold after filing for bankruptcy.

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Although the story of BSG's downfall includes twists worthy of a daytime drama—the scheme came to light through a tip from a BSG officer's ex-wife who secretly recorded her husband's admission that he was making illegal contributions—unfortunately the consequences in this case are quite real. And though this example may represent a willful violation of state pay-to-play laws, it serves as an important reminder that such laws are strict, vigorously enforced, and carry serious penalties. In the news release following Birdsall's guilty plea, the Director of the Division of Criminal Justice within the New Jersey AG's office vowed to "aggressively prosecute anyone who engages in criminal conduct to evade our laws in this area."

A robust corporate compliance program, including a preclearance policy for employee political contributions, can go a long way toward averting unintentional violation of state law. As the unhappy story of Birdsall Services Group bears out, avoiding such violations is paramount to continued success—or, in this case, even existence.