2006-09-01

Conflicts of Interest

David J. Cherrington
david_cherrington@byu.edu

Original Publication Citation
D.J. Cherrington, "Conflicts of Interest", The Hayes Report on Loss Prevention Volume 22, Issue 1, Pages 3, Hayes International, Fruitland Park, Florida, 1, 26.

Conflicts of Interest
by David J. Cherrington, Brigham Young University,
September, 2006

Our research on theft and fraud has taught us three important lessons about conflicts of interest: first, they are much more prevalent than one would expect, second, they are much more serious than one might think, and third, some of them can't be eliminated.

Our world is filled with conflicts of interest and most of them go unnoticed. Like the tip of an iceberg, only the most publicized cases are usually noticed, such as gifts to politicians and procurement officers, and many people seem to ignore even these obvious cases. Conflicts of interest are not unique to certain industries; they can be found everywhere, including business, government, religion, education, and health care.

Some conflicts of interest are so blatant and wrong that they ought to evoke moral outrage. In 2004, the *Wall Street Journal* (Oct. 04, C1,4) reported that the New York District Attorney's office was investigating ***whether*** there is a conflict of interest with the insurance broker, Marsh & McLennon Companies. One of its companies, Marsh, is an insurance broker that provides insurance bids for client companies. Another company, Mercer Human Resource Consulting, provides consulting advice to clients regarding health insurance and investments. And another company, Putnam, is an investment firm. The company has a stated policy that these companies should steer business toward each other. How blatant does a conflict of interest need to be before it is recognized? When Mercer consultants advise clients to invest their employees' pension funds in Putnam investments is there any doubt about a conflict of interest here? Isn't this a no-brainer?

Some conflicts of interest are so common that they are accepted without question as though they were a normal and customary way of doing business. Do you recognize a conflict of interest when a sales person advises you to purchase a different product, or your dentist says you need a crown on a tooth, or an insurance agent tells you which policy you should buy?

Conflicts of interest should not be that difficult to discover. In business ethics we have a reasonably simple definition and a rather straight forward guideline for how they should be treated. A conflict of interest exists whenever a person who has a responsibility to act in the best interests of an organization may receive a direct personal benefit from his or her actions. For example, accepting gifts of any value for one's personal use is a conflict of interest when the person is serving as a representative and the gift giver is an involved party.

Some of the most blatant illustrations of conflicts of interest include:

- Engaging in personal business activities during working hours.
- Using company staff, resources, or facilities for your own financial gain.
- Using your employment status with the company to inappropriately further your personal interests.
- Divulging improper information or interfering with the contracting, bidding, or negotiating processes with vendors and suppliers.

- Exerting influence on or being a part of any business transaction involving the company from which you or a relative could receive a direct benefit or gain.
- Forming business relationships or other obligations that might compromise your objectivity in performing your assigned duties.
- Traveling or being housed at vendor expense or accepting gifts, services, or favors from those doing business with the company.

It is unreasonable to think that any decision maker can receive anything of material value from an involved party without having it influence his or her opinions. While our legislators may claim that luncheons and basketball tickets cannot buy their votes, there are other outcomes besides just votes that these gifts inevitably influence, such as favorable opinions and supportive comments.

Most people don't appreciate how simple conflicts of interest compromise their judgement and reduce organizational effectiveness. I learned a surprising lesson from what I thought was a trivial experience. I was asked to team-teach with two other professors who had already decided which texts the students should purchase. Students were also expected to subscribe to *Business Week* and I learned that if seven students subscribed I would receive a free subscription plus a small gift. During the class, we discussed conflicts of interest and I asked if any of them were bothered by the fact that I got a free subscription to *Business Week* because 64 of the 88 students had subscribed. All of them thought this was a normal and acceptable situation except one student who said it bothered him even though he didn't know what to do about it. As we discussed the situation, other students gradually recognized that it was a conflict of interest and they too were bothered by it. After discussing it for forty minutes, we decided that my free subscription should be placed in the student reading room and the free gift should go to a person selected by a drawing among the 64 students. I thought this was fair and I willingly gave up my gift and subscription. At first, I didn't think this had any impact on my thinking or behavior; but, in later semesters only six to eight students subscribed to *Business Week*. Obviously I had a much different attitude about requiring the students to subscribe to *Business Week* knowing that I would not receive the free subscription and gift and it was reflected in the expectations I communicated to the students. I learned that decisions and opinions are impacted by even small and trivial expectations of reward.

The solution to conflicts of interest is to avoid them when possible and make them public when they cannot be avoided–and there are times when they cannot be avoided. This is a moral not a legal issue and no amount of legislation or company rules can reasonably regulate it. Setting a maximum dollar limit on the value of an acceptable gift, as most state legislatures have done, is foolish because that amount should normally be zero. But there are times when it may need to be rather sizable due to good and reasonable factors.

We need to create a clear standard that all gifts are an unacceptable conflict of interest and hold our elected representatives and company decision makers to it. Most gifts should never be offered, nor should they ever be accepted. Rare exceptions should be openly declared and explained. We should expect better behavior as a moral imperative rather than as a legal requirement.