

## 2019 Asia Pacific Employers' Forum

### Case Study: Brand attacks - The new workplace battleground<sup>1</sup>

The Iron Motor of Bitung ("**Iron**") is the pre-eminent global automotive manufacturer with its head-quarters in Singapore. The company is publicly traded at the New York Stock Exchange.

Iron has a long and illustrious history in the automotive industry, which kicked off in the Asia Pacific region ("**APAC**"). It now has a global presence unmatched by any other. Since its incorporation in the 1750s as a chain of automotive repair shops in North Sulawesi, Iron has expanded through a series of astute investments and acquisitions. Today, it houses a seamless global network of close to 200 entities in over 150 countries all over the world including: (i) research, development and design centres; (ii) manufacturing facilities; and (iii) sales and marketing entities. Its manufacturing facilities comprise those which are owned by Iron (where the relevant jurisdiction's regulatory environment permits), those which are operated via joint ventures with local partners and through sub-contractors.

As Iron is now a truly global company, it has invested substantially in improving its public image and has won many awards for being a very environmentally friendly company and being socially responsible. It has also often been featured as a good employer - winning many "best employer of the year" awards - and lauded for its diversity and inclusion initiatives.

#### The (Big Bad) CEO - Star or Not?

Daario Naharimbuan ("**Daario**") is Iron's current APAC Chief Executive Officer ("**CEO**"), a role he held since 2010. In this role, he was previously based in Iron's Hong Kong office ("**Iron Hong Kong**") and recently moved to Iron's Singapore office ("**Iron Singapore**"), as Iron moves to concentrate management functions in Singapore.

Daario has considerable experience in the automotive industry, and was headhunted from Iron's fiercest competitor - Essos - in the UK. Daario first joined Iron as its Managing Director of Iron's global luxury vehicle division, based in Iron's London office ("**Iron London**"). Daario was born in Indonesia but spent most of his life in London where his father was an ambassador. In view of his father's position, Daario is well connected to the "movers and shakers" in Indonesia. After his promotion to APAC CEO, he moved to Asia.

Daario currently oversees Iron's businesses in: (i) Australia/New Zealand (regional base in Sydney); (ii) China/Hong Kong (regional base in Hong Kong); and (iii) ASEAN (regional base in Singapore), and sits on the Boards of Iron's subsidiaries in Sydney, Hong Kong and Singapore.

Recently, Daario played an instrumental role in Iron's joint venture with PT easterly Rock - a stalwart manufacturing giant in Indonesia with over 10 manufacturing facilities all around Indonesia - and was appointed the President Commissioner of the company. The patriarch owner of PT easterly Rock, Joffrey Jayawan ("**Joffrey**"), was a family friend. This was seen as a coup for Iron as the acquisition cemented Iron's presence in Indonesia. The plan was to concentrate all of Iron's global manufacturing activities in ASEAN, in particular, Indonesia, with PT easterly Rock's facilities supplying vehicles to Iron's global sales centres. News of this joint venture was widely publicized globally in the automotive industry. Daario was very quickly named the "Indonesia Iron Man".

#### The Whistleblower - Good Faith or Not?

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<sup>1</sup> This case study is purely fictional. No identification with actual persons, entities or events is intended.



One day, Iron's General Counsel (Legal & Compliance), Melisandre Wong ("**Melisandre**") (based in Singapore), receives an email from a finance executive, Ramsay Lim ("**Ramsay**"), which contains some troubling and severe allegations against Daario (the "**Complaint Email**"). The email details multiple incidents of sexual misconduct by Daario against a junior business development staff, Missandei Grey ("**Missandei**"), including the passing of inappropriate remarks, unwanted touching and sexual propositions, spanning over 6 months. As she was junior, Missandei was afraid to make a complaint and only confided in her long-time friend and colleague, Ramsay.

The Complaint Email ends with the following statement:

*"In any case, it would be in Iron's best interests to remove Daario as APAC CEO. I am also privy to information on his "dealings" with Joffrey, Chairman of PT easterly Rock."*

Unbeknownst to Melisandre, a month before Ramsay complained, Ramsay's boss, Syrio Lam ("**Syrio**"), who is Iron's Finance Director, had put Ramsay on a 1-month performance improvement plan ("**PIP**"), as his performance at work was deteriorating. He was not showing up to work on time, his accounts were often rife with errors and his relationship with his colleagues was strained as he had a rather abrasive personality.

### **The Investigations - Done properly or Not?**

After mulling over it for a few weeks and trawling through Iron's convoluted policies and archaic Employee Manual (last updated in 1990) to no avail, Melisandre hopes that the incident would blow over quietly without the need for any further action. However, Ramsay bombards her with emails alleging that Missandei was on the verge of breakdown due to Daario. As Melisandre is incredibly busy, she quickly gathers 2 of her team members to form an investigation committee (the "**IC**").

Through various interviews with employees who work with Daario, the IC finds out that Daario's *modus operandi* was to ask the female employee out on the pretext of "a CEO getting coffee with his employee to get to know them better" or "to promote an inclusive workplace". Daario would visit their desks when they worked late into the night (often at his behest). Daario would massage their shoulders and arms - to "relieve stress". The IC also interviewed Daario's former colleagues in Iron Hong Kong, and discovers that he had done the same thing to his female subordinates there.

The "investigation" by the IC was done rather haphazardly and being discreet was not a top priority. Soon, Melisandre starts to receive emails from anonymous persons claiming to be victims of Daario's advances - they claim to be former or current employees of Iron in Hong Kong, Singapore, Sydney, London, which are offices which Daario was in or would be present for periods of time for work.

Ramsay was also interviewed. The IC learns that there were occasions where Daario would claim exorbitant amounts for "meetings" with Joffrey. Iron's reimbursement policy states that all claims should be supported by documents and reasons for the expense, and approved by Melisandre. This practice was however waived by Syrio since Daario was the APAC CEO. Ramsay informs the IC that he noticed that Daario had a series of these claims up to the closing of the joint venture with a substantial one-off "entertainment" expense a week after closing. Ramsay says that Daario could be bribing Joffrey to seal the deal and Syrio is Daario's side-kick.

Melisandre, being overwhelmed by these allegations and afraid of Daario, is at a loss on what she should do.

### **Exposé!**

During the course of the investigation, Catelyn Wang ("**Catelyn**"), a junior compliance officer, who was assisting the IC, sends the following message to members of her high school WhatsApp chat group:

*"I am so sorry but I cannot attend our reunion tonight. It's all my APAC CEO's fault! I am dragged into this urgent investigation about him. I knew he was dirty!! He harassed women in Singapore, Hong Kong - in fact all over the world wherever he went. OMG! Not only that, he is also CORRUPT. Bribing people so that he can close the deal! Okay, gotta go. My boss calls..."*

The message is received by Theon Tan ("**Theon**"), who has recently joined The Westeros Times (a pan-Asian financial publication with a populist slant, with readers all over APAC) as a reporter after graduating from university. With the sub-editor's consent, Theon writes a scathing article on Daario. The article is published on the newspaper's website, Facebook page and Twitter feed.

### **And it goes on and on...**

After the publication, there was a public outcry against Iron and Daario. More articles are published. The Westeros Times capitalizes on this momentum by publishing further articles on workplace sexual harassment, again posted on their Facebook page and Twitter feed. These articles call on companies such as Iron to enforce a stricter Code of Conduct, and use various altered images of Daario and Iron's logo as cover photos.

The following week, the Corrupt Practice Investigation Bureau ("**CPIB**") shows up at Iron Singapore's office and brings Daario in for questioning on the allegations of bribery. Soon, photos of Daario being taken away by CPIB also hit the press.

To make matters worse, as Daario was seen as the face of Iron in Indonesia, workers in the manufacturing facilities of PT easterly Rock took to the streets in protest with signs displaying:

*"NO RESPECT FOR HUMANS"*

*"BIG BAD COMPANY"*

*"IRON – HUMAN RIGHTS VIOLATOR"*

Indonesian unions join the fray and starts protests about a myriad of alleged union rights violations. It transpires that workers in the manufacturing facilities have made various complaints in relation to their employment rights to the HR Director of PT easterly Rock, who has escalated them to Daario. But Daario has ignored the complaints and dismissed these workers as simply "whiners".

The international union movement takes up the incident and starts to orchestrate a campaign against Iron with the aim to increase the union influence and ultimately to convince Iron to enter into a global framework agreement. Parts of the campaign included:

- thousands of orchestrated emails to Iron's Group CEO complaining about its bad human rights record;
- targeted correspondence to Board members asking them to improve Group human rights record;
- individual approaches to Iron's key investors and shareholders with the goal to make them withdraw investments due to a likely decrease in profitability given the human rights violations in Indonesia;
- an organized press/media campaign of blame and shame against Iron in its key markets; and
- a union complaint filed with the OECD against Iron for violations of union rights in Indonesia.

### **Terminate Everyone!**

Due to the overwhelming negative attention Iron is receiving and the dire consequences it is facing, a decision is taken to terminate the employment of Daario and Missandei.



For Daario, it is simply not feasible for him to remain the APAC CEO or an employee of Iron and they want him to go quietly without a ruckus as Iron could not handle any more negative publicity. Daario threatens to sue Iron in London where he was hired, spill the beans on Iron and "*bring Iron down!*"

For Missandei, she no longer wishes to leave her employment with Iron Singapore as Daario will no longer be working there. However, she is empowered by the social media buzz and international organization calling for better protection of women in the workplace, and she blatantly demands for compensation from Iron for the ordeal she was put through.

In the meantime, while Syrio was aware of the furor surrounding Daario, he had no idea that Ramsay was the initial whistleblower. He thinks Ramsay has not improved and moves to terminate. Ramsay's employment is therefore terminated rather unceremoniously and he is marched out of the office. Ramsay is infuriated by this, and publicly accuses Syrio of terminating his employment because he had blown the whistle on Daario. Before storming out, he remarks "*I am going to the press and will tell them everything I know about this corrupt place where women are not safe!*"