

Conflict of Interest

SCENARIO 9.3.11 OF “A GIFT OF FIRE”

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1200

Professional Practices 4314, Section 002

Assignment #1, Professional Ethics Scenario

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Conflict of Interest (Scenario 9.3.11 of “Gift of Fire”)

Conflict of Interest is a form of unethical behavior that exists in many forms amongst all forms of trade. Mehran and Stulz, in their paper “The Economics of conflicts of interest in Financial Institutions”, describe conflict of interest as “... a situation where a party to a transaction could potentially make a direct gain by taking actions that affect the other party adversely.” (Mehran & Stulz, 2006, 3). In this paper I hope to show how conflict of interest is an offense to ethics due to its inherent manipulative nature that relies on lies, whether explicit or by omission, to influence the critical decision making for personal benefit.

Scenario 9.3.11 of “Gift of Fire” describes a situation where the Consultant is hired by a company (Cyberstuff) to evaluate some bids for a project. During evaluation the Consultant discovers that their Spouse is in the pool of bidders in consideration. As the one recommending which bid is best for Cyberstuff the Consultant is obligated by professional ethics to suggest the best company to choose for the bid, however because the Consultant’s spouse is part of the companies in consideration there is a conflict of interest (Sara and Timothy 2019, 490). This violation most closely resembles Nepotism, which is to choose relatives for a job that they may

not be the best for because of their relation to the decision maker (Santa Clara University 2016).

To best evaluate this scenario a description of each decision maker needs to be considered.

In this scenario there are at most four decision makers that have influence over the bid. First is the hiring company Cyberstuff who are giving the bid out to other companies. Cyberstuff is responsible for the compensation of the Consultant and the company they hire through the bid and recommendation of the Consultant. Furthermore, Cyberstuff is responsible for whom they hire for the consulting job and must consider what actions and policies they need to implement if a conflict of interest occurs. Secondly, the Consultant is responsible for choosing the optimal company to do the bid for Cyberstuff. The Consultant is ethically required to be objective when considering every bid and must be fully and completely honest to Cyberstuff about any issues that may arise from their participation, including the potential for a conflict of interest. Thirdly, the Spouse, if they are aware of the conflict of interest, is ethically required to make the conflict known to their employer (NetWorkx) so that NetWorkx can make the appropriate actions to save their own reputation and potentially the contract with Cyberstuff. Lastly, NetWorkx needs to consider if their company should recuse themselves from the bid so that they retain good business relations to Cyberstuff along with other potential businesses, assuming they are aware of the conflict of interest. Moreover, to fully understand the potential damages that may occur in this scenario consider the impact and benefit each stakeholder receives.

Amongst the stakeholders the ones to benefit the most from this scenario is the Consultant, their spouse, and NetWorkx. If the Consultant chooses to manipulate the decision making of Cyberstuff then the Consultant could get NetWorkx to be hired over the competition. Through this the Spouse could also benefit, through bonuses, raises, and/or promotions, which directly benefits the Consultant, the Spouse, and NetWorkx financially. Depending on the type of

company the Consultant and the Spouse are a part of this could also extend to investors, stock owners, business owners, etc. However, everyone else is negatively impacted by the conflict of interest. Cyberstuff may not get the best company for the job at a price that does not reflect the quality of the work done; meaning they could potentially lose money and not even receive a finished product. Furthermore, they could lose out on better business partners due to the recommendation of the Consultant resulting in future money loss. Any investor, stockowner, etc. that have a stake in Cyberstuff are negatively impacted and could result in the loss of investors depending on the risk involved with the bid. So far this is only considering if the manipulation isn't discovered. If the conflict of interest is discovered then the Consultant, the Spouse, and NetWorkx will all lose reputation, business opportunities, and could face significant legal recourse depending on the severity of the consequences. All in all, nobody truly benefits from this scenario if any decision maker act unethically. There are many potential actions that the Consultant could take in this situation that can help or worse the situation.

As the crux of the decision making the Consultant is the one with the most influence in this scenario. The Consultant could go through with the job without informing Cyberstuff about the conflict of interest. Potentially the Spouse's bid could get chosen by Cyberstuff and as a result the scheme is completed without issue for the Consultant. However, if Cyberstuff is thorough they will discover the conflict of interest and may seek legal recourse. Alternatively, the Consultant can disclose the conflict of interest to Cyberstuff. They can offer to recuse themselves or be permitted by Cyberstuff to continue despite the conflict of interest. If Cyberstuff is aware and approves of the Consultant to continue there is no ethical issue to resolve, but to be safe the Consultant should get the permission in writing. Considering the potential legal ramifications, the Consultant should do their best to be ethical.

Depending on the severity of the act, conflict of interest ramifications can range from fines to time in prison. For example, Pennsylvania considers conflict of interest as a felony that can be punished by a fine up to \$10,000 or up to 5 years prison (Kirsch 2014). However, each state has their own determinations on how a conflict-of-interest case is punished. Some require a certain monetary threshold to be achieved before the violation becomes a felony, others on describe specific situation as felonies. However, regardless of where the violation occurs any person tempted by conflict of interest should realize the ramification outweigh the potential benefits.

In conclusion, there is no benefit from conflict of interest that is worth sacrificing the good will of a business partner, the reputation of the companies and people involved, or the personal integrity of the offender. Businesses will appreciate partners who are courageous enough to be honest about the situation they are in and have policies in place to help protect everyone involved, but the initiative resides with the one who can commit the ethical violation.

Appendix

Santa Clara University. "Favoritism, Cronyism, and Nepotism." *Markkula Center for Applied Ethics*, Markkula Center for Applied Ethics Program, June 2006, www.scu.edu/government-ethics/resources/what-is-government-ethics/favoritism-cronyism-and-nepotism/. Accessed 13 September 2021.

Kirsch, Cassandra. "Does Punishment Fit the Crime? State Penalties and Prosecution for Ethics Violations." *State Penalties and Prosecution for Ethics Violations*, National Conference of State Legislators, Apr. 2014, www.ncsl.org/research/ethics/state-penalties-and-prosecution-for-ethics-violations.aspx, Accessed 13 September 2021.

Hamid, Mehran, and Rene M. Stulz. "THE ECONOMICS OF CONFLICTS OF INTEREST IN FINANCIAL INSTITUTIONS.", 12695, National Bureau Economic Research, Nov. 2006, 1050, Massachusetts Avenue Cambridge Massachusetts.

"Conflict of Interest." *A Gift of Fire: Social, Legal, and Ethical Issues for Computing Technology*, by Sara Baase and Timothy Henry, 5th ed., Pearson, 2019, pp. 490.

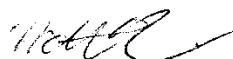
CSE - 4314
Professional Practices
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