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Support for `lone ranger'

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I'D like to dedicate this column to lone rangers.

That's the term that a Halliburton lawyer used in a legal proceeding this week to describe Anthony Menendez, a former director of technical accounting research and training at the oil-field-services company.

Menendez claims he was forced to resign from Halliburton early last year after he accused the company of using improper accounting to inflate earnings and "distort the timing of billions of dollars in revenue," according to his complaint.

Halliburton says the allegations are untrue.

Menendez is seeking protection under the Sarbanes-Oxley law, which was designed to shield corporate whistle-blowers from retribution.

Congress created that provision of the law after lawmakers found that in the corporate scandals of Enron and WorldCom, employees such as former Enron executive Sherron Watkins faced retaliation for raising concerns about harmful corporate practices.

It's often too easy for companies to dismiss such concerns as an annoyance, as the ranting of someone who's lost touch with reality.

Consider how Halliburton attorney Carl Jordan described Menendez before the judge: "He saw everything in black and white, and he thought he was always right, and everyone else was wrong."

It could be that Menendez misinterpreted the accounting details he questioned. It could be that the more people ignored his concerns, the more determined he became, spinning a web of false obsession into a conspiracy of his own imagination.

But shareholders dismiss such concerns at their own peril. It may not be a major accounting scandal. It may not even be material, in the legal sense, to Halliburton's operations. But something set Menendez off.

And it wasn't just him. A colleague testified on his behalf that company accountants questioned in 2005 how Halliburton was booking revenue for oil-field tools that were sitting in warehouses, yet to be delivered to customers.

Halliburton says it listened to Menendez's concerns and investigated them thoroughly. So did its outside auditors and the Securities and Exchange Commission.

Outside auditors, though, don't have a great track record in ferreting out accounting improprieties, and the SEC has proved far better at punishment than pre-emption.

`Critical' role

If the past seven years have taught us anything, it's that concerns such as Menendez's need to be heard. We've seen the painful consequences of corporate America's deaf ear.

"The role of the whistle-blower is critical because it keeps corporations and management in line and accountable to shareholders," said Philip Hilder, a Houston attorney who represents Watkins and who represented Menendez early in the case. "Whistle-blowers are the first line of defense in discovering fraud. Management in corporations ought to embrace them. To the extent that they uncover wrongdoing, the company can correct any potential problems before they go out of control."

What Menendez did wasn't easy. He challenged his superiors and in the process surrendered a job he liked and to which he'd like to return, according to what he told the Chronicle this summer.

Beyond right or wrong

It's never easy to put conscience ahead of livelihood. It's far easier for employees to keep quiet and let someone else worry about the problem.

In some ways, what matters in this case is not whether Menendez is right or wrong, but that he had the guts to speak up.

"Whistle-blowers tend to come forward out of principle," Hilder said. "It takes courage to buck the system."

That's why the Sarbanes-Oxley law was designed to shield whistle-blowers, though many still face retaliation.

"You need to set a scenario up where individuals feel comfortable and protected in providing information that may be detrimental to the entire company if it's not met head-on," Hilder said.

Money well spent

When the Menendez case is over, regardless of the outcome, Halliburton's shareholders will have benefited. Sure, Halliburton has spent some of their money to defend itself against claims that may be, as the company contends, without merit.

But it's money well spent. Investors will gain reassurance that accounting concerns weren't ignored.

It's easy to paint lone wolves as crazy. Sometimes they may even be wrong. But what if they're right?

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