

Ethical dilemma: A case of illegal dumping and whistleblowing

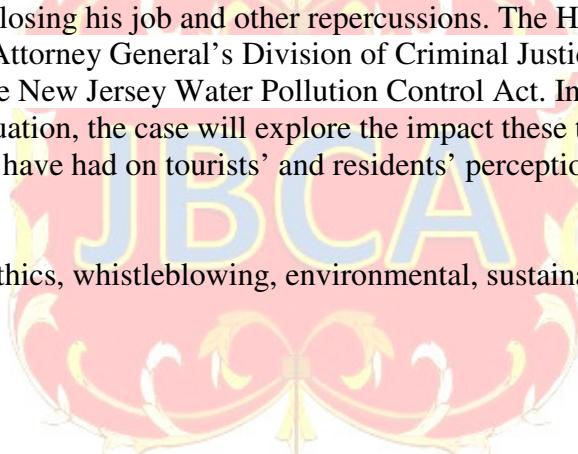
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Abstract:

This case study explores a real-life corporate environmental scandal involving an upscale international hotel polluting the Hackensack River in NJ, a whistleblower, and an environmental activist and advocacy group, with the backdrop of cutthroat political and business interests influencing the outcomes. In 2009, an employee of the Crown Plaza Hotel, located along the Hackensack River in Secaucus, NJ, secretly approached the head of the Hackensack Riverkeepers, an environmental advocacy group, to alert him of raw sewage being dumped in the river. The employee was very fearful and demanded anonymity for fear of losing his job and other repercussions. The Hackensack Riverkeepers led the Attorney General's Division of Criminal Justice to launch an investigation under the New Jersey Water Pollution Control Act. In addition to the ethical dilemma and legal situation, the case will explore the impact these types of environmental crimes have had on tourists' and residents' perception of New Jersey being a "dirty" place.

Keywords: business ethics, whistleblowing, environmental, sustainability, case study



Teaching ethical decision making through case studies

Teaching the importance of ethical decision making to undergraduate traditional college age students, many of whom have limited work experience poses challenges in the classroom. An often used pedagogy for teaching ethics is the case study method, however not all case studies are suitable for this specific audience. Special thought should go into the content, context and type of cases presented to these students because “both longer and shorter cases can potentially overwhelm the reader with information and dilute the power of the case” (Falkenberg, & Woiceshyn, 2008, p.215).

Further, traditional college age undergraduate students have limited experiential knowledge to draw upon in helping them resolve these conflicts especially because “...there is often not a clear path as how to deal with an unethical situation. The work environment creates challenges for even the most ethical person”(Sentell, 2013, p. 113). This is the benefit of case study analysis in the classroom, and it helps these students begin to learn about the type of challenges they might someday face in the workplace. Case studies, written for an audience must be written to demonstrate typical everyday ethical and moral dilemmas so that they may be able to empathize with the case (Falkenberg, & Woiceshyn, 2008). That means “that the kind of cases that are discussed in class should address the kind of issues that go on every day in offices and businesses across the country” (Sentell, 2013, 114) like discipline issues, theft, sabotage, whistleblowing, employment issues etc. (Sentell, 2013). In some cases having students develop their own case studies based on their limited work experience is another way of getting at teaching ethics. This is an active learning strategy, which can be introduced after students have had the benefit of participating in case study analysis.

These ethical decisions made in the real world are sometimes made in a vacuum with limited assistance or knowledge and therefore in a classroom environment encouraging and enabling students to work collaboratively with classmates is imperative, because it helps them approach their decision making from a stakeholder perspective rather than a stockholder perspective. This collaboration enables students to question their and their classmates’ moral compass so that when the student is confronted with a moral/ethical dilemma in their employment they are more apt to think before they act. Ultimately “Well-built cases can reinforce the concepts of a stakeholder approach, the value and nature of good corporate governance, integrated strategic and systemic thinking that takes into account internal stakeholders as well and, potentially, the real economic returns of ethical corporate policy practices” (Poulton, 2009, p. 94).

Case Rationale

The brief case that follows is taken from a real life scandal that happened recently in New Jersey and that illustrates a potential ethical conflict that an average employee might be faced with in the complex work environment. The case is followed by questions that can be given as a class assignment for discussion, and is followed by teaching notes that provide the actual narrative of events that occurred at the Crown Plaza, involving the whistleblower and the environmental advocacy group, the Hackensack RiverKeepers.

Case Narrative

John is very content with his job at the hotel, which is one location of a well-known upscale international hotel chain. He has been working at the hotel, in an urban area situated on a river, for almost a year, and he is earning enough money to cover much of his college tuition. He also has a good relationship with his colleagues and supervisors. John got the initial job interview through a friend who was working there, and he feels very grateful to everyone who helped him get the job. After six months on the job, he got a small promotion and pay raise, and he was responsible for reservations, customer service and training new employees in these areas, including two interns who go to the same college as John.

One day after a stressful encounter with a hotel guest, John goes for a walk outside to get some air. He notices a falcon flying towards a nest under the highway overpass and the swaying tall green reeds that line the river in the marsh in the background. As he is thinking how tranquil it is out here along the river, he senses a very bad smell and walks around closer to the water. There is black ooze running into the river, and he follows it back around to find the source of the foul-smelling liquid, a hose leading up to a deep pit with a grate on top of it. By now, the smell is so bad that he can't take it much longer, but he wondered what was causing the odor and why there was a hose running out of the nearby hole in the ground.

His immediate plan was to go tell his supervisor what he has found, but then he has second thoughts. He wonders if some employees at the hotel were in fact responsible for the situation, and thinks twice about being the one to inform everyone. But John realized what he had found was raw sewage from the hotel bathrooms draining into the river, which is a serious environmental violation. John is torn between his social and legal obligation on one hand and his loyalty to his company and co-workers and his fear of losing a job, which he desperately needs to pay the bills.

What should John do?

Questions

1. Consider the different stakeholders who are going to be affected by John's decision and discuss the competing interests of each of the different stakeholder groups.
2. Should John go directly to his supervisor and speak to him in person? Should he write an anonymous letter to the CEO and President of the hotel? Should he ignore the problem and let someone else figure it out and deal with it? What are the pros and cons of different alternatives he can take?
3. Apply the Kohlberg's stages of moral development to John's ethical dilemma and describe how an individual at the different stages of development would be motivated in this situation.
4. Describe the risks associated with being a Whistleblower and the ethical obligation employees and individuals must consider when confronted with an obvious ethical violation on the job.

Teaching Notes: The real outcome of this case

This mini case is based on actual events that occurred in 2009 at the Crowne Plaza Hotel in Secaucus, NJ. The employee in the case was an anonymous whistleblower who alerted Captain Bill Sheehan of the Hackensack Riverkeeper advocacy organization. Sheehan contacted the NJ Attorney General's Division of Criminal Justice Environmental Crimes Section, which started an investigation that lasted several weeks before, on June 8, 2009, it executed a search warrant at the hotel. Investigators, supported by Department of Environmental Protection and the Passaic Valley Sewerage Commission examined the wastewater system, taking chemical samples and even recording video footage from the sewer system with a robot, ultimately securing enough evidence for a criminal prosecution. Hotel management was ordered to pay \$70,000 to the Hackensack Riverkeepers and also hire an environmental consultant to monitor the hotel's sanitary system. Because the case was heard in a criminal court, and not civil, the hotel has a criminal record as a result of the prosecution.

As a supplement to the case, which is from the perspective of the whistleblower, the case can be discussed from the perspective of the hotel's management. This discussion could incorporate concepts like code of ethics and decision rules, organizational/corporate citizenship, ethical leadership, and whistleblower protection. In addition, the idea of advocacy groups as influential stakeholders can be discussed, with the Hackensack Riverkeepers' role as an example of how advocacy groups can help promote particular issues and influence ethical behavior as an outside stakeholder.

Here are suggested answer prompts and discussion points for the questions attached to the case:

1. The Stakeholder model helps provide a framework to identify the implications of John's decision. Various groups affected by the ethical decision include employees, customers, shareholders and the general public. While John may feel compelled to protect his job and his employer by keeping quiet in the short-term, the long-term impact of that decision may have more harmful effects on the environment, and thus shareholders, employees and customers.
2. Students may approach this question from different perspectives, but ultimately there are several pros and cons to each approach. An advantage of going directly to his supervisor include confronting the problem head-on and stopping further damage, but a potential con would be losing his job. An anonymous letter would protect his identity and possibly save his job, but a con would be if it is not taken seriously or covered up again. Ignoring the problem protects his job in the short term, but allows the problem to persist, which is likely to damage the company's brand and reputation in the long term.
3. Kohlberg's model of moral development, which categories levels of moral development from pre-conventional to conventional to post-conventional or principled, applies well to this case (Kohlberg and Hersh, 1977). A pre-conventional approach would likely result in the wrong long-term decision to prevent John from getting in trouble. In this stage, people make decisions based on immediate self-interest. At the conventional stage, John might feel compelled to do something, but to protect his identity so that he is

not judged harshly by the company. At this stage, individuals tend to make ethical decisions based on societal expectations and norms. At the principled or post-conventional stage of moral development, John would be compelled to do the right thing because he believes it to be the moral choice, which might result in him approaching his supervisor directly, despite the potential harm to his position at the company.

4. There are many risks to “blowing the whistle” on an employer, such as potentially losing one’s employment, facing diminished career prospects and social risk of being labeled a snitch. However, the risk of not reporting unethical and/or illegal actions, can be much more damaging in the long-term to the various stakeholders as described in number 1. In some cases, reporting the violation would even save lives. The examples of Toyota’s brake scandal, BP’s oil spill and Fonterra San Lu contaminated milk scandal in China illustrate the loss of life that can happen when whistleblowers do not come forward.

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