



EMORY  
LAW

Emory Corporate Governance and Accountability  
Review

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Volume 1 | Issue 1

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2014

## The Origin of ECGAR

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### Recommended Citation

Reuben Guttman, *The Origin of ECGAR*, 1 Emory Corp. Governance & Accountability Rev. i (2014).  
Available at: <https://scholarlycommons.law.emory.edu/ecgar/vol1/iss1/1>

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## THE ORIGIN OF ECGAR

ECGAR's story begins with the financial crisis of 2008 where we were once again reminded that corporate misconduct—or at least the misconduct of those who guide corporations—has an impact reaching beyond shareholders. In the intervening years, other examples of corporate misconduct have surfaced. Federal and State False Claims Act settlements with some of the world's largest pharmaceutical manufacturers exposed facts demonstrating that through practices of misbranding and kickbacks, patients were given drugs for unapproved purposes or given drugs because of monetary inducement and not medical necessity. More recently, facts have surfaced indicating that one of the world's largest automobile manufacturers concealed material flaws in its ignition system rendering numerous cars unsafe.

In light of these events, the glaring need for a publication to explore the implications of corporate misconduct became apparent. We wanted to found a legal publication focusing not just on the nuts and bolts of corporate law but on broader relationships between corporations and their employees, consumers, neighboring land-owners and shareholders. Our goal is to inspire the broadest creative thought about the impact of the “corporate wake.”

In developing our name, we decided on the Emory Corporate Governance and Accountability Review (ECGAR). The word “Accountability” underscores ECGAR's broader mission, part of which involves a focus on regulation and compliance enforcement in a global economy. Our ambition was for ECGAR to be a place where legal minds—practitioners, judges, academics and students—could come together to discuss pressing accountability questions. Questions such as: Are drug trials in China being used to secure U.S. Food and Drug Administration pharmaceutical indications and—if so—how does the FDA ensure the integrity of those trials? How does the U.S. Environmental Protection Agency monitor hazardous waste from cradle to grave as is mandated by the Resource Conservation Recovery Act (RCRA) when the regulated product is born abroad and shipped to the United States in “sea lands” that are downloaded at our ports of entry?

These compliance questions naturally implicate another ECGAR focal point: whistleblowers. With ECGAR's focus on whistleblowers, it is only fitting that a whistleblower is an integral part of ECGAR's story. This online law journal was jump-started with a generous contribution from Lynn

Szymoniak, an attorney, fraud investigator, and whistleblower. Through painstaking analysis of thousands of mortgage assignments, Ms. Szymoniak discovered that many of the assignments were fabricated. She blew the whistle on what has become known as “robo-signing” and her efforts led to both an appearance on CBS News 60 Minutes and a False Claims Act lawsuit she filed as a whistleblower on behalf of the United States Government. In her suit, Ms. Szymoniak alleged that a number of banks used robo-signed documents as a predicate to securing government insurance money through the Federal Housing Administration insurance program. When a portion of Ms. Szymoniak’s claims were settled in 2012, she received a bounty out of which she generously provided Emory University School of Law with the initial grant necessary to fund this journal.

Ms. Szymoniak, along with Harry Markopolos, who alerted the Securities and Exchange Commission to Bernie Madoff’s derelictions, serve as inspirations for rigorous fact investigation and analysis. ECGAR must follow this example. Therefore, the challenge of this journal, and for its editors and contributors, is to compile, analyze, and fully comprehend the facts first so that any legal analysis, conclusions or proposals, are not merely theoretical but practical. To be successful, this journal must render practical guidance for—or at least provoke the thoughts of—practitioners, jurists, and lawmakers.

To keep pace with rapidly developing events, we chose to make this a predominantly online publication to ensure the timeliness of our discussions. By deviating from the traditional print publication model, which only reaches paid subscribers a few times a year, our journal can better accomplish its goal of inspiring the broadest creative thought possible on current corporate accountability issues.

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