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It Can't Happen to Us—Avoiding Corporate Disaster While Driving Success

RICHARD M. STEINBERG

FOREWORD BY ARTHUR LEVITT

Additional praise for

Governance, Risk Management, and Compliance

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"In this complex and perilous global marketplace, it is vital that corporate leaders—senior officers and board members—put the highest premium on being smart about managing risk. Richard Steinberg has written a superb resource not only for strengthening your governance, risk management, and compliance practices but also ensuring they lead to competitive advantage."

—James Kristie, Editor, *Directors & Boards*

"A practical and commonsense approach to corporate governance from someone who knows the subject well!"

—Richard Koppes, former Deputy Executive Officer and General Counsel of CalPERS, founder of the National Association of Public Pension Attorneys, and board member of the National Association of Corporate Directors

"This compelling work by Rick Steinberg enables even experienced senior managers and board members to fully appreciate how governance can and should work. Filled with critical analyses of how major companies have stumbled or failed, with clear lessons to be learned of what needs to go right, this book should be required reading for all of us striving to see our businesses thrive and grow shareholder value."

—Scott Eston, former Chief Operating Officer, GMO

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This book is dedicated to my wonderful wife, Lana, without whose love and support it never would have been written.

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Foreword

IN THE AFTERMATH OF the worst economic and financial crisis in the United States in decades, policymakers, journalists, investor advocates, and others have been hard at work trying to identify those responsible. Commissions have met and studies have been undertaken, and people are beginning to reach their conclusions. But at the very core of this crisis was not a single set of actors. The problems stem significantly and systematically from the failure of governance, oversight, and risk management at the corporate, legislative, and regulatory levels.

Those in position to imagine, identify, and reduce the possibilities of failure simply did not do their jobs. As Richard Steinberg makes clear in these pages, the price of inattention or inaction by managers, regulators, and board members could be measured not in the hundreds of millions of dollars, but in the hundreds of billions of dollars. He explains how reputations and corporations were shattered in a matter of weeks and months, because individuals and institutions had no means of checking and correcting their market assumptions and their culture of risk-taking. In short, not enough people were asking: "What could go wrong?"

This failure in governance pains me deeply, primarily because as a regulator throughout the 1990s I was able to see many of these same failures play out once before in corporate America and our regulatory infrastructure. Many of the biggest changes in corporate governance were launched just after the Enron, WorldCom, and other major scandals of the early 2000s. And the resulting reforms, especially Sarbanes-Oxley, have had deep and lasting impacts.

In the immediate aftermath of those scandals, we saw a revolution in thinking about governance. Most boards are now majority independent—and key committees are now entirely independent, except at some controlled companies. Most companies have a lead independent director and/or a separate chairman. Boards meet more frequently—both as a whole and in executive session without the CEO—and are under significant scrutiny by shareholders. What's more, SEC rules have enabled shareholders to interact with each other