Solution and Answer Guide

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Chapter 03: Ethics in Business

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# Critical Thinking Questions in Features

Adapting the Law to the Online Environment

1. From an ethical point of view, is there any difference between calling subordinates during off hours for work-related questions and sending e-mails or text messages?

Solution

The basic ethical issue is whether employees should be compensated for time spent on work-related electronic communications for which they are not paid. Under the FLSA, managers are normally not eligible for overtime pay. But what about employees who are, in fact, covered by the overtime rules of the FLSA? If an employee is required to check and respond to e-mails, texts, or other electronic communications, then should be entitled to overtime pay under FLSA. If the employee checks and responds to electronic communications voluntarily, however, it is not likely that the employee would be entitled to overtime pay.

Managerial Strategy

1. After a school shooting, Dick’s Sporting Goods stopped selling certain firearms at its stores. What are the potential benefits and drawbacks of this form of corporate social responsibility?

Solution

Anytime a company takes a stance on a political or social issue, it can assume that it will receive support from some customers and criticism from others. In this instance, given the fervor of the gun control debate in the United States today, Dick’s certainly expected to lose customers who are passionate about the right to bear arms. In fact, the company experienced a 3.1 percent decline in sales for the fiscal year following its policy change. Afterwards, however, sales rose at a commensurate rate, showing that the public may have a short attention span even when it comes to the most highly-charged political issues.

1. Why might a state law require corporate managers to maximize company profits?

Solution

Laws that require corporate managers and directors to focus on maximizing profits are designed to ensure accountability. Without these controls, the theory goes, managers would be tempted to use factors other than profitability in the decision-making process. These factors could be ethical, such as a sincere desire to protect the environment, or unethical, such as economic self-interest. By forcing managers to make business judgments, rather than moral or personal ones, such laws provide a measure of stability for shareholders and stakeholders alike. Furthermore, if companies are less profitable and less efficient, not only will investors suffer, but employees and customers will also be worse off.

# Critical Thinking Questions in Cases

Case 3.1

1. Suppose that Case Western had tolerated Al-Dabagh’s conduct and awarded him a diploma. What impact might that have had on other students at the school? Why?

Solution

Al-Dabagh’s expulsion for unprofessional, unethical behavior stood as an example for other students. If Case Western had tolerated Al-Dabagh’s conduct and awarded him a diploma, it is likely that other students would have taken their cue from this result to engage in their own misconduct, and they would have expected their misbehavior to be accepted.

Just as the administration of a university sets the ethical tone of the school by its adoption and enforcement of an ethics policy, so does management’s behavior set a firm’s ethical tone. Top management demonstrates its commitment to ethical decision making by maintaining an ethical workplace. Discharging an employee for ethical reasons, for instance, acts as a deterrent to unethical behavior in the workplace.

A manager who is not committed to an ethical workplace is not likely to succeed in creating one. For example, a manager who looks the other way when knowing about an employee’s unethical behavior sets an example—one indicating that transgressions will be tolerated.

Case 3.2

1. What marketing tool did Watson gain by inflating its AWPs?

Solution

The marketing tool that Watson gained by inflating the AWPs of its drugs was “the spread”—the difference between the fabricated numbers and the prices that pharmacies actually paid.

Watson knew that Mississippi Medicaid would reimburse the pharmacies at rates based on Watson’s published AWPs.The higher these numbers were, the more the pharmacies would be paid, regardless of the actual costs. Watson could use this fact to make the purchase of their products more profitably attractive to the pharmacies.

Of course, the higher the published AWPs were, the higher could be the prices that Watson charged the pharmacies. But Watson could negotiate “discounts” with their customers to further convince the pharmacies they were making a “profitable” deal.

1. Watson argued that AWP was a “term of art” in the pharmaceutical industry that meant “suggested price.” Suppose that the court had accepted this argument. What might have been the effect of this decision?

Solution

If the court had accepted Watson’s contention that AWP was a term of art in the pharmaceutical industry meaning merely suggested price,” there are a number of possible effects. Any of these results would have had negative reverberations throughout—and beyond—the industry.

The court’s acceptance of the argument would have condoned Watson’s pricing policy. This would likely have led to a judgment in the drug maker’s favor in this case, which would have meant a forfeit by Mississippi Medicaid, the state, and the taxpayers of the amounts previously overpaid.

As a precedent, this would have allowed Watson to publish any number whatsoever as an AWP. This number could be as inflated as the market would bear, serving as the basis for prices charged to Watson’s customers as well as for reimbursements by the state to those customers. And the numbers could be fabricated with no relation to actual prices or costs. The possibility of this sort of extraordinary fraud would not likely be lost on Watson’s competitors, who could begin to engage in the same conduct. This deceit might maximize each company’s profits, but it would be to the burden of the taxpayers and the public’s trust.

# Chapter Review

Practice and Review

James Stilton is the chief executive officer (CEO) of RightLiving, Inc., a company that buys life insurance policies at a discount from terminally ill persons and sells the policies to investors. RightLiving pays the terminally ill patients a percentage of the future death benefit (usually 65 percent) and then sells the policies to investors for 85 percent of the value of the future benefit. The patients receive the cash to use for medical and other expenses, and the investors are “guaranteed” a positive return on their investment. The difference between the purchase and sale prices is Right Living’s profit. Stilton is aware that some sick patients may obtain insurance policies through fraud (by not revealing their illness on the insurance application). An insurance company that discovers such fraud will cancel the policy and refuse to pay. Stilton believes that most of the policies he has purchased are legitimate, but he knows that some probably are not. Using the information presented in this chapter, answer the following questions.

1. Would a person who adheres to the principle of rights consider it ethical for Stilton not to disclose the potential risk of cancellation to investors? Why or why not?

Solution

If one of the fundamental rights is the right to be treated fairly and to be able to invest one’s money with full understanding of the risks, then it would be unethical for Stilton to sell these viaticals without full disclosure that some may be subject to cancellation.

1. Using Immanuel Kant’s categorical imperative, are the actions of RightLiving ethical? Why or why not?

Solution

The categorical imperative asks the decision maker to assess the results of the action as if everyone in a similar situation made the same decision. If all insurance companies participated in the viatical industry and did not disclose the risk of cancellation, then investors would become leery of investing in the products and the market would disappear. The people for whom the sale of these policies is necessary to sustain a respectable life as it ends would not be able to get the cash to help them die with dignity. This would make the world a worse place and therefore the actions are not ethical.

1. Under utilitarianism, are Stilton’s actions ethical? Why or why not? If most of the policies are, in fact, legitimate, does this make a difference in your analysis?

Solution

Utilitarianism asks the decision maker to perform a cost/benefit analysis of the alternatives. Stilton should evaluate the risks or chances of an investor buying a void policy compared to the benefits gained from purchasing legitimate policies. The cost/benefit analysis also should include whether he sells individual policies to individual investors or whether he sells a share of a bundle of policies. If he does the former, the risks to the individual investor are greater than if the latter. If the latter, the benefit of the legitimate policies may offset any loss from cancelled policies.

1. Using the IDDR approach, discuss the decision process Stilton should use in deciding whether to disclose the risk of fraudulent policies to potential investors.

Solution

The steps in the IDDR approach begin with an *Inquiry* that identifies the ethical issue, the stakeholders, and relevant ethical theories. Here, then, Stilton must recognize the issue—whether to disclose the potential fraud by those whose policies he buys. He should identify the stakeholders, including his company’s investors and employees, those insured by the policies, the insurance companies that are at risk of being defrauded, and the larger insurance market and investment communities. To fully weigh the consequences, Stilton should be familiar with the laws related to insurance, his personal ethical standards, and his company’s policies.

The second step in the IDDR approach discusses possible actions. Factors include the strengths and weaknesses of each, considering the consequences and the impacts on stakeholders. As part of this step, Stilton should list the alternatives, and the likely results of each. This is also when Stilton should apply the mission and goals of his company.

The IDDR approach’s third step is to make a *Decision* and provide reasons for it. At this point, using the analysis produced in the previous steps, Stilton must decide what to do and why.

The last step is to *Review* the chosen action to determine its success or failure in terms of the issue and the stakeholders.

Practice and Review: Debate This

1. Executives in large corporations are ultimately rewarded if their companies do well, particularly as evidenced by rising stock prices. Consequently, shouldn’t we just let those who run corporations be able to decide what level of negative side effects is “acceptable” or their companies’ products?

Solution

The first problem with this attitude is that executives and managers (and even directors) may be looking at only short-run profits.  They therefore might ignore the long-run profitability to their company.  If a drug that works well against a potential pandemic causes severe side effects in some people, in the short run, this same drug may save many lives and reduce human suffering.  Thus profits could be great initially, with a consequent rise in the stock price.  In the longer run, though, when the news gets around that some of those who took the drug suffered severe side effects, future sales of the drug might fall, thus reducing profits and causing the stock to price to drop.

One now has to ask the question about who is in the best situation to decide the optimum level of side effects of any drug or good or service sold.  (It’s impossible to create drugs with zero negative side effects.)  Any government regulator will want to make sure that there are few, if any, people who suffer from negative side effects.  After all, the government regulator will look bad if the press reports about those who reacted badly to a drug.  Therefore, there is a bias within any government regulatory apparatus against any good or service that has bad side effects.  More limits on drugs, though, that help millions just because few suffer side effects will cost those who don’t obtain the drug—perhaps with their lives.

Issue Spotters

1. 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 and its employees? Between Acme and its shareholders? Explain your answers.

Solution

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.”

1. 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? Why or why not?

Solution

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.

Business Scenarios and Case Problems

1. **Business Ethics.** Jason Trevor owns a commercial bakery in Blakely, Georgia, that produces a variety of goods sold in grocery stores. Trevor is required by law to perform internal tests on food produced at his plant to check for contamination. On three occasions, tests of food products containing peanut butter were positive for salmonella contamination. Trevor was not required to report the results to U.S. Food and Drug Administration officials, however, so he did not. Instead, Trevor instructed his employees to simply repeat the tests until the results were negative. Meanwhile, the products that had originally tested positive for salmonella were eventually shipped out to retailers. Five people who ate Trevor’s baked goods that year became seriously ill, and one person died from a salmonella infection. Even though Trevor’s conduct was legal, was it unethical for him to sell goods that had once tested positive for salmonella? Why or why not? (See *Ethics and the Role of Business*.)

Solution

Of course, it was unethical to sell goods that their maker knew were defective and could cause harm. This is the most reasonable and likely conclusion under any set of standards, even if it were possible to eventually obtain a negative result with respect to a defect from testing that repeatedly yielded a positive result.

The decision maker must identify the parties involved (the bakery, its employees, and the general public) and collect the relevant facts to understand the problem. Ingesting food tainted with salmonella can cause serious illness and death. Because selling food contaminated with salmonella is a public health risk, the general public is a stakeholder in this problem. The owner of the bakery (Trevor) and its employees are also stakeholders, and although they are interested in making a profit, they also will suffer a loss if the bakery’s conduct results contamination and customers stop buying the bakery’s products. The bakery may not be legally required to report the initial test results to the Food and Drug Administration (FDA), but it is clearly unethical not to do *anything* to address the salmonella contamination found in food that will be sold to the public. Instructing employees to retest the food until the results come out differently does not remedy the problem or avoid potentially fatal consequences. Liability can attach through tort and contract law principles to the sale of goods that the seller knows or should know are defective. Thus, the baker’s action in this problem can lead to legal liability if someone is injured by salmonella.

The bakery could report the initial results to the FDA, even though it is not required, and ask for the agency’s advice on how to handle the salmonella contamination. The bakery should establish procedures for testing (and retesting) food and discover the source of the contamination. This will show employees that the company is concerned with doing the right thing. The bakery might also refuse to sell and voluntarily dispose of the tainted goods.

Clearly, the bakery’s decision should not be to simply retest the food until the results are negative and ship it to retailers because this shows a lack of concern for the buyers and indirectly the company’s other stakeholders The decision might be to report to the FDA, and follow its instructions for retesting or disposing of the food. Or it might be to voluntarily pull the tainted food off the shelves so as not to put public health at risk. In either situation, the bakery needs to decide how to avoid potential salmonella contamination in the future.

The decision makers need to document the reasons underlying their decision and course of action. If the decision was to report the results to the FDA and follow its advice on how to handle the contamination, the bakery could justify its actions by articulating that it is concerned with public safety. The same justification applies to a decision to destroy the tainted food. The bakery is justified in taking a course of action showing it is better to be safe (and take a monetary loss) than sorry (when a buyer ingests salmonella and dies). Either of these courses of action avoids potentially costly litigation that could result from injured persons suing the company over defective goods, avoids negative publicity and loss of goodwill from a salmonella outbreak. In addition, taking such preventive measures allows the bakery to avoid having the FDA investigate the salmonella problem and possibly issue regulations that would hamper its operation and profits.

Whether the bakery decided to report the results to the FDA or just destroy the contaminated food, it should evaluate the effectiveness of its decision and how to avoid potential salmonella contamination in the future. It should establish internal procedures for testing and retesting for salmonella, and should instruct employees on safe handling of food to avoid contamination.

1. **Ethical Conduct.** Internet giant Zoidle, a U.S. company, generated sales of £2.5 billion in the United Kingdom (UK) in 2013 (roughly $4 billion in U.S. dollars). The U.K. corporate tax rate is usually between 20 percent and 24 percent, but Zoidle paid only 3 percent (£6 million). At a press conference, company officials touted how the company took advantage of tax loopholes and sheltered profits to avoid paying the full corporate income tax. They justified their practices as ethical, declaring that it would be verging on illegal to tell shareholders that the company paid more taxes than it should.

Zoidle receives significant benefits for doing business in the UK, including large sales tax exemptions and some property tax breaks. The UK relies on the corporate income tax to provide services to the poor and to help run the agency that regulates corporations. Is it ethical for Zoidle to avoid paying taxes? Why or why not? (See *Ethics and the Role of Business*.)

Solution

Minimizing taxes can increase profits. Some people argue that a corporation’s only goal should be profit maximization, which will be reflected in a higher market value. From an economist’s perspective, when all firms strictly adhere to the goal of profit maximization, resources tend to flow to where they are most highly valued by society. Ultimately, profit maximization, in theory, leads to the most efficient allocation of scarce resources.

But a business’s focus on profits in the short run can lead to unethical conduct in the long run. In the short run, a company may increase its profits by taking full advantage of tax laws, even though it knows that the public may perceive this conduct as less than ethical. In the long run, because of bad publicity—exemplified by the executive’s statements in this problem—as well as government audits or investigations, and public or private lawsuits, such perception may compound and cause profits to suffer.

Those who run corporations can and should act ethically. Some business leaders and others believe further that corporations should be accountable to society for their actions. One view of corporate social responsibility stresses that corporations have a duty not just to shareholders, but also to other groups affected by corporate decisions. Under this approach, a corporation would consider the impact of its decision on the firm’s employees, customers, creditors, suppliers, and the community in which the corporation operates. Another theory of social responsibility argues that corporations should behave as good citizens by promoting goals that society deems worthwhile and taking positive steps toward solving social problems—employment discrimination, human rights, environmental concerns, and similar issues. Under either of these views, in this problem, the corporation would consider the government and the poor in determining and executing fiscal and tax policies.

Aside from the public’s perception and a corporation’s social responsibility, an overemphasis on short-term profit maximization is the most common reason that ethical problems occur in business. Thus, the conduct of the corporation in this problem—taking full advantage of the letter of the tax laws and touting that choice publicly—may lead to unintended unethical consequences.

1. **Consumer Rights.** Best Buy, a national electronics retailer, offered a credit card that allowed users to earn “reward points” that could be redeemed for discounts on Best Buy goods. After reading a newspaper advertisement for the card, Gary Davis applied for, and was given, a credit card. As part of the application process, he visited a Web page containing Frequently Asked Questions as well as terms and conditions for the card. He clicked on a button affirming that he understood the terms and conditions. When Davis received his card, it came with seven brochures about the card and the reward point program. As he read the brochures, he discovered that a $59 annual fee would be charged for the card. Davis went back to the Web pages he had visited and found a statement that the card “may” have an annual fee. Davis sued, claiming that the company did not adequately disclose the fee. Is it unethical for companies to put terms and conditions, especially terms that may cost the consumer money, in an electronic document that is too long to read on one screen? Why or why not? Assuming that the Best Buy credit-card materials were legally sufficient, discuss the ethical aspects of businesses strictly following the language of the law as opposed to following the intent of the law. [*Davis v. HSBC Bank Nevada, N.A*., 691 F.3d 1152 (9th Cir. 2012)] (See *Ethics and the Role of Business*.)

Solution

In this case, the court found that the company did not violate any laws and that the disclosures were adequate. From an ethical perspective, the question becomes whether the word “may” on the website gave adequate notice to the potential user or borrower that a charge would occur. It is settled legally that it up to a contract signer to read all the components of a contract. In the online environment, it is hard to ever prove that a Web page was not edited or changed from one day to the next.

A consumer may read the terms and conditions just before a round of edits and then agree and seem bound by changes that did not exist at the time they read them. From a fairness perspective, that would be unethical. At the same time, presumably the reader could print off a copy of the agreement and keep it filed. Underlying societal questions exist as to whether it is fair to assume that a purchaser in an online environment would print off that form contract language in the same way that a signer of a contract keeps a copy of the written contract.

The law often is considered the minimum ethical standard that society will allow. If a company follows the law, there will be no formal, societally-imposed consequences. There are many instances, and this is one, where following the law strictly may not be the most ethical action. If the purpose of the Truth-in-Lending Act is to ensure that consumers have full information before making a decision, there may be more ethical ways (warnings, bigger text announcing continuation of terms, more specific language than “may” in the terms) that a company can help consumers be fully informed.

1. **Business Ethics.** Mark Ramun worked as a manager for Allied Erecting and Dismantling Co., where he had a tense relationship with his father, who was Allied’s president. After more than ten years, Mark left Allied, taking 15,000 pages of Allied’s documents on DVDs and CDs, which constituted trade secrets. Later, he joined Allied’s competitor, Genesis Equipment & Manufacturing, Inc. Genesis soon developed a piece of equipment that incorporated elements of Allied equipment. How might business ethics have been violated in these circumstances? Discuss. [*Allied Erecting and Dismantling Co. v. Genesis Equipment & Manufacturing, Inc.*, 511 Fed.Appx. 398 (6th Cir. 2013)] (See *Making Ethical Business Decisions*.)

Solution

Business ethics might have been violated in these circumstances by Mark Ramun, Mark’s father, and the employees and managers of Genesis.

The “tense relationship” between Mark and his father at Allied may have been caused or exacerbated by either or both of them. And instead of confronting whatever it was that made their relationship “tense,” they may have exacted revenge—the father by forcing Mark out of the firm, or Mark by leaving it, after ten years. Of course, this is speculation.

What is not speculation, however, is that Mark took 15,000 pages of Allied’s documents on DVDs and CDs (trade secrets) when he left the firm. This act was likely a violation of the law (theft or misappropriation) and clearly a violation of business ethics. Later, Mark joined Allied’s competitor, Genesis Equipment & Manufacturing, Inc. Genesis soon developed a piece of equipment that incorporated elements of Allied equipment. This points to a second violation of the law and ethics (use of stolen property) by both Mark and Genesis. Mark appears to have been competing against his family in the marketplace and trying to sell his products through another company. Assuming that Genesis profited from its sale of the equipment, this would have caused losses to Allied and unjustly enriched Genesis. If Mark was paid a bonus or given a promotion, he too would have gained undeservedly.

In the actual case on which this problem is based, Allied filed a suit in a federal district court against Genesis and Mark for misappropriation of trade secrets. A jury awarded Allied more than $3 million in damages, but the court issued a judgment as a matter of law in favor of the defendants. On appeal, the U.S. Court of Appeals for the Sixth Circuit reversed. “It is neither speculative nor conjectural that Genesis unjustly benefitted from its use of Allied's trade secrets.”

1. **Ethical Principles.** Stephen Glass made himself infamous as a dishonest journalist by fabricating material for more than forty articles for *The New Republic* magazine and other publications. He also fabricated supporting materials to delude *The New Republic’s* fact checkers. At the time, he was a law student at Georgetown University. Once suspicions were aroused, Glass tried to avoid detection. Later, Glass applied for admission to the California bar. The California Supreme Court denied his application, citing “numerous instances of dishonesty and disingenuousness” during his “rehabilitation” following the exposure of his misdeeds. How do these circumstances underscore the importance of ethics? Discuss. [*In re Glass*, 58 Cal.4th 500, 316 P.3d 1199 (2014)] (See *Ethical Principles and Philosophies*.)

Solution

Ethics is the study of what constitutes right and wrong behavior. It is a branch of philosophy focusing on morality and the way moral principles are derived and implemented. Ethics has to do with the fairness, justness, rightness, or wrongness of an action. Those who study ethics evaluate what duties and responsibilities exist or should exist for its practitioners. The circumstances set out in this problem underscore the importance of ethics by illustrating the consequences of engaging in ethical misconduct. Those consequences can extend beyond the short run.

Clearly, Glass engaged in ethical misconduct. By fabricating material for more than forty articles for *The New Republic* magazine and other publications whose reputations are founded on truth, Glass betrayed the trust of his editors. He further behaved unethically by fabricating supporting materials to delude *The New Republic's* fact checkers. And once he was suspected, he tried to avoid detection. Later, based on these misdeeds and others, the California Supreme Court refused to admit Glass to the California bar.

Does Glass deserve a “second chance”? Based on the facts in this problem, it can be argued that no, he does not—he had more than one “second chance” and blew them all. This is indicated by the California Supreme Court’s citation of “numerous instances of dishonesty and disingenuousness” during Glass’s “rehabilitation” following “the exposure of his misdeeds.” From a more forgiving perspective, it could be argued that he does deserve another chance—because of his misdeeds, his every move will be closely scrutinized and any misconduct would most likely be swiftly spotted and thwarted.

In the actual case on which this problem is based, Glass had earlier applied for, and been denied, admission to the New York bar. Then, as stated in the facts, on Glass’s application to the California bar, the California Supreme Court denied him.

1. **Business Case Problem with Sample Answer— Business Ethics.** Operating out of an apartment in Secane, Pennsylvania, Hratch Ilanjian convinced Vicken Setrakian, the president of Kenset Corp., that he was an international businessman who could help turn around Kenset’s business in the Middle East. At Ilanjian’s insistence, Setrakian provided confidential business documents. Claiming that they had an agreement, Ilanjian demanded full, immediate payment and threatened to disclose the confidential information to a Kenset supplier if payment was not forthcoming. Kenset denied that there was a contract and filed a suit in a federal district court against Ilanjian, seeking return of the documents. During discovery, Ilanjian was uncooperative. Who behaved unethically in these circumstances? Explain. [*Kenset Corp. v. Ilanjian*, 600 Fed.Appx. 827 (3d Cir. 2015)] (See *Making Ethical Business Decisions*.)

**—For a sample answer to Problem 3–6, go to Apppendix E.**

Solution

It seems obvious from the facts stated in this problem that Hratch Ilanjian behaved unethically in the circumstances. Ethics, of course, involves questions relating to the fairness, justness, rightness, or wrongness of an action.Business ethics focuses on the decisions that businesses and businesspersons apply moral and ethical principles to make their decisions and whether those decisions are right or wrong.

In this problem, from an apartment, Ilanjian defrauded Vicken Setrakian, the president of Kenset Corp., into believing that Ilanjian was an international businessman who could help Kenset turn around its business in the Middle East. Ilanjian insisted that Setrakian provide confidential business documents. Then, claiming that they had an agreement, Ilanjian demanded full and immediate payment. He threatened to disclose the confidential information to a Kenset supplier if payment was not forthcoming. Kenset denied that they had a contract. In the ensuing litigation, during discovery, Ilanjian was uncooperative. Each of these acts was unethical.

In the actual case on which this problem is based, in negotiations with Setrakian, Ilanjian misrepresented himself. Later, he threatened to use Kenset’s information in violation of the confidence between the parties. And during discovery, he was uncooperative. The court concluded that there was no contract, ordered the return of confidential documents, and enjoined Ilanjian from using the information. The U.S. Court of Appeals for the Third Circuit affirmed.

1. **Spotlight on Bed, Bath & Beyond—Ethics and the Role of Business.** Bed Bath & Beyond Inc. sold a ceramic pot, called the “FireBurners” Pot, with a stainless steel fuel reservoir at its center and a bottle of gelled fuel for use with the fire pot called “FireGel.” A red sticker on the fire pot warned, “DON’T REFILL UNTIL FLAME IS OUT & CUP IS COOL.” “CARE AND USE INSTRUCTIONS” with the product cautioned, in a “WARNINGS” section, “Do not add fuel when lit and never pour gel on an open fire or hot surface.” The label on the back of the fuel gel bottle instructed, “NEVER add fuel to a burning fire,” and under a bold “WARNING” stated, “DANGER, FLAMMABLE LIQUID & VAPOR.” M.H., a minor, was injured when a fire pot in one of the products—bought from Bed Bath & Beyond—was refueled with the gel and an explosion occurred. Safer alternatives for the design of the fire pot existed, but its manufacturer chose not to use them. In these circumstances, is Bed, Bath & Beyond ethically responsible for the injury to M.H.? Discuss. [*M.H. v. Bed, Bath & Beyond, Inc*., 156 A.D.3d 33, 64 N.Y.S.3d 205 (1 Dept. 2017)] (See *Ethics and the Role of Business*.)

Solution

Yes, Bed, Bath & Beyond is ethically responsible for the injury that its “FireBurners” pot caused to M.H. In designing and making a product for consumers, its maker has a duty to make the product reasonably safe so that it does not create an unreasonable risk of harm to the user. This is the standard under the law of product liability. Liability for its breach can be assessed against any seller of the product. As the legal standard, these principles also express the minimal ethical standards.

In this problem, a manufacturer made a ceramic pot, called the “FireBurners” Pot, with a stainless steel fuel reservoir at its center and a bottle of gelled fuel for use with the fire pot called “FireGel.” The design was apparently unsafe, prompting the addition of a plethora of warnings about the use of the pot. These warnings generally cautioned against adding fuel to the reservoir when it was hot. Safer alternatives for the design existed, but its maker chose not to use them. M.H., a consumer, was injured when a pot was refueled with the gel and an explosion occurred. Under the law of product liability, the seller—Bed, Bath & Beyond—could be held liable for the injury on the basis of a breach of the applicable legal duty. The sale of the pot in an unsafe condition was likewise a breach of a minimal ethical duty.

It could also be contended that the retailer owed a greater ethical obligation to its customers, and to anyone who might suffer harm due to the unsafe design of the pot. This obligation could be framed in the same terms as the legal responsibility—the product should be made reasonably safe. This duty could be met by retaining the pot’s decorative quality while disabling its gel burning capacity or adopting any other safer alternative. Doing so effectively could work to the satisfaction of the seller’s customers, as well as its owners, shareholders, and others.

In the actual case on which this problem is based, M.H. filed a suit in a New York state court against Bed, Bath & Beyond. The court denied the plaintiff’s motion for summary judgment. A state intermediate appellate court reversed the denial, and remanded the case for the entry of a summary judgment in M.H.’s favor.

1. **A Question of Ethics—Applying the IDDR Framework.** Priscilla Dickman worked as a medical technologist at the University of Connecticut Health Center for twenty-eight years. Early in her career at the Health Center, Dickman sustained a back injury while at work. The condition eventually worsened, causing her significant back pain and disability. Her physician ordered restrictions on her work duties for several years. Then Dickman’s supervisor received complaints that Dickman was getting personal phone calls and was frequently absent from her work area. Based on e-mails and other documents found on her work computer, it appeared that she had been running two side businesses (selling jewelry and providing travel agent services) while at work. The state investigated, and she was convicted of a civil ethics violation for engaging in “personal business for financial gain on state time utilizing state resources.” Separate investigations resulted in criminal convictions for forgery and the filing of an unrelated fraudulent insurance claim. Dickman “retired” from her job (after she obtained approval for disability retirement) and filed a claim with the state of Connecticut against the health center. She alleged that her former employer had initiated the investigations to harass her and force her to quit. She claimed that the Health Center was unlawfully retaliating against her for being disabled and being put on workplace restrictions. [*Dickman v. University of Connecticut Health Center*, 162 Conn.App. 441, 132 A.3d 739 (2016)] (See *Making Ethical Business Decisions*.)
2. Assume that you are Dickman’s supervisor and have been informed that she is frequently away from her desk and often makes personal phone calls. The first step of using the IDDR method is *inquiry*, so you start asking questions. Several people tell you that that Dickman has offered to sell them jewelry. Others say she has offered to make travel arrangements for them. You have not spoken to Dickman directly about the complaints and are not sure if you should. You know that the Health Center would need more evidence of wrongdoing to justify firing Dickman but are uncertain as to whether you can search her computer. Should you report your findings to management? Is there any ethical problem involved in investigating and possibly firing a longterm employee? Is it fair to terminate an employee who is under disability restrictions? How would you frame the ethical dilemma that the Health Center faced in this case, and who are the stakeholders? What ethical theories would you use to guide your decision?

Solution

Yes, as Dickman’s supervisor, you should report your findings to management. A supervisor might also want to speak with Dickman before going to management, to explain that others have noticed her away from her desk, and get her side of the story. Given the complaints that the employer received, there is no ethical dilemma in investigating Dickman. The possibility of misconduct would warrant investigation and possibly termination, even in a long-term employee or an employee who has a disability restriction. “Disability restrictions” do not make an otherwise fair termination unfair. The ethical dilemma that the Health Center faced in this case was whether to discharge Dickman. Besides Dickman, the stakeholders include the Health Center and its employees and also the patients served by the health center. Perhaps the most pertinent ethical theory is the categorical imperative—what would happen if Dickman were allowed to stay on staff, and other employees took this as a cue to emulate her conduct.

A supervisor should be circumspect and make sure that the complaints against an employee are not based based on gossip and innuendo. For instance, if the supervisor knew that the co-workers who complained about Dickman did not like her or were trying to get Dickman fired. But there is no indication of that here. The comments about Dickman are presented as factual and seem to have been offered without hostility. A simple check of her presence at her workstation, a log of the calls from her work phone, and the history of website visits on her work computer could prove or disprove the information. She might be asked about any negative findings. This would give her a reasonable opportunity to explain. The supervisor and employer should taken into consideration the length of Dickman’s employment and her disability, as well as the credibility of her response and her demeanor.

If the findings prove to be true, management’s dilemma is whether to discharge Dickman. It could be believed that her workplace transgressions are not so serious as to warrant a discharge. Her actions have not been secretive, however—other employees are aware of at least some of her misconduct. Permitting her to stay on would likely encourage others to commit similar acts.

1. Now suppose that you are Dickman. You have been a medical technologist for a long time but now experience severe back pain while at your desk at the Health Center. You find that you have less pain if you get up and move around during the day, rather than just sitting. That is why you are often away from your desk. You know that you will not be able to do this job much longer, and that is why you recently started a jewelry business and began providing travel services. Sure, you have made a few personal phone calls related to those businesses while at the Health Center, but other employees make personal calls, and they have not been fired. You feel that the Health Center’s investigation was intended to force you to quit because you are disabled and cannot perform the tasks that you used to perform. Using the inquiry portion of the IDDR method, how might you frame the ethical issue you face, and who are the stakeholders? What ethical principles can help you analyze the problem thoroughly?

Solution

Dickman’s ethical dilemma is how to continue performing her medical technologist job when she cannot sit at her desk without pain and to what extent she can run side businesses from the health center.” Medical technologists work in the lab, analyzing and testing blood, fluid, tissue, and urine samples of patients. Dickman has an ethical duty to the patients and to the health center to competently perform this analysis and testing. Patients could be harmed if she fails to do the lab tests properly or in a timely fashion. Therefore, Dickman needs to decide how she can continue competently performing this work. The stakeholders affected by her decision include herself, her employer, her co-workers, and patients of the health center.

As stated in the facts to this question, Dickman experiences pain sitting at her work desk. She finds it less painful to move around—*i.e.,* away from her desk. But did she inform her supervisor or tell any of her co-workers or a physician about this pain? She would need to gather any witnesses or evidence she has to support her claim. Also, she needs to decide whether it is acceptable for her to run side businesses while she’s at the health center. Is she merely making a few personal phone calls related to these side businesses, or is it taking time away from the testing and analysis that she was hired to perform. Applicable ethical principles include the categorical imperative—if her co-workers copy her conduct, what might result? If the side jobs are interfering with her medical technologist duties, she most likely cannot justify spending time on them. The amount of time spent could be verified by looking at her work call log and computer history. If it turns out that she spent a great deal of time on these side business and neglected her technologist duties, then the employer would clearly have a right to fire her.

In the actual case on which this problem is based, Dickman’s discrimination claim was dismissed for lack of “credible evidence or legal support.” She appealed the dismissal. A state intermediate appellate court affirmed it.

Critical Thinking and Writing Assignments

1. **Business Law Writing.** Assume that you are a high-level manager for a shoe manufacturer. You know that your firm could increase its profit margin by producing shoes in Indonesia, where you could hire women for $100 a month to assemble them. You also know that human rights advocates recently accused a competing shoe manufacturer of engaging in exploitative labor practices because the manufacturer sold shoes made by Indonesian women for similarly low wages. You personally do not believe that paying $100 a month to Indonesian women is unethical because you know that in their country, $100 a month is a better-than-average wage rate.

Write one page explaining whether you would have the shoes manufactured in Indonesia and make higher profits for the company, or avoid the risk of negative publicity and its potential adverse consequences for the firm’s reputation. Are there other alternatives? Discuss fully. (See *Business Ethics on a Global Level*.)

Solution

It is arguable that ethical behavior generates sufficient good will to warrant practicing it out of a desire for increased profits. Corporate ac­tivi­ties that receive wide publicity and are perceived as “positive” may benefit shareholders in the long run, if the enhanced public image of the corporation entices more consumers to buy its product. But such long-run possible benefits are difficult to calculate. Under the same reasoning, “negative” choices may have an impact on a company’s business, but that impact may also be difficult to gauge. This is in part because motive is difficult to determine, especially in the complicated world of business ethics, both with respect to a business and to its market and customers. In the debate between motive and conduct as a meas­ure of ethical behavior, conduct may be the most practical option and the measure that will have the greatest impact. Thus, a firm might choose to do business in a more costly manner—here, by opting out of the less expensive production facility or by paying higher wages—and ultimately realize a healthier return. Of course, making that decision might have different consequences.

1. **Time-Limited Group Assignment—Corporate Social Responsibility.** Methamphetamine (meth) is an addictive drug made chiefly in small toxic labs (STLs) in homes, tents, barns, and hotel rooms. The manufacturing process is dangerous, often resulting in explosions, burns, and toxic fumes. Government entities spend time and resources to find and destroy STLs, imprison meth dealers and users, treat addicts, and provide services for affected families.

Meth cannot be made without ingredients that are also used in cold and allergy medications. Arkansas has one of the highest numbers of STLs in the United States. To recoup the costs of fighting the meth epidemic, twenty counties in Arkansas filed a suit against Pfizer, Inc., which makes cold and allergy medications. They argued that it was Pfizer’s ethical responsibility to either stop using ingredients in their cold and allergy medications that can be used to make meth or to compensate the government for the amount it spends closing down meth labs. (See *Ethics and the Role of Business*, *Ethical Principles and Philosophies*, and *Making Ethical Business Decisions*.)

1. The first group will outline Pfizer’s ethical responsibility under the corporate social responsibility doctrine. To whom does Pfizer owe duties?

Solution

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.

1. The second group will formulate an argument on behalf of Pfizer that the company has not breached any of its ethical responsibilities.

Solution

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 other words, the company could effectively argue that it has not breached any of its ethical responsibilities.

1. The third group will assume that they work for Pfizer and that the company is trying to determine the best course of action to prevent its medications from being used to make meth. The group will apply the IDDR approach and explain the steps in the reasoning used.

Solution

After applying the IDDR approach to determine the best course of action to prevent its medications from being used to make meth, the conclusion might be that the company should advise and encourage retailers at the point of sale to spot and stop buyers who appear to intend that purpose.

The IDDR approach has four steps, which begin with an *Inquiry* to express the issue, identify the stakeholders, and indicate potential ethical standards. Here, the question is what a manufacturer might do to prevent its products from being put to illegal uses. The stakeholders include the company, its owners, officers, employees, and customers, and society. Applicable standards derive from the company’s situation—it makes and markets the product, which would suggest a duty to guard against its illegal use.

The second step of the IDDR approach is a *Discussion* that considers actions to address the issue. Factors include the strengths and weaknesses of the actions, and the consequences and the effects on the stakeholders. How might the manufacturer discourage the illicit use of its product? Some answers to this question depend on the nature of the product. Could harmless additives to the product make its misuse impossible? Could some ingredients be substituted for the illegally used components? Should the company stop making the product altogether? Technically, additives or substitutes may not be possible—they may not be available, they could dilute the medicinal effects, or they might be cost prohibitive. Removing the product from the market would benefit none of the stakeholders (except, of course, those suffering the consequences of the product’s illegal use, which might impact only a relatively small part of the community).

The third step of the approach is to come to a *Decision* and state the reasons. In the eyes of the public, the company could benefit by taking some action to prevent its product’s misuse. This action might be to advise and encourage retailers at the point of sale to spot and stop buyers who appear to intend that misuse. This could enhance the value of the company to those who own it and work for it, as well as its image to its customers and society. And this action can actually improve the situation within the community by limiting the ability of those who would misuse the product to do so.

The last step of the approach is a *Review* of the success or failure of the action to resolve the issue, and satisfy the stakeholders. No action would be completely successful, but a failure to take any action would guaranty a failure to protect the interests of at least some of the stakeholders. This supports the company’s obligation to do something, such as the choice suggested in this answer.

1. The fourth group will adopt a utilitarian point of view and perform a cost-benefit analysis to determine what the company should do. Specifically, should the company pay compensation to the state, or should it stop using certain ingredients in its medications?

Solution

In the actual case on which this problem is based, 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.

This result indicates that applying the minimal ethical standard—compliance with the law—and a cost-benefit analysis shows the connection between the actions of the company and the consequences in the community to be too tenuous to mandate either of the steps suggested in the question. That is, it might be said that the benefits of the products outweigh the costs that might be imposed on the company.