Answers to Issue Spotters,

Using Business Law,

Real-World Case Problems

& Ethical Questions

Chapter 2

Ethics in Business

Answers to Issue Spotters

1A. Delta Tools, Inc., markets a product that under some circumstances is capable of seriously injuring con­sumers. Does Delta have an ethical duty to remove this product from the market, even if the injuries result only from misuse? Maybe. On the one hand, it is not the company’s “fault” when a product is misused. Also, keeping the product on the market is not a violation of the law, and stopping sales would hurt profits. On the other hand, suspending sales could reduce suffering and could stop potential negative publicity if sales continued.

2A. Acme Corporation decides to respond to what it sees as a moral obligation to cor­rect for past discrimi­nation by adjusting pay differences among its employees. Does this raise an ethical conflict between Acme’s employees? Be­tween Acme and its em­ployees? Between Acme and its shareholders? When a corporation decides to re­spond to what it sees as a moral obliga­tion to correct for past discrimination by adjusting pay differences among its em­ployees, an ethical conflict is raised be­tween the firm and its employees and between the firm and its shareholders. This dilemma arises directly out of the effect such a decision has on the firm’s profits. If satisfying this obligation in­creases profitability, then the dilemma is easily resolved in favor of “doing the right thing.”

Answers to Using Business Law

2–1A. Business ethics

(BLT&E page 15)

Personal and business ethics sometimes overlap. Businesspersons do not nec­essarily adopt one set of principles to guide them in their personal lives and an­other to provide guidance in business decisions. Business activities are only a part of life, and business ethics is only a subset of ethics. From this viewpoint, the degree to which ethical behavior in business is guided by notions of what is “appropriate,” rather than what is “right” or “wrong,” is determined by the per­sonal ethics of those who decide how to behave. Of course, ethical decision mak­ing can be complicated in business by the number of persons who provide input into those decisions. Few businesspersons have complete control over the deci­sion-making process. In this sense, a decision that represents an amalgam of interests and views may seem to be less a matter of “right” or “wrong” and more what is “appropriate.” Personal ethics should play a role in business ethical de­cision making. It could be hypocritical at best and impossi­ble at worst to apply one set of ethics to one set of situations and another set of principles to another range of conduct. There are, however, many other factors that can influence ethical decisions in a business context.

2–2A. Ethical decision making

(BLT&E pages 18, 21 & 22)

Factors for the firm to consider in making its decision include the appropriate ethical standard. Under the utilitarian standard, an action is correct, or “right,” when, among the people it affects, it produces the greatest amount of good for the greatest number. When an action affects the majority adversely, it is morally wrong. Applying the utilitar­ian standard requires (1) a determina­tion of which individuals will be affected by the ac­tion in question; (2) an as­sessment, or cost-benefit analysis, of the negative and positive ef­fects of alter­na­tive actions on these individuals; and (3) a choice among alternatives that will produce maximum societal utility. Ethical standards may also be based on a concept of duty—which postulates that the end can never justify the means and human beings should not be treated as mere means to an end. But ethical deci­sion making in a busi­ness context is not always simple, particularly when it is determined that an action will affect, in different ways, different groups of peo­ple: shareholders, employees, society, and other stakeholders, such as the local community. Thus, another factor to consider is to whom the firm believes it owes a duty.

Answers to Real-World Case Problems

2–3A. Ethical misconduct

(BLT&E page 19)

Ethics has to do with the rightness or wrongness of actions. Business ethics focuses on what is right and wrong in the business world. Business ethics can be more complicated than personal ethics. In the situation described in this problem, the son engaged in unethical personal and business conduct. His personal misconduct included the use of his father’s Social Security number to obtain a credit card. His business misdeeds included the misrepresentation to obtain the $350,000 loan. Producing forged documents to show his father that the loan had been paid was both a personal and a business breach of ethics. In each instance, the son did not tell the truth. The son perpetrated fraud on the lender and on his father. These circumstances call for a judgment against the son.

The son acted alone—the father did not contribute to the fraud nor ratify the son’s misdeeds—and neither the father nor the partnership benefited from the fraud. By confronting the son, the father arguably attempted to repudiate the misconduct. These factors indicate that a judgment in favor of the father is warranted.

In the actual case on which this problem is based, the court entered a judgment in favor of Adams against the son, and a judgment in favor of the father against Adams. On Adams’s appeal, a state intermediate appellate court affirmed this result.

2–4A. Ethics and the law

(BLT&E page 20)

The law does not codify all ethical requirements. A firm may have acted unethically but still not be legally accountable unless the party that was wronged can establish some basis for liability. Rules of law are designed to require plaintiffs to prove certain elements that establish a defendant’s liability in order to recover for injuries or loss. Ethical codes and internal guidelines may have significance in evaluating a company’s conduct, but they are not rules of law—a violation of a company policy is not a basis for liability.

In this case, Havensure had the burden of proving liability. Prudential’s violation of its own company guideline was clearly wrongful—and might be a matter of concern for insurance regulators—but this misconduct did not create an obligation to Havensure. Havensure cannot establish a cause of action against Prudential for violating its own policy.

In the actual case on which this problem is based, the court ruled in Prudential’s favor.

2–5A. Business ethics

(BLT&E page 16)

Ethics focuses on the way in which moral principles apply to conduct in daily life. Business ethics focuses on what is right and wrong in the business world. An understanding of business ethics is important to the long-run viability of a corporation. The well-being of the officers and directors of the corporation, as well as the welfare of the firm’s employees, requires it. Corporate decisions can such groups as suppliers, the community, and society as a whole. An overemphasis on a company’s short-term outlook can create ethical problems for the firm—and may in the end destroy it.

The lack of ethics in the “rosy” situation depicted in this problem stems from Skilling’s alleged use of deceit to create it. Whether or not such conduct supports a criminal conviction—although given the apparent number of alleged crimes, it is a distinct possibility—a “rosy” business is bound to collapse like a house of cards and harm all of its stakeholders if its “success” is founded on falsity.

In the actual case on which this problem is based, Skilling resigned and Enron crashed into bankruptcy. An investigation uncovered a conspiracy to deceive investors about the company’s finances to ensure that its stock price remained high. Skilling was convicted in a fed­eral district court of various crimes. On appeal, the United States Supreme Court vacated part of the conviction and sent the case back to the lower court for a review of the other part.

2–6A. Ethical leadership

(BLT&E page 16)

Ethical leadership is important to create and maintain an ethical workplace. Management can set standards, and apply those standards to themselves and their firm’s employees to encourage an ethical business environment. One of the most important factors in creating and maintaining an ethical workplace is the attitude of management. Management’s behavior sets the ethical tone of a firm. Employees take their cue from management. If the manager’s do not follow ethical norms, employees will be likely to follow that example.

The circumstances set out in this problem show how a manager’s sexist attitudes and actions can affect a workplace. Even if Krasner was not a victim of a violation of a law or a company policy, his complaints reveal that his perspective of his workplace environment was clearly affected by his supervisor’s attitudes and actions. Assuming Krasner’s complaints were supported by fact, they also indicate that Kiser behaved unethically.

In the actual case on which this problem is based, HSH investigated but did not find a violation of its ethics policies. Krasner filed a suit in a federal district court against the firm, alleging gender-based discrimination, but the court did not find any such discrimination—a female employee in Krasner’s position would have experienced the same consequences.

Answers to Ethical Questions

2–7A. Ethical workplace

(BLT&E pages 16 & 17)

Factors that help to create an ethical workplace include a written code of ethics, a policy statement, the effective communica­tion of ethical policies to employees, and the attitude and conduct of management.

2–8A. Social responsibility

(BLT&E pages 21–23)

It could be argued that the defendants have an ethical responsibility to society to voluntarily take steps to reduce the availability of their products to meth makers. This might have become a more certain obligation once the defendants were aware that their products were used in the manufacture of meth. Retailers might have been asked to place the products behind the counter or lock them in display cases and limit sales or require consumers to sign for purchases. Retailers might have been educated about the suspicious behavior of buyers with illegal intent. (These measures were imposed as federal regulations in 2005.) The defendants might have developed alternative medications that did not contain ephedrine or pseudoephedrine.

It could also be argued that the defendants have an ethical responsibility to their shareholders and other stakeholders in their companies to fight regulatory efforts to limit the availability of their products so they could continue making profits. The central purpose of their businesses is to make money, not to affect social change. And the effects on society of the meth epidemic are not the natural and foreseeable consequences of the sales of the defendants’ products.

In the actual case, the court compared the counties’ claims to other plaintiffs’ attempts to recover from gun manufacturers the costs associated with the criminal use of guns. In terms of legal liability, the circumstances connecting the sales of the medications to the provision of government services were too weak for the counties to recoup their costs from the defendants on a theory of implied contract. Also, the sales of the medications were legal, the operations of the STLs were not, the latter were not likely consequences of the former, and thus, in terms of proximate cause for tort liability, the costs to the counties were not reasonably foreseeable. The suit was dismissed.