Chapter 2

BUSINESS ETHICS AND THE SOCIAL RESPONSIBILITY OF BUSINESS

Cases in This Chapter

(NOTE: These are not actual court cases, but original vignettes which pose ethical problems in business situations. A discussion guide for each is found prior to the answers to problems at the end of this instructor's manual chapter.)

Pharmacon Drug Company
Mykon's Dilemma
Oliver Winery, Inc
JLM, Inc.
Sword Technology, Inc.
Vulcan, Inc.

Chapter Outcomes

After reading and studying this chapter, the student should be able to:

- Describe the differences between law and ethics.
- List and contrast the various ethical theories.
- Describe cost-benefit analysis and explain when it should be used and when it should be avoided.
- Explain Kohlberg's stages of moral development.
- Explain the ethical responsibilities of business.

TEACHING NOTES

Ethics can be broadly defined as the study of what is right or good for human beings. It pursues the question of what people ought to do and what goals they should pursue.

Business ethics is not a special set of ethics that applies only in business settings, but rather a subset of ethics.

Ethical questions apply to relationships among and between:

- a business and its employees, its customers, and its owners
- competing businesses

- a business and society at large
- businesses and countries at an international level

In business ethics, it is helpful to employ a seeing-knowing-doing model in which the decision-maker follows these steps:

- See (identify) the ethical issues in the proposed conduct and any alternative options
- Know (resolve) which is the best option
- Do (implement) the chosen option

A. LAW VERSUS ETHICS

*** Chapter Outcome ***

Describe the differences between law and ethics.

Law is strongly affected by moral concepts (ethics), but law and morality are not the same. Legality is often a reliable guide to ethical behavior, but it cannot be relied upon as a perfect standard. Legal acts may be immoral, illegal acts may be moral.

B. ETHICAL THEORIES

Certain ethical rules are based on theory rather than experimentation (*a priori* reasoning).

*** Chapter Outcome ***

List and contrast the various ethical theories.

Ethical Fundamentalism

Also called absolutism. Individuals look to a central authority or set of rules for guidance, e.g., the Bible, the Koran, the writings of Karl Marx.

Ethical Relativism

A theory under which actions must be judged by what individuals subjectively feel is right or wrong for themselves. Although apparently similar, the doctrine of **situational ethics** differs substantially in that it requires one to judge another person's actions by first putting oneself into that person's situation.

Utilitarianism

Those actions that produce the greatest net pleasure, compared to net pain, are better in a moral sense. **Act utilitarianism** assesses each separate act in order to determine whether it produces net pleasure over pain. **Rule utilitarianism** supports rules that at their inception would appear to be the best hope of producing maximum pleasure for the greatest number of people.

*** Chapter Outcome ***

Describe a cost-benefit analysis and explain when it should be used and when it should be avoided.

Utilitarian notions of moral correctness are the basis for the general concept of making a **cost-benefit analysis** in a business or managerial decision. The purpose of a cost-benefit analysis is to choose the most cost effective method for pursuing a goal after comparing the direct and indirect costs and benefits of proposed alternatives. If increasing net wealth, especially on a short-term basis, is the goal, a sound cost-benefit analysis is a helpful tool.

Deontology

From the Greek *deon*, meaning duty or obligation; stresses that certain principles are always right or wrong, no matter the outcome. Actions should be judged by means and motives, not only results.

NOTE: See textbook discussion of Immanuel Kant's deontological theories.

Social Ethics Theories

Focus on a person's obligations to others and also on individual rights and obligations.

Social egalitarians believe that society should provide all persons with equal goods and services irrespective of their contributions to the society's overall wealth.

Distributive justice also considers the needs and rights of all people, yet stresses the equality of opportunity, not of results.

Libertarians claim that differences in wealth simply demonstrate different levels of skill in the marketplace. Taking wealth earned by some and giving it to others is unfair.

Other Theories

Intuitionism holds that all rational people possess the ability to decide the rightness of an action, though some people have more insight into ethical behavior than others.

The **"good persons" philosophy** is similar, and declares that to act morally, we should emulate those who seem to always choose the "good" or "right" choice.

Television Test" judges the appropriateness of a decision based on whether we would be comfortable with having that decision known by all the world, as if it had been broadcast on television.

C. ETHICAL STANDARDS IN BUSINESS

*** Chapter Outcome ***

Explain Kohlberg's stages of moral development.

Choosing an Ethical System

Lawrence Kohlberg's Stages of Moral Development provides insight into ethical decision-making. Under Kohlberg's model, people progress through stages of moral development basically as a function of age and education. The *pre-conventional* or childhood stage, is one where a person's moral perspective is based only on a punishment/reward concept. The *conventional* or adolescent stage is one where an individual conforms his behavior to meet group or peer expectations. Some people may reach the third, or *post-conventional,* adult level where individuals conform to internalized moral principles simply because they understand why the principles are right.

NOTE: See Figure 2-1, Kohlberg's Stages of Moral Development

Some psychologists assert that most people function in all three of Kohlberg's stages simultaneously.

Corporations as Moral Agents

Because corporations are not persons but rather artificial entities created by the State, it is not obvious whether they can or should be held morally accountable.

D. ETHICAL RESPONSIBILITIES OF BUSINESS

Some regulation is necessary to check overreaching greed in our system of modified capitalism.

*** Chapter Outcome ***

Explain the ethical responsibilities of business.

Regulation of Business

According to Adam Smith's model for the perfect capitalistic system, governmental oversight is necessary, but should be limited. Beyond setting the rules and enforcing them, Smith felt government should stand aside. Increased governmental intervention has occurred, however, because this model cannot be relied on to achieve objectives such as national defense, conservation of natural resources, health and safety, and social security. Successful government regulation involves carefully balancing regulations to preserve competition and those that attempt to advance other social objectives.

Corporate Governance

The demand for ethical and social responsibility of business also results from the sheer size, and therefore power, of individual corporations. The 500 to 1,000 largest publicly held corporations-- controlled by a small group of corporate officers-- own the great bulk of the industrial wealth of the United States. Historically, these corporate officers often also served on the board of directors. During the past two decades, however, regulations have substantially decreased the influence of these "inside directors." Even though the prevalence of outside directors on boards and audit committees has increased, instances of corporate misconduct have made news headlines all too often. In response to these business scandals—involving companies such as Enron, WorldCom, Global Crossing, and Arthur Andersen—in 2002 Congress passed the Sarbanes-Oxley Act. This legislation imposes additional corporate governance requirements on publicly held corporations. In July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was enacted, improving accountability and transparency in the financial system, protecting consumers from abusive financial services practices, and improving corporate governance in publicly held companies. In addition, many people — and even members of the corporate community itself — believe that companies have an obligation to sponsor projects that benefit society in ways beyond the economics of producing goods and services.

Arguments Against Social Responsibility

Profitability — Since corporations are artificial entities established for profit-making, their only obligation should be to return as much money as possible to the direct stakeholders, the shareholders.

Unfairness — Whenever corporations engage in social activities such as supporting the arts or education, they divert funds rightfully belonging to the shareholders and/or the employees to unrelated third parties.

Accountability — A corporation may decide to support a variety of social causes but, unlike a governmental body, will be required to submit to little public scrutiny.

Expertise — Although a corporation may have a high level of expertise in selling its goods and services, it may not be able to carry on social activities with the same degree of competence.

Arguments in Favor of Social Responsibility

A corporation's primary objective is to make a return on its investment by producing a quality product at a fair price. Most people agree, however, that corporations have obligations beyond making a profit and avoiding harm to others.

The Social Contract — Since society allows for the creation of corporations and gives them special rights, including a grant of limited liability, this argument holds that corporations reciprocally owe a responsibility to our society.

NOTE: See Figure 2-2, The Stakeholder Model.

Less Government Regulation — When corporations act responsibly, regulation is unnecessary. In addition, by taking a more proactive role in aiding with society's problems, corporations create a climate of trust and respect that may make government more lenient in regulations.

Long-Run Profits — Corporate involvement in social causes has the effect of creating goodwill which simply makes good business sense from a long-run profit perspective.

CASE

Pharmakon Drug Company

BACKGROUND

William Wilson, senior vice president of research, development, and medical (RD&M) at Pharmakon Drug Company, received both his Ph.D. in biochemistry and his M.D. from the University of Oklahoma. Upon completion of his residency, Dr. Wilson joined the faculty at Harvard Medical School. He left Harvard after five years to join the research group at Merck & Co. Three years later, he went to Burroughs-Wellcome as director of RD&M, and, after eight years, Dr. Wilson joined Pharmakon in his current position.

William Wilson has always been highly respected as a scientist, a manager, and an individual. He has also been an outstanding leader in the scientific community, particularly in the effort to attract more minorities into the field.

Pharmakon concentrates its research efforts in the areas of antivirals (with a focus on HIV), cardiovascular, respiratory, muscle relaxants, gastrointestinal, the central nervous system, and consumer health care (that is, nonprescription or over-the-counter medicines). Dr. Wilson is on the board of directors of Pharmakon and the company's executive committee. He reports directly to the chairman of the board and CEO, Mr. Jarred Swenstrum.

DECLINING GROWTH

During the previous eight years, Pharmakon experienced tremendous growth: 253 percent overall, with yearly growth ranging from 12 percent to 25 percent. During this period, Pharmakon's RD&M budget grew from $79 million to $403 million, and the number of employees rose from 1,192 to 3,273 (see Figure 2-3). During the previous two years, however, growth in revenue and earnings slowed considerably. Moreover, in the current year, Pharmakon's revenues of $3.55 billion and earnings before taxes of $1.12 billion were up only 2 percent from the previous year. Furthermore, both revenues and earnings are projected to be flat or declining for the next five years.

The cessation of this period's tremendous growth and the likelihood of future decline have been brought about principally by two causes. First, a number of Pharmakon's most important patents have expired and competition from generics has begun and could continue to erode its products' market shares. Second, as new types of health-care delivery organizations evolve, pharmaceutical companies' revenues and earnings will in all likelihood be adversely affected.

PROBLEM AND PROPOSED SOLUTIONS

In response, the board of directors has decided that the company must emphasize two conflicting goals: increase the number of new drugs brought to market and cut back on the workforce in anticipation of rising labor and marketing costs and declining revenues. Accordingly, Dr. Wilson has been instructed to cut costs significantly and to reduce his workforce by 15 percent over the next six months.

Dr. Wilson called a meeting with his management team to discuss the workforce reduction. One of his managers, Leashia Harmon, argued that the layoffs should be made "so that recent gains in minority hiring are not wiped out." The percentage of minority employees had increased from 2.7 percent eight years ago to 8.3 percent in the previous year (see Figure 2-3). The minority population in communities in which Pharmakon has major facilities has remained over the years at approximately 23 percent. About 20 percent of the RD&M workforce have a Ph.D. in a physical science or in pharmacology, and another 3 percent have an M.D.

Dr. Harmon, a Ph.D. in pharmacology and head of clinical studies, is the only minority on Dr. Wilson's seven-member management team. Dr. Harmon argued that RD&M has worked long and hard to increase minority employment and has been a leader in promoting Pharmakon's affirmative action plan (see Figure 2-4). Therefore, she asserted, all layoffs should reflect this commitment, even if it meant disproportionate layoffs of nonminorities.

Dr. Anson Peake, another member of Dr. Wilson's management team and director of new products, argued that Pharmakon's RD&M division has never discharged a worker except for cause and should adhere as closely as possible to that policy by terminating individuals solely based on merit. Dr. Rachel Waugh, director of product development, pointed out that the enormous growth in employment over the past eight years—almost a trebling of the workforce—had made the company's employee performance evaluation system less than reliable. Consequently, she contended that because laying off 15 percent of her group would be extremely difficult and subjective, she preferred to follow a system of seniority.

Dr. Wilson immediately recognized that any system of reducing the workforce would be difficult to implement. Moreover, he was concerned about fairness to employees and maintaining the best qualified group to carry out the area's mission. He was very troubled by a merit or seniority system if it could not maintain the minority gains. In fact, he had even thought about the possibility of using this difficult situation to increase the percentage of minorities to bring it more in line with the minority percentage of the communities in which Pharmakon had major facilities.

ISSUES:

The **general issue** is the appropriateness of affirmative action in the private sector. Does the use of affirmative action when a company is downsizing differ from when a company is hiring or conferring other benefits?

The **specific issue** is how should Pharmakon implement its layoffs and what criteria should it use?

OPTIONS: Layoffs and/or terminations should be based on which one or combination of the following?

1) Cause
2) Merit based on a newly established, reliable, and valid evaluation system
3) Seniority
4) Proportionate (maintain the current percentage of minority employees)
5) Enhancement of minority (increase the percentage of minorities)
6) Encourage voluntary retirement (either with or without incentives)
7) Lottery
8) Pay cuts across the board
9) Other

ANALYSIS OF THE VARIOUS OPTIONS:

How does each of the options impact the following goals of Pharmakon?

1) Productivity
2) Fiscal soundness
3) Minority presence and preservation of minority gains
4) Employee morale
5) Potential for lawsuits
6) Public and community reaction
7) Shareholder reaction
8) Balancing of rights of current employees against past corporate/societal discrimination

DECISION:

Have students justify their recommendations.

ADDITIONAL DISCUSSION:

- **Affirmative Action**: Discuss the benefits and costs of affirmative action.
- **Diversity**: How does one place a value on diversity? How should a diversity policy be implemented?
- **Equality**: How is equality determined—by outcome or by opportunity?
- **Political Correctness**: What is political correctness? Is it appropriate? Is it relevant to the issues raised in Pharmakon?

CASE

Mykon's Dilemma

Jack Spratt, the newly appointed CEO of Mykon Pharmaceuticals, Inc., sat at his desk and scratched his head for the thousandth time that night. His friends never tired of telling him that unless he stopped this habit he would remove what little hair he had left. Nevertheless, he had good reason to be perplexed—the decisions he made would determine the future of the company and, literally, the life or death of thousands of people.

As a young, ambitious scientist, Spratt had gained international fame and considerable fortune while rising quickly through the ranks of the scientists at Mykon. After receiving a degree from the Executive MBA program at the Kenan-Flagler Business School, University of North Carolina at Chapel Hill, he assumed, in rapid succession, a number of administrative positions at the company, culminating in his appointment as CEO. But no one had told him that finding cures for previously incurable diseases would be fraught with moral dilemmas. Although it was 3:00 in the morning, Spratt remained at his desk, unable to stop thinking about his difficult choices. His preoccupation was made worse by the knowledge that pressure from governments and consumers would only increase each day he failed to reach a decision. This pressure had mounted relentlessly since the fateful day he announced that Mykon had discovered the cure for AIDS. But the cure brought with it a curse: there was not enough to go around.

COMPANY BACKGROUND

Mykon, a major international research-based pharmaceutical group, engages in the research, development, manufacture, and marketing of human health-care products for sale in both the prescription and over-the-counter (OTC) markets. The company's principal prescription medicines include a range of products in the following areas: antiviral, neuromuscular blocking, cardiovascular, anti-inflammatory, immunosuppressive, systemic antibacterial, and central nervous system. Mykon also manufactures other products such as muscle relaxants, antidepressants, anticonvulsants, and respiratory stimulants. In addition, the company markets drugs for the treatment of congestive heart failure and the prevention of organ rejection following transplant.

Mykon's OTC business primarily consists of cough and cold preparations and several topical antibiotics. The company seeks to expand its OTC business in various ways, including the reclassification of some of its prescription drugs to OTC status. Mykon's OTC sales represented 14 percent of the company's sales during last year.

Mykon has a long tradition of excellence in research and development (R&D). The company's expenditures on R&D for the last three financial years constituted 15 percent of its sales.

Mykon focuses its R&D on the following selected therapeutic areas, listed in descending order of expenditure amount: antivirals and other antibiotics, cardiovascular, central nervous system, anti-cancer, anti-inflammatory, respiratory, and neuromuscular.

Mykon sells its products internationally in more than 120 countries and has a significant presence in two of the largest pharmaceutical markets—the United States and Europe—and a growing presence in Japan. It generated approximately 43 percent and 35 percent of the company's sales from the previous year in the United States and Europe, respectively. The company sells essentially the same range of products throughout the world.

PRODUCTION

Mykon carries out most of its production in Rotterdam in the Netherlands and in Research Triangle Park, North Carolina, in the United States. The latter is the company's world headquarters. The company's manufacturing processes typically consist of three stages: the manufacture of active chemicals, the incorporation of these chemicals into products designed for use by the consumer, and packaging. The firm has an ongoing program of capital expenditure to provide up-to-date production facilities and relies on advanced technology, automation, and computerization of its manufacturing capability to help maintain its competitive position.

Production facilities are also located in ten other countries to meet the needs of local markets and to overcome legal restrictions on the importation of finished products. These facilities principally engage in product formulation and packaging, although plants in certain countries manufacture active chemicals. Last year, Mykon had more than 17,000 employees, 27 percent of whom were in the United States. Approximately 21 percent of Mykon's employees were engaged in R&D, largely in the Netherlands and the United States. Although unions represent a number of the firm's employees, the firm has not experienced any significant labor disputes in recent years, and it considers its employee relations to be good.

RESEARCH AND DEVELOPMENT

In the pharmaceutical industry, R&D is both expensive and prolonged, entailing considerable uncertainty. The process of producing a commercial drug typically takes between eight and twelve years as it proceeds from discovery through development to regulatory approval and finally to the product launch. No assurance exists that new compounds will survive the development process or obtain the requisite regulatory approvals. In addition, research conducted by other pharmaceutical companies may lead at any time to the introduction of competing or improved treatments.

Last year Mykon incurred approximately 95 percent of its R&D expenditures in the Netherlands and the United States. Figure 2-5 sets out the firm's annual expenditure on R&D in dollars and as a percentage of sales for each of the last three financial years.

JACK SPRATT

Every society, every institution, every company, and most important, every individual should follow those precepts that society holds most dear. The pursuit of profits must be consistent with and subordinate to these ideals, the most important of which is the Golden Rule. To work for the betterment of humanity is the reason I became a scientist in the first place. As a child, Banting and Best were my heroes. I could think of no vocation that held greater promise to help mankind. Now that I am CEO I intend to have these beliefs included in our company's mission statement.

These sentiments, expressed by Jack Spratt in a newsmagazine interview, capture the intensity and drive that animate the man. None who knew him was surprised when he set out years ago—fueled by his prodigious energy, guided by his brilliant mind, and financed by Mykon—for the inner reaches of the Amazon Basin to find naturally occurring medicines. Spratt considered it to be his manifest destiny to discover the cure for some dread disease.

His search was not totally blind. Some years earlier, Frans Berger, a well-known but eccentric scientist, had written extensively about the variety of plant life and fungi that flourished in the jungles of the Bobonaza River region deep in the Amazon watershed. Although he spent twenty years there and discovered nothing of medical significance, the vast number and intriguing uniqueness of his specimens convinced Spratt that it was just a matter of time before a major breakthrough would occur.

Spratt also had some scientific evidence. While working in Mykon's laboratory to finance his graduate education in biology and genetics, Spratt and his supervisors had noticed that several fungi could not only restore damaged skin but, when combined with synthetic polymers, had significant effects on internal cells. Several more years of scientific expeditions and investigations proved promising enough for Mykon to send Spratt and a twenty-person exploration team to the Amazon Basin for two years. Two years became five, and the enormous quantity of specimens sent back eventually took over an entire wing of the company's sizable laboratories in Research Triangle Park, North Carolina.

Upon Spratt's return, he headed up a group of Mykon scientists who examined the Amazonian fungi for pharmacological activity. After several years of promising beginnings and disappointing endings, they discovered that one fungus destroyed the recently identified virus HIV. Years later, the company managed to produce enough of the drug (code named Sprattalin) derived from the fungus to inform the Food and Drug Administration (FDA) that it was testing what appeared to be a cure for HIV. It was the happiest moment of Jack Spratt's life. The years of determined effort, not to mention the $800 million Mykon had invested, would now be more than fully rewarded.

Spratt's joy was short-lived, though. Public awareness of the drug quickly spread, and groups pressured the FDA to shorten or eliminate its normal approval process, which ordinarily takes more than seven years. People dying from the virus's effects demanded immediate access to the drug.

THE DRUG

Mirroring the insidiousness of HIV itself, the structure of Sprattalin is extraordinarily complex. Consequently, it takes four to seven months to produce a small quantity, only 25 percent of which is usable. It is expensive; each unit of Sprattalin costs Mykon $20,000 to produce. The projected dosage ranges from ten units for asymptomatic HIV-positive patients who have normal white blood cell counts to fifty units for patients with low white blood cell counts and full-blown AIDS. The drug appears to eliminate the virus from all patients regardless of their stage of the disease. However, it does not have any restorative effect on patients' compromised immune systems. Accordingly, it is expected that asymptomatic HIV-positive patients will revert to their normal life expectancies. It is not clear what the life expectancy will be of patients with full-blown AIDS, although it is almost certain that their life expectancy would be curtailed.

Supply of Sprattalin The company has estimated that the first two years of production would yield enough Sprattalin to cure 6 percent of all asymptomatic HIV-positive patients. Alternatively, the supply would be sufficient to treat 4 percent of all patients with full-blown AIDS. Children constitute 6 percent of all people living with HIV/AIDS. See Figures 2-6 and 2-7 for statistics on the HIV/AIDS epidemic.

Interested parties have argued that the solution to production problems is clear: build larger facilities. However, even with production levels as low as they are, the bottleneck in supply occurs elsewhere. The fungus on which the whole process depends is incredibly rare, growing only in two small regions near Jatun Molino, Ecuador, along the Bobonaza River. At current harvesting rates, scientists predict that all known deposits will be depleted in three years, and many of them insist that production should be scaled back to allow the fungus to regenerate itself.

Presently there are no known methods of cultivating the fungus in the laboratory. Apparently, the delicate ecology that allows it to exist in only one region of the earth is somehow distressed enough by either transport or lab conditions to render it unable to grow and produce the drug's precursor. Scientists are feverishly trying to discover those factors that will support successful culture. However, with limited quantities of the starting material and most of that pressured into production, the company has enjoyed no success in this endeavor. Because of Sprattalin's complexity, attempts to synthesize the drug have failed completely, mainly because, like aspirin, it is not known how the drug works; thus, Sprattalin's effectiveness remains shrouded in mystery.

Allocation of Sprattalin In response to the insufficient supply, a number of powerful consumer groups have made public their suggestions regarding the allocation of Sprattalin. One proposition advanced would use medical records to establish a waiting list of possible recipients based on the length of time they have been in treatment for the virus. The argument is that those people who have waited the longest and are most in danger of dying should be the first to find relief.

Other groups propose an opposite approach, arguing that because supply is so drastically short, Mykon should make Sprattalin available only to asymptomatic HIV patients. They require the least concentrations of the drug to become well, thus extending the drug's supply. They also have the greatest likelihood of returning to full life expectancies. Under this proposal, people who have full-blown AIDS would be ineligible for treatment. Such patients have previously come to terms with their impending mortality, have fewer psychological adjustments to make, and represent, on a dosage basis, two to five healthier patients. In meting the drug out in this manner, proponents argue, the drug can more readily meet the highest public health objectives to eradicate the virus and prevent further transmission.

Others propose that only patients who contracted the virus through no fault of their own should have priority. This approach would first make Sprattalin available to children who were born with the virus, hemophiliacs and others who got the virus from blood transfusions, rape victims, and health-care workers.

One member of Sprattalin's executive committee has suggested a free market approach: the drug should go to the highest bidder.

Pricing of Sprattalin In addition to supply problems, Mykon has also come under considerable criticism for its proposed pricing structure. Because of extraordinarily high development and production costs, the company has tentatively priced the drug at levels unattainable for most people afflicted with HIV. Perhaps never before in the history of medicine has the ability to pay been so starkly presented as those who can pay will live, while those who cannot will die.

Even at these prices, though, demand far exceeds supply. Jack Spratt and the rest of the Mykon executives predict that the company could easily sell available supplies at twice the proposed price.

A growing number of Mykon executives disagree with the passive stance the company has taken in pricing the product. In their view, a 20 percent markup represents a meager return for the prolonged risk and high levels of spending that the company incurred to develop the drug. Moreover, it leaves little surplus for future investment. Furthermore, eight years is too long to amortize the R&D expenses because Sprattalin, though the first, is unlikely to be the last anti-HIV drug, now that Mykon has blazed a path. Other, more heavily capitalized companies are racing to reverse engineer the drug, and the availability of competing drugs remains only a matter of time. Accordingly, the company cannot realistically count on an eight-year window of opportunity.

Foreign markets further exacerbate the pricing perplexity. Other countries, with less privatized health care, have already promised their citizens access to Sprattalin at any price. Some first world countries, for instance, are willing to pay up to $2 million per patient. They do not, however, wish to subsidize the drug for the United States. At the same time, some voices in the United States insist that supplies should go first to U.S. citizens.

On the other hand, countries with the most severe concentration of the HIV infection cannot afford to pay even Mykon's actual costs. Some regions in Africa and Asia have experienced rapid growth of the disease, reporting 50 percent to 80 percent of their population at some stage in the HIV cycle. Jack Spratt feels a very real moral obligation to help at least some of these people, whether they can pay or not.

MAKING THE DECISION

In the past few months, Jack Spratt had seen many aspects of the most important project in his life become not only public knowledge but also public domain. Because of the enormous social and political consequences of the discovery, it is unlikely that the government will allow Mykon to control the destiny of either Sprattalin or ultimately the company.

Addressing the public's concern over access to the drug while ensuring future prosperity of his company had become like walking a tightrope with strangers holding each end of the rope. He knew of no way to satisfy everyone. As Jack Spratt sat at his desk, sleep remained an eon away.

ISSUES:

1) Supply—How much fungus do you use immediately? How much do you conserve for future use?
2) Allocation—How should the drug be allocated?

3) Pricing—At what price should the drug be sold?

ALLOCATION OPTIONS — The drug should be distributed on which one or which combination of the following criteria?

1) Based on how long a patient has been seeking medical assistance
2) Triage system—those that are in the most desperate condition get the medication first
3) Only to asymptomatic HIV patients
4) Based on fault —give priority to less culpable victims
5) Free market—the highest bidders
6) Lottery—(a) charge everyone who enters the lottery with the winners receiving the drug without additional charge or (b) an open lottery with the winners receiving the right to purchase the drug
7) Based on patient's nationality— (a) by the percentage of the company's business in that country; (b) by the percentage of patients in that country, (c) by the percentage of the company's employees in that country, (d) by the percentage of stockholders in that country, or (e) by some other nationality-based criteria
8) Give priority to stockholders of the company
9) Give priority to citizens of the country in which the fungus grows
10) Relinquish the decision to a governmental or international body

PRICING OPTIONS —

1) Free market
2) Like any other new drug
3) Free—to all or to some patients
4) A healthy profit margin—that is, a profit higher than the industry norm

ANALYSIS OF THE VARIOUS OPTIONS:

How does each of the options impact the following goals and concerns?

1) Fairness—to patients, stockholders, US citizens, other nationals, those who cannot afford to pay
2) What can or should be done to prevent a black market in the drug?
3) Can and should a sufficient quantity of the fungus be preserved for future research?

DECISION:

Have the students justify their decision.

ADDITIONAL DISCUSSION:

- Can this case be decided without determining who lives and who dies?
- Who should make this type of decision: The company? A government? An international body?

CASE

Oliver Winery, Inc.

BACKGROUND

Paul Oliver, Sr., immigrated to the United States in 1930 from Greece. After working for several wineries, he started Oliver Winery, Inc., which eventually found a market niche in nonvarietal jug wines. Through mass-marketing techniques, the company established a substantial presence in this segment of the market. Ten years ago, Paul, Jr., joined the firm after receiving a degree in enology (the study of wine making). He convinced his father of the desirability of entering a different segment of the wine market: premium varietals. To do this, the company needed a large infusion of capital to purchase appropriate vineyards. Reluctantly, Paul, Sr., agreed to take the company public. The initial public offering succeeded, and 40 percent of the company's stock went into outsiders' hands. Also, for the first time, outsiders served on the board of directors. Although Paul, Jr., wanted to use a new name for the premium varietal to appeal to a more upscale market, his father insisted on using the name Oliver.

BOARD MEETING

The board of directors met, along with Janet Stabler, the director of marketing of Oliver Winery, Inc. In attendance were:

Paul Oliver, Sr., Chairman of the board and founder of the company

Paul Oliver, Jr., CEO, has an advanced degree in enology

Cyrus Abbott, CFO, has an MBA

Arlene Dale, comptroller, has a CPA with a master's degree in accounting

Raj Ray, COO, has a master's degree in industrial engineering

LaTasha Lane, VP Legal, has a J.D. degree

Elisabeth Constable, union representative to the board, has a GED degree

Rev. John W. Calvin, outside director, has a Doctor of Divinity degree

Carlos Menendez, outside director, has an MFA degree

Oliver, Sr.: *The next item on the agenda is a proposal to develop a new line of wines. Janet Stabler will briefly present the proposal.*

Stabler: *Thank you. The proposal is to enter the fortified wine market. It's the only type of wine in which unit sales are increasing. We'll make the wines cheaply and package them in pint bottles with screw-on caps. Our chief competitors are Canandaigua with Richard's Wild Irish Rose, Gallo with Thunderbird and Night Train Express, and Mogen David with MD 20/20. We'll market the wine with little or no media advertising by strategically sampling the product to targeted consumers. That's it in a nutshell.*

Oliver, Sr.: *Any questions before we vote?*

Menendez: *Who'll buy this wine?*

Calvin: *From what I know about consumers of your competitors, it appears to me that it's bought by homeless winos.*

Stabler: *Not entirely. For example, pensioners on a fixed income would find the price of the wine appealing. Thunderbird has been recently introduced into England and has become very popular with the yuppie crowd.*

Calvin: *Then why put it in pint bottles?*

Stabler: *For the convenience of consumers.*

Menendez: *Why would pensioners want a small bottle?*

Calvin: *Homeless people want it in pints so they can fit it in their hip pockets. They obviously don't have a wine cellar to lay away their favorite bottles of Mad Dog.*

Stabler: *The pint size also keeps the price as low as possible.*

Calvin: *Translation: The homeless don't have to panhandle as long before they can make a purchase. Also, why would you increase the alcoholic content to 18 percent and make it so sweet if it weren't for the wino market?*

Stabler: *Many people like sweet dessert wines and 18 percent is not that much more than other types of wines that have 12 percent alcohol.*

Menendez: *Is it legal?*

Lane: *Sure. We sell to the retailers. It may be against the law to sell to intoxicated persons, but that's the retailers' business. We cannot control what they do.*

Calvin: *Isn't this product intended for a perpetually intoxicated audience that many people consider to be ill? Wouldn't we be taking advantage of their illness by selling highly sugared alcohol that suppresses their appetite? I've spoken to drinkers who claim to live on a gallon of this type of product a day.*

Oliver, Jr.: *What will this do to our image? We're still trying to get our premium wines accepted.*

Stabler: *Of course we won't use the Oliver name on these wines. We will use another name.*

Menendez: *Is it OK to do that?*

Stabler: *Why not? Canandaigua, Gallo, and Mogen David all do the same thing. None of them put their corporate name on this low-end product.*

Abbott: *We're getting away from the crux of the matter. Profit margins would be at least 10 percent higher on this line than our others. Moreover, unit sales might increase over time. Our other lines are stagnant or decreasing. The public shareholders are grousing.*

Dale: *Not to mention that our stock options have become almost worthless. I'm only a few years from retirement. We need to increase the profitability of the company.*

Ray: *Operationally, this proposal is a great fit. We can use the grapes we reject from the premium line. It will also insulate us from bad grape years because any grape will do for this wine. We can fill a lot of our unused capacity.*

Constable: *And hire back some of the workers who were laid off!*

Stabler: *It's a marketing dream. Just give out some samples to "bell cows."*

Menendez: *What are bell cows?*

Stabler: *Opinion leaders who will induce other consumers to switch to our brand.*

Calvin: *You mean wino gurus?*

Oliver, Sr.: *Look, if we don't do it, others will. In fact, they already have.*

Abbott: *And they'll get richer, and we'll get poorer.*

Lane: *Gallo pulled out of several of these skid row markets as did Canandaigua. Little good it did. The alcoholics just switched to malt liquor, vodka, or anything they could get their hands on.*

Dale: *I think our concern is misplaced. These people are the dregs of society. They contribute nothing.*

Calvin: *They're human beings who need help. We're profiting off their misfortune and misery.*

Oliver, Sr.: *We can take that up when we decide on what charities to support. Anyone opposed to the proposal?*

Calvin: *Is this a done deal? I believe we should contribute half of our profits from this product to support homeless shelters and other programs that benefit indigent and homeless people. If not, I must resign from this board.*

SOURCES

Carrie Dolan, "Gallo Conducts Test to Placate Critics of Its Cheap Wine," The Wall Street Journal, June 16, 1989, p. B3.

Alix M. Freedman, "Winos and Thunderbird Are a Subject Gallo Doesn't Like to Discuss," The Wall Street Journal, February 25, 1988, p. 1.

Frank J. Prial, "Experiments by a Wine Maker Fails to Thwart Street Drunks," The New York Times, February 11, 1990, p. A29.

ISSUES

Should the company manufacture the new line of wine and, if so, under what conditions?

OPTIONS

1) Do not manufacture
2) Do not manufacture and try to prevent others from manufacturing this type of wine
3) Manufacture without company's name on the wine
4) Manufacture with company's name on the wine
5) Manufacture and invest a percentage of the profits in education or rehabilitation
6) Manufacture and put a warning on the bottle
7) Manufacture and refuse to sell in certain neighborhoods

ANALYSIS OF THE VARIOUS OPTIONS

How do these options affect the following stakeholders?

1) Oliver Winery
2) Habitual drinkers
3) Non-habitual drinkers
4) Retailers
5) Community

DECISION

Have the students justify their decision.

1) Does this decision differ from the decision of a company that is already producing the wine as to whether it should continue to manufacture or not?
2) Does this decision vary or differ between a privately held company and a publicly traded company?

ADDITIONAL DISCUSSION

1) What is the social responsibility of business?
2) What is the intent in this type of target marketing?
3) Is target marketing appropriate (a) in this case or (b) ever?
4) Should the Reverend resign?
5) If the company does not produce the wine, will the decision have any effect?
6) What would happen if *all* producers stopped producing this type of wine?
7) Does this situation differ from the sale of (a) Tobacco? (b) Guns, especially "Saturday night specials"? (c) Illegal drugs? (d) High cholesterol foods?

CASE

JLM, Inc.

BACKGROUND

Sitting in her office, Ellen Fulbright, director of human resources for JLM, Inc., thought over the decisions confronting her. To help her decide, she mentally reviewed how they had arisen.

After receiving her MBA and J.D. degrees from a highly regarded university, she joined a prestigious New York law firm where she specialized in employment law. After seven years at the law firm, she was hired by one of the firm's clients as general counsel. When that company was acquired by JLM, she joined its legal staff and within a few years had been promoted to her current position.

Fulbright's rapid advancement resulted from her having made a positive impression on Rasheed Raven, JLM's CEO. Raven is a hard-driving, bottom-line-oriented pragmatist in his early forties. Raven, a graduate of Howard University, had begun his business career on Wall Street, which he astounded with his aggressive but successful takeover strategies. After acquiring fifteen unrelated manufacturing companies, he decided to try his hand at the turnaround business. He organized JLM as an umbrella for his acquired companies. Soon he earned the reputation as the best in the business by transforming JLM into the leader in the industry.

JLM is a highly successful turnaround company. Typically, JLM purchases companies that are in serious financial trouble and manages them until they become successful companies. At that time, JLM either retains them in its own portfolio of companies or sells them off to other enterprises.

REFERENCE LETTER POLICY

About a year after Fulbright had become director of human resources (HR), Raven called her into his office and showed her a newspaper article. It reported, in somewhat sensational fashion, that several defamation suits had resulted in multimillion dollar judgments against companies that had written negative letters of references about former employees. Raven told her that he was concerned about this and that he wanted her to develop an HR policy covering letters of reference.

In researching the issue, she discovered several articles in which the authors decried the recent spate of companies that had decided to stop writing letters of reference. According to their data, they believed that these companies had overreacted to the actual risk posed by defamation suits. Based on these articles and her own inclination toward full disclosure, she proposed that the company continue to permit letters of reference but that all letters with negative comments must be reviewed by her.

Raven did not receive her proposal favorably and sought a second opinion from her old law firm. His analysis of the firm's advice was: "We get nothing but brownie points for writing reference letters, but we face the possibility of incurring the cost of a legal defense or, worse yet, a court judgment. This is a 'no-brainer.' We have no upside and all downside." Raven ordered that, henceforth, company employees would no longer write letters of reference but would simply verify dates of employment.

Although Fulbright was personally and professionally miffed by his decision, she drew up the policy statement as directed. Fulbright believed that because JLM frequently took over companies that needed immediate downsizing, this policy would be unfair and extremely detrimental to longtime employees of newly purchased companies.

TAKEOVER OF DIVERSIFIED MANUFACTURING, INC.

After a number of years of steady growth, Diversified Manufacturing began experiencing huge financial losses, and its immediate survival was in serious doubt. After careful consideration, Raven decided that Diversified was an ideal takeover target in that its core businesses were extremely strong and presented great long-term economic viability.

Upon acquiring Diversified, JLM quickly decided that it had to rid Diversified of some of its poorly performing companies and that it had to reduce the size of Diversified's home office staff by 25 percent. Raven relentlessly orchestrated the reduction in force, but at Fulbright's urging he provided the discharged executives with above-average severance packages, including excellent outplacement services.

THE PROBLEM

The reduction in force was disruptive and demoralizing in all the usual ways. But for Fulbright there was a further complication: the no-reference-letter policy. She was extremely troubled by its application to three discharged Diversified employees and to one discharged JLM employee.

The Salacious Sales Manager Soon after taking over Diversified, Fulbright became all too aware of the story of Ken Byrd, Diversified's then national sales manager. Ken is an affable man of fifty who had been an unusually effective sales manager. Throughout his career, his sales figures had always doubled those of his peers. He achieved rapid advancement despite a fatal flaw: he is an inveterate and indiscreet womanizer. He could not control his hands, which slapped backs so well, nor his tongue, which persuaded so eloquently. He had two approaches to women. With a woman of equal or superior rank in the company, he would politely, but inexorably, attempt to sweep her off her feet. With these women, he would be extremely charming and attentive, taking great care to avoid being offensive or harassing. In contrast, with a woman of subordinate rank, he would physically harass her. Less openly, but much too often, he would come up behind a woman, reach around her, and grab her. He invariably found this amusing—his victims, however, did not.

Fulbright could not believe that such a manager had stayed employed at Diversified so long, let alone been continually promoted to positions of greater responsibility and power. As Fulbright investigated the situation, she discovered that numerous sexual harassment complaints had been filed with Diversified concerning Byrd's behavior. To protect Byrd, Diversified dealt with these complaints by providing money and undeserved promotions to the complainants to smooth over their anger. Thus, Diversified successfully kept the complaints in-house and away from the courts and the Equal Employment Opportunity Commission.

After JLM's takeover of Diversified, Fulbright quickly discharged Byrd. Her satisfaction in getting rid of him was short-lived, however. His golden tongue and stellar sales record had landed him several job offers. Her dilemma was that she was uncomfortable about loosing this deviant on an unsuspecting new employer. But JLM's policy forbade her from writing any letters or answering questions from prospective employers.

The Fruitless Juice Melissa Cuthbertson had been a vice president in procurement for Diversified's Birch-Wood division with direct responsibility over the ordering of supplies and raw materials. Birch-Wood manufactured a full line of baby food products, including fruit juices that were labeled "100% fruit juice." To cut costs, Stanley Aker, the division's president, had arranged for an unscrupulous supplier to provide high-fructose corn syrup labeled as juice concentrate. Because standard testing in the industry was unable to detect the substitution, the company did not get caught. Emboldened, Aker gradually increased the proportion of corn syrup until there were only trace amounts of fruit juice left in the "juice." A company employee discovered the practice and after the takeover brought the matter to Fulbright's attention through JLM's internal whistle-blowing channel, which Fulbright had established. She referred the matter to Raven, who called in Aker and Cuthbertson and confronted them with the accusation. They admitted it all, explaining that nutritionally the corn syrup was equivalent to the fruit juice. But at 60 percent of the cost of fruit juice, the corn syrup made a big difference to the bottom line. Raven told them that such conduct was not permitted and that they must properly dispose of the adulterated juice.

That night Aker and Cuthbertson had the juice moved from Birch-Wood's New York warehouse and shipped to its Puerto Rico warehouse. Over the course of the next few days, the "juice" was sold in Latin America as "apple juice." Aker reported to Raven that the juice had been properly disposed of and that Birch-Wood had sustained only a small loss during that quarter. When Raven discovered the truth, he immediately discharged Aker and Cuthbertson, telling them "that if he had anything to do with it, neither of them would ever work again." Fulbright was to meet soon with Raven to discuss what should be done about Aker and Cuthbertson.

The Compassionate CFO Jackson Cobb, JLM's former chief financial officer, is a brilliant analyst. Through hard work he had earned an excellent education that honed his innate mathematical gifts. His natural curiosity led him to read widely, and this enabled him to bring disparate facts and concepts to bear on his often novel analyses of financial matters. But he had no interest in implementing his insights, for his only enjoyment was the process of discovering connections. Fortune—or fate—had brought him together with Raven, who is twenty years younger than Cobb. Theirs was definitely a case of opposites attracting. Raven cared little about ideas; he cared primarily about money. Cobb cared little about money; he cared primarily about ideas. Raven took Cobb's insights and translated them into action with spectacular success. Their relationship brought new meaning to the concept of synergy. When Raven formed JLM, he brought Cobb on as chief financial officer and installed him in an adjoining office.

Their relationship continued to flourish, as did JLM's bottom line, until Cobb's wife became terminally ill. During the eighteen months she languished, Cobb spent as much time as he could taking care of her. After forty years of marriage, he was unwilling to leave her welfare to the "kindness of strangers." At his own expense, he installed a state-of-the-art communication center in his home. By virtue of computers, modems, video cameras, faxes, copiers, mobile telephones, and the like, he had available to him the same data and information as he had at his office. He could be reached by telephone at all times. But he was not in the office next to Raven; he was not present at Raven's daily breakfast meetings; he was not on the corporate jet en route to business meetings. After their many years of working together, Raven was enraged at the loss of immediate access to Cobb. He felt that Cobb had betrayed him and demanded that Cobb resume his old working hours. Cobb refused, and Raven fired him. Because of his age, Cobb was experiencing difficulty in finding new employment, and Fulbright wanted to write a letter on his behalf.

ISSUES

The **general issue** is what policy should JLM adopt regarding letters of references.

The **specific issue** is what should JLM do about the particular individuals involved.

OPTIONS

1) Adopt a no reference policy
2) Adopt a policy that permits references to be written by certain specified employees
3) Allow references on a case by case basis
4) Permit references to be given
5) Provide (or not provide) references for each of the individuals involved
6) Allow employees to provide references as individuals but not as agents of the company

ANALYSIS OF THE VARIOUS OPTIONS

1) What is the rationale behind a no reference policy?
2) What is the rationale in favor of providing references?

3) What are the ethics of each of these policies? Is not providing references deception by silence?
4) Should states adopt laws to protect companies from tort liability (defamation) for providing references? Explain.
5) Should a company be held liable for negligent hiring? When?
6) Should the law enforce an employee's promise not to sue made in consideration of the employer's providing a letter of reference?
7) Who is harmed by no reference policies?
8) Should JLM provide references for the particular individuals involved in this case? Explain.
9) For whom are you most inclined to provide a reference? The least inclined? Explain.
10) What is the cost to JLM of each option? What is the cost to society in general?

DECISION

Have students justify their recommendations.

ADDITIONAL DISCUSSION

- **Employment at will**—Is it fair? Explain.
- **Right to lie**—Is it ever appropriate to lie in business? If so, when?
- **Society's responsibility—**Should there be laws regulating this area? Explain.

CASE

Sword Technology, Inc.

BACKGROUND

Sitting in his office, Stephen Hag, CEO of Sword Technology, Inc., contemplated the problems that had been perplexing him for some time. They had begun when he took his company international, and they kept coming. But today he was no more successful in devising a solution than he had been previously. Slowly, his thoughts drifted to those early days years ago when he and his sister Marian started the company.

The company's first product was an investment newsletter stressing technical analysis in securities investing. A few years later, he developed what became a "killer app": a computer program that defines an entirely new market and through customer loyalty substantially dominates that market. His software program enabled investors to track their investments in stocks, bonds, and futures. By combining powerful analytical tools with an accessible graphical interface, it appealed to both professional and amateur investors. Moreover, it required users to download information from the company's database. With one of the most extensive databases and the cheapest downloading rates in the industry, the company soon controlled the U.S. market. Sword then went public through a highly successful IPO (an initial public offering of the company's common stock), and its stock is traded on the Nasdaq market. The company is required to file periodic reports with the Securities and Exchange Commission.

The company used cash from sales of software, online charges, and the IPO to try to enter the hardware side of the computer industry. It began manufacturing modems and other computer peripherals. A nagging problem, however, plagued the company's manufacturing efforts. Although Sword's modem could convert data more quickly and efficiently than most of its competitors, because of high labor costs it was unable to market its modem successfully. To reduce manufacturing costs, especially labor costs, the company decided to move its manufacturing facilities overseas. And that's when the trouble began.

Stephen's thoughts returned to the present. He reopened the folder labeled "Confidential: International Issues" and began perusing its contents.

TRANSFER PRICING

The first item he saw was an opinion letter from the company's tax attorney. It dealt with Excalibur Technology, the first overseas company Sword established. Excalibur, a wholly owned subsidiary of Sword, is incorporated in Tolemac, an emerging country with a rapidly growing economy. To encourage foreign investment, Tolemac taxes corporate profits at a significantly lower rate than the United States and other industrialized nations. Excalibur manufactures modems for Sword pursuant to a licensing agreement under which Excalibur pays Sword a royalty equal to a specified percentage of the modems' gross sales. Excalibur sells all of its output at a fair market price to Sword, which then markets the modems in the United States. Stephen had been closely involved in structuring this arrangement and had insisted on keeping the royalty rate low to minimize taxable income for Sword. Stephen reread the opinion letter:

> Section 482 of the Internal Revenue Code authorizes the Internal Revenue Service to allocate gross income, deductions, credits, and other common allowances among two or more organizations, trades, or businesses under common ownership or control whenever it determines that this action is necessary "in order to prevent evasion of taxes or clearly to reflect the income of any such organizations, trades, or businesses." IRS Regulation 1.482–2(e) governing the sale or trade of intangibles between related persons mandates an appropriate allocation to reflect the price that an

> unrelated party under the same circumstances would have paid, which normally includes profit to the seller. The Regulations provide four methods for determining an arm's-length price. In our opinion, under the only method applicable to the circumstances of Sword Technology, Inc., and Excalibur Technology, the royalty rate should be at least three times the current one. If the IRS were to reach the same conclusion, then the company would be liable for the taxes it underpaid because of the understatement of income. Moreover, the company would be liable for a penalty of either 20 percent or 40 percent of the tax deficiency, unless the company can show that it had reasonable cause and acted in good faith.

Stephen had spoken to the tax attorney at length and learned that the probability of an audit was about 10 percent and that many multinational companies play similar "games" with their transfer pricing. The attorney also told him that he believed that if the company were audited, there was at least a 90 percent probability that the IRS would agree with his conclusion and at least a 70 percent probability that it would impose a penalty. Because the dollar amount of the contingent tax liability was not an insignificant amount, Stephen had been concerned about it for the six weeks since he had received the letter.

CUSTOMS AND CUSTOMS

Soon after Excalibur had manufactured the first shipment of modems, a new problem arose: getting them out of Tolemac. It took far too long to clear customs, thus undermining their carefully planned just-in-time manufacturing schedules. Stephen hired a local export broker, who distributed cash gifts to customs officials. Miraculously, the clearance time shortened and manufacturing schedules were maintained. The export broker billed the company for his services and the amount of the cash gifts. Although the broker assured Stephen that such gifts were entirely customary, Stephen was not entirely comfortable with the practice.

THE THORN IN HIS SIDE

Tolemac was not Stephen's only problem. Six months after commencing operations in Tolemac, Sword began serious negotiations to enter the Liarg market. Liarg is an undeveloped country with a large population and a larger national debt. Previously, Sword had encountered great difficulties in exporting products to Liarg. Stephen's sister, Marian, COO of Sword, took on the challenge of establishing a Liarg presence.

They decided that setting up a manufacturing facility in Liarg would achieve two objectives: greater access to the Liarg marketplace and lower-cost modems. At first, the Liarg government insisted that Sword enter into a joint venture, with the government having a 51 percent interest. Sword was unwilling to invest in such an arrangement, countering with a proposal for a wholly owned subsidiary. Marian conducted extensive negotiations with the government, assisted by a Liarg consulting firm that specialized in lobbying governmental officials. As part of these negotiations, Sword made contributions to the reelection campaigns of key Liarg legislators who were opposed to wholly owned subsidiaries of foreign corporations. After the legislators' reelection, the negotiations quickly reached a successful conclusion. On closing the contract, Sword flew several Liarg officials and their wives to Lake Tahoe for a lavish three-day celebration. All of these expenses were reported in the company's financial statements as payments for legal and consulting fees.

Marian then hired an international engineering firm to help design the manufacturing plant. Two weeks later, they submitted plans for the plant and its operations that fully complied with Liarg regulations regarding worker health and safety as well as environmental protection. But, as Marian had explained to Stephen, the plant's design fell far short of complying with U.S. requirements. Marian noted that, under the proposed design, the workers would face exposure to moderately high levels of toxic chemicals and hazardous materials. The design also would degrade the water supply of nearby towns. However, the design would generate very significant savings in capital and operational costs as compared with the design used in their U.S. facility. Marian assured Stephen that all quality control systems were in place so the modems produced in this plant would be indistinguishable from their U.S. counterparts. Stephen and Marian have had long discussions about what to do about the plant.

Stephen then took from the folder an article that had appeared in a number of U.S. newspapers.

Children and Chips

> *A twelve-year-old Liarg child recently spoke at an international conference in New York denouncing the exploitation of children in the Liarg computer chip industry. The child informed the outraged audience that he had worked in such a plant from age four to age ten. He asserted that he was just one of many children who were so employed. He described the deplorable working conditions: poor ventilation, long hours, inadequate food, and substandard housing. The pay was low. But, because their families could not afford to keep them at home, the children were hired out to the factory owners, who especially wanted young children because their small fingers made them adept at many assembly processes.*

Stephen had read the article countless times, thinking about his own children. He knew that if they set up a plant in Liarg, they would have to buy chip components from Liarg suppliers. He also knew that there would be no way for Sword to ensure that the chips had not been made with child labor.

Another labor issue also troubled Stephen. Marian told him that she had met considerable resistance from the Liarg executives they had hired when she suggested that women should be hired at the supervisory level. They maintained that it was not done and would make it impossible to hire and control a satisfactory workforce at the plant. Moreover, they insisted on hiring their relatives as supervisors. When Marian protested this nepotism, they assured her that it was customary and asserted that they could not trust anyone not related to them.

TO OUTSOURCE OR NOT TO OUTSOURCE

Once again Stephen glanced over the cost data. Sword's labor costs for supporting its database services and hardware were eviscerating the company's profits. After racking his brain endlessly, he had concluded that wherever it made financial and strategic sense Sword should utilize business process outsourcing (BPO); that is, long-term contracting out of non-core business processes to an outside provider in order to lower costs and thereby increase shareholder value.

Stephen had examined a number of potential countries on the basis of many factors including time zone, communications infrastructure, technical training, English language skills of the workforce, and—most critically—costs. Liarg had emerged as the optimal choice. He anticipated reducing labor and associated overhead costs by 45 to 50 percent.

He planned to start by off-shoring half of the call center operations, soon to be followed by a third of the low-end software development such as maintenance and coding. Assuming all went as he envisioned, he expected to move offshore back-office operations and higher-level software development. As his imagination soared, he saw the potential to amplify the company's operations with round-the-clock development.

Stephen realized that embarking on this course would result in reducing the staffing at the company's U.S. call centers. He expected he could achieve some reductions through attrition and reassignment, but considerable layoffs would be necessary. He hoped that outsourcing the low-end software development would enable the company to redeploy its software developers to higher-level and more profitable assignments. Moreover, the recent rollback in the number of visas had resulted in difficulty in hiring sufficient numbers of software developers with the necessary skills. If Sword were to offshore back-office operations, Stephen expected an impact on current employees comparable to off-shoring the call centers.

On top of all these concerns had come a letter from the company's outside legal counsel regarding payments made to foreign officials.

Memorandum of Law

The Foreign Corrupt Practices Act makes it unlawful for any domestic company or any of its officers, directors, employees, or agents or its stockholders acting on its behalf to offer or give anything of value directly or indirectly to any foreign official, political party, or political official for the purpose of

1. influencing any act or decision of that person or party in his or its official capacity,
2. inducing an act or omission in violation of his or its lawful duty, or
3. inducing such person or party to use its influence to affect a decision of a foreign government in order to assist the domestic concern in obtaining or retaining business.

An offer or promise to make a prohibited payment is a violation even if the offer is not accepted or the promise is not performed. The 1988 amendments explicitly excluded facilitating or expediting payments made to expedite or secure the performance of routine governmental actions by a foreign official, political party, or party official. Routine governmental action does not include any decision by a foreign official regarding the award of new business or the continuation of old business. The amendments also added an affirmative defense for payments that are lawful under the written laws or regulations of the foreign official's country. Violations are punishable by fines of up to $2 million for companies; individuals may be fined a maximum of $100,000 or imprisoned up to five years, or both. Fines imposed upon individuals may not be paid directly or indirectly by the domestic company on whose behalf they acted. In addition, the courts may impose civil penalties of up to $16,000.

The statute also imposes internal control requirements on all reporting companies. Such companies must

1. make and keep books, records, and accounts, that in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; and
2. devise and maintain a system of internal controls that ensure that transactions are executed as authorized and recorded in conformity with generally accepted accounting principles, thereby establishing accountability with regard to assets and ensuring that access to those assets is permitted only with management's authorization.

Any person who knowingly circumvents or knowingly fails to implement a system of internal accounting controls or knowingly falsifies any book, record, or account is subject to criminal liability.

ISSUES

Should the company follow the legal and ethical practices of its home country or the legal and ethical practices of the host country?

SITUATION	DISCUSSION
Transfer Payments	• Is a cost/benefit analysis appropriate? • Is it significant that other companies do it?
Customs Expediting	Is it legal and ethical in home country? In host country? (Probably is *not* a violation of Foreign Corrupt Practices Act.)
Campaign Contributions	Is it legal and ethical in home country? In host country? (Probably *is* a violation of Foreign Corrupt Practices Act.)

Lake Tahoe	Is it legal and ethical in home country? In host country? (Probably *is* a violation of Foreign Corrupt Practices Act.)
Design of Plant	Is it legal and ethical in home country? In host country?
Child Labor	• Is it legal and ethical in home country? In host country? • Who is causing the harm? Does that matter? • Is a cost/benefit analysis appropriate?
Discrimination	• Is it legal and ethical in home country? In host country? • Is it fair?
Nepotism	• Is it legal and ethical in home country? In host country? • Is it fair?

DECISION

Have the students justify their decision.

ADDITIONAL DISCUSSION

- Does the decision whether to follow the home or host country's practice depend on the level of economic development of each country?
- Should a host country's practice be permissible if the home country would do the same if it were at the same economic stage as the host country?
- Are there moral minimums that must be satisfied in ***all*** countries? Are any of these moral minimums applicable to any of the ethical issues raised in this case?

CASE

Vulcan, Inc.

THE COMPANY

Vulcan, Inc. is a multinational *Fortune* 200 company engaging principally in the exploration for and extraction of minerals. It is listed on the New York Stock Exchange and has more than 615 million shares outstanding.

THE MEETING (MARCH 7)

On March 5, Stewart Myer, the company's CEO, personally telephoned Martha Bordeaux, the VP for finance; Lamont Johnson, the chief geologist; and Natasha Bylinski, the VP for acquisitions, to arrange a March 7 meeting at the Atlanta airport. He emphasized to each of them the need for the utmost secrecy, directing them to arrange their travel to Atlanta as a connection to other and different destinations. When they all arrived at the meeting room, Myer reemphasized the need for complete secrecy. He then asked Johnson to present his report.

THE REPORT

Johnson read his report:

> Over the past few years we have conducted extensive aerial geophysical surveys of the areas west of the Great Plains. These revealed numerous anomalies or extreme variations in the conductivity of rocks. One appeared particularly encouraging, so late last year we began a ground geophysical survey of the southwest portion of the Z segment in Montana. This survey confirmed the presence of anomalies. Accordingly, on January 14 we drilled some core samples and sent them to our lab. The results were so extraordinarily promising that on February 10 we obtained more core samples and had them chemically assayed. On February 25, we received the assay, which revealed an average mineral content of 1.17 percent copper and 8.6 percent zinc over 600 feet of the sample's 650-foot length.

Johnson then commented, "In my forty years in the business I have never seen such remarkable test results. On a scale of one to ten, this is an eleven."

THE REACTION

Bordeaux exclaimed, "Our stock price will go through the roof!" Bylinski retorted, "So will land prices!"

THE STRATEGY

Myer interrupted, "Look, we're not here to celebrate. There are a lot of better places to do that. We can't keep a lid on this for very long so we have to strike soon. We need to line up the right agents to acquire the land. We must fragment the acquisitions to keep the sellers in the dark. Most critical is maintaining absolute secrecy. No one else in the company must know this. I will decide who needs to know and I will tell them. It is your duty to the company to keep totally quiet. Now, let's discuss the acquisition plan."

When asked how he had managed to obtain core samples without tipping off the owners of the land, Johnson explained, "We pretended to be a motion picture company looking for locations to remake the movie *High Noon*. We drilled the samples in isolated areas and quickly filled the holes. To further cover our tracks we drilled some barren core samples from land we owned and hid the cores on our land."

THE PLAN

Bylinski outlined the plan to acquire the land. "We only own about 20 percent of the land we want and we have options on another 15 percent. However, we currently own none of the principal portion. So we have a lot of work to do. We will employ several agents to negotiate the purchases. We will instruct them not to disclose that they are acting for us. In fact, we will order them not to disclose they are acting for anyone. We need to acquire approximately twenty square miles of additional land."

Bordeaux asked, "What if the locals start getting curious?"

Myer replied, "I'll deal with that later if it arises."

STOCK OPTIONS

On March 15 Vulcan issued stock options at $23.50 per share to thirty of its executives including Myer, Bordeaux, Johnson, and Bylinski. At this time neither the stock option committee nor the board of directors had been informed of the strike or the pending land acquisition program.

THE RUMORS

While the land acquisition plan was nearing completion, rumors about a major strike by Vulcan began circulating throughout the business community. On the morning of March 20, Bordeaux read an account in a national newspaper reporting that ore samples had been sent out of Montana and inferring from that fact that Vulcan had made a rich strike. Bordeaux called Myer and told him about the article.

THE PRESS RELEASE

Myer prepared the following press release, which appeared in morning newspapers of general circulation on March 21:

> During the past few days the press has reported drilling activities by Vulcan and rumors of a substantial copper discovery. These reports greatly exaggerate. Vulcan has engaged in normal geophysical explorations throughout the West. We routinely send core samples to verify our visual examinations. Most of the areas drilled have been barren or marginal. When we have additional information we will issue a statement to shareholders and the public.

LAND ACQUIRED

On April 6 Vulcan completed its land acquisition program. It had employed seven different agents. In total, it had acquired thirty-seven parcels from twenty-two different sellers at prices ranging from $300 to $600 per acre. The land cost a total of approximately $6 million.

OFFICIAL ANNOUNCEMENT

At 10:00 A.M. on April 11, Myer released on behalf of Vulcan an official announcement of a strike in Montana containing at least 30 million tons of high-grade copper and zinc ore. The release appeared on the wire services at 10:30 A.M. The price of Vulcan stock shot up eleven points to $38 by the close of business that day and continued to rise, reaching a price of $56 on May 16. (Figures 2-8 and 2-9 show the price and volume of Vulcan stock.)

LOOSE LIPS

Prior to the April 11 official announcement, a number of people purchased Vulcan stock with knowledge of the mineral discovery. Some people also purchased land adjacent to Vulcan's holdings in Montana. These purchasers included the following:

The Vulcan Executives Myer, Bordeaux, Johnson, and Bylinski each purchased shares or calls on several occasions during this time period. See Figure 2-10 for a listing of their purchases.

The Eager Eavesdropper After leaving the March 7 meeting, Bordeaux and Bylinski went to the airport lounge to wait for their flights. They excitedly—and loudly—discussed what they had learned at the meeting. Several people overheard their remarks, and one of them, Rae Bodie, immediately called her broker and bought one thousand, five hundred shares of Vulcan stock. Ms. Bodie also purchased a large tract of land next to Vulcan's site in Montana for approximately $600 per acre.

The Crestfallen Security Guard On March 9 Johnson went into the home office very early to finish up the exploratory work on the new find. At the elevator he encountered Celia Tidey, one of the company's security guards. Johnson knew her fairly well since they both had worked for Vulcan for more than fifteen years. Noting her despondent visage, Johnson asked her what was wrong. She related to him her tale of woe: her husband had become disabled and lost his job while her son needed an expensive medical procedure and their health insurance did not cover it. Johnson felt great empathy for her plight. He told her that big doings were afoot at Vulcan and that if she bought Vulcan stock soon she would make a lot of money in a month or so. She took her savings and bought two hundred shares of Vulcan stock, which were as many shares as she could buy.

The Avaricious Agent William Baggio, one of the agents hired to acquire the land, inferred that whatever was up had to be good for Vulcan. Accordingly, on March 21 he purchased two thousand, five hundred shares of Vulcan and five thousand acres of land adjacent to the Vulcan property.

The Trusted Tippee On March 8, Myer called Theodore Griffey, his oldest and dearest friend. After getting Griffey to swear absolute confidentiality, Myer told him all the details of the strike. After hanging up the telephone, Griffey immediately purchased fifteen thousand shares of Vulcan stock. Griffey then told his father and sister about the land; both of them bought fifteen thousand shares.

The Scampering Stockbroker Morris Lynch, Myer's stockbroker, was intrigued by Myer's purchases of an unusually large volume of Vulcan shares. During the last two weeks of March he put a number of his other clients into Vulcan, telling them, "I've looked at this stock and it's good for you." About a dozen of his clients purchased a total of eight thousand shares.

THE LAND GRAB

After the official announcement on April 11, several of Vulcan's competitors began exploring the area and purchased large tracks of land, bidding up the price of land to $2,250 per acre. Both Bodie and Baggio sold their newly acquired land to Vulcan competitors at this higher price.

ISSUES

What circumstances constitute insider trading? Is it ethical to use non-disclosed agents to buy land for a price lower than its known (but undisclosed) value?

ACTION	DISCUSSION
Stock Options	Was it ethical to issue stock options to the executives who knew about the impending land acquisition and mineral strike?
Misleading Press Release	Although the press release issued in response to rumors was technically accurate, its downplaying of the situation is misleading. Is this a legal or ethical practice?
Land Acquisition	Is it legal and ethical to use multiple non-disclosed agents to mask the volume and value of land purchases in order to obtain land at a price lower than its actual value? Is it ethical to buy land at a low price, knowing its value is going to go up, then sell it at the elevated price?

Stock Purchase by Executives Who Know About Mineral Find	Is this insider trading?
Stock Purchase by Eavesdropper Who Does Not Know Executives	Is this insider trading?
Stock Purchase by Security Guard Who Gets Tip From Executive	Is this insider trading?
Stock Purchase by Agent Who Knows About Land Purchases	Is this insider trading?
Stock Purchase by Friends and Family of Executives Who Know About Mineral Find	Is this insider trading?
Stock Purchase by Stockbroker (and His Clients) Who Notices Other Unusual Purchases	Is this insider trading?

DECISION

Have the students justify their decision.

ADDITIONAL DISCUSSION

- Is there ever a time when it is ethical and legal to buy stocks based on insider information?

ANSWERS TO PROBLEMS

1. *You have an employee who has a chemical imbalance in the brain that causes him to be severely unstable. The medication that is available to deal with this schizophrenic condition is extremely powerful and decreases the taker's life span by one to two years for every year that the user takes it. You know that his doctors and family believe that it is in his best interest to take the medication. What course of action should you follow and why?*

Answer: ***Arguments Against Social Responsibility***. This question illustrates one scenario where arguments against corporate social responsibility could come into play. If you take the "anti-social responsibility" position that a corporation has -- as its primary objective -- a fundamental responsibility to maximize profits, the employer could make the medication a requirement for the employee to remain in the workforce. It could be argued that this decision may also decrease the possibility of injury or deterioration in working conditions for other employees. The other side of the argument, however, is that this type of decision is too personal for a corporation to make. The ultimate determination should reside with the employee and it should be his free decision to take or not take the medication. This puts the responsibility back where it belongs, on the employee and his family.

2. *You have a very shy employee who is from another country. After a time, you notice that the quality of her performance is deteriorating rapidly. You find an appropriate time to speak with her and determine that she is extremely distraught. She tells you that her family has arranged a marriage for her and that she refuses to obey their contract. She further states to you that she is thinking about committing suicide. Two weeks later, after her poor performance continues, you determine that she is on the verge of a nervous breakdown; and once again she informs you that she is going to commit suicide. What should you do? Consider further that you can petition a court to have her involuntarily committed to a mental hospital. You know, however, that her family would consider such a commitment an extreme insult and that they might seek retribution. Does this prospect alter your decision?*

Answer: ***Arguments For Social Responsibility***. A good, responsible manager would be hard-pressed to demand that the employee either improve her on-the-job performance or face dismissal. However, initiating an involuntary committal to a mental hospital could constitute an improper invasion of rights with many legal repercussions. An interim step of providing appropriate psychological social counseling (perhaps at company expense) would seem to best fit into the concept of good corporate management. This would benefit not only the individual, but the corporation may be able to keep a valued employee. The cost of counseling is likely to be less expensive than hiring and training a new employee.

3. *You receive a telephone call from a company that you never do business with requesting a reference on one of your employees, Mary Sunshine. You believe that Mary is generally incompetent and would be delighted to see her take another job. You give her a glowing reference. Is this right? Explain.*

Answer: ***Utilitarianism***. Pawning off an incompetent employee would certainly help the profitability of an employer. However, relatively accurate referrals are expected, and good corporate citizenship would impose a moral responsibility to act properly. The employer would be better advised to give a more accurate, but not overly negative, description of Mary's job performance (while staying within the conditional privilege of avoiding a defamation action), rather than generate animosity and gain a reputation as a liar among other businesses in the area.

4. *You have just received a report suggesting that a chemical your company uses in its manufacturing process is very dangerous. You have not read the report, but you are generally aware of its contents. You believe that the chemical can be replaced fairly easily, but that if word gets out, panic may set in among employees and community members. A reporter asks if you have seen the report, and you say no. Is your behavior right or wrong? Explain*

Answer: ***Utilitarianism***. Weighing the arguments for profitability to shareholders and fairness to shareholders and employees against the arguments for good corporate citizenship and long-run profits, an appropriate response might be that you are aware of the report but haven't thoroughly read or studied it. Proceeding with a course that acknowledges (at least internally) past dangerous practices, while immediately correcting the current problems, and correcting future problems in a timely manner, may be an appropriate legal as well as moral response to this problem. This is one of the reasons many corporations have a corporate spokesperson to give appropriate and consistent responses.

5. *You and Joe Jones, your neighbor and friend, bought lottery tickets at the corner drugstore. While watching the lottery drawing on television with you that night, Joe leaped from the couch, waved his lottery ticket, and shouted, "I've got the winning number!" Suddenly, he clutched his chest, keeled over, and died on the spot. You are the only living person who knows that Joe, not you, bought the winning ticket. If you substitute his ticket for yours, no one will know of the switch, and you will be $10 million richer. Joe's only living relative is a rich aunt whom he despised. Will you switch his ticket for yours? Explain.*

Answer: ***Fundamentalism***. Perhaps an advocate of utilitarianism or social egalitarianism might feel that switching the ticket would be morally appropriate on the premise that it maximized pleasure and was an appropriate distribution of wealth. However, such a moral rationalization would demonstrate the flaws in both theories. There is no escaping the fact that switching the tickets would be improper under the law and most moral theories.

6. *Omega, Inc., a publicly held corporation, has assets of $100 million and annual earnings in the range of $13–$15 million. Omega owns three aluminum plants, which are profitable, and one plastics plant, which is losing $4 million a year. The plastics plant shows no sign of ever becoming profitable, because of its very high operating costs; and there is no evidence that the plant and the underlying real estate will increase in value. Omega decides to sell the plastics plant. The only bidder for the plant is Gold, who intends to use the plant for a new purpose, to introduce automation, and to replace all present employees. Would it be ethical for Omega to turn down Gold's bid and keep the plastics plant operating indefinitely, for the purpose of preserving the employees' jobs? Explain.*

Answer: ***Egalitarianism***. Indefinite maintenance of the plastics plant may strike one as being the morally correct thing to do. The moral basis for such a decision would be essentially egalitarianism where the wealth generated by many is redistributed to benefit others. However, as the basis for an economic system, such an approach may be doomed to ultimate failure in that it does not rectify anything and only prolongs a perhaps snowballing problem that could taint and impair the job security of everyone employed by Omega. If managerial and operational changes truly cannot rectify the net loss situation suffered by the plastics plant, sale of the plant to Gold may, in a broader context, be the morally correct thing to do.

7. *You are the sales manager of a two-year-old electronics firm. At times, the firm has seemed to be on the brink of failure, but recently has begun to be profitable. In large part, the profitability is due to the aggressive and talented sales force you have recruited. Two months ago, you hired Alice North, an honors graduate from State University who decided that she was tired of the research department and wanted to try sales.*

   Almost immediately after you sent Alice out for training with Brad West, your best salesman, he began reporting to you an unexpected turn of events. According to Brad, "Alice is terrific: she's confident, smooth, and persistent. Unfortunately, a lot of our buyers are good old boys who just aren't comfortable around young, bright women. Just last week, Hiram Jones, one of our biggest customers, told me that he simply won't continue to do business with 'young chicks' who think they invented the world. It's not that Alice is a know-it-all. She's not. It's just that these guys like to booze it up a bit, tell some off-color jokes, and then get down to business. Alice doesn't drink, and although she never objects to the jokes, it's clear she thinks they're offensive." Brad felt that several potential deals had fallen through "because the mood just wasn't right with Alice there." Brad added, "I don't like a lot of these guys' styles myself, but I go along to make the sales. I just don't think Alice is going to make it."

   When you call Alice in to discuss the situation, she concedes the accuracy of Brad's report, but indicates that she's not to blame and insists that she be kept on the job. You feel committed to equal opportunity, but do not want to jeopardize your company's ability to survive. What should you do?

Answer: ***Utilitarianism***. This is a common problem with a myriad of legal and moral implications. From a profitability standpoint, especially in the case of a company on the brink of economic failure, ignoring the requirements and whims of customers can amount to economic death. From a legal standpoint, the Equal Opportunity laws operate harshly against an employer that discriminates on the basis of sex or race in hiring and promotional activities. Employees are frequently aware of their rights, yet wishing to help the business of an employer and otherwise acting as a good "team player." A possible response might be (with the consent of Alice) attempting to divide sales accounts to give to Alice those accounts where her sex would be a neutral or perhaps positive factor, while retaining for Brad oversight of the "good old boy" accounts. Such an approach would acknowledge both her legal rights and her justifiable expectations while not undermining the profitability of a company whose very existence is at issue. Best utilization of employees is critical to any corporation, and this includes sensitivity to both the employees' needs and the customers' needs.

8. *Major Company subcontracted the development of part of a large technology system to Start-up Company, a small corporation specializing in custom computer systems. The contract, which was a major breakthrough for Start-up Company and crucial to its future, provided for an initial development fee and subsequent progress payments, as well as a final date for completion.*

   Start-up Company provided Major Company with periodic reports indicating that everything was on schedule. After several months, however, the status reports stopped coming, and the company missed delivery of the schematics, the second major milestone. As an in-house technical consultant for Major Company, you visited Start-up Company and found not only that they were far behind schedule but also that they had lied about their previous progress. Moreover, you determined that this slippage put the schedule for the entire project in severe jeopardy. The cause of Start-up's slippage was the removal of personnel from your project to work on short-term contracts in order to obtain money to meet the weekly payroll.

   Your company decided that you should stay at Start-up Company to monitor their work and to assist in the design of the project. After six weeks and some progress, Start-up is still way behind their delivery dates. Nonetheless, you are now familiar enough with the project to complete it in-house with Major's personnel.

   Start-up is still experiencing severe cash flow problems and repeatedly requests payment from Major. But your CEO, furious with Start-up's lies and deceptions, wishes to "bury" Start-up and finish the project using Major Company's internal resources. She knows that withholding payment to Start-up will put them out of business. What do you do? Explain.

Answer: ***Situational Ethics.*** We don't know if the development fee was ever paid to Start-up Company. Major had an obligation to pay the initial development fee. If it was paid, and Start-up did not produce the required progress reports then Major is correct to withhold payment. Situational ethics will come into play when you decide whether or not to give Start-up more time to complete the work. If the start-up fee was not paid, and it was Major's failure to pay on schedule that caused Start-up to divert their personnel, then Major needs to take some share of the blame. .

9. *A customer requested certain sophisticated tests on equipment he purchased from your factory. Such tests are very expensive and must be performed by a third party. The equipment was tested and met all of the industry standards, but showed anomalies that could not be explained.*

Though the problem appeared to be very minor, you decided to inspect the unit to try to understand the test data—a very expensive and time-consuming process. You informed the customer of this decision. A problem was found, but it was minor and was highly unlikely ever to cause the unit to fail. Rebuilding the equipment would be very expensive and time-consuming; moreover, notifying the customer that you were planning to rebuild the unit would also put your overall manufacturing procedures in question. Should you fix the problem, ship the equipment as is, or inform the customer? Explain.

Answer: ***Fundamentalism.*** You must inform the customer. The customer apparently has the right to request such testing and as such you have ethical responsibility to inform the customer of all factors. The ultimate decision should be made by the customer. However, you have the obligation to comply with the legal and governmental responsibilities within your industry.

10. *You are a project manager for a company making a major proposal to a Middle Eastern country. Your major competition is from Japan.*

(a) Your local agent, who is closely tied to a very influential sheik, would receive a 5 percent commission if the proposal were accepted. Near the date for decision the agent asks you for $150,000 to grease the skids so that your proposal is accepted. What do you do?

(b) What if, after you say no, the agent goes to your vice president, who provides the money? What do you do?

(c) Your overseas operation learns that most other foreign companies in this Middle Eastern location bolster their business by exchanging currency on the gray market. You discover that your division is twice as profitable as budgeted due to the amount of domestic currency you have received on the gray market. What do you do?

Answer: ***Ethical Theories.*** (a) This may cross the line from ethical to legal requirements. If this is not illegal, then applying the doctrine of ethical relativism, you must decide what is subjectively right for you. You also need to check the company code of conduct and any other applicable policy.

(b) Again applying the doctrine of ethical relativism, if you feel strongly enough you may have to quit your job or request a transfer to another division. If this activity is not legal you have the obligation to report it to your company's superiors.

(c) The Utilitarianism cost–benefit analysis will allow you to first quantify this in monetary terms and then compare the direct and indirect costs and benefits. This process may achieve the most profit but may ignore justice in the process.