

C206 – Task 3 Code of Ethics and Legal Responsibility Analysis

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## **Code of Ethics and Legal Responsibility Analysis**

### **Introduction**

This Task 3 Ethical Leadership paper discusses the Code of Ethics for the banking industry Wells Fargo which is a well-established banking industry globally. As the writer of this paper, I have personal knowledge of Wells Fargo banking as I was employed by the bank for five years as an Auditor. Discussions will be made on Code of Ethics accordingly to their CSR Corporate Social Responsibility and factors should be considered before and after reporting unethical behavior. A brief discussion will be made on whistleblower pro and con. And, lastly how corporations are incorporating the ethics standards to adhere to the U.S. Sentencing Guidelines of 1991; along with three aggravating and mitigating factors determining fines imposed on organizations demonstrating unethical illegal misrepresentations.

### **A. Wells Fargo Code of Ethics**

How does the Code of Ethics work for a bank like Wells Fargo? In analysis of Wells Fargo CSR Corporate Social Responsibility. I personally worked for Wells Fargo for five years in the audit department. Therefore, I am aware of Wells Fargo as a bank dedicated to Corporate Social Responsibility. Through personal knowledge Wells Fargo demonstrates five types of CSR which are the following: 1) social responsibility to all mankind as to fairness dignity demonstrating honesty and integrity, 2) CSR to diversity to all stakeholders, 3) CSR to abide by the legal aspect for all banking applicable laws, rules, and regulations, 4) CSR in philanthropy through specified Global Pre-Clearance System, and 5) CSR to environmental sustainability. As an Auditor for Wells Fargo, I worked with the third CSR to making and implementing the necessary standards and policies with Code of Ethics to ensure that there is compliance to laws, rules, and regulations.

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\*Wells Fargo demonstrates compliance with legal mandates of the banking industry through established Code of Ethics. According to the reading Chapter 9 “Corporate Social Responsibility”, Wells Fargo is expected to work with current law and government regulations. The banking business has legal responsibility to avoid harm and do what is right; therefore, reliance on ethical decision-making processes to make these decisions. Banks must comply with the following acts and regulations, Americans with Disabilities Act, Bank Secrecy Act, Bank Service Company Act, Community Reinvestment Act, Consumer Financial Protection Act, CARES Act, and Credit Card Accountability Responsibility and Disclosure Act. In banking law, the Federal Reserve Board is the regulatory authority over the operations and disclosure obligations of all banks. When a bank has a legal responsibility to avoid harm when it does not it is bank negligence. For example, malpractice in banking is when the employees are negligent bringing some form of harm to clients’ assets. Another legislation that affects the banking industry governed by the Banks Act of 1990 where the regulation and supervision concerning taking deposits from the public and provide regulations. In the next section I will talk about the consequences and costs of illegal conduct. Wells Fargo operates globally all over the world experiencing policies which differ culturally with laws, rules, and regulations. Whenever an employee is unclear about applicability the Code of Ethics specifies contacting a manager, Employee Relations (ER) for solutions for U.S. based employees or Human Resource professional for non-U.S. based employees or the Ethics Office.

\*What are the ramifications for noncompliance with legal mandates? According to the reading Chapter 9 “Corporate Social Responsibility – The cost of illegal conduct”, states the bank has a corporate social responsibility CSR to legal responsibilities. Thus, failure to abide by those responsibilities can result in criminal conduct costing the individuals and bank involved.

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The Sarbanes-Oxley Act has brought illegal acts for criminal acts in the form of fines and sentencing for a number of years in prison. In turn business stock prices have dropped in response to allegations of corporate crime and response to penalties. The financial performance of the bank can also suffer over a period of years because they have to pay a substantial number of fines. Also, the bank loses legitimacy with business partners because of lower reputations and profitability. Finally, I need to talk about the costs of government regulation due to the cost of irresponsible business behavior increases government regulation. According to the reading “Government is responsible for preventing serious risks to our system...for holding companies accountable for the externalities they create.” (Trevino, 2017, p.346) In 2002 the government passed SOX Sarbanes-Oxley Act in which the law sets up oversight in all accounting transactions which required costly matters to the business requiring internal financial controls are sound in compliance. When I was an Auditor during this period the additional costs to company abiding to SOX was fifteen percent in cost of labor due to compliance internal control auditing regulations. Finally, ethical corporate cultures like Wells Fargo place importance on honesty, loyalty, and teamwork. The costs of an ethical problem can impose derogatory remarks about management, coworkers, company on social media, the unethical behavior may short-circuit career, and have people mistrust you. In the reading for Task 3 C206, the author Trevino for “Managing business ethics: Straight talk about how to do it right” specifies the several requirements for due diligence in compliance. (Trevino, 2017, p. 219) “1) Compliance standards to prevent criminal conduct, 2) Top management responsibility, 3) Due care in discretion, 4) Necessary communication for compliance standards, 5) Necessary standards through monitoring and auditing in detecting criminal misrepresentation of fact, 6) Appropriate disciplinary mechanisms for inappropriate unethical behavior, and 7) When offense has occurred

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management must assure similar offense does not prevail. These seven requirements are part of the U.S. Sentencing Guidelines of 1991.” Wells Fargo incorporates these seven requirements into their Code of Ethics.

As an Auditor for Wells Fargo, I had to abide the policy to ensure ethical behavior by the standard of maintenance of accurate accounting records. It was my job to follow policies for accounting standards, legal requirements, and internal controls. The second policy I had to ensure ethical behavior would be the avoidance of conflicts of interest ensuring that I am responsible to identify actual potential conflict of interest in all banking transactions.

The ethical culture is facilitated through management leadership specified by Wells Fargo manual Code of Ethics. Leadership management adheres to communicating that each employee protect the bank reputation ensuring behavior with honesty and integrity. In the ethical culture employees are trained to practice compliance with Code of Ethics, applicable laws, rules, and regulations with corporate business policies. It is expected that every employee serves as a role model for ethical leadership maintaining an ethical culture.

There are three resources available to Wells Fargo employees concerning an ethical dilemma. The first resource that should be contacted is the EthicsLine. The second resource to report an ethical dilemma would be discussing the matter with any manager at Wells Fargo. And the third resource is the Ethic Office at Wells Fargo. Personally, I would use the EthicsLine which is available all the time in that an interviewer asks questions for making a summary report to be provided to Wells Fargo for further action; likewise, the Audit Committee would oversee the investigation on internal accounting or auditing misrepresentation of fact.

#### **B. What are the three factors an employee should consider in reporting unethical behavior?**

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The three factors are legality, compliance to policies, and deterrence consistent to the bank's expectations in the ethical culture. The three necessary steps an employee should take in reporting unethical behavior would be contacting the EthicsLine followed by contacting appropriate ER Solutions team and Ethics Office; likewise, all accounting and auditing matters should be directed to the Audit Committee of Wells Fargo.

What are the two external actions an employee can take externally in reporting unethical behavior besides Wells Fargo? The first external action can be taken in reporting unethical competition and antitrust laws to FTC (Federal Trade Commission). The second external action reporting unethical insider trading laws inappropriately used to the SEC (Security Exchange Commission).

### **C. \*What is the one advantage and one disadvantage of paying whistleblowers based on the False Claims Act?**

According to the reading Chapter 4 "Addressing individuals' common ethical problems – Blowing the Whistle." In considerations for blowing the whistle on serious wrongdoing several considerations should be made such as issue, intentions, doing the right thing, risks and benefits, timing, and alternatives. Whistleblowing in the banking industry is where one exposes the dishonest, illegal, fraudulent, or dangerous practices of the bank. The advantages of whistleblowing would be exposing the unethical behavior and legal protection. Other benefits of whistleblowing it is ethical where the bank has an ethical obligation to protect and support the employees, protects the bank, minimizes risks and costs, prevents wrongdoing, provides insight to unethical issues, and promotes better communications with trust. One disadvantage of whistleblowing is that it can lead to a breakdown of trust. According to the reading recent

legislation like False Claims Act, whistleblowers who report corporate unethical acts against the government like the banking industry can be awarded 15-30 percent of whatever damages the federal government recovers. This incentive by the False Claims Act can be a disadvantage to Wells Fargo because of the incentive of the bank's employees to tell prosecutors of unethical behavior to regulatory agencies. According to the False Claims Act the advantage for paying the whistleblower would be exposing the fraudulent activity considered "doing the right thing." On the other hand, an employee is disadvantage by compromising one's career or being filtered misplaced somewhere in the Wells Fargo organization. According to studies about whistleblowers reward programs have increased detections with deterrence of crime cost effectively surprisingly enough.

**D. What are the changes that organizations have made to adhere to the U.S. Sentencing Guidelines of 1991?**

(Trevino, 2017, p.221) According to Trevino, the guidelines ensure and encourage organizations to create the necessary ethics programs for compliance to ethical behavior. For example, when I was an Auditor for Wells Fargo it was necessary to be complying for auditing standards accordingly to the Sarbanes Oxley Act which outlines the necessity for accurate records in the database of accounting records, Today, all companies operating in a corporate nature must adhere to the Sarbanes Oxley Act. In the readings states that before the Sarbanes Oxley Act, many banks especially Wells Fargo was caught in accounting misrepresentation scandals which cost the U.S. economy.

\* What are the three culpability factors determining fines under the U.S. Sentencing Guidelines of 1991? According to Chapter 6 "Managing Ethics and legal compliance – Appendix – How Fines are determined under the U.S. Sentencing Guidelines." (Trevino, 2017, p. 253)



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Penalties based upon a base fine and culpability score upon sentencing determination assignment by the court. The base fine is the greatest of pretax gain from the crime or the amount of intentional loss inflicted on the victims or amount based on sentencing ranking of the crime from \$5,000 to \$72.5 million. The second culpability score is the amount determined multiplied by a number depending upon the culpability score. And third culpability score starts at 5 which moves up or down depending on aggravating and mitigating factors such as organization size, disregard by high management, prior history of criminal conduct, and role of person/organization in obstructing an investigation. Likewise, mitigating factors to lessen the culpability score can be for Wells Fargo having an effective program to preventing and detecting violations of the law and therefore, self-reporting, cooperating accepting responsibility for criminal conduct can result in lowering of the culpability score.

In conclusion, discussion of Code of Ethics for Wells Fargo reflected the CSR Corporate Social Responsibility to all stakeholders as part of the ethical culture. Wells Fargo employees are knowledgeable of the ramifications of non-compliance with legal mandates. The Wells Fargo ethical or legal standards are to prevent unethical or illegal acts. We also addressed the process how to raise ethical dilemma concern which can be demonstrated through whistleblowing by the employee. In final note it was important to discuss what the U.S. Sentencing Guidelines are especially the associated fines imposed on noncompliance to laws, rules, and regulations.

### References

Trevino, L.K. & Nelson, K.A. (2017). *Managing business ethics: Straight talk about how to do it right* (7<sup>th</sup> 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](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>

\*Revisions made