

Corporate Fraud in Nigeria- A Two Case Study

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ABSTRACT

The Purpose of this study is to compare Corporate fraud in a profit making organisation and a non-profit making organisation in the particular circumstances of a developing country like Nigeria with a view to drawing out the similarities and differences between them. A case study approach was adopted using Cadbury(Nig.)Plc. and the Nigerian Stock Exchange as organisations of study. This approach was also supplemented with the use of newspaper reports and interviews granted by knowledgeable persons in the industries. The study was anchored on the acronym "CRIME" representing Cooks, Recipes, Incentives, Monitoring and End results. The findings suggest that there are similarities. These include the fact that top management were mainly the architects of the frauds; Top management were buoyed in part by greed; the end result was massive loss to investors and loss of employment by both perpetrators and innocent other employees. There were also differences. The vehicles used in perpetrating the fraud were different reflecting the different objectives of the organisations. Some of the incentives also differed. The monitoring mechanisms put in place in both organisations also differed in breath. The study results are based on only two cases and should therefore be interpreted with caution. This paper has practical implications for Nigerian regulators including the Nigerian Security and Exchange Commission. The Central Bank of Nigeria, investors, Board of directors and all those interested in reigning in the monster of corporate fraud in Nigeria. The findings of this study are generally in line with similar studies in other climes. However, the study identifies some other factors peculiar to corporate frauds in Nigeria. This is also, perhaps, the first study in Nigeria to compare fraud in a Nigerian profit making company and the Nigerian Bourse.

Introduction

Corporate fraud is a global phenomenon. Witness the Enron debacle in the United States of America and other corporate failures across Europe. In the case of ENRON profits were overstated by as much as 586 million dollars for four years. In the case of WorldCom fraud in 2002 operating expenses of 3.8 billion dollars were capitalized thus overstating its profit. In Nigeria, the Cadbury (Nig) PLC scandal has remained a reference point for fraudulent financial reporting. Other incidences of fraudulent financial reporting in Nigeria include the fraud at AfribankPlc and Lever brothers(Nig) Plc(Ajayi 2006). Fraudulent financial reporting has dire consequences for the economy of any Nation and the victim organisations. Its effects include financial loss and dent on the reputation of the victim organization(Burnaby et al. 2011). The financial effect of fraud run into billions of dollars annually (Bourke 2006). In the wake of the high profile fraud at WorldCom and ENRON average loss per case increased to \$400million(Beasley et al. 2010).The ENRON scandal also led to the disintegration of Arthur Anderson- an International Accounting firm. In Nigeria, the growing incidence of corporate fraud has meant that investors' confidence in the capital market has waned. In fact the current down turn in the market has been blamed partly on the fraud at the Nigerian Stock Exchange(Osaze 2011). Investors in Cadbury (Nig)plc also lost heavily as the share price of the company took a downward turn.

The literature is awash with studies on fraud. Both profit making and non-profit making organisations are not spared of fraud. Witness the recent fuel subsidy scam in Nigeria's public sector (Adoke 2012). What is not clear, however, is whether the nature these frauds is the same in both profit-making and non-profit making organisations especially in the particular circumstances of a developing Country like Nigeria. This study has therefore been designed to compare the nature and interactive factors inherent in these corporate frauds to see whether there are differences and similarities using Cadbury(Nig)Plc and the Nigerian Stock Exchange. Fraud is a very rare occurrence in a bourse itself. This study will, therefore, also be a welcome addition to the scanty global literature on fraud in a bourse. This study will investigate the similarities and differences under the acronym "CRIME" as espoused in extant literature (Rezaee 2005). C stands for "Cooks"; "R" stands for recipe and "I" for incentives"; "M" stands for motivations while "E" stands for end results. This study takes the form of explanatory case study on fraud in Cadbury(Nig) PIC and the Nigerian Stock Exchange. The rest of this study will proceed as follows: a review of related literature; brief description of the case companies; comparison of the case companies; discussions of the results and we then conclude.

Review of Literature

Agency Theory

The modern corporation is characterized by widely dispersed ownership in the form of shareholders. Such ownership structure constrains shareholders from being more actively involved in the management of the companies they own. In such a situation an agent is appointed to manage the day to day operation of the company thus resulting leading to a situation where there is separation of ownership and control. The fallout of such an arrangement is the potential for conflicts of interests between agents and principals. Thus the separation of ownership and control can lead to an agency problem. One problem that can arise in such relationships is moral hazard which involves the actions of economic agents in maximizing their welfare at the expense of others. Another problem is an information one which comes from the information differences and conflicting incentives between managers and owners (Matoussi & Gharbi 2011). The reference in this study is to managers who commit fraud and in doing so serve their own interests at the expense of others.

Three main types of fraud.

Frauds are usually classified into three main types as follows:

- a) Financial statement fraud
- b) Asset Misappropriation
- c) Corruption

Financial statement fraud has been defined as a deliberate attempt by companies to deceive or mislead users of published financial statements by preparing and disseminating materially misstated financial statements. Financial statement fraud has also been defined as the deliberate fraud committed by management that hurts investors and creditors through materially misleading financial statements (Rezaee 2005); (Intal & Do 2002). Financial statement fraud differs from other frauds in that it is committed usually by management, to deceive financial statement users while misappropriation of assets is committed against an entity most often of by employees (Niamh & Mary 2007). Corruption can take the form of bribery or conflict of interest.

"The Acronym CRIME"

The Cooks

A survey by the Association of Certified Fraud Examiners in as far back as 1997, found that 83% of the fraud losses studied involved owners or executive directors (Examiners 1997). A similar study by Ernst and Young in 2003 found that more than half the perpetrators were from

management.(ERNST and YOUNG 2003). In yet another study , the Security and Exchange Commission of America(SEC) revealed the involvement of the CEO and/or CFO to a certain extent in 89% of fraud cases surveyed.(Beasley et al. 2010). In Nigeria, formal studies on financial statement fraud are few because few cases of such frauds are publicly available. However, some of the few documented cases have shown a preponderance of top management to a certain extent.(Otusanya & Lauwo 2010); (Otusanya 2010). Based on a study on occupational fraud, it was revealed that men are relatively greater in number than females.

RECIPES

Prior fraud literature has identified the revenue account as being the primary target for financial statement fraud (Beneish, 1997 in Perols, 2008). Areas of improper revenue recognition include bill- and-hold sales, conditional sales, fictitious sales and improper cut – off sales. Typically, financial statement fraud can be committed through the following tools:

- a) Falsification, alteration or manipulation of material financial records, supporting documents or business transactions
- b) Material intentional omissions or misrepresentations of events, transactions, accounts or other significant information from which financial statements are prepared
- c) Deliberate misapplication of accounting principles, policies and procedures used to measure recognize, report, and disclose economic events and business transactions
- d) Intentional omission of disclosures or presentation of inadequate disclosures regarding accounting principles and policies and related financial amounts(Tiscini & Donato 2004)

A 1997 study found that:

- 1) Over half of all financial statements frauds involved revenues or accounts receivable accounts
- 2) Recording fictitious revenues was the most common way to manipulate revenue accounts
- 3) Recording revenues prematurely was the second most common type of revenue related financial statement fraud(Abd et al. 2010). Three common methods of concealing liabilities and expenses are:
 - a) Liability/ expense omissions.
 - b) Capitalisation of expenses
 - c) Failure to disclose warranty costs and liabilities(AICPA 2007).

A study of fraud in a non-profit organizational setting found the following among others:

- 1) Cash is the most common type of asset misappropriated
- 2) One type of cash misappropriation is fraudulent disbursement that occurs when an organization pays an expense that it does not owe
- 3) There are many types of fraudulent disbursement transactions
- 4) Fraudulent billing occurs when false or inflated invoices are paid
- 5) Expense reimbursement fraud occurs when falsified claims for expenses are submitted by employees for such things as travel reimbursement
- 6) Corruption can take the form of bribes where cash or another asset is accepted or paid to aid in the fraud. Reward can also be accepted or paid for the fraud
- 7) Conflicts of interest was the most common type of corruption(Greenlee et al. 2006).

Incentives for Corporate Fraud.

It has been posited that managers have greater incentives to commit fraud when they can benefit from the fraud either through their compensation agreements or through insider trading. Empirical evidence has, however, not been being able to conclusively prove the assertions(Perols 2008). The Security and Exchange Commission of US cited the following as common reasons for fraud:

- a) The need to meet internal or external earnings expectations
- b) Attempts to conceal the company's deteriorating financial condition

- c) The need to increase the stock price
- d) The need to bolster financial performance for pending equity or debt financing
- e) The Desire to increase management compensation based on financial results(Beasley et al. 2010)

It has been said that for fraud to thrive that there must be a will, opportunity and exit(Akinyomi 2012). The fraud triangle embodies three conditions generally present when fraud occurs. They are incentive/pressure, opportunity and attitude/ rationalization. Attempts have also been made to advance behavioral reasons for prevalence of fraud in Nigeria. These include:

- a) Breakdown of societal values. African societies value a person's worth in terms of the amount of cash he/she can flaunt
- b) Availability of opportunities including funds. Fraudsters scheme and wait for opportunities to strike
- c) Innate psychological imbalance often manifesting in tendencies to be anti- social(Akin-Ogundeji 2010).

Monitoring

Organisations have monitoring mechanisms aimed at ensuring good corporate governance and minimization of corporate fraud. The primary objective of corporate governance is to try to align managerial incentives with that of stakeholders so that managers work in the best interest of the stakeholders(Nworji et al. 2011). Board of Directors occupies a pivotal position in achieving this objective. Certain qualities are considered germane for effective board performance. Leading the pack is board independence which depends on the appointment and active involvement of outside directors. Outside directors are generally believed to be more effective in monitoring management and enhancing reporting quality.(Klein 2002). Other qualities making for effective board include diligence(proxied by frequency of meetings)(Kent & Stewart 2008) and effective board size. Audit committee effectiveness is also important in financial reporting quality. This is done through effective oversight of internal and external audit functions. Factors canvassed for Audit Committee effectiveness in discharging its monitoring functions include presence of many outside directors, financial expertise of at least one member of the committee and diligence of members of the committee(again measured by frequency of committee meetings)(Karamanou & Vafeas 2005). One argument for the independence of the audit committee members is that they will be able to deter management from manipulating financial results. Internal auditors are another line of defense in effective monitoring as they constantly review the internal control system for effective operation. Internal auditors, however, suffer from the limitation that they are employees of the organization and be hamstrung by the degree of independence accorded it by management. External auditors are important gatekeepers in the corporate governance firmament as it reports on the truth and fairness of financial statements presented by the management of an organization and thus lends credibility to the financial statements of such organisations(Adeyemi & Olowokere 2012).

End Result

The end results are often far reaching. Usually the perpetrators lose their jobs. The regulatory authorities often also bar the actors from holding directorship positions in public companies. Investors are not spared either. For example at the height of the Cadbury(Nig.) Plc. accounting scandal, its share price pull meted from an all- time high of #65.52 in December 2005 to #8.65 as at October 2009(Okaro & Okafor 2009). This results in the loss of investors' trust and confidence in the capital market which hurts the economy badly as fresh funds could not be mustered to drive rapid economic growth and development(Osaze 2011). For directors, audit committee members etc, their reputation is adversely affected. This is particularly true for auditors who have their reputation sullied. Audit clients switch firms that have reputation for low audit.(Skinner & Srinivasan 2010).

The Cases.

Cadbury (NiG.)Plc. was involved in an accounting scandal that saw the over statement of the company’s profit by over #13billion between the period 2003 and 2006. The Nigerian Securities and Exchange commission (SEC) investigated the scandal and issued a report. In a similar vein, in2010, the Nigerian Stock Exchange was accused of conducting the affairs of the exchange in a manner detrimental to the interest of investors. A forensic audit of the exchange was commissioned and an interim report was issued. The two reports from the plank of the analysis below using the acronym “CRIME”

Table1- Two Case Analysis of Occupational Fraud in Nigeria

“CRIME”	Cadbury(Nig)Plc.	Nigerian Stock Exchange
Cooks	MD and CFO and Executive Directors in concert with some other Management staff.	The Director-general in concert with some management Staff. Non- Executive directors shared in productivity bonuses which they were not entitled to.
Recipe	Stock buy backs, Cost deferrals, trade loading, false suppliers certificates, hiding of asset and inflation of Bank balance. Rights issue.	False and questionable claims, expense overstatements, expense reclassifications, award of questionable contracts to companies owned by members of staff, duplication of payments, outright theft of assets or questionable write off of assets to the advantage of members of staff, false returns to regulatory authorities.
Incentives	Profit management and desire for extra pay for Non-executive directors, Leverage and liquidity management	Desire for personal comfort. Justification for productivity bonuses
Monitoring	Passive board, ineffective audit committee, compromised management and internal auditor, weak internal control system as a result of collusion and negligentexternal auditor that also lacked skepticism.	Board riddled with conflicts of interest, Overbearing Director- General. Compromised non – executive directors. Very poor internal control system. Absence of Audit Committee and internal audit. Ineffective external audit function.
End Result	Sack of MD and CFO and both barred from holding positions in quoted companies in Nigeria for life. Internal company reorganization that saw the exit of the previous management of the organization. Posting of losses by the company which saw its share price crash. External auditor indicted and fined.court cases.	Sack of Director-General and non-executive directors. A new Director-General appointed with new executive directors. Refund of productivity bonuses paid to non- executive directors. Recovery of some assets of the company from the erstwhile top management. Over 35% of staff sacked by the new management. Stock Exchange market capitalization dropped as a result of loss of confidence by investors. Court cases.

Results and Discussions

The results presented above indicate that all three common types of fraud where present in the two cases. In the case of Cadbury(Nig.) Plc., the financial statements were overstated by over thirteen billion Naira. In the case of the Nigerian Stock Exchange, although the extent of the overstatement/ understatement cannot be readily ascertained, the duplication of payments,

reclassification of expenses, questionable write offs and overstatement of expenses ensured that the financial statements of the exchange were less than accurate. Cadbury management had an off shore account completely omitted from the books of the company that was used to top up the salaries of the executive directors. Approval of the remuneration committee of the board was not obtained to make such payments to the directors. This was a clear case of asset misappropriation and conflict of interest. In the case of the Nigerian Stock Exchange, the top management of the bourse had a field day converting the assets of the organization into their personal properties through questionable write offs. Also conflicts of interest were rife in the organization as contracts were awarded to companies fronted by top management staff. Interestingly, misappropriation of assets of an organisation is usually ascribed to employees in the lower rung of the ladder but here it is a case of top management being deeply involved in the infractions. In the case of the Nigerian Stock Exchange even non-executive directors were engaged in conflicts of interest and misappropriation of the assets of the organization by way of productivity bonuses which they were not entitled to.

The cooks were top management of both organisations. In the case of Cadbury (Nig.) Plc., the MD and the CFO led the pack and were helped by some other top management and middle management staff. In the case of the Nigerian Stock Exchange, The Director- General and some non- executive directors powered the fraud. While the fraud at Cadbury (Nig.)Plc was led by a male, the Nigerian stock Exchange fraud was led by a female raising again the issue of gender in fraud schemes.

There was marked differences in the recipes. While Cadbury (Nig) Plc relied on stock buy backs, cost deferrals and allied techniques, the Nigerian Stock Exchange relied on booking of questionable expenses, questionable asset write offs and misclassification of transactions. This can be explained by the fact that Cadbury(Nig.) Plc is a profit making organization unlike the Nigerian Stock Exchange. The differences in recipes as a result of the objectives of the organisations also play out in the area of incentives. While Cadbury management is buoyed by the pressure to grow profit and show a favourable balance sheet as well make hay for itself the management of the Nigerian Stock Exchange is largely driven only by the desire to make hay for itself..

In the area of monitoring, the non- executive members of the board of Cadbury were passive. The audit committee was ineffective while the internal auditor was compromised. Collusion among some members of top management ensured internal control override. In the case of the Nigerian stock Exchange, conflict of interest did not allow the non- executive directors to exercise their oversight function effectively .As top management were behind the cases of asset misappropriations and reclassification of accounts, the internal control system could not work. Curiously the exchange had no internal audit unit. It did not also have an audit committee although under the current Nigerian Law it was not mandatory for it to have one. For both firms the external auditors did not raise a whimper. In the case of Cadbury (Nig) Plc. the auditors were indicted by SEC for negligence and lack of professional skepticism while the fees paid to the auditor in the case of the Nigerian Stock Exchange was described as excessive.

In both cases, members of the public, employees of the organization and the investing public were at the receiving end. Costly litigation has also resulted for both organisations. Perhaps for the first time in Nigeria, an audit firm had been indicted, warned and fined. Interestingly, both organisations have been audited for many years by the same firm. The uninspiring performance of some Nigerian auditors has led to the Central bank of Nigeria imposing selective ban on bank auditors providing non- audit services to its bank audit clients. It has also led to calls for mandatory rotation of auditors in all Nigerian Public limited companies.

Many watchers of the corporate governance firmament in Nigeria appalled by the developments in the two premier organisations have vented their feelings. On Cadbury (Nig) Plc scandal one said” What kind of organizational structure was in place in Cadbury(Nig.)Plc that would allow two persons to mindlessly , as reported, affect the health of the company?” Another queried the

relevance of a board that still pleads excuses for its negligence for presiding over a staggering fraud of about fifteen billion Naira. Yet another counseled that now is the time for a whistle blower Act that will guide responsible whistle blowing in Nigeria (Solanke 2007). In the case of the Nigerian Stock Exchange, some of the comments were as follows:

- a) "A staff that uses the name of her company or relation to grab contract from the same organisations he is serving amounts to blatant abuse of office. This is unethical, it is criminal and the individuals concerned should defend themselves"
- b) The Nigerian Stock Exchange should be demutualized.
- c) The Nigerian Security and Exchange Commission was slow in acting. (Adigun et al. 2010).

Summary and Conclusion

The objective of this study was to investigate two cases of corporate fraud in Nigeria which Nigerian Security and exchange commission investigated with a view to documenting similarities/dissimilarities in a profit making organization and a non-profit making organization. We used the acronym "CRIME" representing Cooks, Recipes, Incentives, Monitoring and End results as the basis for our analysis. To achieve this we used a case study approach supplemented with materials from newspaper reports and interviews granted by leading experts in the field. The fraud cases fitted into the five pattern used in the analysis. This was in spite of the fact that one of the organisations studied was a non-profit making company while the other one was a profit making company. The two organisations had many other things in common. There was massive collusion among the top management staff of both organisations. The effect was that the internal control systems were weakened thus facilitating the frauds in both organisations. Conflicts of interests were also the order of the day resulting in siphoning the assets of the organisations into private pockets. In both cases the external audit function "went to sleep" as clean audit reports were issued in the face of the frauds. The two cases showed all the signs of all the major categories of fraud- financial statement fraud, misapplication of assets and corruption. The end result for both companies were loss of jobs by both culprits and other innocent employees, change of helmsmen at the top, massive loss to investors and poor perception of the external audit function. Interestingly, the corporate frauds did not owe their discoveries to whistle blowing efforts of the employees. This has been ascribed to the culture of unquestioning obedience to constituted authority. For example, in the wake of the accounting scandal in Cadbury(Nig)plc. all the 20 employees of the confectionary giant interviewed confirmed that they respect and fear their managers in response to the injunctions in the holy koran and the holy Bible. They averred that they had no need to disagree with them as the managers owe their appointments to God and can only be removed in God's appointed time (Oghojafor et al. 2012).

The vehicles used in achieving the frauds, however, differed significantly in both organisations reflecting the fact that one company was a non-profit making company while the other was profit making. The incentives also differed. In the case of monitoring, the absence of some monitoring institutions like the audit committee and internal audit marked out the non-profit firm from the profit-making firm. However, the effectiveness of the two institutions in the case of the profit making company was compromised.

Our study should be interpreted with caution in the light of the limitations of the study. This is a two case study and its findings may not be generalised. Also the Nigerian Stock Exchange may not be a typical example of a non-profit making organization because of its size and peculiar mandate. On the whole, however, this study has contributed to our knowledge of corporate fraud in the following ways:

- 1) It has enriched our knowledge of interactive factors inherent in corporate fraud, some of them peculiar to a developing country like Nigeria
- 2) It has brought out graphically the similarities and dissimilarities in corporate frauds in for profit companies and non-profit companies in Nigeria.

- 3) Fraud in a bourse itself, as opposed to frauds in companies quoted in the bourse, is a rare occurrence globally. This study has thus increased our knowledge of the nature of fraud in such institutions.

This study will be of particular relevance to Nigerian regulators and indeed all regulators and company boards desirous of reining in the ugly monster of corporate fraud

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