

Beyond Succession: What Happens When Workplace Investigations Hit Home (Podcast)



[Listen here.](#)

What happens when the person at the center of a harassment complaint is also a family member? In this episode of Beyond Succession, host [Leah Tolton](#), is joined [Laura Inglis](#) and [Sabrina A. Bandali](#) to unpack the unique challenges family enterprises face when personal and professional boundaries blur.

They discuss how to recognize when an informal concern becomes a legal risk, the heightened perception of bias in family enterprises and why involving external counsel can make a critical difference. From employment issues to international compliance, tune in for real-world examples and practical strategies to help protect both your enterprise and your family relationships.

Transcript

Laura Inglis: [00:00:00] So it's one thing if it's an allegation against one of your employees, I think it becomes compounded when you have an allegation against your father, your sibling, your spouse. And there's sort of this natural protectiveness that could be triggered. And the interesting element to a family owned business is that even if it isn't triggered, there can be a perception of bias, um, concerns, but allegations won't be taken seriously things will be swept under the rug.

Leah Tolton: [00:00:37] Welcome to Beyond Succession, a podcast series within the Bennett Jones Business Law Talks podcast that discusses topics around navigating the complexities of the family enterprise. I'm Leah Tolten, partner at Bennett Jones, LLP, and I'm a family enterprise and corporate lawyer. Passionate about helping family enterprise businesses, navigate the complexities of governance, succession, and growth.

Before we begin this podcast, please note that anything said or discussed on this podcast does not constitute legal advice. Always seek proper advice from your legal advisor as every situation is different and outcomes can vary.

Today's episode tackles a critical and somewhat sensitive topic, workplace investigations and their impact on the family enterprise. Whether you're a business

owner or a professional advisor to family enterprises, understanding how to address sensitive and potentially high stakes issues within family enterprises is essential to future proofing its success.

Joining us are two of my colleagues at Bennett Jones. Laura Inglis is a leading lawyer in labor and employment law. She's known for her strategic approach to workplace policies, harassment, investigations, and regulatory matters. Sabrina Bandali is a seasoned international trade and compliance lawyer whose expertise spans corruption, economic sanctions, and cross border legal disputes. Together they'll shed light on the complexities of workplace investigations from ethical dilemmas and corruption. At the executive level to understanding privilege protocols and maintaining the long-term health of your family business. Laura and Sabrina are both contributors to a chapter on Canadian law in the 2025 publication Global Investigations Review, the Practitioner's Guide to Global Investigations. Welcome both to the podcast.

Laura Inglis: [00:02:43] Thank you.

Leah Tolton: [00:02:44] Thank you. Laura. I wonder if you could start us off, what types of things can bring about the need to conduct a workplace investigation?

Laura Inglis: [00:02:53] Sure. So in the labor and employment context, employee misconduct can trigger an investigation. So, you know, the joy of employment law is you see the whole panoply of the human condition. So we'll see everything from, you know, theft, bullying, harassment, violence, um, dishonesty, uh, any sort of corporate skullduggery can emerge. Um. Give rise to an investigation. Pretty much the gamut of bad behavior in the workplace will trigger an investigation.

Leah Tolton: [00:03:24] Okay, so that, that sounds like a really broad range of bad things that can happen or that might give rise to the need to, you know, to take a closer look. Why are workplace investigations particularly critical for family owned businesses, and how might they differ from investigations in other business contexts?

I imagine that there are issues that arise in family enterprises that might actually complicate that investigation. Can you speak to that?

Laura Inglis: [00:03:49] Yeah, so the thing about, allegations of wrongdoing, I think in, in any context is that, you know, it's upsetting for an employer. Period. But when you have the sort of unique relationship that you have in family businesses then it becomes, you know, particularly personal. So it's one thing if it's an allegation against one of your employees. I think it becomes compounded when you have an allegation against your father, your sibling, your spouse there's sort of this natural protectiveness that could be triggered.

And the interesting element to a family owned business is that even if it isn't triggered, there can be a perception of bias, concerns allegations won't be taken seriously, um, things will be swept under the rug. So there's this complicating factor that you don't necessarily have in companies that aren't closely held.

Leah Tolton: [00:04:49] So that creates, you know, some really complicated issues in terms of the position that puts the employee in or the person who, uh, is being investigated, whether they're actually an employee who is not a family member or an A person who is a family member. Yeah. Sabrina, your practice explores is a different, or focuses on a different area of practice, and so I'd be interested to hear from you from an international trade and compliance perspective, what are some key risks in family businesses or what key risks might they overlook that could lead to the need for workplace investigation?

Sabrina A. Bandali: [00:05:26] Well, when we think about what gives rise to trade related compliance issues and the need to do an internal investigation, we're thinking about things like sanctions, like export controls, like corruption, where the business is engaged in some activity that is offside of the rules that apply to it in its home jurisdiction.

And so one of the things that can really occur in the kind of context that Laura was describing, where you have closely knit teams and, and in the case of family businesses, these are personal relationships. These are family relationships. But we see the same problem include in corporations and companies that have closely held teams where people have tight-knit relationships for other reasons.

Perhaps they're, uh, far from the center of the company and they're in a local office together. It's, it's similar dynamics where the interpersonal relationships mean that people might trust each other more. And so in my context, we have situations that arise where people will say, oh, you know, well this, this person that we have in this other jurisdiction, they can, they can help us out. They can make a connection. They can establish a relationship, or, oh, no, don't worry, we got a, we got a good referral about that person, so we don't need to look as deeply. And so just in environments where relationships are very central, some of the sort of sober steps that might be taken in a more at arm's length workplace might get more readily skipped.

And that's where you lead to the kind of risks because we rely on relationships and we, we trust that the people that we know that we like are, are doing things in the way that they should. And especially when things seem, um, bureaucratic or like it, it's a lot of just rules that I don't wanna have to think about or that are slowing down the business, you know, it's, it's easier to push past those things and just get the job done. And that's where we see issues around non-compliance with the restrictions that we're talking about really start to crop up.

Leah Tolton: [00:07:13] Yeah, I'm, I'm chuckling a bit when you say that because that's, uh, a thing that I often hear in dealing with family enterprises that, you know, because they're family or because many of the owners are family and many of the people who work there are family that they're a closely knit group and they don't need to have the same kind of oversight or the same kind of really detailed policies or procedures or processes that they follow in order to make sure that whether it's complying with the law or they, they can withstand scrutiny if someone comes to investigate. It's, it's interesting that that does actually come up quite often in family enterprises in my experience.

You know, Laura, you touched on a couple of things in your prior comment about, um, the realm of behavior that might be something that gives rise to an investigation and the perceptions that can arise because the person who's alleged to have committed the behavior might be a member of the family.

You know, I'd like to explore that a little bit further with you and, you know, ask you, if you could discuss some real world ethical dilemmas that may arise within family enterprises and how those situations could be handled.

Laura Inglis: [00:08:14] So, I mean, you know what we're all building towards is the idea of bias, right? Um, whether it's real bias or a perception of bias or an apprehension of bias, and, and the way that this can play out in a family business context is, you know, let's come up with an example. You have Uncle Frank or Aunt Sue and Uncle Frank's been an issue at the Christmas party for years. Um, and you know, an employee comes and raises concerns.

Now as an employer, if you don't feel like you can deal with those allegations in an unbiased manner, you know, if your initial reaction is, oh, you know, that's just Uncle Frank, being Uncle Frank, or, mm-hmm you know, Aunt Sue is harmless, don't worry about it. Or you don't feel like you can look into it in a fair manner.

Then that's when you need to potentially look outside and go to an external investigator or go to counsel and that can be in-house or external counsel and say, you know, this is a situation. What do we do? There's a concept as you know, that justice needs to be done and be seen to be done. So there's sort of those two pieces there, and I think it's particularly important where there's a suggestion or a perception of bias.

Leah Tolton: [00:09:35] What kind of procedures would be employed in the context of an investigation that could reduce that perception of bias?

Laura Inglis: [00:09:43] Well, that's, I think when you wanna think about having somebody external come in. Right? So you have somebody who is outside of the company who will bring in necessarily a different view, um, doesn't have the same, you know, institutional.

Potential knowledge or bias, but we'll come in and look at the allegations potentially cleanly, um, hopefully cleanly and, and, you know, go in and make findings of fact and determination as to, you know, what's happened and what should happen and what potential next steps are. Um, that's when you're going to hopefully have an injection of independence.

That can help assist in that situation. For a lot of cases, uh, an internal investigation will be just fine. You know, if you've got an HR department, um, and you feel that, you know, you've, you've got people who can go in and are qualified to do that investigation, that can be perfectly appropriate. But when you find yourself in a situation where who's within the ownership structure of a closely held company, then that might be where you need to have somebody again, external come in and assist with the review and the investigation.

Leah Tolton: [00:11:00] Mm-hmm. I just wanna check this out with the two of you. I, you know, I'm kind of seeing in an evolution of the focus that you have, so I, I perceive that what Laura is describing here is something that's maybe internally based in terms of some kind of behavior or action that's taken place within the organization and that Sabrina's expertise might apply to something the organization does with the broader world or that someone in the organization does, that exposes the organization to liability in the broader world.

And so, you know, from that perspective, you know, I'd be interested. Sabrina to hear from an international trade and compliance perspective, what are some, some key risks that family businesses might overlook that could lead to the need for a workplace investigation?

Sabrina A. Bandali: [00:11:48] Sure. So I, I think it's interesting the characterization, um, Leah, these issues that I'm talking about being about the company's behavior as they go out into the world and external facing, that's true, but when law enforcement is going to get interested in issues of sanctions compliance or corruption. They will be very much looking at what was going on inside the company. What did people know? What were the processes that you had in place? Were they adequate processes? Did you follow them? Did you actually in fact, uh, cross a line and, and break the law? And it's important to note that the context in which I'm talking about, at the end of the day, there's criminal risk for companies failing to comply with.

Sanctions with expert controls or, or corruption issues where we're focused now. And so part of, just to rewind and talk about the, the question that you post to Laura about structuring and the kind of ways in which issues might come to light and how that might influence the conduct of an investigation.

Well, oftentimes when someone has failed to engage in the due diligence that they need to for a party who's going to be doing something for the business abroad, or they might have done a transaction that maybe they shouldn't have because the party on the other end of the transaction is someone that they shouldn't have been doing business with. The requirements of law are not things that the company internally has knowledge about or has expertise about. So that might be another reason why you have to go external because you thought that you were doing perfectly lawful business and you thought that you didn't have to go farther in your due diligence.

But if that's incorrect, you really do need to have the matter reviewed from that perspective of a real appreciation of, in an ideal world, what would compliance have looked like and where does what occurred fit on that spectrum of wildly ignoring the requirements, being unaware of them, and, and just approaching it with total innocence and naivete to having a very sophisticated program, but maybe something fell off or something was missed. Or you have a, a bad actor who is trying to circumvent and, and you can really have everyone fall anywhere along that spectrum.

Leah Tolton: [00:13:53] So let's say that your executive, your senior management, have identified a risk like you've described there, and they've, uh, they've taken steps to identify what it is that they might have to comply with and that, you know, they, they put in place some procedures or some steps that people should follow.

What happens if that doesn't take place. What happens if there's some suggestion or there has been actually some behavior that falls in the, the realm of corruption or bribery. You know, have we got legal and reputational risks there that we need to be concerned about or other things?

Sabrina A. Bandali: [00:14:26] Absolutely. So, uh, you know, when we talked about risk and, and all the risk issues that I'm talking about, the three areas of law that I mentioned all come down to, um, risks associated with relationships or transactions. And so those transactions, those relationships, when you're engaging in commercial activity, you can think about your legal risk. So, did I break the law? Have I complied with my legal obligations, your reputational risk? What happens if this. Activity was on the front page of the Globe and Mail tomorrow. And, and what will others think? What would our competitors think? What would our stakeholders think? Um, or, but you could also think about commercial risks. And so, uh, you know, was this someone who was capable of doing the thing that they promised you to do? Did they have the qualifications to do it or is there some potentially, um, uh, nefarious reason why they were, were put forward as, as the person that you should be working with.

And so in any of those scopes when you have a process that's meant to deal with those things, so let's just make this very concrete. You're doing business in another jurisdiction. You want to sell, you make products in Canada, you're gonna sell them abroad and they're regulatory requirements. So you have to hire an agent to help you navigate whatever the rules are in that foreign jurisdiction.

It turns out that, uh, person that was gonna help you navigate those rules cut a few corners. On your behalf, paid some bribes. If the company has a process to say, well, we are going to, before we decide to work with someone, we're gonna vet them. We're gonna vet their qualifications. We'll keep good records of what we did. We've done all the checks. We put compliance clauses in place. We told them what their

expectations are of their behavior. And you know what? Notwithstanding all of that good work that we did to look into the person and put rules of engagement in place around the activity that they did, they went outside anyway.

Then the company's processes might be very good. You just have a bad actor on the other end of the transaction. Different circumstance than the company saying, well, we need to go do this business in an interesting jurisdiction. You know what? It's fine. We do this business in North America. We can do this business and fill in the blank jurisdiction without needing to change how we go about it.

That would be a circumstance where we'd be worried that the company just wasn't even really appreciating the risk. And so the, the judgment and design of, of the operations really, um, is very different in those two circumstances.

Leah Tolton: [00:16:42] So what do you do to prepare for that? Like what do you recommend people do in order to identify those risks and, you know, put a framework in place to cover them off?

Sabrina A. Bandali: [00:16:51] I think part of it is, is having a real deep appreciation of your business operations to actually understand the activity in a closely held family business, that's probably less of a concern than when you're dealing with a huge corporation, because hopefully in, in a company where things are, are closely held, people have very hands-on understanding of what is going on, but understanding the business and then understanding the potential.

Risk areas that apply so much of what we've seen. You know, people think and talk about sanctions all the time. The explosion of sanctions against Russia, for example, that we've seen over the last few years. There are all sorts of businesses and industries that never thought that they had any sort of sanctions exposure or risks.

But when the government publishes a list and says, thou shall not do business, or thou shall not engage in transactions. With this long list of people, it's, you know, well over a thousand plus names now. Um, and many of them are oligarchs, Russian oligarchs who have interests in a wide variety of industries and activities. You have all sorts of companies that never had to think about this before. Now face risk that they didn't previously.

Leah Tolton: [00:17:58] Right. From the sounds of it, there's a role to be played here to understand the impact that or, or the vulnerability maybe that might exist because we're relying on relationships within the corporation or with people outside the corporation, and there's a vulnerability that arises in terms of the awareness or the understanding or the knowledge that those people have of what they're required to do, uh, within whatever legislative regulatory regime they're operating in, in order to avoid having to, uh, have an investigation arise so the people are weakness and the knowledge of the process is a weakness. Is that fair? Yep. Yeah. So I'd like to move on and talk about, um, what happens when we actually do trip a wire and something occurs either, uh, in an employment context or in a regulatory context that gives rides, rises to the need for an investigation. And I'd like to pick up on one of the comments that Laura made in respect to bringing in an outsider and maybe even a lawyer to do that.

Assuming we're at that place, someone's coming in, a lawyer's conducting an investigation or is involved in some way. We lawyers understand the concept of privilege and I wonder if one of you could explain what privilege is and what does privilege mean in the context of these investigations and why is it important for family enterprises to understand it?

Laura Inglis: [00:19:23] So typically, um, we're talking about three different types of privilege in an investigation. We're talking about solicitor client privilege, and so that protects communications as between, um, the lawyer and the client. You can have solicitor client privilege that attaches to in-house counsel and also external counsel in relation to those communications we were talking about litigation privilege. So that's communications, um, in anticipation of litigation or in response to litigation. And there's also the concept of statutory privilege. So for example, um, in relation to occupational health and safety, um, legislation in Alberta, there's a carve out associated with privilege that might attach to an investigation privilege and there's, there's also differing levels of protection in relation to those privilege, absolute privilege.

Leah Tolton: [00:20:15] So help me understand what privilege is like. I, I understand what that is. Help our, help our listeners understand what that is. Why does that matter to lawyers? Why does that matter when lawyers get involved in that process?

Sabrina A. Bandali: [00:20:27] So the, the basics of privilege are, is it's what allows you to resist reasons why you might otherwise have to share documents. So in the context of litigation, there might be or arbitration any kind of dispute settlement. There might be the entitlement of one party to demand that the other party turn over all documents or records that are relevant to a particular issue or in the context of, um, other types of, of regulatory or law enforcement investigations you might face, you know, leaving aside search warrants or, or subpoena powers. But just in the course of engaging with a regulator, you might face information requests, um, that you need to respond to, but even again, where there is some legal process, you wanna be able to say. Actually there's a, a zone of documents that were created for the purpose of us being able to obtain legal advice, just dealing with that first category of the absolute, uh, solicitor client privilege to start.

And so in an investigation context, to answer the second part of your question, Leah, about how do these privilege considerations come to light in in investigations. How do we think about them when you are conducting an investigation? We have to be clear about the fact that obviously the advice that we provide to the company is, is going to be subject to privilege, but also that process of gathering the facts in order to be able to provide the advice to the company.

That's where we can. You know, in, in appropriate ways, throw a bit of a, a blanket of privilege over the investigative process. Um, because we frame whether we're doing, you know, different kinds of gathering information, if we're hiring and, and instructing investigators, forensic investigators sometimes that we might work with or accounting investigators, different kinds of things, um, that they are working to gather information to allow the company to receive legal advice.

Leah Tolton: [00:22:11] Okay, so it, it sounds to me like that's a, a role that lawyers can play in that investigation is to contribute to, you know, helping a family enterprise understand what kinds of things they're required to do in the first place, what they might be required to, uh, disclose if somebody asked to see that information.

And there might be certain circumstances where they have to disclose more than in other circumstances.

Sabrina A. Bandali: [00:22:33] That's right. Well, one, one thing to just say is that sometimes people think, oh, let's just, we'll copy the lawyer on something and that, you know, is enough to make privilege attach, or, oh, if we're, if we're talking about something and we're going to talk to a lawyer, you know, there are, um, there's

a lot of jurisprudence, a lot of case law on the subject of privilege and the contours of it, and it gets tested all the time in, in disputes or in investigations.

And so it, it's unfortunately a very, uh, it can be very complex, but the basics of, you know. Not, not everything is going to be protected, but some things can, if they're created for the purpose of being able to enable you to get legal advice, like that's the bottom line that everyone needs to keep in mind.

Leah Tolton: [00:23:15] Did you have something you wanted add?

Laura Inglis: [00:23:16] I did. Just in relation to privilege, one of the things that we do often with an investigation is we will, right at the beginning talk about privilege protocol, and so the idea there is to have a discussion about privilege. To your point, Leah and Sabrina just described it beautifully, you know, what is it that we're trying to do? We're trying to protect the investigation. How do we do that? By cloaking it in privilege. Um, and so when you look at a privilege protocol, it can go from everything to who's involved in this, who's, who's behind the wall, who's behind the firewall. Um.

You know, who are we communicating to? What are we communicating? For me, it goes down to even what's in a reline of an email. You know, subject to solicitor, client litigation privilege, statutory privilege, strictly privilege and confidential. You know, you have this whole, it's a really long reline. Ultimately, it's designed to flag the fact that we're, we're you know, seeking to protect this with privilege. But to Sabrina's point, these are things that are tested all the time. And you can inadvertently waive privilege by sending emails to a group broadly, you know, by sending it, forwarding it on to somebody external to the organization. Um, and so you really need to be mindful of privilege issues and, and, and again, this privilege protocol as you get into an investigation process.

Sabrina A. Bandali: [00:24:41] And I think that's very hard for people to sometimes understand is that when you're conducting an investigation as a lawyer, as a lawyer, who's brought in your client is the company your client is, is not the people. And so when we're conducting interviews, one of the things that we will always do is caution the, the person that we're speaking to who might be speaking to us because they have information that's relevant and, and they're required as part of their job to sit there and answer the lawyer's questions as much as they might prefer to be doing something else.

Uh, and we, we always tell them, you know, please understand, we act for the company. We are their lawyers. We are not your lawyers. This conversation is in our view, subject to solicitor client privilege because we're gathering information from you to be able to advise the company, but that privilege belongs to the company.

And so the company can decide when they want to waive privilege as, as Laura alluded to, and when they wanna disclose information that comes forward. And I can imagine in the context of, um, family owned. Businesses, that that can also be hard for folks to appreciate that just because they're the, the closely held owners of the company.

That doesn't mean the company's lawyers are their personal lawyers.

Leah Tolton: [00:25:48] Well, and you can run into that in a situation where you don't have a workplace investigation at. At hand. Alright, so we've talked a lot about the legal concept of privilege and how, um, that needs to be kept front of mind when an investigation is underway.

I'd like to now talk about practically what happens, like what does a, a family

enterprise look to or, uh, notice or. Observe what? What are the warning signs that a workplace issue has escalated to the point where legal intervention or an external investigation is necessary? Laura, maybe I'll start with you.

Laura Inglis: [00:26:27] Typically, um, I like to call these the Friday afternoon call. Um, usually I get the call on a Friday afternoon and it's, oh, hey, our, you know, our drug dogs are alerting. Um, or should we, you know, the RCMP are on their way. Um, but it's, it's typically the nature of the allegations. What are, what are we talking about here?

Um. There's a, I think a general misunderstanding that it has to be a formal complaint that you know somebody, employee, and again, because I deal with employees, employee has submitted a formal complaint or you have a whistleblower or something like that. As the company becomes aware of an issue, issue, the duty to investigate can be triggered.

So it isn't always just a formal complaint. You might become aware of something, and in that case, you have a positive obligation to act, particularly when you're talking about, um, bullying, harassment, and workplace violence. Mm-hmm. Um, and so usually I find employers will have the gut check of something's happened.

I think we need to do something or something's happened and we wanna look at discipline, we wanna turn to discipline. And that's when you say, okay, do we need to do an investigation? What does that investigation look like? Is it an internal investigation, external investigation? What's our privilege protocol?

Is it going to be me as legal counsel, retaining an external investigator and slapping privilege all over it? Um, or is this potentially something that can be dealt with in house with some guidance? From external counsel quarterbacking it, but you know, typically it's gonna be the allegations that will trigger it.

Sabrina A. Bandali: [00:28:06] With that, in, in my context, what's gonna give rise to an investigation? You sent goods to someone you shouldn't have. You hired someone to do something for you that you shouldn't have, or someone that's doing something for you, you know, made, engaged in some, um, ethically problematic, uh, conduct. Any of those things require a prudent company to look into them.

Um, and again, to, to Laura's point, regardless of the level of formality, if you, if you start getting the impression that someone who's acting on your behalf is paying bribes on your behalf, that's not, you know, even if it's at the level of, of sort of gossip and innuendo, it, it's often worth looking at to some extent.

Um, and from a well-functioning compliance programs perspective, if you have policies and procedures to. Mitigate your risk that you, that your business operations are, uh, proceeding as they should. I'm gonna get the risk that someone's done something they shouldn't then. A well-functioning compliance program will look into any red flags or suggestions that those rules or proceeds might not have been followed.

Leah Tolton: [00:29:06] And I presume that's the case, you know, to pick up at an earlier comment you made. I presume that's the case, even if the rules may not have given rise to a concern at a prior point in time, but something has evolved such as, you know, your sanctions list that you described, and suddenly there is a new thing listed on that.

A document that says, oh, may not have been a problem before, but it's a problem now. And now does that give rise to need to investigate?

Sabrina A. Bandali: [00:29:32] Yeah. And, and not with, well, so it's an interesting

one where, where you have someone who wasn't listed yesterday but is listed today. Now that they're listed, does that trigger an investigation? Maybe not. Because that, that's a change in the law. That's a change in the restriction if you find out on the very day that they're listed and you can make the appropriate changes to your business. I wouldn't characterize that as, as an investigation. It's just more the rules are updating. Your internal company rules are updating to keep pace with whatever the requirements are.

Um, and I should be clear that, you know, although every red flag every things popping up in the context of your compliance program working does need to be looked at. They don't all have to turn into full blown investigations, legal counsel involved from the get go, which is why it really, and, and this becomes challenging for companies where they don't have the expertise in, you know, whether it's my specific issues or, uh, comfort and, and experience with investigations generally, for them to know when when's the difference, when is it something where I can just look into it.

Reasonably myself and ask was the, was the right form completed? Were the right processes followed versus when I actually need to start getting some outside hands. And that's why I, I like to think of it when, you know, if I'm sitting there as the CEO or legal, internal legal counsel, an issue, someone's come up with an issue.

You have to look down the road to say, okay, well what's the worst that could happen here?

If, if this allegation or, or similar kinds of conduct is, is true, where could this really go? And if the answer at the end of the day is actually that would be criminal charges being laid, or law enforcement getting interested, then from the very beginning you wanna make sure that the process is clean, fulsome appropriate, other kinds of issues. You have a bit more discretion.

Laura Inglis: [00:31:17] I should, I, I wanna build on that in terms of, you know, becoming aware of something. I have had situations where, uh, an employer's become aware of, for example, a harassment complaint through pleadings and then not aware of it before through any internal process. And when that information becomes part of pleadings, then that can trigger.

To determine what has happened. Sometimes you'll have, for example, occupational health and safety, reach out to a company and say, we've been told that there's been harassment. You need to investigate. And again, under the health and safety legislation in Alberta. There are investigation obligations in relation to allegations of harassment and violence, which have been identified as hazards under that legislation.

And so you can have sort of external forces, if you will, um, bring matters to your attention that you are not aware of internally and. Something from occupational health and safety, or if you get pleadings, that's usually a pretty good red flag to contact your counsel. But sometimes these are not internally generated. You know, you can, you can be advised from external sources that you have an issue.

Leah Tolton: [00:32:40] It's, uh, helps to have, uh, a knowledgeable lawyer in your back pocket that you can call. Should one of these matters come to your attention.

Laura Inglis: [00:32:50] Yes, your friendly neighborhood lawyer.

Leah Tolton: [00:32:53] What is the one piece of advice other than, you know, have a, have a lawyer available to you?

What is the one piece of advice you would give to family, business owners or advisors when it comes to workplace investigations? Sabrina, you start.

Sabrina A. Bandali: [00:33:10] Sure. Be aware of the risks that you face. Understand the rules that apply to your business, and appreciate that. The size of the company is not an excuse when it comes to complying with, with certain of these legal requirements.

There isn't a, a sort of threshold under which we can say, oh, well, you know, if it's, if it's someone on a sanctions list, but it wasn't that much money, um, that we can say it's no longer that, that's, that's acceptable under Canadian law. Now, will the prosecution service and CP and everyone else treat all.

Fact scenario is the same, of course. No, of course they have discretion, but from the perspective of being a, a company that needs to be aware of its activities and wants to be running a clean compliant business size is, is not the thing to focus on.

Laura Inglis: [00:34:01] It's, it's actually in line with what Sabrina just said. I think if you put the steps in beforehand, I'm a policy wonk, so, you know, strong policies and procedures, right? Those are, those are gonna help you hugely. Um, making sure that you have a process that. Make sense that people are aware of. Um, ideally, again, you know, to Sabrina's point, if, if you've got the pieces in place, you won't necessarily need us and not, you don't need us every time.

It's just identifying, okay, you know, this is when we need to take steps. This is what we need to do. What are my obligations? Understanding what your obligations are at law. Um, because it does have, you know, we talk about risk and we talk about liability, but it's not just legal. We're not just talking about lawsuits. We're not just necessarily talking about prosecutions. There's a, there's a whole, you know, PR risk, social media risk, you know, we live in the time of cancel culture. These things, you know. And pieces in place to protect your company beforehand, it's going to pay dividend.

Leah Tolton: [00:35:14] So know the environment in which you operate, and have an understanding of what risks you might be exposed to. Develop some processes or policies or steps to take in order to address those risks. Understand how the relationships among people in the business, including family members, might impact that. And if something comes to your attention that looks like it needs to be investigated, uh, take steps to minimize the appearance of bias and make justice appear that it's going to be done.

And call your lawyer. There you go. It has been a pleasure talking to both of you. I really appreciate you taking the time to join us on the podcast today. Thank you both Laura and Sabrina. Thanks for having us. Thanks for joining me on this episode of Beyond Succession, a series within the Bennett Jones Business Law Talks podcast. Make sure to hit the follow button on whatever platform you are listening from so you get notified whenever we release new episodes. Also, don't hesitate to reach out if you have any questions about challenges or issues that you are facing in your family enterprise. Take care. I'll catch you in our next episode.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Author: [Leah Tolton](#), [Sabrina Bandali](#), [Laura Inglis](#)

Bennett Jones