

Model Contract Language for “Clawback” of Bonuses



QUESTION

Thanks for the article about the VW scandal and how a corporation could use a clawback clause to make an executive repay incentive bonuses if they only earned those bonuses because of wrongdoing that comes to light later.

Do you know where I could go to get model language our company could use to make such a clawback arrangement with our high-paying execs?

– Name withheld

Answer

We originally intended to include such a model clause in the story. The problem is that a clawback arrangement has to be tailored to the unique situation. And because the potential variations in circumstances are infinite, offering up a generic, one-size-fits-all template wouldn't have worked.

But while we can't offer a template, there is a source where you can get examples of the clawback contract language actually used by major Canadian corporations (including Nortel Networks, Citigroup, General Motors and International Paper, to name a few) for different situations—the Canadian Coalition for Good Corporate Governance: Report on Clawback Provisions US and Canadian Issuers.

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