C206 – Task 3 Code of Ethics and Legal Responsibility Analysis

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Code of Ethics and Legal Responsibility Analysis

Introduction

Analysis of the Code of Ethics and Legal Responsibility for the banking industry Wells Fargo. Section A of the paper cover topics of corporate social responsibility, compliance with legal matters, ramifications for noncompliance with legal matter, policies of Wells Fargo ensuring ethical behavior, development of an ethical culture, and resources available when raising an ethical concern. Section B discuss factors to consider before deciding to report ethical behavior. Section C analysis made for pro and con of whistleblowing, and lastly Section D final discussion of the U.S. Sentencing Guidelines regarding standards and fees for unethical conduct.

A. Wells Fargo Code of Ethics

1. *Analyze how well the chosen company's code of ethics covers the topic of corporate social responsibility (CSR).*

Wells Fargo demonstrates 5 types of corporate social responsibility (CSR). First, the social responsibility to the people with treatment with fairness and dignity acting with honesty and integrity. Second, Well Fargo is committed to social responsibility to diversity and inclusion towards the communities and stakeholders. Third social responsibility for Wells Fargo to honor legal obligations for all applicable laws, rules, and regulations that apply to the business. The fourth CSR of serving the greater good through philanthropy in volunteering which requires pre-clearance through Global Pre-Clearance System. And lastly the fifth corporate social responsibility of protecting the environment accelerating environmental sustainability.

2. *Analyze how well the chosen company's code of ethics covers the topic of compliance with legal mandates.*

Compliance with legal mandates stating "Competition laws are complex and compliance requirement can vary based on the jurisdiction and circumstance. If you have any questions see appropriate guidance from your business compliance system or the legal department before taking action." (Wells Fargo, Code of Ethics) "Wells Fargo operates globally, and if, at any time, this Code or our policies differ with local laws, rules, and regulations, you should comply with the more restrictive policies, laws, rules, or regulations. Whenever the applicability or interpretation is unclear, employees should contact a manager, Employee Relations (ER) Solutions (for U.S.-based employees), the appropriate Human Resources professional (for non-U.S.-based employees), or the Ethics Office. Directors of Wells Fargo & Company should contact the general counsel, corporate secretary or chair of the Governance and Nominating Committee of the Board of Directors (the "Board") of Wells Fargo & Company."

a. Describe the ramifications for an organization when it is noncompliant with legal mandates.

(Trevino, 2017, p. 219) "Seven Requirements for Due Diligence and an Effective Compliance Program*

1. Establishing compliance standards reasonably capable of preventing criminal conduct
2. Assigning specific high-level individuals with responsibility to oversee those compliance standards
3. Exercising due care to ensure that discretionary authority is not delegated to individuals with a propensity to engage in illegality
4. Taking necessary steps to communicate compliance standards and procedures to all employees, with a special emphasis on training and the dissemination of manuals
5. Taking reasonable steps to achieve compliance with written standards through monitoring, auditing, and other systems designed to detect criminal conduct, including a reporting system free of retribution to employees who report criminal conduct
6. Consistently enforcing the organization's written standards through appropriate disciplinary mechanisms, including, as appropriate, discipline of individuals responsible for failure to detect an offense
7. After an offense is detected, taking all reasonable steps to respond and to prevent future similar conduct

*These requirements are from the U.S. Sentencing Guidelines of 1991 (see www.ussc.gov for more information)."

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Wells Fargo code of ethics states the following for unethical behavior: "We will take the appropriate actions where we believe they have not met our high standards, their contractual obligations, or have violated any applicable law, rule, or regulation. See the Supplier Code of Conduct for additional guidance… Violation of the provisions of this Code or the referenced policies and guidelines is grounds for corrective action, which may include termination of your employment. Certain actions may also result in legal proceedings, including prosecution for criminal violations."

*b. Describe **two** policies the chosen company has in their code of ethics to ensure employees behave legally and/or ethically.*

Description of 2 policies to ensure employees behave legally at Wells Fargo. First policy to ensure employee ethical behavior the standard of "Maintaining accurate and complete records" to follow all applicable accounting standards, legal requirements, and system of internal controls also related policies in IRM Information Risk Management, Information Security Policy, and Records Management Policy. The second policy to ensure employees behave legally at Wells Fargo would be "Avoid Conflicts of Interest" in that the employee is responsible to identify actual, potential, and perceived conflicts of interest with familiarity with whatever situation requiring preclearance through the Global Pre-Clearance System. (Wells Fargo Code of Ethics) "We do not tolerate retaliation We do not engage in or tolerate retaliation of any kind against anyone for providing information in good faith (or otherwise in accordance with applicable country-specific laws) about suspected unethical or illegal conduct, including fraud; securities law or regulatory violations; possible violations of any Wells Fargo policies (including this Code); other inappropriate workplace behavior; or concerns regarding accounting, internal accounting controls, or auditing matters. If you think that you or someone you know has been retaliated against, contact any of the resources listed in this Code. To learn more • Allegation Management Policy • Speak up and Nonretaliation Policy"

3. *Analyze how well the chosen company's code of ethics facilitates the development of an ethical culture.*

Wells Fargo code of ethics facilitates the development of an ethical culture through leadership that everyone takes the responsibility for maintaining Wells Fargo ethical culture through protecting reputation ensuring acting with honesty and integrity. In the ethical culture employees are expected to be familiar and comply with code of ethics; applicable laws, rules, and regulations; and corporate and business policies. Every employee expected to be a role model for ethical leadership and support fellow employees when called upon for questions; therefore, maintaining the ethical culture where everyone feels comfortable speaking up.

4. *Identify* ***three*** *resources available to employees to use when raising an ethical concern and discuss which resource you would most likely use to report an ethical concern*.

Identify three resources available to employees when raising an ethical concern plus discuss which resource I would likely to report an ethical concern. The first resource initially regarding an ethical decision or question to contact the EthicsLine reporting possible internal fraud related unusual activity. The second resource would be discussing the matter with any manager in your organization. And the third resource for reporting an ethical matter contacting the Ethic Office. Considering three resources I would be likely to contact the EthicsLine which is available 24 hours a day, 7 days a week. When I contact the EthicsLine an interviewer specialist will ask questions, ten write a summary report of the call; therefore, the summary will then be provided to Wells Fargo for assessment and further action. The Audit Committee is responsible for investigation about accounting, internal accounting control or auditing matters.

B. **Discuss three factors an employee might consider before deciding to report unethical conduct observed at work.**

Discussion on three factors an employee might consider before deciding to report unethical conduct observed at work. The three factors to consider with an ethical dilemma are the following: 1) Is it legal?, 2) Does it comply with our policies?, and 3) Is it consistent with our expectations?

1. *Describe **three** internal steps (i.e., inside the company) an employee could take if they decide to report or blow the whistle on misconduct or unethical behavior in the workplace.*

Describe three internal steps an employee could take when deciding to report unethical behavior. Wells Fargo specifies first report incident to EthicsLine, second contact ER Solutions for U.S. based team, and third contact Ethics Office if concerns are regarding accounting, internal accounting or auditing matters contact directly the Audit Committee of the board.

2. *Describe **two** possible external actions (i.e., outside the company) an employee can take to report or blow the whistle on misconduct or unethical behavior in the workplace.*

Describe two possible external actions an employee can take to report unethical behavior in the workplace would be the following: first the FTC (Federal Trade Commission) for competition and antitrust laws for any transactions entering in anti-competitive agreements with competitors, and second the SEC (Security Exchange Commission) regarding unethical insider trading laws.

C. **Analyze one advantage and one disadvantage of paying whistleblowers. Base your analysis on one of the following laws: • False Claims Act**

In analysis one advantage for paying the whistleblower according to “False Claims Act’ would be exposing the fraudulent activity is the right thing to do versus the disadvantage of whistleblower your career could suffer. Studies have been made whistleblowers reward programs in the U.S. have worked extremely well; furthermore, increasing detection and deterrence of crime in a cost-effective way.

D. Analyze the changes that organizations have made based on the U.S. Sentencing Guidelines.

According to the book (Trevino, 2017, p. 221) states the following: "Making Ethics Comprehensive and Holistic - The U.S. Sentencing Guidelines very clearly aim to encourage organizations to create ethics programs that drive integrity and ethical behavior in their business operations. As the guidelines have become more refined and sophisticated over time, responsible organizations have found numerous ways of making ethics and values central to how they do business. As we read in the last chapter, values such as ethics and integrity become part of an organization's culture by aligning various elements throughout the organization. Integrating any corporate value into the organizational culture starts with strong executive commitment. Once executives are clearly behind the effort, then the effort must be communicated to every employee and compliance must be measured and rewarded for the value to become part of the culture."

1. Discuss **three** culpability factors that are used to determine fines under the U.S Sentencing Guidelines:

According to the book (Trevino, 2017, p.253) for three culpability factors as follows: "How Fines Are Determined under the U.S. Sentencing Guidelines

For more details, see www.ussc.gov. (1) Part 8C1.1 of the guidelines states that "If, upon consideration of the nature and circumstances of the offense and the history and characteristics of the organization, the court determines that the organization operated primarily for a criminal purpose or primarily by criminal means, the fine shall be set at an amount (subject to the statutory maximum) sufficient to divest the organization of all its net assets." (2) If that is not the case, penalties are based on a base fine and the "culpability score" assigned by the court. The base fine is the greatest of the following: the pretax gain from the crime, the amount of intentional loss inflicted on the victims, and an amount based on the Sentencing Commission's ranking of the seriousness of the crime (ranging from $5,000 to $72.5 million). This amount is then multiplied by a number that depends on the culpability score. The culpability score ranges from 0 to 10, and the multipliers range from 0.05 to 4. (3) Every defendant starts at a culpability score of 5 and can move up or down depending on aggravating or mitigating factors (see Table 6.A.1). The presence of aggravating factors can cause the culpability score to increase. These aggravating factors include (1) organizational size, combined with the degree of participation, tolerance, or disregard for the criminal conduct by high-level personnel or substantial authority personnel in the firm; (2) prior history of similar criminal conduct; and (3) role in obstructing or impeding an investigation."

References

Trevino, L.K, & Nelson, K.A. (2017). *Managing business ethics: Straight talk about how to do it right* (7th ed.). Hoboken, NJ: Wiley.

9 Examples of Ethical Leadership in the Workplace https://www.score.org/blog/9-examples-ethical-leadership-workplace?gclid=EAIaIQobChMIl6v-3PX—AIVnCCtBh3SUAiNEAAYASAAEgLER_D_BwE

Wells Fargo Code of Ethics, https://www08.wellsfargomedia.com/assets/pdf/about/corporate/code-of-ethics.pdf