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Chapter 7

Employee's Ethics: Making the Best of the Job You Have as You Get from 9 to 5

Chapter Overview

Chapter 7 "Employee's Ethics: Making the Best of the Job You Have as You Get from 9 to 5" examines some ethical decisions facing employees. It considers the values guiding choices made over the course of a workday.

7.1 Taking Advantage of the Advantages: Gifts, Bribes, and Kickbacks

LEARNING OBJECTIVES

1. Define a conflict of interest.
2. Show how gifts in the business world may create conflicts of interest.
3. Delineate standard practices for dealing with gifts.
4. Consider how receiving gifts connected with work may be managed ethically.
5. Define bribes and kickbacks in relation to gifts.
6. Show how the ethics of bribes and kickbacks can be managed inside the ethics of gifts.

Living the High Life

If you're young, looking for work, and headed toward a big city (especially New York), then you could do a lot worse than landing a job as a media buyer for an advertising agency. According to an article in *New York* magazine, it's working out well for twenty-four-year-old Chris Foreman, and it's working out despite a salary so measly that he can't afford his own place, a ticket to a movie, or even to add meat to his homemade spaghetti. Sarah Bernard, "Let Them Eat Crab Cakes," *New York*, accessed May 19, 2011, <http://nymag.com/nymetro/news/media/features/2472>.

This is what makes the job click for Foreman: as a media buyer, he oversees where big companies like AT&T place their advertisements. And because those ads mean serious money—a full page in a glossy, top-flight magazine costs about five times what Foreman earns in a year—the magazines line up to throw the good life at him. Thanks to the generosity of *Forbes* magazine, for example, Foreman spends the occasional evening on the company's vast Highlander yacht; he drinks alcohol almost as old as he is, munches exquisite hors d'oeuvres, and issues orders to white-suited waiters. While guests arrive and depart by helicopter, Foreman hobnobs with people the rest of us see only on movie screens. A scan of the Highlander guest book turns up not just celebrities but serious power too: Margaret Thatcher was a guest once.

A night on the Highlander is a good one, but it's far from the only event lighting up Foreman's glitzy life. A few of his other recent outings are listed in the article, with some estimated cash values attached: An all-expenses-paid ski weekend (worth almost \$1,000, in Foreman's estimation); tickets to see Serena Williams at the US

Open (\$75 each); invites to the *Sports Illustrated* Swimsuit Issue party, where he chatted with Heidi Klum and Rebecca Romijn-Stamos; prime seats for sold-out Bruce Springsteen concerts (\$500 each); dinners at Cité, Sparks, Il Mulino, Maloney & Porcelli, and Monkey Bar, to name a few of his favorites (\$100 a pop).

Foreman observes the irony of his life: "It's kind of crazy, I had dinner at Nobu on Monday [the kind of restaurant few can afford, even if they're able to get a reservation], but I don't have enough money to buy socks." Sarah Bernard, "Let Them Eat Crab Cakes," *New York*, accessed May 19, 2011, <http://nymag.com/nymetro/news/media/features/2472>.

The Highlander's spectacularly wealthy owner is Steve Forbes. If he invites former British prime minister Margaret Thatcher aboard for a holiday weekend, you can understand why: she's not just an interesting person; she's living history. Serena Williams would be an interesting guest, too, in her way. The same goes for Heidi Klum and Ms. Romijn-Stamos, in a different way. What they all have in common, though, is that you know exactly what they've got, and why a guy with a big bank account would treat them to an evening. But what, exactly, does Mr. Forbes expect to get in return for inviting media buyer Chris Foreman? The answer: "We media buyers are the gatekeepers—no one at AT&T actually purchases the ads. If at the end of a buying cycle, your budget has an extra \$200,000, you'll throw it back to the person who treated you best." Sarah Bernard, "Let Them Eat Crab Cakes," *New York*, accessed May 19, 2011, <http://nymag.com/nymetro/news/media/features/2472>.

The answer, in a word, is money.

What's Wrong with Gifts and Entertainment?

The fundamental problem with the gifts Foreman received and the free entertainment he enjoyed is that they create a **conflict of interest**¹, a conflict between professional obligations and personal welfare. As a paid media buyer, it's Foreman's job and obligation to buy ads in the magazines that will do his clients the most good, that'll deliver the biggest bang for the buck. But against that, as a single twenty-four-year-old guy in New York City, it's in his personal interest to purchase ads in *Forbes* magazine since that probably gets him invited back to the Highlander with its free drinks, exquisite dinners, and, if he's lucky, some face time with women he's already seen quite a bit of in *Sports Illustrated*. This is a tough spot, and there are two broad ways it can play out:

1. An employee in a situation—especially as a result of being offered a gift—where his or her interest in personal welfare may corrupt his or her ability to serve the employer's interest.

1. Foreman can do the parties at night, go home, sleep, wake up with a clear head, and buy the best ads for his client. Let's say the advertising money he's spending belongs to AT&T and they're trying to attract

new clients in the forty-five to fifty-five demographic of heavy cell phone users. He takes that target, checks to see what magazine those people like to read more than any other, and buys a full pager there. If the magazine happens to be *Forbes*, great, if not, then *Forbes* doesn't get anything back for its party. In this case, Foreman knows he's done right by AT&T and his employer. To the best of his ability, he guided advertising money to the spot where it'll do the most good. There remains a potential problem here, however, which is the *appearance* of a conflict of interest. Even though Foreman didn't let the parties affect his judgment, someone looking at the whole thing from outside might well *suspect* he did if it happens that *Forbes* gets the ad buy. This will be returned to later on in this chapter.

2. The darker possibility is that *Forbes* isn't the best media buy, but they get the ad anyway because Foreman wants to keep boarding the Highlander. In this case, Foreman is serving his own interest but failing his obligations to his employer and to his client.

In pure ethical terms, the problem with the second possibility, with selling out the client, can be reduced to an accusation of lying. When Foreman or any employee signs up for a job, shows up for work, and then accepts a paycheck, they're promising to be an **agent**² for the organization, which is formally defined in commercial law as someone acting on *behalf* of the organization and its interests. In some situations it can be difficult to define exactly what those interests are, but in Foreman's it's not. He does well for his employer when he gives the clients the best advice possible about spending their advertising dollars. That's his promise and he's not fulfilling it.

Redoubling the argument, in the case of the typical media buyer, there's probably also an explicit clause in the employment contract *demanding* that all media advice be objective and uncorrupted by personal interest. Even without that formal step, however, the shortest route to an ethical condemnation of buying ads because a night on the Highlander (or some other gift) has been received is to underline that the act turns the media purchaser into a liar. It makes him or her dishonest every time they come into work because they're not providing the objective and impartial advice they promise.

In discussing conflicts of interests, it's important to keep in mind that those who find themselves caught up in one haven't necessarily been corrupted. Just because Foreman finds himself torn between giving impartial advice to his client and giving the advice that gets him good parties *doesn't* mean his judgment is poisoned. That said, it's *extremely* difficult to walk away from a conflict of interest unstained: any time serious gifts or rich entertainment gets injected into a business relationship, suspicious questions about professionalism are going to seep in too.

2. Someone acting on behalf of an organization and its interests.

Finally, there are two broad ways of dealing with gifts, especially those creating conflicts of interest. They can be flatly refused, or rules can be formulated for accepting them responsibly.

Refusing Gifts and Entertainment

One way to avoid the gift and conflict of interest problem altogether for Chris Foreman or anyone in a similar situation is to simply refuse any gifts from business partners. Far more frequently than private businesses, government organizations take this route. The approach's advantage, obviously, is that it wipes out the entire question of wrongdoing. The disadvantage, however, is that it dehumanizes work; it seems to forbid many simple and perfectly appropriate gestures of human interaction.

Here's an example of what can happen when efforts to eradicate conflicting interests go to the extreme: it's from a *New York Times* front-pager about the state governor:

Governor David A. Paterson violated state ethics laws when he secured free tickets to the opening game of the World Series from the Yankees last fall for himself and others, the New York State Commission on Public Integrity charged on Wednesday. Nicholas Confessore and Jeremy “Paterson’s Ethics Breach Is Turned Over to Prosecutors,” *New York Times*, March 3, 2010, accessed May 19, 2011, <http://www.nytimes.com/2010/03/04/nyregion/04paterson.html?hp?hp>.

So, the governor is in trouble because he got some tickets to watch his home team play in the baseball championship? That's going to make Chris Foreman's head swim. Without getting into the details of the Paterson case, accepting these tickets doesn't seem like a huge transgression, especially for someone whose job pays well and is already packed with gala events of all kinds. It's not as though, in other words, Peterson's going to be blown away by the generosity or become dependent on it. In the case of Foreman who could barely afford to eat, it's reasonable to suspect that he may come to rely on his occasional trip to the Highlander, but it just doesn't seem likely that the governor's judgment and ability to fulfill professional obligations are going to be distorted by the gift provided by the New York Yankees baseball club. More, as the state's elected leader, a case could probably be made that the governor actually had a professional responsibility to show up and root for the home team (as long as the visitors aren't the Mets). As a final note, since the now former governor is legally blind, the value of the gift seems limited since he couldn't actually see the game he attended.

Despite this case's apparent frivolity, the general practice of eliminating conflict of interest concerns by simply banning gifts can be justified. It can be because so many gifts, just by existing, create the **appearance of a conflict of interest**³. An appearance of conflict exists when a reasonable person looking at the situation from outside (and without personal knowledge of anyone involved) will conclude from the circumstances that the employee's ability to perform his or her duties may be compromised by personal interest. This is different from an *actual* conflict because when there's really conflict, the individual *feels* torn between professional obligations and personal welfare. Almost certainly, Foreman was tempted to help out *Forbes* because he really liked the parties. But the case of Governor Paterson presents only the appearance of a conflict of interest because we don't know whether he even wanted the tickets to the Yankees game. Given the fact that he's blind, he may well have preferred staying home that night. Still, for those of us who can't know his true feelings, it does seem as though there might, potentially, be some incentive for Paterson to return the Yankee favor and provide them some special advantage. It's almost certain that at some time in the future, the baseball club will have an issue up for debate by the state government (perhaps involving the construction of a stadium or maybe just a license to sell beer inside the one they currently have), and as soon as that happens, the appearance of conflict is there because maybe Paterson's response will be colored by the tickets he got.

Conclusion. Refusing to accept any gifts from business associates is a reasonable way of dealing with the ethical dilemma of conflicting interests. By cutting the problem off at the roots—by eliminating not only conflicts but the appearance of them—we can go forward with confidence that a worker's promise to represent the organization faithfully is uncorrupted by the strategic generosity of others.

What Other Remedies Are Available for Conflict of Interest Problems Stemming from Gifts?

Categorically refusing gifts may be recommendable in some cases, but in most economic situations a total ban isn't realistic. People make business arrangements the same way they make friendships and romance and most other social things—that means invitations to the Highlander if you're lucky, or just to a few Budweisers in the hotel bar. And if you turn everyone down every time, it's probably going to dampen your professional relationships; you may even lose the chance to get things done because someone else will win the contract between drinks.

So where does the line get drawn for accepting gifts with ethical justification? Whether you happen to be a renowned politician in a large state or someone just out of school trying to make a go of it in the world, there are a number of midpoints

3. An appearance of conflict exists when a reasonable person will conclude from the circumstances that the employee's ability to perform his or her duties may be compromised by personal interest.

between Governor Paterson's obligation to refuse tickets to a game he couldn't see anyway and Chris Foreman's raucous partying on the Highlander. Three of the most common midpoints are

1. transparency,
2. recusal,
3. organizational codes.

Transparency, as the word indicates, manages the acceptance of gifts by publicly recognizing their existence. The idea is that if Foreman is willing to openly acknowledge exactly what he's getting from *Forbes* magazine, then we can trust that there's nothing underhanded going on, no secret agreements or deals. Of course the gifts may still influence his judgment, but the fact that they're public knowledge at least removes the sense that he's trying to get away with something.

Recusal is abstaining from taking part in decisions contaminated by the appearance of a conflict of interest. Foreman could, for example, keep going to Highlander parties but not manage any media buying for the demographic that reads *Forbes*. It's fairly easy to imagine a team of media buyers working together on this. Every time something comes up that might be right for *Forbes*, Foreman passes the decision on to Sam Smith or whoever and so removes himself from the conflict.

In the public sphere, especially politics and law, it's common for judges and legislators to remove themselves from considering issues bearing directly on their welfare. A judge who owns stock in the Omnicom communications group may recuse herself from hearing a civil case brought against the company. Legislators deciding what the salary should be for legislators may ask for recommendations from an independent panel.

Organizational codes are one of the theoretically easiest but also one of the more practically difficult ways to handle gifts. The advantage of a code is that it can provide direct responses for employees trying to decide whether they can accept a gift. In Oregon, for example, legislators are prohibited from accepting gifts valued at more than fifty dollars. Assuming the code is reasonable—and in this case it was judged so by the state's supreme court—legislators may assert that by implication accepting a gift valued under that amount is, in fact, ethical. Bill Graves, "Oregon Supreme Court Upholds \$50 Gift Limit for Legislators, Public Officials," *OregonLive.com*, December 31, 2009, accessed May 19, 2011, http://www.oregonlive.com/news/index.ssf/2009/12/oregon_supreme_court_upholds_5.html.

However, the problem with codes is that, like laws, they frequently leave gray areas. That's especially true in a media buyer's world where so much is spent on entertaining. In that kind of reality, it's very difficult to put a specific price on everything. A night on the Highlander, obviously, is worth a lot to Foreman, but how does it appear in the accounting books of dollars and cents? Because it's hard to know, monetary limits provide only vague ethical guidance for those in Foreman's line of work.

The broader lesson is that gifts come in so many forms—and with values that can be so difficult to accurately measure—that it's virtually impossible to write something encompassing all the specific possibilities. Many codes of conduct, therefore, end up sounding noble but are really just saying, "Figure it out for yourself." Take a look at the last lines from the Code of Conduct from Omnicom, a massive group of companies including many leading advertising firms that purchase ads in *Forbes*:

We expect each employee to exercise good judgment and discretion in giving or accepting any gift. No set of specific rules can anticipate or capture every possible instance in which an ethical issue may arise. Instead, all of us must be guided by the overarching principle that we are committed to fair and honest conduct and use our judgment and common sense whenever confronted with an ethical issue. "Code of Conduct," OmnicomGroup, last updated October 16, 2008, accessed May 19, 2011, <http://www.omnicomgroup.com/corporategovernance/codeofconduct>.

Questions to Ask before Accepting a Gift

In their book *Moral Issues in Business*, authors William Shaw and Vincent Barry formulate a list of questions that, when answered, can provide support and clarity for making decisions about whether a gift may be accepted. They're not going to tell you what to do—there's no magic guide—but they can help you see things more clearly. In modified form and with some additions and subtractions, here's the list. William Shaw and Vincent Barry, *Moral Issues in Business* (Belmont, CA: Thomson Wadsworth, 2007), 398–99.

- **Is there a conflict of interest, or the appearance of a conflict, that arises because of the gift?** Not every gift raises conflict of interest concerns. Maybe a marketer at *Forbes* gets a late cancellation for a Highlander night and can't find any targeted media buyer to fill the spot, so the invite gets handed off to a buyer specializing in purchasing ads for young teenagers. Why not? It'd just go to waste otherwise. And should that lucky media buyer say yes? It's difficult to find an ethical reason not to since no conflict of interest concerns seem to arise.

- **What's the gift's value?** This can be an easy one. When Foreman was invited to a Springsteen concert he could just look at the tickets and see that he'd been offered something worth \$500. On the other hand, getting the chance to chat up a *Sports Illustrated* swimsuit model on the Highlander is going to be harder to quantify. In those cases where a value can be set, the number allows a clean dividing line: anything above the a specified amount gets categorized as potentially influencing a decision and so causing a conflict of interest, while any gift worth less may be considered nominal, too small to threaten professionalism. What's the magic number? That depends on who's involved and the general context, but many organizations are currently setting it at \$25, which is, not incidentally, the limit the IRS sets for business deductions for gifts to any single person during one year.
- **Is the gift provided out of generosity or for a purpose?** No one can peer into the soul of another, but something offered during the holiday season may be more acceptable than the same thing offered just before a major advertising buy is being made.
- **What's the gift's purpose?** Just because a gift isn't an outpouring of generosity so much as an expression of self-interest *doesn't* mean there's a corrupting intent. For example, if *Forbes* magazine sends Foreman a free copy of each issue, that's more like advertising for themselves than an attempt to buy the guy off. Almost all of us have had the same experience: we've received calendars or notepads in the mail from a local real estate agent or insurance seller. These aren't attempts to buy us, just ways to present their services. On the other hand, it's hard to see how tickets to a Springsteen concert given by a magazine can be anything but an attempt to induce the receiver to give a gift back by throwing some ad money the publication's way.
- **Is it a gift or entertainment?** Traditionally, a distinction has been drawn between giving gifts and paying for entertainment. As a rule of thumb, the former is something you can take home and the latter is enjoyed on the spot. Presumably, entertainment raises fewer ethical concerns because it isn't a payoff so much as a courtesy extended to a media buyer in exchange for hearing a pitch. If someone from *Forbes* wants to convince Foreman that her magazine is the best place for advertising dollars, then it doesn't seem so bad, buying him a lunch or a few beers while he hears (endures) the pitch. After all, it's her job to sell the magazine and it's his to know the advantages all the magazines offer. This is just normal business. Gifts, on the other hand, seem much more like bribes because they don't exist in the context of normal business conversations. Take the tickets to a Springsteen concert; they have nothing to do with business and can't be justified as a courtesy extended within the boundaries of normal exchanges between

magazines and ad buyers. Finally, with respect to the parties on the Highlander, those are technically entertainment since Foreman can't take the yacht home afterward. It doesn't sound, though, like a lot of business talk was going on.

- **What are the circumstances?** There's a difference between *Forbes* magazine handing concert tickets to media buyers to mark the launching of a new column in the magazine and their constant, ongoing provisioning. As part of the launch campaign, it's much easier for Foreman to accept the gift without feeling trapped by an obligation to throw business *Forbes'* way since he can respond to the gesture simply by being aware that the new column is there and taking it into account when he makes future buying decisions.
- **What power do I have to bestow favors in return for gifts?** Foreman's job title is *assistant* media buyer, meaning he probably doesn't actually decide which magazine gets the business. He just gathers research data and makes a recommendation to the boss. Does this free him to enjoy the Highlander nights guilt free? Hard to be sure, but it definitely helps him fulfill his professional obligations: it's just much easier to do the data mining and recommendation writing in the back office than it is to be the guy sitting out front telling *Forbes* magazine the answer's "no," even though the parties were great. If that's the way things go, Foreman may be a coward for letting his boss deliver the bad news to *Forbes*, but that's a personal ethical failure, not a business one.
- **What's the industry accepted practice?** In New York state government, as the Paterson case shows, the accepted practice is no gifts, period. In the looser world of Manhattan media business, *New York* magazine sums things up: "Everybody in our industry is guilty of it. Many of those who travel for work take their boyfriends and call it a vacation." Sarah Bernard, "Let Them Eat Crab Cakes," *New York*, accessed May 19, 2011, <http://nymag.com/nymetro/news/media/features/2472>. Care should be taken here to avoid the conclusion that whatever everyone else is doing is OK. That's not it at all. But it is true that if everyone's guilty—if *all* the magazines are lavishing gifts on media buyers, and all the buyers are accepting—it's going to be much easier for Foreman to satisfy his professional obligations. It's going to be easier for him to tell *Forbes* "no" (assuming the demographic facts recommend that) when all the magazines are gifting about equally and everyone's accepting than it would be if *Forbes* were the only magazine giving the gifts and he was the only one accepting.
- **What's the organization's policy?** As the Omnicom Code of Conduct illustrates, sometimes policy provides words but no guidance. As the New York government policy (which prohibits all gifts) shows, however, sometimes there is guidance. When true guidance is

provided, an employee may fairly reason that following it is fulfilling professional obligations to the employer.

- **What's the law?** Generally, laws on gift giving and receiving apply to public officials and those working with them (politicians, judges, lawyers, businesses doing work for the government). As is always the case, the legal right doesn't in itself make ethical right. It can, however, provide the foundation for making an ethically recommendable decision, assuming other factors—many of which will come up through the set of questions just listed—have not been ignored.

Conclusion. Gifts cause a conflict of interest when they threaten to corrupt an employee's judgment on business matters related to the interests of the person or organization providing the gift. Sometimes gifts are given with that intention, sometimes not. Regardless, and no matter what the law or corporate philosophy may be, it's frequently the employee who ends up deciding whether a gift will be accepted. If it is, a responsibility follows to justify accepting it.

What's the Difference among Gifts, Bribes, and Kickbacks?

One advantage of the developed framework for thinking ethically about gifts in the midst of advertising business relationships is that it provides a compact way to manage the ethics of bribes and kickbacks.

Bribes⁴ are gifts—everything from straight cash to entertainment—given to media buyers with the direct purpose of corrupting their professional judgment by appealing to their personal welfare. When a representative from *Forbes* magazine gives Chris Foreman tickets to the Springsteen show with the intention of spurring Foreman to *consider* buying ad space in *Forbes*, that's a gift; it's left to Foreman to decide whether he can accept it without betraying his obligation to serve his employer's interests. When, on the other hand, the rep gives the same tickets with the intention of getting Foreman to *directly buy* the space, that's a bribe. A bribe, in other words, is an extreme conflict of interests where the individual's personal interest completely overwhelms the professional responsibilities implied by his job. If Foreman accepts this kind of gift—one where he knows the intention and accepts that the objectivity of his judgment will be blinded—then he's crossed into the zone of bribery. Receiving bribes, finally, seems unethical for the same reason that accepting gifts can be unethical: it's betraying the promise to act as an agent for the organization.

4. Something of value given to an individual to corrupt his or her professional judgment.

5. Something of value given to an individual in return for having corrupted his or her professional judgment.

Kickbacks⁵ resemble bribes except that instead of the gift or entertainment being given over first and then the ad space getting purchased, the ad space is purchased

and then a portion of that revenue is sent back to the media buyer as cash or Springsteen tickets or whatever. Regardless of whether the media buyer gets his reward first and then buys the ad space, or buys the space and then gets rewarded, what's happening on the ethical level doesn't change. Personal interest is being exploited to corrupt professional judgment. That means accepting the reward becomes a form of lying since it's a betrayal of the implicit promise made to do the job right when you sign the contract.

In the Real World, What's the Difference among Gifts, Bribes, and Kickbacks?

In actual day-to-day business it can be extremely difficult to distinguish among gifts, bribes, and kickbacks because at bottom all of them spark conflicts of interest. All of them, consequently, are also going to incite at least remote suspicions of corruption. Of course it's always easy to find examples at one extreme or the other. On the safe side, if a woman seeking your business pays for one cup of coffee for you once, it's unlikely that you'll give her proposal any special consideration, and it's doubtful that she'd expect it. If she offers to make your car payments on the other hand, it's pretty clear something's going on. Usually, however, the lines are blurry and the reality more like the one Foreman lived through. The exact monetary value of what he received wasn't certain. Did he get the invitations with the intention of having his judgment tainted or were they extended as a courtesy and in accordance with the industry's common practice? Would he get more and better invitations if he sent *Forbes* magazine some extra dollars? While these questions don't have certain answers, the ethics can be rendered in straightforward form. Agents of an organization have a duty to act in favor of the organization's interests regardless of what happens after hours.

KEY TAKEAWAYS

- Conflicts of interest arise when an individual's professional judgment is challenged by an appeal to personal interest, as occurs when a prospective client offers a gift.
- Because suspicions of unethical practices arise almost immediately when a conflict of interest exists, even appearances of a conflict of interest present problems in business.
- Standard practices for dealing with gifts include outright refusal, acceptance of gifts with only nominal value, acceptance in accord with industry practices, and good sense within a clearly understood situation.
- In certain contexts, gifts of significant value may be accepted ethically, as long as they don't corrupt professional judgment.
- Bribes and kickbacks can be managed ethically within the framework constructed for gifts. Both bribes and kickbacks function as gifts that do, in fact, corrupt an employee's professional judgment.

REVIEW QUESTIONS

1. Why do gifts create conflicts of interest?
2. What is the main advantage and disadvantage of dealing with gifts and conflicts of interest by prohibiting the acceptance of gifts?
3. What questions could you ask yourself to help frame the question as to whether you can ethically accept a business-related gift?
4. What's the difference between a conflict of interest and the appearance of a conflict?
5. What's the difference between a gift and a bribe?
6. What's the difference between a bribe and a kickback?

7.2 Third-Party Obligations: Tattling, Reporting, and Whistle-Blowing

LEARNING OBJECTIVES

1. Define third-party obligations.
2. Elaborate three standard responses to third-party obligations.
3. Define whistle-blowing.
4. Consider justifications and requirements for whistle-blowing.

Caught in the Crossfire

A hypothetical situation. You work at Omnicom, at the desk next to Chris Foreman. Like him, you're an assistant media buyer. Though your area of concentration is distinct (you're in charge of placing ads on radio stations) you team up with him from time to time to run numbers, and you know enough about how it all works to recognize when something's going wrong. In your opinion, it is. Chris is sending ads to *Forbes* that would deliver more for the client if they'd been placed in *BusinessWeek*. Further, you believe he's doing it in exchange for the gifts. You can't prove that but you do know this: he's occasionally supplementing his lousy income by selling some of what he's receiving—concert tickets, vouchers for limo service, things like that—on eBay. You've tried talking about it, bringing the subject up one way or another, but he doesn't want to talk back. And when you say it directly, when you ask whether it's right to accept gifts from *Forbes* and convert them to money, he laughs. "Everyone does it," he says.

This situation is different from most of those discussed so far for an important reason: you're not directly faced with an ethical dilemma; you're not the one placing the ads or accepting the gifts. Still, you do work with Chris, sometimes even sending over marketing data that he uses for his accounts. You're a **third party**⁶, which in this situation means you're not directly responsible for what's going on but you're caught in the cross fire between Foreman and *Forbes* magazine.

There are infinite variations on this kind of predicament. The financier-fraudster Bernie Madoff asked his secretary to cover up his affairs by answering his wife's phone calls and saying he was in a meeting and couldn't be interrupted. In the student union of your campus, maybe the breakfast menu offers omelets cooked with fresh eggs, but you work there and know the manager occasionally messes up the stocking order and so ends up selling omelets made from a preordered mix of

6. A person exposed to, and caught up in a situation of conflict or ethical tension between others.

egg-like chemicals. What do you do? It can be a hard call and at least two questions arise on the way to making it:

1. You need to decide if something truly unacceptable is happening.
2. You've got to determine whether it's any of your business.

If, finally, something unacceptable *is* happening and you *should* do something about it, you're facing a **third-party obligation**⁷. This is an ethical responsibility to correct something you're not actually doing.

Why Should I Get Involved? Ethics and Self-Interest

When confronted with a third-party obligation, employees may get involved for a number of reasons. One is as a response to an ethical responsibility. Another: as an opportunity to benefit themselves.

Tattling⁸, as any child knows, is revealing an ethical transgression involving others, and revealing it *for your own benefit*. Take the case of assistant media buyer Chris Foreman and another assistant media buyer who learns that Foreman is shortchanging the ad agency's client for personal benefit. If you're that other assistant media buyer and you're crafty, you may see not only an ethical lapse here but also your own personal chance. Every senior media buyer has several assistants underneath, and when the time comes for promotion, there'll be space, presumably, for only one assistant to advance. Getting Foreman out of the way may not be a bad career move.

It's an extremely ambiguous ethical move, however. On one hand, there's solid justification for getting the truth known about Foreman. He's clearly not fulfilling his professional obligations to the company. However, if you turn him in *because* that'll give you a leg up on the promotion ladder, you can hardly say that ethical righteousness has driven your action. On the other side, this should also be noted: the fact that you may benefit from revealing unethical behavior probably can't justify keeping everyone in the dark.

Typically, we think of ethical restrictions as painful, as obstacles you put between yourself and what you really want. That's not always the case, though; they don't necessarily make you suffer, they may make others suffer and serve your interests. When they do, you have **weaponized ethics**⁹—that is, perfectly reasonable moral dictates used to attack others and benefit yourself. Tattling, finally, is the use of weaponized ethics, it's doing the right thing for selfish reasons.

7. An obligation by a third party to respond to an ethical tension directly caused by others.

8. Using a third-party obligation as an excuse for sabotaging a workmate.

9. Using ethical rules against the interests of others for personal gain.

Responding to a Third-Party Obligation: Reporting

Regardless of the motivation for responding to a third-party obligation, there are two broad paths the response can take: reporting and whistle-blowing.

Reporting¹⁰ ethical transgressions means bringing them to light, but only *within* the organization. In most situations, this route is the most direct way for third parties to balance their basic and immediate obligations. Staying with the advertising scenario where you believe Foreman is essentially accepting bribes from *Forbes*, you have an obligation not only to halt the bribery but also to protect the agency's interests. Obviously, a noisy public blowup about Foreman mispending a client's money is going to damage the advertising company's business. Reporting—because it stays inside agency walls—promises to rectify the bribery without causing larger publicity problems.

Bringing this into the real world, because reporting ethical problems does allow them to be addressed without harming the agency, the Omnicom Code of Conduct includes this:

All reports of possible violations about which management becomes aware will be promptly considered. We will not punish any employee or representative for making any report in good faith. "Code of Conduct," OmnicomGroup, last updated October 16, 2008, accessed May 19, 2011, <http://www.omnicomgroup.com/corporategovernance/codeofconduct>.

It's in Omnicom's interest to get ethical dirty laundry washed in-house.

Up to here, the situation's resolution has come easily. But there's another, potentially complicating, obligation to consider: the human link to Chris Foreman. Almost all organizations rely on and seek to nurture bonds of shared responsibility and dependence between employees: in working life, when someone's sick or just having a bad day, the others have to pick up the slack. That nurturing explains why anyone who's entered a fast-food restaurant knows the workers aren't "coworkers" but "teammates." In most organizations, some form of the camaraderie holds, and you can't just break those bonds from one moment to the next. That means if you're working with Foreman and you know he's doing wrong, you may well feel an obligation to *not* report anything because you don't want to cause him problems. Reporting, the conclusion is, a coworker for ethical lapses is easy. But in the real world there are no coworkers; there are only flesh and blood people.

10. Bringing to light *only within the organization* information about misdeeds by the organization or by an individual within the organization.

Next, even if those human connections to others don't move you, you also have obligations to *yourself* and your own welfare to consider, and turning others in to company authorities can ultimately come back against you. By giving rise to distrust and possibly resentment among other colleagues who fear they may be the next ones to get reported, you may be in essence isolating yourself in your own cubicle.

In the end, seeing what Foreman is doing and stretching ethical obligations through the situation, you may find yourself torn between reporting him and not. There's no automatic resolution to this dilemma, only the attempt to weigh the obligations and get a sense of which outweigh the others.

Responding to a Third-Party Obligation: Whistle-Blowing

Whistle-blowing¹¹ is bringing ethical transgressions to light publicly outside the organization. A recent case involved one of the many advertising agencies gathered under the Omnicom umbrella, Leo Burnett. Two employees—Vice President Greg Hamilton and Comptroller Michelle Casey—alleged, and a subsequent federal investigation backed them up, that Leo Burnett was overbilling the government for their work on the US Army's "Army of One" recruiting campaign.

The agency was supposed to calculate its hourly rate with a formula dividing charges between the more expensive work done directly in Leo Burnett's offices and the less costly hourly labor performed by subcontractors. What Leo Burnett did was simple: they billed subcontractor work at the higher in-house rate. The accounting in these massive campaigns—TV, radio, and print ads as well as sponsorships and events—is so knotted that a virtual army of accountants is required to keep track of where all the money is going. In that kind of numerical chaos, the agency could expect that switching a few hours from one column to another deep inside the mountain of paperwork would go unnoticed by outside auditors. It did go unnoticed—until Hamilton and Casey told the government what was going on.

Almost inevitably a lot of dust gets kicked up when employees turn on their employers noisily and publicly. In this case, the US Justice Department lawyers rode in, and they probably wanted a scalp on their wall: they have limited resources, limited time and money, and when they take something on they want to win, and they want people to know about it. Back on the agency's side, they're going to defend themselves, and that typically entails attacking their accusers, maybe labeling them disgruntled, incompetent, or worse. In this case, there was also a tug-of-war over money. The agency obviously wanted to keep as much as it could, the

11. Bringing to light *outside the organization* information about misdeeds by the organization or by an individual within the organization.

government wanted money back, and thanks to the False Claims Act, Hamilton and Casey also demanded their share, which came to almost \$3 million.

The False Claims Act is a federal law designed to encourage whistle-blowing on private contractors who are attempting to defraud the government. Whistle-blowers are entitled, under the law, to 30 percent of the damages the government obtains. The incentive doesn't apply to situations involving only private companies, but even there whistle-blowers may encounter suspicions that ulterior motives—not a dedication to doing the right thing—finally spurred their loud assertions about misdeeds.

Finally, with respect to the Leo Burnett fraud, the full details will never be known. Because the case never went to trial, there was little public exhibition of evidence and testimony. To head the whole mess off, Leo Burnett agreed to settle. In the words of a published report, "Leo Burnett denied any wrongdoing and said in a statement that it agreed to the settlement 'to avoid the distraction, burden and expense of litigation.'" Mehnen Streit, "Leo Burnett Settles Suit for \$15.5 Million," *Chicago Business*, January 6, 2009, accessed May 19, 2011, <http://www.chicagobusiness.com/cgi-bin/news.pl?id=32498>.

Every case of whistle-blowing is different, but a few questions get to the heart of most instances:

- What, exactly, is whistle-blowing?
- What justifies whistle-blowing?
- What weighs against whistle-blowing?
- Can the whistle-blower expect protection?
- Is whistle-blowing morally required?

What Is Whistle-Blowing?

Whistle-blowing is bringing an organization's ethical transgressions to public light. Spilling the beans to the family over dinner, however, doesn't count; the truth must be exposed to an authority or institution capable of taking action. In the case of the advertising agency, Hamilton and Casey took their information to the federal government. They also could have selected one of the important industry publications—say, *Advertising Age* magazine. Any information published there would draw attention from those involved and give the client (in this case the US Army) the opportunity to act on behalf of its own interests. The news media—a newspaper, a TV station—may have been a possibility in this case, given the large scope of the fraud and the national interest underneath it. Other possibilities could be listed, but what's important is that the report of misdeeds goes to someone who can do

something about it (or at least provoke others to do something). Finally, whistle-blowing may be anonymous. However, in practical terms, that's frequently not a real option because government authorities, like private ones (editors of industry publications and so on), are far less likely to spend time tracking down the truth about accusations when even the accuser is unwilling to stand behind them.

What Justifies Whistle-Blowing?

Whistle-blowing needs careful justification because it requires violating the obligation any employee has to protect the interests of the employer. Here are five items that could be checked before publicly lighting up an organization's misdeeds from the inside. Importantly, the fact that the items may all be checked *doesn't oblige* action, but it does raise the possibility as ethically justifiable.

1. There is clear evidence of *continuing wrongdoing* by the organization or *continuing effects* of past wrongdoing. In the business world, actions that are entirely locked in the past are the subject of history, not ethics.
2. The *wrongdoing must be serious*. In the case of Leo Burnett, the case wouldn't cross this threshold if only one hour of labor had been attributed to the higher-cost office. But the threshold would be crossed if the agency significantly overcharged many hours for years, bleeding the account of its resources and ultimately damaging the army's ability to recruit new, top-flight soldiers.
3. *The organization's established, internal channels for reporting and correcting problems have been exhausted*. Most organizations provide clear ways for employees to voice concerns internally. A conversation with a supervisor is an obvious example. At larger organizations, sometimes an entire internal department has been mounted to receive and act on the concerns of employees. Here's the web page of a typical example; it links to Walmart's internal department for ethics: <http://ethics.walmartstores.com/Statementofethics/RaiseAConcern.aspx>. Whether, finally, there's a clear, formal route for internal reporting or not, employees have a responsibility to try to resolve problems in ways that benefit—or do the least possible damage to—the organization, and therefore the possibility of raising concerns internally needs to be explored fully. (As always, there are special cases. If, for example, the CEO of a small advertising company is robbing its client's money, there may be no internal route to resolution, leaving external whistle-blowing as the only moral corrective. Also, though whistle-blowing is defined as taking action *outside* the organization, the definition could be stretched to include the act of bringing wrongdoing to light directly before high officials

within an organization by skipping over the normal chain of authority.)

4. *There's unmistakable and convincing evidence of misconduct.* The evidence must be unmistakable in the sense that it clearly indicates wrongdoing; it can't be that an innocent explanation seems as likely as a guilty one. In the Leo Burnett accounting books, if it turns out that on one page all the internal hours are in the external hours column and vice versa, that may be an attempt to defraud the government, or it may just be that the data-entry guy came to work one morning hung over and ended up confusing the numbers. Further, the evidence must also be compelling in the sense that there's enough of it for a reasonable person to conclude the misdeeds are actually occurring. So even if you're certain numbers are being entered incorrectly intentionally, but it turns out that the difference—the amount of extra money Leo Burnett is making—is trivial, then it's going to be hard to justify creating a stink. It may be, for example, that someone in the accounting department is making small adjustments in order to balance errors found elsewhere in the giant balance sheet.
5. *There's reason to believe that whistle-blowing will resolve the problem.* In the case of Leo Burnett—or any business that's overcharging a client—you can be pretty sure that bringing the fraud to light will spark action, at least by the defrauded client. On the other hand, if you're in the production department of the advertising agency (in other words, you're actually filming commercials) and you regularly get shipped down to Mexico to shoot campaigns because everything's cheaper down there and you learn that some of the extras in the commercial's background are working longer hours than local regulations allow, you might reasonably figure that you can talk all you want in public, but it's not going to make any difference.

What Weighs against Whistle-Blowing?

The three heaviest arguments against whistle-blowing are

1. legal requirements for confidentiality,
2. prudential concern for one's career and personal welfare,
3. an employee's sense of loyalty to the organization.

12. A clause in many work contracts wherein employees promise not to share certain information with those outside the organization.

A legal requirement for confidentiality may weigh against whistle-blowing by binding employees to not share a company's internal information. The requirement traces back to a section contained in many work contracts. Called a **confidentiality clause**¹², here's a basic version:

Employees may have access to records and other information about customers and other employees, including proprietary information, trade secrets, and intellectual property to which the Company holds rights. Employee agrees to keep all such information strictly confidential and to refrain from discussing this information with anyone else without proper authority.

While this is most directly aimed at protecting consumer information (say, credit card numbers) and company trade secrets (Coke's secret formula), it may also be read as safeguarding the kind of information a whistle-blower wants to make public. In the case of the Leo Burnett agency, what Vice President Hamilton and Comptroller Casey told the government did, in fact, involve "records and other information about customers."

The second major argument against whistle-blowing, self-interest, operates in both the professional and personal sense. Turning against the company may be the right thing to do, but it's almost inevitably a painful thing to do, at least according to a survey published in the *New York Times*. What condition, the study sought to determine, do whistle-blowers find themselves in a few years afterward?

- One hundred percent who worked for private business were fired.
- Twenty percent could still not find work at the time this survey was taken.
- Seventeen percent lost their homes.
- Fifty-four percent had been harassed by peers at work.
- Fifteen percent viewed their subsequent divorce as a result of whistle-blowing.
- Eighty percent suffered physical deterioration.
- Eighty-six percent reported significant emotional stress (depression, anxiety).
- Ten percent reported having attempted suicide. Survey cited in Manuel Velasquez, *Business Ethics: Concepts and Cases*, 6th ed. (Upper Saddle River, NJ: Pearson, 2006), 378.

It doesn't sound good. Of course every case is different, and if you look on the other side of these numbers, they leave room for the possibility that at least some people do the right thing and get on with their lives just fine. Still, there are no guarantees and ethics isn't only about duties to others and the world outside, all of us have equal duties to ourselves: duties to maximize our potential, protect those nearest to us, and defend our own welfare.

Finally, the values and reasons supporting loyalty as a reason for not blowing the whistle will be considered in their own section further on.

Protecting the Whistle-Blower

As the survey data about whistle-blowers reveal, there's not a lot of protection for them. That isn't for a lack of trying, however. At both the state and federal levels, reams of laws have been enacted to protect those who expose wrongdoing organizations. Perhaps the most notable is the **Sarbanes-Oxley Act**¹³. Passed in 2002 by the federal government as a response to a series of disastrous accounting frauds at large companies, Sarbanes-Oxley is a massive piece of legislation intervening in many parts of the business world, and especially in aspects connecting to an organization's finances and transparency.

Specifically with respect to whistle-blowers, the law attempts to encourage it by protecting whistle-blowers at publicly traded companies that report activities to government agencies. (The act doesn't apply to privately held firms dealing exclusively with other private firms.) Employers are prohibited from taking retaliatory action (firing, demoting, harassing), and whistle-blowers are provided clear avenues for lawsuits should such retaliation occur. Here's the legislative language: "In order to establish a case under Sarbanes-Oxley, an employee must prove that she (1) reasonably believed that her employer was breaking the law; (2) engaged in whistleblowing activity as defined by the statute; (3) suffered an adverse employment action; and (4) that *there was a causal connection between the whistleblowing activity and the adverse employment action.*" *Welch v. Cardinal Bankshares Corp.*, 2003-SOX-15 at 35 (ALJ 2004).

The problem is that last clause. Everyone who's ever had a job knows that mistakes happen every day. Deadlines are missed, projects contain errors, goals aren't met. Bosses who have it in for you aren't going to have many difficulties converting those mishaps into reasons for denying wage hikes and even outright firing. In your heart you may know—everyone may know—that you're suffering retaliation for reporting the company, but *proving* it can be difficult.

The bottom line is—and as the previous survey shows—if you publicly divulge information seriously damaging your employer, you're probably going to be gone. And even if you find some protection in one or another law, it's difficult to imagine that your career is going anywhere inside the company. Worse still, prospective new employers are, very likely, going to hesitate before extending a job to someone who has already caused serious problems for a former employer. Taken all together, the bleak reality is that in most cases whistle-blowers can't count on getting back the life they had before they publicly disclosed their organization's misdeeds.

13. Passed in 2002 by the federal government, the legislation regulates some businesses' finances and transparency. The act also provides some protection to some whistle-blowers.

Is Whistle-Blowing Morally *Required*?

Given the abundant reasons—financial, professional, emotional, and ethical—against whistle-blowing, are there any cases where a moral argument can be formed to *require* publicizing an organization's unethical actions? Probably, but they're few. Here's a possible rule of thumb: whistle-blowing is required when the act can prevent harm to others in ways that are serious and go *beyond the bottom line*. If someone is getting ripped off, the reasoning goes—if an advertising company is overcharging its clients—whistle-blowing may be justified, but not required. All that's at stake is money. On the other hand, if a nuclear power plant is being constructed near a residential area and you learn the contracting company you work for is using cheap cement to boost the profit margin, it seems as though you have little choice—the weight of elementary personal integrity in the face of potentially lethal wrongdoing probably requires personal sacrifice.

What about the hypothetical Chris Foreman situation? You're working with him and have acquired sufficient evidence to know that he's selling out his client by sending their ad dollars to *Forbes* magazine in exchange for Highlander nights. You've reported the matter internally and received no response. Do you go public? You'd certainly be justified in taking the story to *Ad Age* magazine. Just running down the list of conditions justifying whistle-blowing, they all get checked:

1. There's clear evidence of continuing wrongdoing by the organization.
2. The wrongdoing is serious (at least in the world of advertising).
3. The organization's established, internal channels for reporting and correcting problems have been exhausted.
4. There's unmistakable and convincing evidence of misconduct.
5. There's reason to believe that whistle-blowing will resolve the problem.

The question remains, however, whether the issue affects life beyond business and the bottom line. It doesn't appear to. At bottom, this is the case of a client—AT&T mobile phone services—getting poor service from an Omnicom company. That should be corrected, and presumably market forces will correct it sooner or later, but whether they do or don't, there's no requirement here to seriously jeopardize your own financial, professional, and emotional welfare.

What about the case of Leo Burnett? Again here a client is getting a raw deal, but there's an important difference: this is the army, not a telephone company. If it's true that the recruiting budget is being seriously hindered, the situation may be crossing the line from justified whistle-blowing to justified and required. If it does cross that line, the reason will be that protecting your own financial and emotional

welfare is trumped by the responsibility to help soldiers in war resist mortal danger as totally as possible. The fact that the army isn't getting the best recruits possible doesn't just affect people in the pocketbook, it threatens those on a live battlefield. Faced with that reality, it will be hard for individuals including Burnett employees Hamilton and Casey to keep quiet just because they don't want to lose their jobs.

KEY TAKEAWAYS

- Third-party obligations arise when you know of wrongdoing by an organization or by individuals within it, and though you aren't directly at fault, you're in a position to correct the problem.
- In some cases, third-party obligations can be opportunities to sabotage a fellow worker for personal gain.
- Responses to third-party obligations include reporting the problem inside the organization for correction and publicizing the problem, also known as whistle-blowing.
- Because whistle-blowing harms the organization, employees must take into account their responsibility to defend the organization's interests before publicly decrying the wrongdoing.
- In some cases whistle-blowing is not justified, in some it is, and in some extreme cases, whistle-blowing may be ethically required.
- In practical terms, whistle-blowing can be devastating for the employee.

REVIEW QUESTIONS

1. Create a hypothetical third-party obligation involving an employee of a major company.
2. What does it mean to deploy weaponized ethics?
3. What questions can be asked to help determine whether whistle-blowing is justified?
4. What questions can be asked to help determine whether whistle-blowing is ethically required?
5. Why might an employee hesitate before whistle-blowing?
6. The Sarbanes-Oxley Act tries to protect whistle-blowers. Why is it not very effective?

7.3 Company Loyalty

LEARNING OBJECTIVES

1. Define company loyalty.
2. Elaborate three degrees of company loyalty.

Two Kinds of Loyalty

There is **narrow company loyalty**¹⁴ and **broad company loyalty**¹⁵. The narrow definition pertains to employment: the loyal employee sticks with the company instead of looking for work elsewhere, especially during economic booms when jobs are plentiful and moving on is easy.

This kind of loyalty, however, is in trouble according to an article from the Harvard Business School: "The very nature of the relationship between employers and employees has undergone a fundamental shift: Today, workers not only don't expect to work for decades on end for the same company, but they don't want to. They are largely disillusioned with the very idea of loyalty to organizations." Lauren Keller Johnson, "Rethinking Company Loyalty," Harvard Business School Working Knowledge, September 19, 2005, accessed May 19, 2011, <http://hbswk.hbs.edu/item/5000.html>.

Part of the reason for the shift—and part of the reason employees don't stay at companies for decades—is that many employers don't hesitate to fire their workers at the drop of the hat when it serves the company's interest. On the other side, according to the article, it's also true that today's workers don't hesitate to move on to a new job when a better one, or maybe just a different one, comes along. Regardless of who went first, the fact is company loyalty—whether it's going from the company to the worker or the worker to the company—isn't what (we are told) it once was.

The broad definition of company loyalty goes beyond employment questions and measures an employee's willingness to sacrifice income, leisure time, personal relationships, family responsibilities, and general life aspirations in the name of the organization. To create this dynamic of sacrifice, two distinct kinds of relationships with the organization are required:

14. An employee's willingness to stick with an employer instead of seeking work elsewhere.
15. An employee's conviction that an organization—it's ideals and actions—has intrinsic value distinct from its ability to serve the employee's interests by providing a paycheck and associated benefits.

1. Attachment to the organization that is noninstrumental. This means the attachment isn't maintained only because it serves the employee's concrete interests, such as the need for a salary to pay the rent and grocery bills.
2. A deposited value in the organization that goes beyond any individual and their attachment; the organization's value continues even without those who currently feel it.

Probably, there's not a lot of this kind of deep loyalty in the advertising field. Agencies are constantly stalking new clients, even trying to steal them from others. For their part, most clients are constantly looking for better deals and ways to refresh their image, and they are usually open to proposals from new firms interested in handling their communication. More, companies that employ advertising agencies constantly "put their account up for review," which means the current account holder has to compete with new entrants just to maintain the business. There are exceptions, of course, but for the most part advertising agencies are constantly clinging to the business they have, seeking new opportunities, and always on the lookout for fast money. In that kind of cutthroat environment—one where it's your job to sing the praises of Burger King one day and McDonald's the next—it's going to be difficult for workers to feel as though they should (or even can) be true to their current employer.

Other kinds of organizations seem more likely to instill feelings of loyalty. A religious hub—a church, a synagogue, a mosque—is one obvious example. Most priests are attached to, and deeply concerned by, the welfare of their church; they *serve* their institution and aren't working there for the money (which probably isn't great). Further, most also believe their institution has value beyond them: the importance was there before they arrived (or were even born) and will continue after they leave. Taken together, these elements create space for true employee loyalty to the organization. Something similar—the existence of a space for labor that's not about money and similar rewards—could be found surrounding many who work for Greenpeace, Doctors Without Borders, political parties, the CIA, the United Nations.

Other professions open on both sides of the line—that is, there's ample space for an instrumental relationship (I keep this job because it makes *me* happy) and one based on broad loyalty. Some medical doctors are in it for the money but others for the care, for the principle that bringing health to others is a good cause. Law is another example. Ambulance-chasing lawyers just want payoffs, but some judges believe in the law as something larger than themselves and a basic force for civilization that's worth serving. Moving down to street level, there are police officers who just like a steady paycheck and others in the field to serve and protect: they see their work as improving the lives of others and the general community.

Three Degrees of Loyalty

Within a dynamic of employee loyalty, there are three levels of dedication: obedience loyalty, balanced loyalty, and free agency.

Obedience loyalty¹⁶, which is an extreme case, works from the idea that the organization is worthy and the employee is comparatively worthless or only worthwhile to the extent he or she serves the organization. This extreme will be reached only rarely, but there are glimmers of it in some professional activities. One quick way to identify these kinds of labors is to check whether the truly dedicated are willing to sacrifice even their lives for the cause their organization embodies. The armed forces come to mind here. Some political organizations command this devotion, especially in revolutionary times. Some workers' devotion to their labor union has been sufficient to put their lives in danger. The exploring scientist Charles Darwin believed in accumulating knowledge and put his life at risk in the field as he tracked rare species and ecosystems.

Not so dramatic or extreme, some professions and organizations can suck the *emotional* life out of employees. Or they may take vast chunks of the employee's time. Undercover police work exemplifies by requiring a loyalty reflected as self-sacrifice to an extent few of us would contemplate. April Leatherwood, for instance, went undercover in Memphis for an entire year. Almost entirely separated from family and friends, she lived on the street, wore the same clothes every day, went without brushing her teeth, and rarely bathed. That was an ugly year of her life, one sacrificed for the job. Kristina Goetz, "A Year of Living Dangerously Takes a Toll on Undercover Memphis Officer," *Commercial Appeal*, August 30, 2009, accessed May 19, 2011, <http://www.commercialappeal.com/news/2009/aug/30/year-of-living-dangerously-takes-its-toll>.

16. Within the field of broad company loyalty, the feeling that the organization's existence and goals are far more valuable than the employee's welfare.
17. Within the field of broad company loyalty, the feeling that the organization's existence and goals are valuable and independent of the employee's welfare, but the employee's welfare is also valuable and independent of the organization's existence and goals.

Balanced loyalty¹⁷ is a situation where both the employee and the organization recognize in each other an independent value. In this case, the employee can be expected to make sacrifices—possibly even do things he or she would normally consider unethical—in the name of serving the larger organization. One example would be a lawyer working in a public defender's office, one who believes that the system of law and the rules of its enforcement are noble and should be respected to some important extent that is independent of the particular lawyer's welfare and beliefs. The loyalty can be reflected in a number of ways. First, it's simply the case that most public defender positions don't pay as well as similar posts in private firms. Pushing further, the public defender may be asked to represent and defend a client she knows (or *strongly* suspects) is guilty. In this case, presumably, she's being asked to do something she wouldn't do in her day-to-day life—that is, serve the interests of a guilty man. More, presenting a full-blown legal case for the

defendant's innocence would essentially be lying and, again, something the lawyer might not typically do.

At the same time, this lawyer probably won't be sacrificing *everything*; she'll recognize that her life and aspirations have value also, and there may come a point where she decides the sacrifices demanded by the job are too great to bear. Perhaps she's just had a child and needs to up her income, or, maybe a man she helped set free has committed a gruesome crime. However the situation might be, when the lawyer leaves the office of the public defender for a higher paying job at a large private firm, she has demonstrated a balanced sense of loyalty. She's willing to sacrifice in the name of a larger organization she respects. But only up to a point.

Other demonstrations of balanced loyalty to the organization could include

- buying the company's products (though they aren't the personal preference),
- evangelizing in public life (telling your friends how great the company or its products are),
- voting for the political candidate the company affirms will best serve its interests,
- moving for the company.

Free agency¹⁸ is the extreme on the bottom end: the absence of loyalty. Some theorists propose that this should be the default state for most employees for this reason: it's ultimately *impossible* to be loyal to a typical company because profit-making institutions just aren't the kinds of things that can properly demand or receive any loyalty. The entire idea of loyalty, the argument goes, only exists in a reality where individuals stand by others to some extent without conditions (example: parents who love each other and their children unconditionally). Money-making businesses, on the other hand, are incapable of that kind of unconditional fidelity. On the contrary, the only desire most private enterprises know is the one to serve its own interests by making more profits. If that's right—if companies have no loyalty to give—then its employees *can't* enter into that kind of relationship. Instead, in the business world at least, you and I are forced to pursue our own interests—a higher salary or whatever—just as the larger company pursues its own.

18. Within the field of broad company loyalty, the feeling that the organization's existence and goals are valuable only insofar as they serve the employee's welfare.

Translating this into the working world, the absence of company loyalty is the idea that workers find value in their organization *only* because it serves their own interests. Of course it's impossible to know the souls of others, or exactly what their deepest values are, but there might be a hint of this free-agent loyalty in the Leo Burnett case. Two high-level and highly paid workers served the company well—and were compensated well—until they turned whistle-blower against the

firm. When vice president Hamilton and comptroller Casey alleged that Leo Burnett was overbilling the government for their work for the US Army, they weren't just doing the right thing, they were doing a lucrative thing for themselves since the False Claims Act promised 30 percent of damages the government obtained. If the money is the *reason* they turned on the agency, they exemplify free-agent loyalty. They worked hard for the organization because the pay was good, but the moment they saw the chance to get even more money by turning against it, they jumped. At bottom, that means, their loyalty is only to themselves.

KEY TAKEAWAYS

- Company loyalty defined narrowly concerns employees sticking with the organization instead of looking for work elsewhere.
- Company loyalty defined broadly emerges from the idea that the organization possesses nobility that's worth serving, even if employees don't benefit personally from the contribution.
- The three degrees of company loyalty are obedience loyalty (the worker exists to serve the organization's interests), balanced loyalty (workers and organizations share interests), and free agency (the organization exists to serve the worker's interests).

REVIEW QUESTIONS

1. Name an organization that might inspire obedience loyalty. Why is obedience inspired? What does the loyalty look like?
2. Name an organization that might inspire balanced loyalty. Why is it inspired? What does the loyalty look like?
3. Name an organization that might inspire an attitude of free agency. Why is it inspired? What does the free agency look like?
4. Take a career you're (considering) pursuing. On the scale from obedience loyalty to free agency, where do you imagine most employees in that line of work are located? Why?

7.4 Stress, Sex, Status, and Slacking: What Are the Ethics of Making It through the Typical Workday?

LEARNING OBJECTIVE

1. Consider ethical questions attached to several issues commonly arising during the workday.

Bringing the Office Home: High-Stress Work

No book can cover the ethics of everything happening on every job, but four issues arising in most workplaces sooner or later are stress, sex, status, and slacking off. Starting with stress, what happens if the workday doesn't end when the workday ends? For those enduring—or choosing—**high-stress jobs**¹⁹, there's no five o'clock whistle; even if they're shopping or watching a baseball game, the job's effects hum in the background. One simple example—and also one all of us see on the street every day—comes from an article in the *USA Today*. It recounts an academic journal's finding that overweight people pack on still more pounds when their work continually produces serious anxiety. If you're overweight, the study shows, and you're stressed in the office, there's a high likelihood your stomach or your thighs are going to keep growing. Nanci Hellmich, "Study: Overweight People Gain More When Stressed by Work," *USA Today*, July 8, 2009, accessed May 19, 2011, http://www.usatoday.com/news/health/weightloss/2009-07-08-obesity-stress_N.htm.

One of the central arguments Aristotle made in ancient Greece was that doing right isn't the highest goal of ethics. The careful understanding of our values and purposes centers on, ultimately, living a good life. Doing the right thing is part of that goodness, but happiness is there too, so one of the issues stress at work brings forward is this: how is my decision to accept stressful employment affecting my happiness and the happiness of those around me? Here are some more specific questions that could be asked on the way to pinning down the ethics of stress:

- What positive returns, exactly, am I getting from my stressful job?
- Are there prospects for reduced stress in the future?
- What are the costs of the stress? Is it affecting my weight, my leisure time, my friends, my marriage and family?
- Who is affected? Is anyone else suffering stress because I'm stressed out? Are people suffering from my stress in other ways?

19. A job in which the anxiety of the workday consistently washes over into the employee's nonwork life.

Stress at work isn't only a psychological problem or a medical one—it's also laced with questions about value. It's the most fundamental ethics: what's worth doing and what isn't? It's impossible to know, of course, exactly where the line should be drawn and when stress is worth accepting. Any answer that will be justifiable, however, will have to begin with a clear understanding of exactly what the costs and benefits are.

Office Romance

Hooking up at work is one eternal way of making the time fly, but what's going on in today's offices is somewhat different from the past. An article from the *Wall Street Journal* indicates how the meaning of sex in the office is shifting: "Marriage is a priority for most Americans—more than 90 percent of American adults eventually marry—but these days it may not happen, as it so often did before, in the immediate post-high-school or post-college years. The truth is that we're marrying later." Christine Whelen, "Older but Wiser," *The Wall Street Journal*, November 3, 2006.

When marriages were typically celebrated at the end of the schooling years, work-related romances went hand in hand with infidelities. In that environment, questions arose about the organization's role in any affair that may be occurring during company time.

The entire context of discussion changes, however, when a large number of people flowing into the workforce are unmarried and are looking to wed. Inevitably, the office is going to become a mating ground—people pass eight hours a day there—and one of the questions young workers are going to start asking when they think about jobs and careers is, will I be able to meet someone if I get into one or another line of work?

The aspiration to connect introduces a thorny dimension to employment decisions made by young people (and some older ones too). If you're a guy working on a heavy construction job, the pay may be good, but there's probably not going to be a woman in sight. On the other hand, doing the coursework to earn paralegal certification may be a headache, but getting into the field isn't a bad way to meet successful and interesting women.

What's going on here is that as society changes—as marriage and family life get pushed back into time that used to be reserved for work—the factors shaping the way we think about which jobs are more desirable than others simply on a day-to-day basis are changing, and part of your responsibility to yourself is to keep track of what you *really* want from your 9 to 5 time. One of the standard moral obligations

we share is the responsibility to be sincere not only with others but also with ourselves about important decisions touching the business part of life. And if romance is part of what you want from work, then the possibilities have to be taken into account just like salary and other benefits.

Status

Chris Foreman, the media buyer who enjoyed yacht evenings on the Highlander and tickets to all kinds of major events, received a piddling salary. He thought about changing jobs but decided not to. One reason was that all the entertainment added a lot of indirect money to his income. There was another reason too—the special, VIP privileges he constantly received from his benefactors: “There’s a feeling of superiority. When you pass by a line at a screening because you’re on the list you do get that ego boost. You’re thinking, *Ha, ha! I’m not a chump.*” Sarah Bernard, “Let Them Eat Crab Cakes,” *New York*, accessed May 19, 2011, <http://nymag.com/nymetro/news/media/features/2472>.

Status²⁰ on the job makes a difference in quotidian working life, but it’s hard to quantify; it’s not like a salary, which is an objective number and can be directly compared with others on a pay scale. How much is it worth, the question is, to wing by others forced to stand in line?

Knotting matters further, defining exactly what counts as status isn’t easy, and any answer is going to move and slide depending on who you talk to. For some, being a lawyer is impressive and lucrative, for others it’s dirty and, well, lucrative. For some, being a test pilot is exciting and respectable, for others it’s scary and weird. Many people seated in first class on an airplane rush to get on early so that all the economy travelers get to see them as they file past. Some of those people headed toward the back of the plane see the first-class passengers as legitimate power elites, but others get the feeling that most of them are really chumps: the reason they’re in first class is because they used frequent-flyer miles to bump up, and the reason they have a lot of those is because their bosses always make them take the trip to see clients instead of bothering to do it themselves.

More generally, in the world of New York City media buyers, status seems linked with superiority, with being visibly more privileged than those forced to stand in lines. For others, however, status will be quieter. The teacher, the nurse—they find status not as superiority but as social importance.

Conclusion. Status means different things to different people, but anyone looking to get it from a job should ask how much is really there, and how much is it going to help me get out of bed in the morning and want to go to work?

20. As attached to the economic world, the special privileges and respect one receives because one holds a certain position.

Slacker's Paradise

Typical ways of getting through the day include throwing yourself into your work (frequently with the hope of a promotion or pay raise), firing up an office romance, and enjoying the status a post allows. Another way of making it from 9 to 5 is by trying to *avoid* doing work, by working to do as little as possible. This is the slacker reality, and there are two routes into it: **Personal slackers**²¹ adopt the attitude for their own private reasons. The **context slacker**²² is dedicated to not working because the incentive system of the labor contract—or some other external factor—encourages slacking off.

Beginning with the personal slacker, the attitude starts with a decision: You take a typical job and make it your project to expend as little effort as possible. The reasons for adopting this stance depend on the person. Maybe there's a passive-aggressive element, some personal frustration with life or perhaps a somewhat idealistic attempt to make a statement. In any case, the motives behind this kind of behavior should be pursued in a psychology course. Here all that matters is that for one reason or another the private decision gets made to get through the day by working to not work.

The second slacker pathway starts with a context. Here's an example from an online discussion board: "Haha I worked in a union job and they were there to punch in...take a lunch...take 2 15min breaks...and punch out. They had 0 incentive to work hard because they would get a 0 dollar raise." Eazy E, "IS it me or are most Union workers lazy?," *Yahoo! Answers*, accessed May 19, 2011, <http://answers.yahoo.com/question/index?qid=20081008004353AAan1iL7>.

The key here is the incentive, the idea that working hard doesn't benefit the worker because labor agreements are so protective and constricting that, on one side, it's almost impossible to fire a worker, and on the other, it's nearly impossible to reward one for superior performance. That means there are islands in the general economy where the traditional rule regarding performance and reward—the rule that doing well gets you ahead—doesn't apply very well.

21. An employee dedicated to doing the least work possible and who adopts the attitude for his or her own reasons.
22. An employee dedicated to doing the least work possible because the incentive system of the labor contract—or some other external factor—encourages the attitude.

One of the curiosities of these islands is that it's not right to conclude that there's no incentive to do anything. Actually, there *is* an incentive system in place even when, as the discussion board poster writes it, "hard work gets a 0 dollar raise." In this case, the incentive is negative. If union rules (or whatever rules happen to be in effect) mean workers can't compete against each other with the best performer winning a better post, the workers can still compete. It's just that since wages are fixed, the competition turns negative: the most successful worker is the one who manages to do the least work. It makes perfect sense: if you do less work than

anyone else, and you're paid the same amount as everyone else, you have, in fact, found a way to win. You get the highest salary; you're the one paid most for the least work.

Is slacking ethically acceptable? Whether someone is a contextual or personal slacker, when success is defined not as how well you do but how little you do, two basic questions arise:

1. Is someone or some organization being cheated?
2. Is there something fundamentally unethical about *being* a slacker?

The first question applied to those trapped—willingly or not—in contextual slackerism leads quickly to the conclusion that the organization bears at least as great a burden of responsibility as the employee for deficient work motivation. Applied to the personal slacker, the question about whether an employer was cheated becomes more difficult. There does seem to be an element of renegeing on implicit or explicit pledges to fulfill responsibilities here, but it's also true that most employment contracts in the United States (though not so much in Europe where this question would require more prolonged consideration) leave the organization broad latitude for dismissing workers whose performance is inadequate.

Next, is there something fundamentally unethical about slacking off? Most basic ethical theories are going to return some form of a yes verdict. From a utilitarian perspective—one trying to maximize the common good and happiness—it seems like problems are going to arise in most workplaces when coworkers are forced to pick up assignments the slacker was supposed to complete or could have completed easily with just a bit more effort. Similarly, basic ethics of duties include the one we all have to maximize our own potential and abilities, and rigorously avoiding work seems, in most cases, to run against that aspiration. Probably, a satisfying ethical defense of the slacker lifestyle would need to be founded on a personal project going well beyond the limited economic world. Slacking off, in other words, would need to be part of someone's life ambition, and therefore its questions belong to general ethics, not the more limited field of economic values treated here.

KEY TAKEAWAYS

- Stress at work invites ethical considerations of workers' obligations to their own happiness.
- Office romance may broaden the range of values applying to career choices.
- Status deriving from one's work can be an important compensation, but it is difficult to quantify.
- Slacking off—working to not work—may result from an employee's work environment or it may be a personal choice.

REVIEW QUESTIONS

1. What are some of the ways stress at work can cause unhappiness in life?
2. Why is the office an important scene of romance in today's world?
3. What do you imagine the rewards of status to be?
4. What kind of work contract would encourage slackerism?

7.5 Case Studies

Payola and the iPhone App



Source: Photo courtesy of Cat Saccalan,
<http://www.flickr.com/photos/permanent3rdgrade/3509251547/>.

The word *payola* traces back to rock and roll's early days, back when the only large-scale way new acts could get their name and music out was on the radio. Deejays in the 1960s controlled their own playlists much more than today, so a band could drive into town, play a few concerts, and pay off a few deejays to get their songs into the rotation. When they rolled out toward the next stop, they left behind the impression that they were the next big thing.

It's not illegal for a deejay, radio station, or anyone at all to accept money in exchange for playing someone's music, but US law does make pay for play illegal if the sponsorship isn't openly divulged, if the song isn't treated, in other words, as a commercial.

Today's media world provides almost infinite ways for musicians, video commentators, moviemakers, and iPhone app developers to get word out about what they're doing. Anyone can post a video on YouTube or give away software on a web page. Payola is still out there, though. *Wired* magazine ran a story about it in the world of iPhone apps.

It works like this. You invent an iPhone app but can't get anyone to notice. What do you do? One possibility is offer money to one of the well-known iPhone app review sites in exchange for a review of your creation. That gets the word out pretty well, so developers are starting to pay up. This modern payola scheme is enraging the iPhone community, however. Jason Snell, who works for Apple's own app-review website complains, "Readers need to know that true editorial reviews are fair, and aren't the product of any quid pro quo involving money or any other favors." Brian X. Chen, "Fallout from Wired.com's iPhone

App Payola Story,” *Wired*, Gadget Lab, March 24, 2010, accessed May 19, 2011, <http://www.wired.com/gadgetlab/2010/03/app-review-payola-reaction>.

Michael Vallez, owner of the app-review site *Crazy Mike's Apps*, disagrees. He charges for reviews without disclosing that to his readers, but he doesn't guarantee a positive report. If he thinks the app isn't worth buying, he sends the money back and cancels the review.

The *Wired* article concludes with an opinion from Kenneth Pybus, a professor of journalism and mass communication: “Undisclosed paid reviews are indisputably unethical because they manipulate the public. That's an easy call to say it's ethically wrong because that is a disservice to readers. It ought to be information that applies to readers and not information that advances yourself financially.”

QUESTIONS

1. Professor Pybus believes there's a conflict of interest operating when Vallez accepts money to write reviews for his website *Crazy Mike's Apps*. What, exactly, is the conflict?
2. Vallez says that his actions do not cause a conflict of interest, only the appearance of a conflict.
 - What's the difference between a conflict of interest and the appearance of a conflict of interest?
 - How could Vallez argue that in his case there's only an appearance, and, on close inspection, there really is no conflict here?
3. Three standard strategies for alleviating ethical concerns surrounding conflicts of interest are
 - transparency,
 - recusal,
 - organizational codes.

How could each of these strategies be applied to the conflict-of-interest issue at *Crazy Mike's Apps*?

4. You develop an iPhone app and you pay Vallez to review it. He tries the app, likes it, and writes up a positive paragraph.
 - Make the case to defend the payment as an ethically acceptable gift. Are there limits to how much you could give before it would shift from a gift to a bribe? If there is a limit, how was the number chosen?
 - Vallez says that if he doesn't like an app he returns the money and refuses to review it. Does this fact interfere with the possibility of justifying the payments as a standard, business-type gift?
5. Old style payola—paying to get a rock band on the airwaves isn't dead. According to a story from ABC News, the practice is alive and well; the only difference is that it's no longer the deejays who get the cash, it's high-level executives because they're the

ones who set today's playlists. Here's a comment from Foo Fighters drummer Taylor Hawkins: "I think back in the '70s they used to pay people with hookers and cocaine, and now they're just doing it with straight-up money. So they can all go out and buy their own hookers and cocaine." Brian Ross, Richard Esposito, and Vic Walter, "Pay to Play: Music Industry's Dirty Little Secret," *ABCNews.com*, February 8, 2006, accessed May 19, 2011, <http://abcnews.go.com/Primetime/story?id=1591155&page=1>.

There's a difference in the business world between providing entertainment and giving gifts. What is the distinction?

- Why might entertainment be considered less ethically objectionable than gifts?
- Leaving aside moral concerns about hookers and drugs, ethically, is there a difference between a rock group's manager inviting radio executives out on a hooker and cocaine evening on one side and just sending them cash on the other? If there's a difference, what is it? If not, why not?

The Decorator's Kickback



Source: Photo courtesy of Cara Fealy Choate,
<http://www.flickr.com/photos/carabou/139790339/>.

On a message board, Ms. G. C. from Miami writes,

Here's the problem: an interior decorator's bid is broken down into two parts- (A) the decorator's services and (B) the cost of labor and supplies. Most customers think (B) is a fixed cost-they forget it's not the decorator's fault if cabinetmakers charge an arm and a leg. So, where do customers look the closest when they're comparing costs? That's right, (A)-the decorator's fee.

Well, decorators are creative people and for years they've been doing some very creative bidding. They've been lowballing (A) and padding (B), expecting the laborers to kick back a percentage of their inflated fees to the decorator. Surprised? Everyone's doing it. Everyone, that is, except me. It's deceptive. And as a Christian, I think it's just plain wrong.

The customer's final cost is about the same either way you cut it, so most decorators don't feel they're doing anything wrong. Are they right?

Needless to say, "blowing the whistle" on such a widespread and accepted practice would only damage my professional reputation. Ms. G. C. from Miami, "The Case of the Casual Kickback," Urbana.org.

QUESTIONS

1. Mrs. G. C. confronts a third-party obligation. What is it?
2. Ethics can be weaponized—that is, used in your personal interest. Show how this could be the case here. Does the fact that she would benefit by getting these kickbacks eliminated somehow make her position less morally respectable? Why or why not?
3. Typically, according to Mrs. G. C, a client contracts an interior decorator. Later that decorator hires a laborer, and the laborer gives the designer a kickback. There's a conflict of interest here, what is it? What is the ethical case against this kickback scheme?
4. *Consequence theories* of ethics represent the point of view that acts themselves are not good or bad; all that matters are the consequences. Therefore, lying isn't bad if it happens that a fleeing criminal is asking you which way is the best escape route, and you point him down the street leading to the police station. Duty theorists, by contrast, believe that certain acts including lying and stealing are wrong regardless of the context and consequences.
 - Do you suppose Mrs. G. C. adheres to a consequence ethics or a duty ethics? Why?
 - Could you use the idea of consequence ethics to try to convince her to simply join the crowd and do what everyone else is doing? What would that case look like?
5. If you wanted to put an end to this pervasive kickback practice in the interior decorating world and only had time to present one argument, which of the following would you choose?
 - The practice should be stopped because it involves unethical kickbacks.
 - It should be stopped because it's dishonest in the sense that consumers are misled.
 - It should be stopped because the straight shooter is getting the shaft.

Why did you choose that argument and how could it be elaborated more fully?

6. Imagine that Mrs. G. C. from Miami reveals her name and makes a whistle-blowing cause out of her unhappiness with the standard practice in her profession.
 - What kind of reprisals and negative effects might she expect?
 - Do you believe whistle-blowing is justified in this situation? Why or why not?
 - Is it required? Why or why not?

Sex, Money, and Whistle-Blowing



Source: Photo courtesy of j9sk9s,
<http://www.flickr.com/photos/j9sk9s/4128778346/>.

Like all recent NBA All-Star players, Kevin Johnson made a lot of money during his pro basketball career. It drained out fairly quickly too. A few hundred-thousand went to the family of a sixteen-year-old high-school girl in Phoenix after a he-said, she-said sex accusation. A decade later, a similar story emerged, but at a different place: this time it was three girls in Sacramento, California, who attended St. Hope Academy. They took their stories—each told of a similar incident involving Johnson—to the recruitment advisor, Jacqueline Wong-Hernandez. Soon after, Ms. Wong-Hernandez was gone. Her resignation was a protest over the way the complaints were handled internally at the school, which was by dismissing them. Not only did St. Hope Academy take no action, the local police also decided not to press any charges in a case that essentially came down to one person's word against another's.

St. Hope Academy, as it happens, wasn't a public school but a private business, and Kevin Johnson was the founder and CEO. A lot of the money flowing into the young institution came from the federal government as grants from the AmeriCorps program. After accusations surfaced that the grant money wasn't spent appropriately, the school agreed to pay back \$423,836.50 to the government (about half of what the school had received). The first payment, about \$73,000, was made by Kevin Johnson himself.

So things probably would have ended, except for an AmeriCorps inspector general named Gerald Walpin. He believed Johnson had gotten way too good a deal: the school should have been forced to pay back much more of the grant money it had received. On May 5, 2009, he took the accusation to a California

congressman who in turn brought public attention to the issue. On June 10, Mr. Walpin was fired. In an editorial statement, the *Washington Times* complained, "Mr. Walpin was fired with no explanation and no warning to Congress, even though the act governing inspectors general says IGs can be removed only after the president gives Congress 30 days' notice and a reason for the firing. Rather than investigate the IG's serious complaints, Mr. Obama fired him. In short, he snuffed out the whistleblower rather than heed the whistle." "Editorial: Stonewalling on Walpin-gate," *The Washington Times*, July 10, 2009, accessed May 19, 2011, <http://www.washingtontimes.com/news/2009/jul/10/stonewalling-on-walpin-gate>.

A local Sacramento TV station doing some follow-up uncovered a report detailing hush money payments at St. Hope and noted that the former NBA All-Star "often described himself as a personal friend" of another avid basketball player, President Obama. "Report: Johnson Offered to Pay Accuser," *KCRA.com*, November 20, 2009, accessed May 19, 2011, <http://www.kcra.com/news/21679385/detail.html>.

QUESTIONS

1. How were the following two faced with a third-party obligation?
 - Jacqueline Wong-Hernandez
 - Gerald Walpin
2. In general, there are three possible responses to third-party obligations, do nothing, report the problem, become a whistleblower. How would you categorize the response made by
 - Wong-Hernandez?
 - Walpin?
3. What questions can be asked to help determine whether whistleblowing is justified? How might they be answered in the case of
 - Wong-Hernandez?
 - Walpin?
4. What questions can be asked to help determine whether whistleblowing is ethically required? How might they be answered in the case of
 - Wong-Hernandez?
 - Walpin?

Loyal to the Badge



Source: Photo courtesy of Daniel Lobo, <http://www.flickr.com/photos/daquellamanera/3250853982/>.

When police officer April Leatherwood went undercover in Memphis, she changed her name to Summer Smith. She didn't change her socks for a year—no showers or brushing her teeth either.

Her daily routine was to hang out on the street smoking and trying to befriend drug addicts. They'd take her to their dealers, where she'd make a buy and then try to find out who was the next person up the ladder. Her work resulted in about three hundred arrests, everyone from two-bit drug sellers to major movers who organized the street-level crime from luxury apartments.

Why'd she do it? According to the newspaper article relating her story, she loved the camaraderie of the department and its protect-and-serve mission.

When she emerged from the undercover program, she was promoted to detective. Unfortunately, her three-year romantic partner had moved on, and it was difficult to get the bad memories out of her mind. Still, when the reporter asked whether she'd do it again, she said, "Yeah." Kristina Goetz, "A Year of Living Dangerously Takes a Toll on Undercover Memphis Officer," *Commercial Appeal*, August 30, 2009, accessed May 19, 2011, <http://www.commercialappeal.com/news/2009/aug/30/year-of-living-dangerously-takes-its-toll>.

QUESTIONS

1. The two ideas on which company loyalty—or organizational loyalty to broaden the title—is built are the following:
 - An attachment to the organization that is noninstrumental, meaning the attachment is not maintained only because it serves the employee's concrete interests, such as the need for a salary.
 - A deposited value in the organization that goes beyond any individual and their attachment: the organization's value continues even without those who currently feel it.

How are these ideas manifested in the case of April Leatherwood?

2. Three measures on the scale of loyalty intensity are *obedience loyalty*, *balanced loyalty*, and *free agency*. Given what you've read about Leatherwood, where would you put her on this scale? Why?
3. Think about one of the career lines you're considering, or the one you're currently on, and imagine your company loyalty was similar to Leatherwood's.
 - What kinds of sacrifices do you imagine you'd make for the organization?
 - Thinking about yourself, really, would you be able to make those sacrifices?
4. Leatherwood's pay is not high, about \$50,000 a year. That works out to about \$7 an hour for the twelve undercover months. Obviously she enjoyed no status while she was undercover. Now, however, she has appeared in the newspaper and made detective grade in the department. In your opinion from what you've read, do you believe she has acquired a level of status through her work?
 - If she has acquired a status, how would you describe it, what is it based on, how is it different from the status enjoyed by, say, a senator or a movie star?
 - Does this status—assuming she's acquired it—compensate what she suffered? Explain.

The Gawker Sex Tape



Source: Photo courtesy of Johan Larsson, <http://www.flickr.com/photos/johanl/3619258199/>.

All kinds of things happen in advertising agencies. Part of the reason is the diversity: a typical medium-to-large agency requires many different kinds of work, and that brings together a rainbow of people. There are suited, business types in the client services section. They work with budgets and bulleted lists and connect the agency with the corporate client. Down the hall the planners dress more casually and study demographics and culture. They invent market segments with names like *soccer moms* and then devise strategies for appealing to soccer moms' distinct interests and tastes. Further down the hall, there are the agency's actual commercial makers. They call themselves *creative talent* and are free to appear for work in jeans and ratty t-shirts. For their paycheck, they plan the short films the rest of us call TV commercials. The typical large agency also needs some HR people, accountants, computer techs, and lawyers.

Most advertising agencies have a pretty good mix of men and women, and in general, there are a lot of young people in the field because the long hours and short deadlines tend to lead workers to seek employment elsewhere eventually.

Most agencies are good places for romance. The chemicals are right: young workers, long hours, the excitement of million-dollar accounts, and lots of different types of people for different tastes. Those are also, as it happens, good ingredients for sex, as people at BBDO (an Omnicom agency) in New York City discovered when a grainy cell phone movie went viral. Shot by a guy in the creative department, he stuck his camera over the top of a cubicle and caught a nude couple wedged into the back corner.

As far as the scandal went, it didn't take long for industry insiders to figure out who'd been caught, and from there, the information spread that they were both

married to other people. The website Gawker.com followed the action closely, posting the original film and then running follow-ups. In a nutshell, this is what happened. The romantic couple continued at their jobs. No word about how their marriages are doing. The filmer got fired. He downloaded the footage onto his computer and then sent it around to a few friends. He had nothing to do—he says—with the fact that a few weeks later it was all over the web. In his words,

It ended up on Gawker and Mediabistro and then the word got back to me that all the creatives were sending it around. I freaked. I thought it was amazing how something could go viral and end up online so quickly when I had nothing to do with it really. Hamilton Nolan, "The Cameraman Speaks: He's Fired but the Sex Tape Couple Keep Their Jobs," *Gawker*, November 26, 2008, accessed May 19, 2011, <http://gawker.com/5099143/the-cameraman-speaks-hes-fired-but-the-sex-tape-couple-keep-their-jobs>.

Well, he was the one who filmed and originally distributed it.

The discussion posted on the Gawker web page is probably hotter than the sex that got everything going. Many issues come up, including: *Why did the filmer get fired while the adulterers got to keep their jobs?* One answer someone wrote in is that filming and distributing a sex tape is unethical (and possibly illegal if minors end up seeing it). A poster who calls himself *BritSwedeGuy* responds:

How could you be sacked for filming something you could see at work?

Would he have been sacked if he'd taken the video to HR?

Probably not.

So is he being sacked for withholding evidence then?

That only makes sense if the evidence was of a sackable offence.

Has he been sacked for passing the video on? Surely he's a whistle-blower in that case and ought to be protected.

This is his argument. First, it doesn't make sense to fire the filmer for recording the sex, since the act took place in public, and anyone (tall) could've seen it. The perpetrators couldn't reasonably object to being filmed if they were exhibiting themselves so openly. Second, if the filmer had taken the film to HR to report the fact that sex was going on, he probably wouldn't have been fired, and the entire episode would've been managed internally (and quietly) inside the agency. That means the only justifiable reason for firing the guy was that he digitalized the video and, in essence, made it possible for others to beam it across the Internet. If that's what he did, though, then he's a whistle-blower and should be protected.

QUESTIONS

1. If the filmer did take the video to the human resources department, what would he be reporting? What ethical misdeeds are happening?
 - With respect to those misdeeds, where does the line get drawn between flirting for a second and stripping down for a fifteen-minute frolic?

2. On the question of whistle-blowing—and the possibility that the filmer's action was ethically justifiable as a form of whistle-blowing—a poster named BadUncle isn't buying it. He writes, "OK, I'll be less glib. I don't see how f***ing someone is a major ethical violation worthy of whistle-blowing (fnar)...it's hardly damaging to a company, its clients, or its employees. Wake me when their monotonous thrusting implants the seed of fraud into an earnings statement."

BadUncle doesn't think the filmer could defend himself by claiming to be a whistle-blower. In your own words, why not? Do you agree? Explain.

3. Do you believe the filmer sensed a company loyalty? Would a stronger sense of company loyalty have encouraged him to erase the tape instead of disseminating it? Why or why not?
4. Advertising agencies are notorious for fast money and little loyalty to their employees. Many agencies, if they lose an account, straight off fire many of those who worked on the account even if the loss had nothing to do with the employee's work performance (the client may have discontinued a line of products, for example, and for that reason discontinued the advertising). Given that business attitude, does the company have a right to demand that employees think of the agency's interests when doing things like filming? Why or why not?
5. Work in advertising—especially in the creative department where people often have to actually make ads for air right now—is very stressful. There's a lot of money involved and a lot of competition among creatives. Do you believe sex at work is an ethically defensible way of alleviating the stress comparable with taking a cigarette break or just a quick walk around the block? How could the argument be made in favor?

6. If someone told you they wanted to work in advertising because it's a good spot to meet someone and get married (which is probably true at most agencies), do you believe that's a reasonable decision, one in harmony with the ethical responsibility to pursue one's happiness and welfare? Why or why not?
7. If someone told you they were going to work in advertising because they'd heard it's a good place for fast, cheap sex (which it probably is at most agencies), do you believe that's a reasonable decision, one in harmony with the ethical responsibility to pursue one's happiness and welfare? Why or why not?