

BBUS36090 PROFESSIONAL ETHICS (CS III)

2016 ETHICS DEBATE CASE STUDY DETAILS

You are required to read the following case study and consider the options available to Ken. You will be assigned a team and a position of arguing either for or against the following proposition according to the Rules of Debate.

Proposition: *The ethical thing for Ken to do is to report this practice to the auditors.*

DINKUM DRUGS DONATIONS

Ken was feeling uneasy. He had been for a while. The auditors were conducting their annual financial audit and as senior accountant of Dinkum Drugs Ken was responsible for preparing the financial information and answering their questions. They had begun enquiring about some foreign currency payments to an aid agency in Tretonia, a small corrupt nation facing drought and extreme poverty, which did not seem to have much in the way of supporting documentation.

Dinkum Drugs, an Australian pharmaceutical company, manufactures drugs for a variety of common illnesses and pain relief. Until three years ago they had a long history of being very successful, when an ugly incident marred their company reputation. It was discovered that the company had been illegally using immigrants in their Perth factory, exploiting them by paying well under minimum wages levels and requiring shifts of 12 hour days 6 days per week with no annual or sick leave. The moment a worker complained they were sacked or threatened with being reported to immigration authorities and deported. It goes without saying that their workplace health and safety left a lot to be desired.

Gemma, an assistant manager in the company HR department uncovered the illegal practices and initially reported them to the then CEO under whistle-blower provisions in the company code of conduct. The CEO did nothing and so Gemma reported the company to the Federal authorities, who also seemed to do nothing. After 12 months Gemma felt she could no longer stay with the company and left, also taking the story to the media, who did an undercover investigation and aired the story in prime-time viewing. The authorities became involved immediately and the company was fined, the then CEO sacked and imprisoned, and a number of other senior staff fired, including the HR Manager. Dinkum Drugs also implemented a company code of conduct following the HR scandal. The code was very specific that they would be leaders in HR, would not be involved in any form of bribery or corruption, and would be known as a company of integrity and an employer of choice.

The Board of Directors promoted Debbie Gardner, a divisional manager from New Zealand, to take over the company as CEO and restore its reputation as a wholesome company focused on family, healthy living and integrity. She was famous for her charitable work in NZ, being a patron of many high profile charities. The directors felt this would bode well for the company and greatly enhance its image with the public. So far the plan was working and the Company was slowly beginning to regain its lost market share and profits. Debbie was an attractive, 45 year old

woman who had broken through the glass ceiling and managed to combine a successful career with being a mother of three young children. Her husband, a former star rugby union player and now prominent human rights lawyer was very supportive and shared the parenting duties with Debbie. They made the ideal family and were regularly featured in magazines and newspapers. Although the company was growing and enjoying some success pressure was mounting from shareholders for dividends and the Directors were demanding Debbie find solutions and fast. They adjusted her remuneration package so that future bonuses were tied to profits and increasing share prices.

The company's long-standing Chief Financial Officer (CFO) Russell Jennings was known as being a rare breed of CFO, one who could not only manage the finances very well, but also treated people well. Everyone at the company liked Russell, and would do anything for him.

Russell worried about younger brother Darren, who was in need of a change. Darren had no real qualifications other than he worked hard and got along really well with people. Too well. Darren was continually lending money to other people, and rarely getting paid back. Consequently his money ran out very quickly, and with the mining boom coming to an end he had struggled to find regular employment and needed to support his young family. If Darren didn't find some sort of work soon, Russell knew he would be asked for help - again. Johnna, Russell's wife, had made it clear that enough was enough. There was to be no more help for Darren.

Drugs Without Borders (DWB), a new organisation just starting in Tretonia, specialised in obtaining donated drugs from pharmaceutical companies and distributing them to clinics and hospitals in regional areas that could not afford them otherwise. DWB were looking for someone to be in charge of getting the shipments from the wharfs and arranging transportation to the various places of need. While it was a "volunteer" position, DWB received funding from a number of governments based on the quantity of drugs dispersed to the regional areas in Tretonia. Consequently all "volunteers" were on a commission basis – if they can acquire donations for the program they get a percentage of the income. The more donations dispersed, the more commission they received.

Russell was confident he could get Dinkum Drugs involved with DWB, and suggested Darren apply for the vacant position at DWB. Russell knew there would be more than enough drugs shipped from DWB alone to provide sufficient support for Darren and his family. A quiet word at an industry function from Russell to the CEO of DWB ensured Darren got the job. Now

everyone was a winner – Darren had a job, DWB would receive plenty of drugs, and Russell could present a great idea to Debbie for the company to be involved in humanitarian work.

Russell put to Debbie the idea that their company be involved in donating drugs to DWB. He promoted that it would be seen as a positive contribution to poorer nations, and would enhance the company's image in the eyes of a suspicious public. Before talking with Debbie Russell ran the ideas past Belynda McGrath, the marketing manager. Belynda loved the concept and was an enthusiastic supporter. Between them they convinced Debbie to sign the company to the program, however Debbie put one condition - the drugs sent to Tretonia had to be just about at their use-by date and unable to be sold within Australia, so as to not impact on company profits. Debbie reasoned that the expiry date is arbitrary and there is probably at least a six-month safety margin built in. It sounded good to Russell and Belynda, as Debbie's the boss and knows what she is doing. A major promotional campaign was devised and implemented and in response, there was a modest rise in the company share price, which made Debbie even more supportive of the program.

The donation program had been underway for some time when Russell had a call from Darren asking for some money to be sent over to assist in the shipping. Russell was confused as he understood that all the shipping costs had been taken care of, and was a little suspicious when Darren said it needed to be cash. It took a bit of persuasion, but eventually Russell got the whole story out of Darren. Apparently Darren was not previously aware that in Tretonia it is customary to pay a little "tea money" in cash to the customs officials, local shipping agent and even the forklift driver in order for your shipment to be processed and delivered. It is, while technically bribery and thus illegal, a well-known practice to which the authorities seemingly turn a blind eye. Local incomes are so low in Tretonia that it is seen as a legitimate form of compensation for working for a pittance. Without such payments the shipments would sit on the wharf indefinitely and be no good to anyone, especially Darren, who was depending on the commission to support himself and his family.

Russell was annoyed his brother had not researched and discovered this before he took his entire family with him to Tretonia, and became very worried that to stop the program now would bring embarrassment to the company from which it may not recover. After sharing his concerns with Belynda they broached the subject very tentatively and vaguely with Debbie, who abruptly stopped them and said she did not want to know any more details. Her instructions were that whatever the problem is, it is too late now, just get the job done whatever it takes, and make sure none of this can come back to her personally. 'Plausible Deniability' is the term she used.

The company marketing campaign put together by Belynda was built around the company reinventing itself as being wholesome, family oriented, and based on integrity, represented by Debbie as the face and official voice of the company. The donation of the drugs was an integral part of this campaign, with extensive pictures and footage of Debbie and her family dispensing drugs to sick and impoverished children at recipient clinics in Tretonia. Russell and Belynda felt their only option was to press ahead with the campaign and try and disguise the nature of the payments.

Eventually Russell told Ken to process a series of payments to Darren, and to just trust him. Initially Ken accepted what Russell was saying, and processed the payments. But over time the payments grew in both size and amount, and he confronted Russell over what was going on. Russell explained the situation to Ken, stressing that if this ever got into the public domain the company would be finished, everyone would lose their jobs, and all those clinics and hospitals in Tretonia would no longer be supplied with the much needed drugs. Surely that would be a much bigger issue than a few “cashies” here and there to help out some poorly paid overseas officials to keep the shipments moving. After all, reasoned Russell, haven’t we all paid cash to a tradie every now and then for a plumbing or electrical job at home?

So now Ken, the company senior accountant and a prominent member of CPA Australia, is faced with a dilemma over how much to tell the auditors. As a member of CPA Australia he is bound by their professional and ethical standards, and is aware of the company code of conduct. He is also aware that when Gemma became a ‘whistle-blower’ she was the darling of the media until they began to look into her private life. They discovered that she had been having an affair with the married HR Manager, and only told the story after he broke off their relationship. Ken did not want that level of scrutiny on his private life. Gemma had also not been able to find alternative employment, as she became known as ‘The Dobber’ and no one in the industry trusted her anymore. Ken is getting close to retirement and could not afford to be unemployed at this stage of his life.

Ken is a very worried man.