



## An Informal Approach To Solving Problems

‘Ombuds’ help organizations deal with conflicts, complaints

**G**rains of sand can foul up great machines – and bring down great organizations. Problems that don’t rise to the level of a crime or tort can afflict organizations to their serious detriment. Charles Howard, a partner in Hartford-based Shipman & Goodwin, knows a thing or two about the importance of solving small problems before they have big consequences.

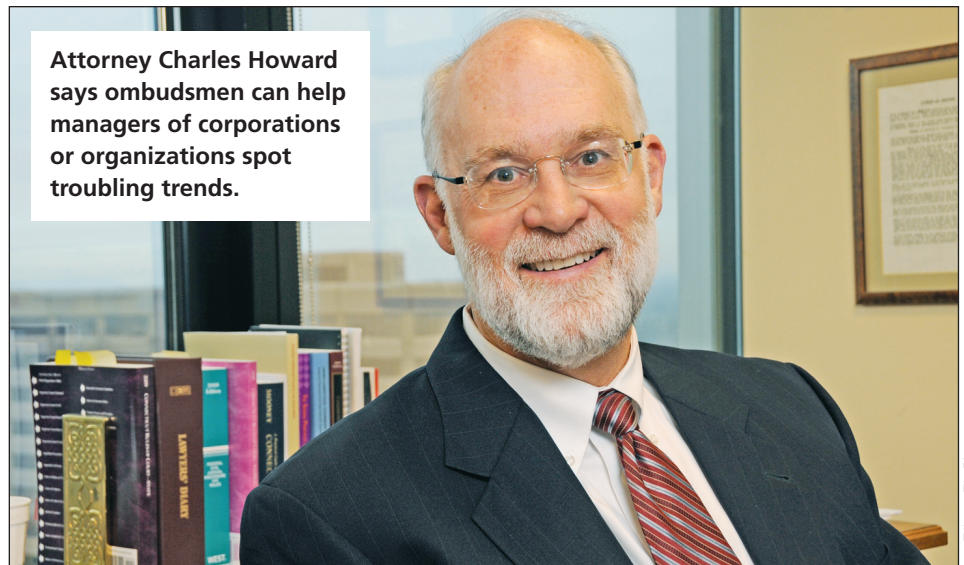
On top of his business litigation and intellectual property work, he’s built an unusual niche practice. He provides counsel to ombudsman offices at large corporations, top universities, and some of the nation’s most prestigious research institutions.

That work is the focus of a 642-page book Howard has just published through the American Bar Association’s Dispute Resolution Section. It’s called “The Organizational Ombudsman – Origins, Roles and Operations – A Legal Guide.” (Although he uses the better-known term “ombudsman” in the title, throughout the book Howard favors the gender-neutral “ombuds.”)

He’s found that people in his client organizations need to be able to do their work without dishonesty or other corrosive behaviors. Many organizations have hotlines or whistle-blower options to bring problems to the attention of people who can do something about them. But these approaches have their limitations, as Howard has found.

The ombuds listen to complaints in informal settings that stress confidentiality, minimize confrontation and, in the end, offer options for resolving an issue. Howard spoke recently with Senior Writer Thomas B. Scheffey.

**LAW TRIBUNE:** What triggered you to write this book?



Attorney Charles Howard says ombudsmen can help managers of corporations or organizations spot troubling trends.

Law Tribune File Photo

**CHARLES HOWARD:** There is a lot of confusion over what an ombudsman is. There are different kinds of ombudsmen, but the kind I’m talking about are organizational ombuds. Not a government official, but someone who operates in a corporation or a private organization, like a university. There hasn’t been any clear guidance on how to create [an ombudsman position], or why structure is very important to that, or how all the pieces fit together.

**LAW TRIBUNE:** Would this person work under human resources or the in-house legal department of a company?

**HOWARD:** Typically not. Typically they’re set up to be independent, neutral, confidential and informal. They typically would report to the CEO or the COO.

**LAW TRIBUNE:** What are the main functions of ombuds?

**HOWARD:** The main function is really twofold. They are a resource for employees,

or whoever the constituency is. In a university, it could be students or faculty. Those people can come to the ombuds and have a confidential conversation about what’s on their mind. It could be a workplace conflict. It could be an issue they think should be reported. But the ombudsman is not the reporting channel. It’s the place where people can go to get guidance about how they can deal with an issue. Sometimes the ombuds can help them sort out ways they can solve an issue themselves. So it’s a resource available for that sort of informal, personal, off-the-record discussion. It helps the organization resolve conflict.

But the ombuds also provides senior management with trend reports. They don’t breach confidentiality, but [they provide] another listening post that helps managers identify situations where there might be systemic problems and issues.

**LAW TRIBUNE:** Are there factors in

the modern workforce that have increased the need for ombuds?

**HOWARD:** In the book, I enumerate the pressures on society, from having incredible diversity now, having the technological advances that allow people to work remotely and not really have a physical presence in their organization. They're more attenuated and remote, but connected. And with that diversity and technological advance comes misunderstanding and conflict.

You superimpose on that what the law has done over the last 40 years, from corporate governance, criminal law and employment law, and it has put pressure on organizations to take allegations of misconduct seriously, to investigate them, to have codes of conduct, to report them and take corrective action...

Human Resources and Compliance [departments] are "notice" channels, meaning that if someone goes to them, they have a duty to investigate and take corrective action. There are limitations to what compliance officers can do, which is why many organizations have anonymous hotlines where someone can report misconduct. I think hotlines are a good idea, though not a great percentage of employees use them. A better model would be not to have it as an outsourced function, but to have [ombuds] who are knowledgeable about the organization and the organizational culture, and who can help coach, mediate and give assistance.

**LAW TRIBUNE:** How do ombuds make a complaint that doesn't blow the complainant's cover?

**HOWARD:** The ombuds can't do things without permission. But, for example, you could with permission notify the audit section of the company to do a third quarter vice presidential travel expense audit, which might cover 15 people. In doing that, you could find a vice president cheating on his expense reports without [implicating the complainant].

**LAW TRIBUNE:** Who is most likely to benefit from this book?

**HOWARD:** In-house counsel and managers charged with setting up programs. Compliance officers and human resources people, because this really supplements what they do. It doesn't replace them. It helps get people to them. And to ADR types, because much of what an ombuds does is a form of alternate dispute resolution. ■