

Due Diligence Background Investigations: A 3-Step Process for Minimizing Risk

Marcy Phelps, CFE

Marcy Phelps & Associates, Inc.

www.MarcyPhelps.com



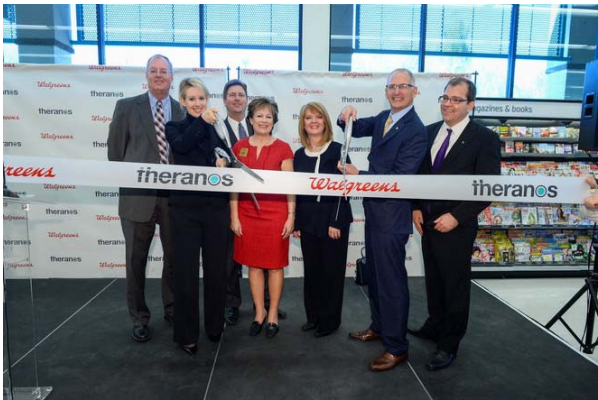
Due Diligence Hall of Shame

TRUST, BUT VERIFY



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Craving Growth, Walgreens Dismissed Its Doubts About Theranos



<http://www.wsj.com/articles/craving-growth-walgreens-dismissed-its-doubts-about-theranos-1464207285>

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Denver schools admits failing to fully vet school board appointee



<http://www.denverpost.com/2016/04/22/denver-schools-admits-failing-to-fully-vet-school-board-appointee/>

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HOW WELL DO YOU KNOW THE PEOPLE AND COMPANIES YOU'RE WORKING WITH?

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Agenda

What? Why? Who?

Levels of investigations

3-step process for investigations

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Background investigations: What? Why? Who?

What it is and isn't

Why bother

Who should conduct the investigation

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Due diligence – What?

Investigation of a business or person
before entering into an agreement

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Types of due diligence

Operations

Legal

Financial

Intellectual property

Market / competitive

Background investigations

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Deep investigation

Create a profile of professional/private lives

360-degree view

- Past and present

- Good and bad

- What happened and what they did next

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Goals

Confirm all supplied information

Uncover any missing information

Reconcile any inconsistencies

Identify warning signs

Analyze/report findings

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Compliance/employment

- Reactive
- Tactical
- Limits
- Looking for problems
- Checklist-oriented

Due diligence

- Proactive
- Strategic
- No limits
- Creating a profile
- Open-ended

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Why?

Risky business = Do your research

M & A

Investments

Partnerships

Vendor/supply alliances

Expert witnesses

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Minimize risk

It all affects the bottom line:

Falsified claims (degrees, credentials, experience)

Mismatched cultures

Overlooked warning signs, potential for risk

Reputational risk = Financial risk

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Online background investigations

Public records research

Web research (news, social media, trade publications)

Proprietary databases (news, company info, personal info)

Analysis

Reporting

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Who?

Unbiased third party

No stakeholders

Another department (library, research, etc.)

Outside investigator

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Levels of investigations

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Due Diligence Background Investigations: A 3-Step Process for Minimizing Risk

Marcy Phelps
marcy@marcyphelps.com

Personal Info <ul style="list-style-type: none">IdentifiersFamilyKnown addressesCV, resume, bios Company Info <ul style="list-style-type: none">AddressOwnership, history, legal structureSubsidiariesSOS, corporation filingsExecutive management Assets/Liabilities <ul style="list-style-type: none">Real estateVehicles, watercraft, aircraftCredit historyFoundations, sponsorships, other causesUCC filingsBankruptcies, foreclosures, judgments, liens	Regulatory <ul style="list-style-type: none">Regulatory filings, sanctions, watch lists Education/Credentials Courts <ul style="list-style-type: none">Federal/State/other civil, criminal court records Media <ul style="list-style-type: none">Individuals<ul style="list-style-type: none">Work historyAffiliationsCareerEducationLegal, regulatoryMiscCompanies<ul style="list-style-type: none">HistoryNewsLegal, regulatory issues
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Align level of due diligence with level of risk

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Levels of investigations

1. Preliminary online research
2. Deep dive (online)
3. “Boots on the ground” (manual court searching, site visits, interviews)

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Considerations

What's your purpose?

Deal stage (identifying targets, pre-deal, ongoing)?

Time/budget restraints?

What do you need to make decisions or take action?

What's feasible?

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3-Step Process

- Prepare
- Research
- Action

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Step 1 - Prepare

- Know your limits
- Know the warning signs
- Know your sources
- Know the rules

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Know your limits

Myths

Laws

Free vs. fee

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Online investigating myths

I can find everything online

It's on the internet, so it must be true

Everything's in one place

I can find it fast

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Name searching

Full legal name

Common/business name(s)

Middle name/initial

Nickname

First name first/last name first

Maiden/married names

Screen names

Verify, verify, verify!

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Know the law

Privacy/security of non-public personal information:

Fair Credit Reporting Act (FCRA) <https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>

Gramm-Leach-Bliley Act (GLBA) www.ftc.gov/tips-advice/business-center/privacy-and-security/gramm-leach-bliley-act

Drivers Privacy Protection Act (DPPA)
http://en.wikipedia.org/wiki/Driver%27s_Privacy_Protection_Act

Family Educational Rights and Privacy Act (FERPA)
<http://www2.ed.gov/policy/gen/guid/fpco/faq.html>

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Know when to pay

Specialized content	Easy formatting
Authoritative sources	Customer service
Pro search tools	Copyright compliance
Search multiple sources	Added analysis/opinions

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Manage expectations

Yours, others
What's available, time frame, costs
Disclaimers

Note that online databases do not cover all courts, cases, or dates. In light of these limitations, it is recommended that you ask all subjects to disclose present and past litigation involving them and/or their company(ies).

“Reasonable effort” aligned with risk, constraints

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Know the warning signs



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Red Flags

Past fraud

False credentials

Criminal actions

Civil suits – active, subject is defendant

Regulatory, compliance issues

Bankruptcies, judgments, liens

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Yellow flags

Biographical issues

- Overly vague / missing info

- Unverifiable credentials, claims

- Unnecessary content, grandiose self-descriptions

Litigation

- Distractions

- Personality, ethics issues

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Yellow flags

Now I'm a...

Job switching

Square peg / round hole

Reverse Midas Touch

Ostentatious charitable giving

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Other yellow flags

Silent, obscure partners

Distractions, overly committed

Lots of related (shell?) companies

Not forthcoming with information

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Know your sources

Types, content available

Direct (e.g., County Clerk) or aggregator (e.g., LexisNexis)?

How to use – hidden features?

Limitations

How to evaluate

- Interface

- Content

- Agreement/contract

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Rules of the road

Gather known info (DDQ, signed consent, bios, identifiers)

Start with the end in mind

Manage expectations (yours and clients)

Determine level of risk/due diligence

Know stage of DD process – Do they know they're being investigated?

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Rules of the road

Develop a process

- Checklists – use with caution

- Templates

Save everything

Know the warning signs

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Step 2 - Research

Watchlists/Sanctions

Regulatory

Education/Credentials

Public Records

News/Social Media

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Watchlists/Sanctions

Can you do business with them?

Do you want to do business with them?

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Risks from customers, suppliers, other business partners

Companies where irregularities are present, or where potential for corruption exists

Terrorism, politically exposed person (PEP), other regulatory risk

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Watch lists – Sources

System for Award Management (SAM) <https://www.sam.gov/>

Export.gov Consolidated Screening List (CSL)

<https://legacy.export.gov/csl-search>

Lists of Parties of Concern

<https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>

Nonproliferation Sanctions <http://www.state.gov/t/isn/c15231.htm>

OFAC Sanctions List Search

<https://sanctionssearch.ofac.treas.gov/>

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Watch lists – Aggregators

Refinitiv (risk & compliance, enhanced due diligence)

<http://solutions.refinitiv.com/world-check-kyc-screening/>

Dow Jones Risk and Compliance

<http://www.dowjones.com/products/risk-compliance/>

LexisNexis Risk Solutions <http://www.lexisnexis.com/risk/>

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Background – Individuals

Look for names, locations, ways to verify identities

Identifiers

Full legal name

SSN, DOB

Current/past addresses

Spouse/partner, children, other family names

Use for later – Courts, assets/liabilities, media, etc.

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Sources

News, social media

Property records from asset searches (mortgage, deed, assessment)

Credit headers – not public records

TLO.com

TracersInfo.com

IRBsearch.com

SkipMax.com

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Issues

Private info, limited access

Data entry errors

Mixed identities

Verifying identities can be difficult

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Background -
Companies

Address

Ownership, history, legal structure

Trade/fictitious names

Subsidiaries, divisions, other units

Executive management

SOS, corporation filings

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Look for –

Are they a real company?

Who’s the parent company?

Which companies/units to include?

What locations to include?

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Company-supplied info

Due Diligence Questionnaire (DDQ)

Marketing materials

Company website

SEC, state security filings

10K, 10Q, 8K, Form D, Form ADV

<https://www.sec.gov/edgar.shtml>

www.adviserinfo.sec.gov

www.nasaa.org/about-us/contact-us/contact-your-regulator

Annual reports www.annualreports.com

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Sources – Corporation filings

LexisNexis, other aggregators

SOS websites: BRBpub.com, SearchSystems.net

Google *[state/country] business entity search*

Look for addresses, owners, directors, incorporation dates, active/good standing?

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Non-U.S. entities

Companies House (UK) <https://beta.companieshouse.gov.uk/>

[DatoCapital.com](https://www.dato.com/) (UK, Gibraltar, Cayman Islands, Malta, Netherlands, Luxembourg, BVI, Panama, Spain, others)

Official Company Registers

<http://www.rba.co.uk/sources/registers.htm>

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Other sources

[Thomasnet.com](https://www.thomasnet.com/)

[CorporateAffiliations.com](https://www.corporateaffiliations.com/)

[Dnb.com](https://www.dnb.com/)

[Hoovers](https://www.hoovers.com/)

[PrivCo.com](https://www.privco.com/)

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Regulatory

Restrictions

Disciplinary history

Unreported affiliations

Full legal name - individual,
company/units

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Financial industry

U.S.

SEC <http://www.sec.gov/litigation.shtml>
<https://www.sec.gov/litigations/sec-action-look-up>

FINRA <http://brokercheck.finra.org/Search/Search.aspx>

NFA /CFTC <http://www.nfa.futures.org/basicnet/welcome.aspx>

U.K. Financial Conduct Authority: <https://register.fca.org.uk/>

Note: The FCA's Financial Services Register format does not state if there are no disciplinary actions. It includes the disciplinary section only if there are disciplinary actions against the individual/firm.

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Other financial regulatory agencies/warnings

Wikipedia - List of financial regulatory authorities by country:

https://en.wikipedia.org/wiki/List_of_financial_regulatory_authorities_by_country

International Organization of Securities Commissions (IOSCO)

Investors Alert Portal:

http://www.iosco.org/investor_protection/?subsection=investor_alerts_portal

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A-Z Index of U.S. Government Departments and Agencies

<https://www.usa.gov/federal-agencies>

Google it

Ask a librarian

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Education /
Credentials



Verification
Complaints, disciplinary history
Full names?

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Verify degrees

Official verification

Direct / verification services
Need signed consent, other documentation (only reason you need this document in DD)

Best alternative

News, social media
Alumni, university websites
Academic searching

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Degree verification services

[DegreeVerify.com](https://www.degreeverify.com) - National Student Clearinghouse (U.S.)

[Hedd.ac.uk](https://hedd.ac.uk) – Higher Education Degree Datacheck (U.K)

[QualificationCheck.com](https://www.qualificationcheck.com) – (global)

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Credentials

Associations – member directories

State licensing boards

Google:

[entity] member search

[state] professional licensing

The Alphabet Soup of Financial Certifications

<http://www.investopedia.com/articles/01/101001.asp>

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Member directories

- Are all members included?
- What info is available?
- Consent needed?
- Pick up the phone

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Public records

- Assets
- Liabilities
- Courts

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Assets / Liabilities

Financial strengths & weaknesses

Other names

Locations

Affiliations

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Assets

Real property – homes, investments

Vehicles, watercraft, aircraft, business equipment, other personal property

Businesses

Intellectual property

Foundations, sponsorships

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Liabilities

Bankruptcies

Foreclosures

Judgments, liens

Credit reports

Uniform Commercial Code (UCC) filings

Liabilities point to assets

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Court Records

Federal, state, county, local

Civil, criminal

Divorce, child custody/support

Traffic

Specialty: tax, contracts, environmental, etc.

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Media

News

Social media

Academic content

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Why bother?

Info not in the public record

Adds color

Completes the profile

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Media research

Go beyond Google and use more than one source

LexisNexis

Dow Jones Factiva

ProQuest Dialog

Bing

Specialized sources

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NEGATIVE NEWS searches?

Avoid, if possible

May not catch all negative news

Miss the positive info

Reports lack “color”

Helps narrow search, when needed

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{company} w/s (accus! OR antitrust OR arbitrat! OR bankrupt!
OR charg*** OR crime OR criminal! OR defendant* OR defraud!
OR discipline! OR ethic! OR exodus OR falsif! OR fired OR firing
OR fraud! OR guilt* OR illegal! OR insider information OR insider
trading OR investigat! OR let go OR litigat! OR mass exit OR
misconduct OR reparation* OR resign! OR sanction*** OR
scandal! OR settl*** OR settlement OR stepp*** down OR
subpoena! OR unlawful! OR violat! OR censur! OR aml OR
money laundering)

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Start with Google

Social media profiles

Other found bios (speaking bios, etc.)

Leads to sources

Ignore news for now

Keep track of past employers, schools, geographic locations

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Google – preliminary searching

[name] [current/recent employer]

[name] [university]

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Premium news sources

Nexis.com

Dow Jones Factiva

ProQuest Dialog

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Nexis.com

first name w/2 last name and employer1 OR employer2 OR employer3

Factiva

first name near2 last name and (employer1 OR employer2 OR employer3)

Dialog

first name n/2 last name and (“employer1” OR “employer2” OR “employer3”)

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Go back to Google

Find news that premium sources missed

Use spouse/partner name

Take advantage of Google’s advanced features

Google search:

(“first name last name” OR “last name first name” OR “other name variations”) (“employer1” OR “employer2” OR “employer3”)

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Use another search engine

Bing.com

Biznar.com

DuckDuckGo.com

Wayback Machine www.Archive.org/web

Carrot2 <https://search.carrot2.org/#/web>

Google Scholar <https://scholar.google.com/>

Microsoft Academic <https://academic.microsoft.com/home>

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Social Media



Direct to social sites

General search engines

Social search engines

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Social sites

LinkedIn.com

- More info/access with account

- Bios

- Connections

- Use advanced search

Facebook.com

- Need account

- Try spouse/partner profile

- Avoid TMI, respect privacy

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Social sites

Twitter.com

- Need account

- Avoid TMI

Slideshare.net – presentations

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Google:
[name] site:linkedin.com

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Social search

[SocialMention.com](https://www.socialmention.com)

[social-searcher.com](https://www.social-searcher.com)

[boardreader.com](https://www.boardreader.com)

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Local news

Adds focus, depth

Hometown hero/company
accomplishments & failures

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Local News – Sources

ABYZ News Links (global) <http://abyznewslinks.com>

American City Business Journals www.bizjournals.com

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Filling in the Gaps



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Local researchers/investigators

Association of Independent Information Professionals (AIIP)

www.aiip.org/discover/business-directory

National Council of Investigation & Security Services (NCISS)

www.nciss.org/member-search

World Association of Detectives

<https://wad.memberclicks.net/member-directory>

Council of International Investigators <http://bit.ly/1UULrKE>

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Packaged reports

Thomson Reuters Enhanced Due Diligence reports

<http://info.risk.thomsonreuters.com/US-enhanced-due-diligence>

Dow Jones Risk & Compliance – Due Diligence reports

<http://www.dowjones.com/products/risk-compliance/>

LexisNexis Business Assurance reports

<https://risk.lexisnexis.com/products/business-assurance-report>

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Packaged reports

What's included?

Can the report be shared with client?

Other copyright / ownership issues

How much customization is available?

Updates?

Time frame?

Cost?

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Step 3 - Action

Analysis

Report

Follow-up

Now what?

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Analysis

Identify gaps – additional searching?

Identify warning signs

Connect the dots

What's it mean ***for your organization, deal, situation?***

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Report

Findings

Implications

Recommendations

Keep your readers and goals in mind

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Reports

Visually appealing

White space, tables, timelines, diagrams, etc.

Summarize - No data dumps

Connect the dots – Don't make reader do the work

Possible implications for client

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Follow up

Answer all questions about current due diligence

Conduct any additional research

Follow up on outstanding info

Conduct regular updates

Alerts, monitoring

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Monitoring

[Google.com/alerts](https://www.google.com/alerts)

[TalkWalker.com/alerts](https://www.talkwalker.com/alerts)

[IFTTT.com](https://ifttt.com) (If This, Then That)

[Mention.com](https://www.mention.com) (\$)

LexisNexis, Dow Jones Factiva, ProQuest Dialog alerts

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Now what?

Move forward? / Stop?

More info?

WHAT'S YOUR LEVEL OF RISK?

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Summary

The past helps predict the future: **Do your research**

Right before executing deal or after fraud is committed is too late:
Start early

Align your level of due diligence with level of risk

Have a process for background investigations

1. Prepare
2. Research
3. Action

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Marcy Phelps

marcy@marcyphelps.com

marcy@marcyphelps.com

twitter.com/marcyphelps

[linkedin.com/in/marcyphelps](https://www.linkedin.com/in/marcyphelps)

[facebook.com/marcyphelpsassociates](https://www.facebook.com/marcyphelpsassociates)

marcyphelps.com

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