

Internal Investigations: Best Practices and Strategies for Success

Claire A. McCormack
Skadden, Arps LLP
Palo Alto, CA

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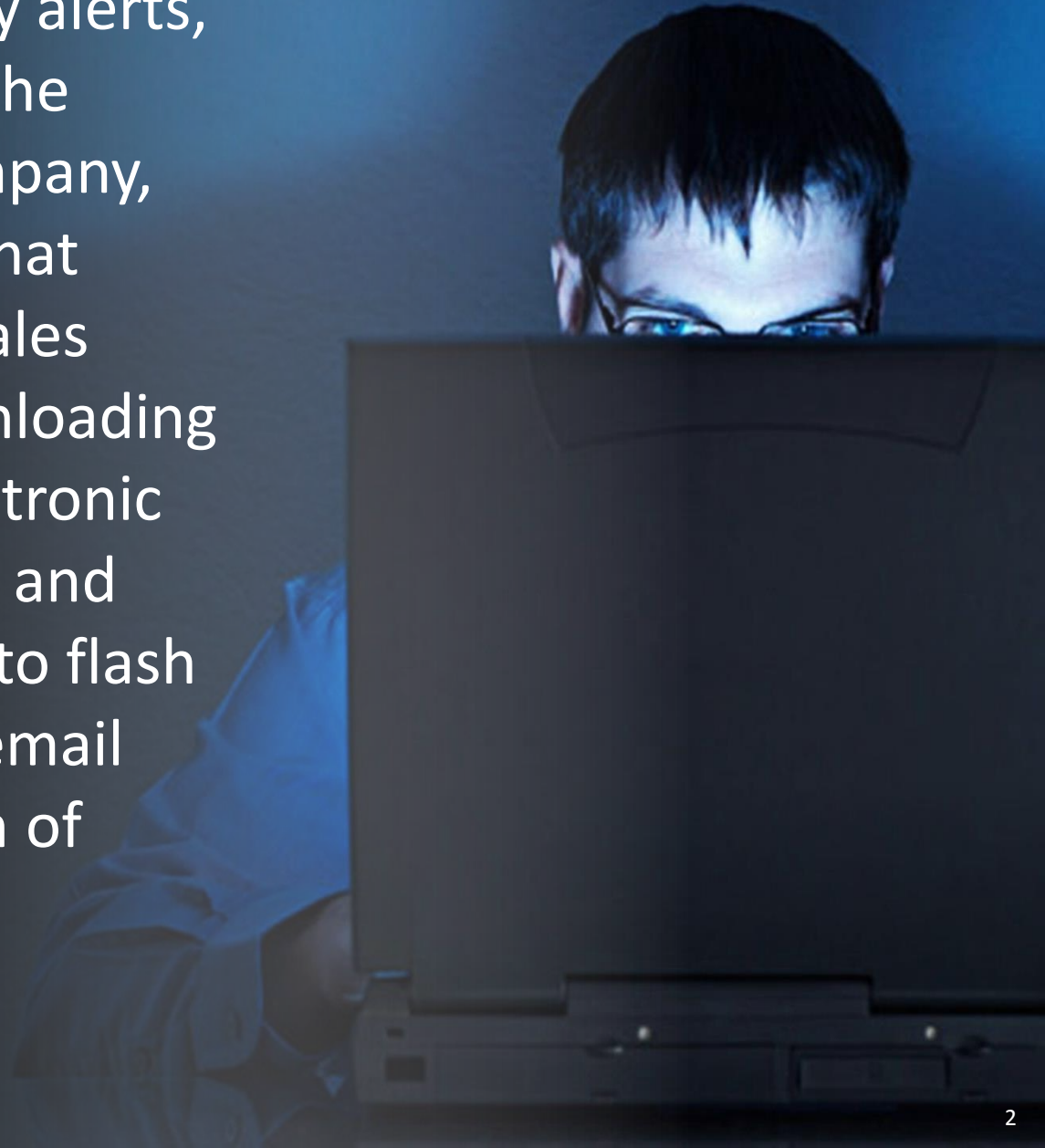
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An Internal Hack

Based on internal activity alerts, the IT security group at the well-known Pharma company, FeelBetter, determines that John Hack, a mid-level sales manager, has been downloading massive amounts of electronic data containing financial and proprietary information to flash drives and his personal email account in contravention of company policy.



1. The view from Internal Audit
2. Structuring a review team and deciding reporting lines
3. Working with law enforcement

When confronted by Human Resources and Legal, Mr. Hack admits to downloading the files, but claims he was doing so because the documents shows the company is engaged in a massive off label marketing scheme, as well as accounting fraud.

Mr. Hack says he has been providing documents to his personal attorney and the Department of Justice, and that he's blowing the whistle on FeelBetter's crimes.

FeelBetter's Form 10-Q is scheduled to be filed in 30 days

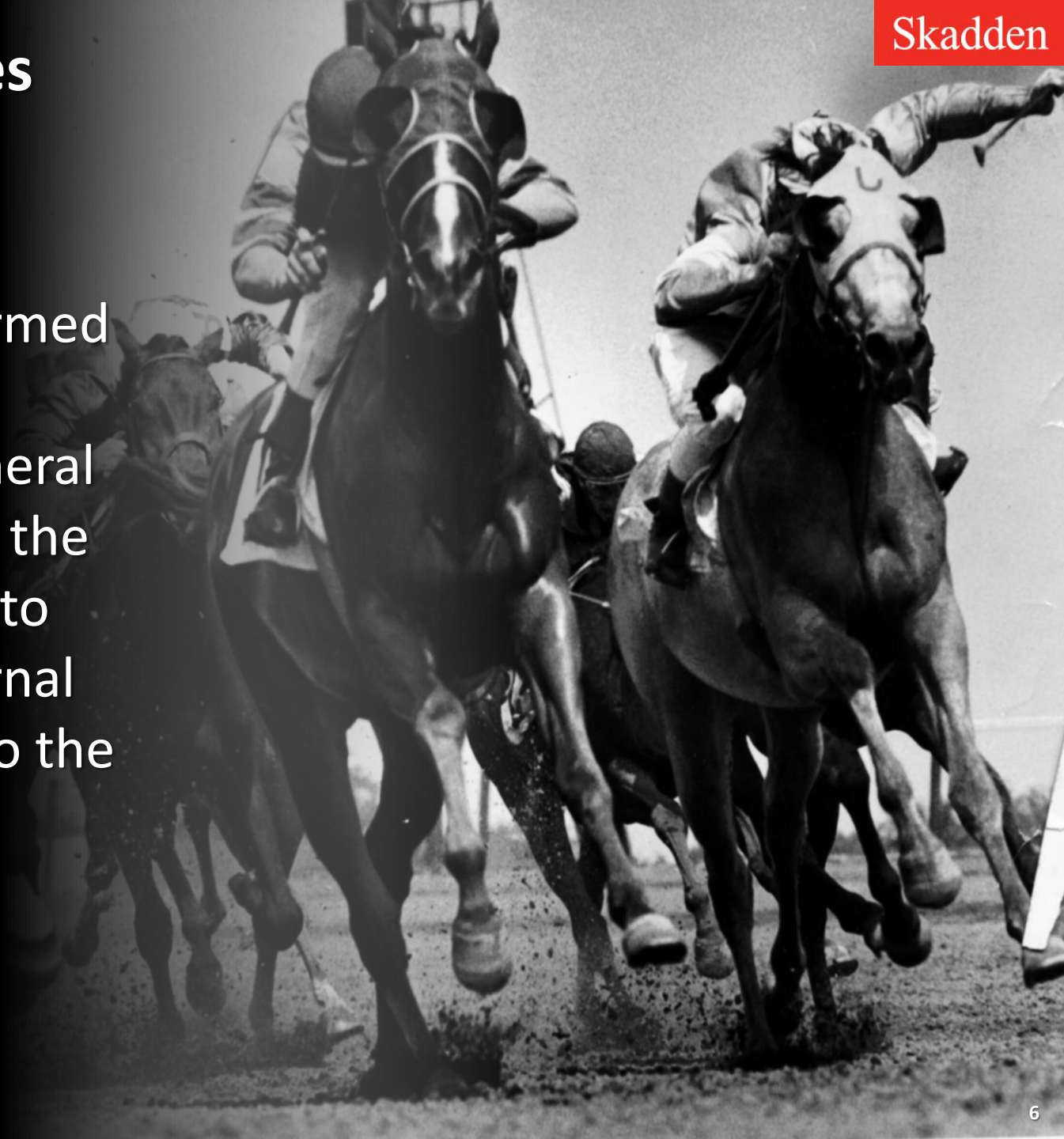
A Purported Whistleblower Steps Forward

1. Responding to purported whistleblowers
2. The benefits of a written response plan
3. Audit Committee and external auditor expectations
4. Ethical implications of whistleblowers
5. Whether and when to engage with regulators



Off to the Races

After being informed of the issue, FeelBetter's General Counsel decides the company needs to conduct an internal investigation into the allegations.



Off to the Races

- Deciding when to hire outside counsel
- Internal and external reporting issues
- Getting an internal review up and running
- Ethical issues raised by internal reviews
- The external auditor's perspective



A Troubling Expansion

Three months into the internal review, and one month before FeelBetter's annual 10-K is scheduled to be filed, documents are identified that suggest the company's CEO may have been involved in the alleged misconduct and that the potential issues extend to the company's operations in Brazil, China and Spain.



A Troubling Expansion

- What to do when senior management is involved
- The ethics of investigating the conduct of managers and professional friends
- Special considerations associated with conducting a cross-border investigation
- Ethics rules outside of the United States



Requests From The Regulators

While gearing up to start the overseas portion of the review, FeelBetter receives subpoenas from the SEC and DOJ requesting documents and other information from the company's U.S. and non-U.S. operations.



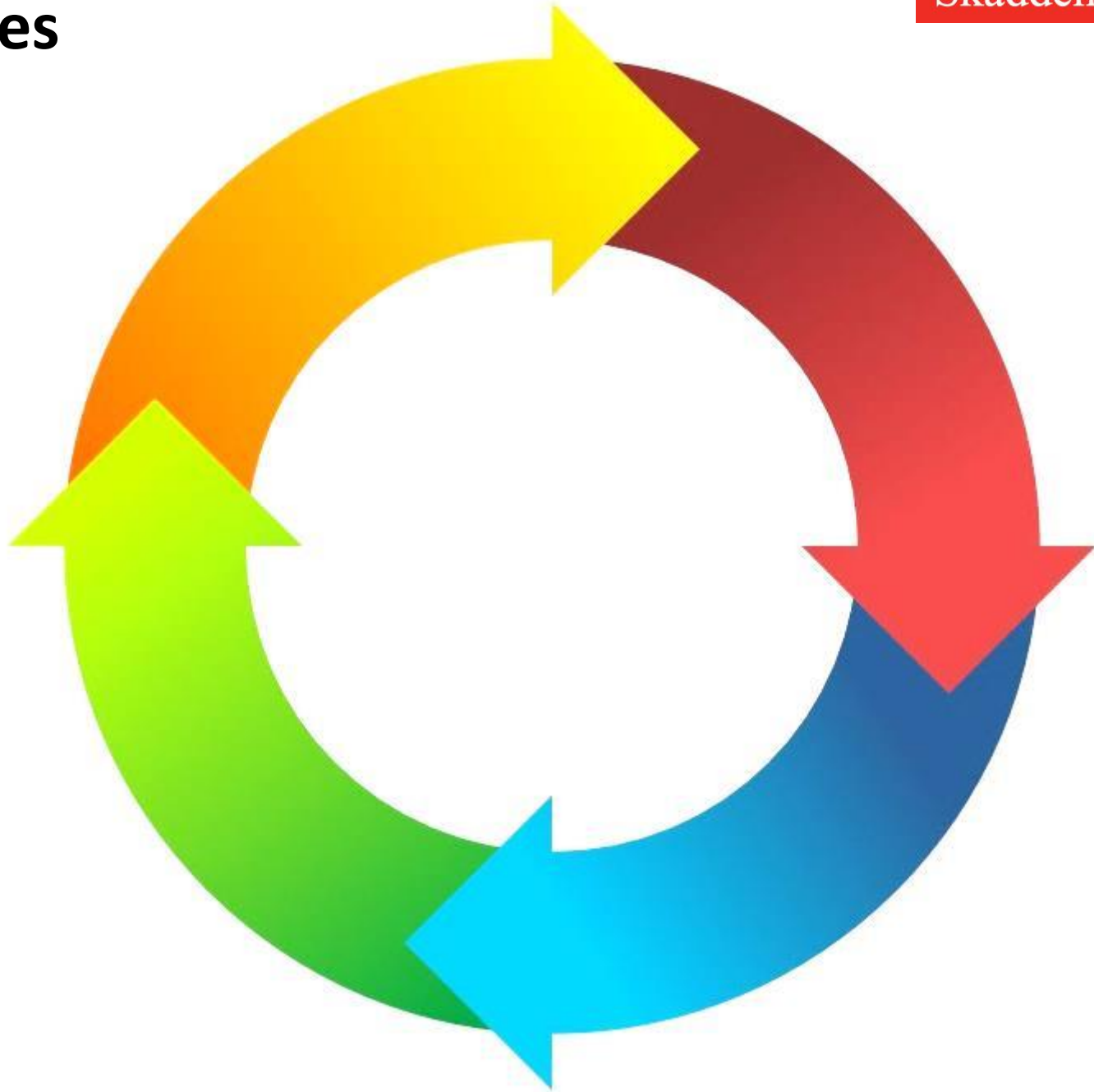
Requests From The Regulators

- First principles of interacting with U.S. regulators
- Responding to regulatory requests for information and documents
- Getting the most of your forensic consultant

DEPARTMENT
OF
JUSTICE

The Deliverables

Outside counsel
and Internal
Audit inform
FeelBetter's
General Counsel
the internal
investigation is
substantially
complete.



The Deliverables

- Potential deliverables to management, the Audit Committee and the external auditors
- Drafting a written report
- Reporting findings of incompetence, negligence, misconduct, etc.

QUESTIONS?



**Claire A.
McCormack**

Claire McCormack has a broad complex commercial and securities litigation practice, representing clients in federal and state courts. Ms. McCormack's experience includes:

- representing the CEO of a company involved in the computerized algorithmic trading of securities in connection with claims of trade secret misappropriation;
- defending FedEx in connection with a federal criminal indictment alleging that the company conspired with certain online pharmacies to unlawfully distribute controlled substances and misbranded drugs.
- challenging the validity of an arbitration award under both the U.S. Federal Arbitration Act and the California Arbitration Act;
- representing the board of directors of PG&E Corporation.

Ms. McCormack graduated with distinction from Stanford Law School. She is admitted to practice law in California and New York.

Prior to joining Skadden, Ms. McCormack served as a law clerk to the Hon. Kenneth M. Karas in the U.S. District Court in the Southern District of New York. She then served as an assistant district attorney in the San Francisco District Attorney's Office, where she conducted numerous preliminary hearings and was the lead counsel in 10 jury trials.