



ANTI-INTIMIDATION
&
ETHICAL PRACTICES FORUM

An Ethical Dilemma: Business Case Study

Background

The case under consideration concerns ethical issues confronting Mr. T who works as a Risk and Compliance Manager at a fleet management company, ABC.


Mr. T's key role is not only to manage risk internally but with external stakeholders. He reports on his findings, makes recommendations as well as implement any controls or correcting measures to mitigate or eliminate the identified risks.

As a fleet management business, company ABC, serves approximately one thousand (1000) customers daily as well as provides vehicles to some state-owned businesses. Its agreement with the state-owned businesses includes key performance indicators (penalties) for non-performance or inefficient performance. These key performance indicators each have a value attached to them that is payable to the businesses at the end of each year. The company also faces a risk of losing its contracts should the penalties reach a certain level.

Company ABC has structured its bonuses and salary increments to be dependent on the overall key performance indicators. This includes the salary of Mr. T.

One of the state-owned entities (client) is short staffed and relies on Company ABC, to compile the key performance indicators and report on whether the company has complied with them or not.

Forum Partners: Association of Certified Fraud Examiners of SA (ACFE SA), Corruption Watch, The Ethics Institute, Institute of Directors of Southern Africa (IoDSA), Institute of Internal Auditors of South Africa (IIA SA), Institute of Risk Management of South Africa (IRMSA), South African Institute of Chartered Accountants (SAICA) and South African Institute of Professional Accountants (SAIPA).



Mr. T, therefore performs both roles of monitoring and managing the KPI's internally and on behalf of the client.

At year-end, Mr. T, whilst compiling the report, noticed that Company ABC, had a large bill of penalties due to the client. Because Mr. T, was solely responsible for compiling the report on his own without the client's input or review, it is easy for him to manipulate the report by reducing the number of incidents and value of penalties payable. Mr. T, made his superiors aware of the matter and they have requested that 'he does all he can do to reduce the company's liability.'

Ethical dilemma

The manipulation of the report is a practice called window dressing. This means playing with numbers which may eventually lead to fraud and loss of business for the company. Mr T is confronted with the following that will impact on his decision:

- a. If he does not manipulate the numbers, his superiors may not be pleased and blame him for the penalties, especially if they lose the contract. He may find himself a persona non grata in the company and may be victimised.
- b. If he does not manipulate the numbers, his salary increment and/or bonus may be effected.
- c. If he does manipulate the numbers his own integrity is at stake.
- d. He may have misread the "do all you can to reduce the company's liability" request to mean that he must manipulate the numbers, while the request was merely to ensure that the numbers are double checked, and in the process he may place the company at greater risk.
- e. If the manipulation comes to light, he has nothing to prove that he acted on instruction and would therefore be on his own should fraud charges be brought against him.
- f. Even if no charges are brought against him, a revelation of the tampering with the numbers could severely damage his reputation.



Options in addressing the dilemma

- a. Manipulate the numbers and hope that it does not backfire.
- b. Ask his superiors to clarify that their intention was for him to tamper with the numbers and ask whether they understand that they are asking him to place his own integrity at risk. Should they directly ask him to manipulate the numbers:
 - a. Follow the instruction and hope for the best.
 - b. Refuse to compromise his integrity and resign if it comes to that.
- c. Ignore what he understood to be the instruction and present the numbers as accurately as he can and deal with the potential fall out with his superiors.

Advice from the AEPF

It is much easier to find another job than it is to regain one's reputation or being able to sleep soundly once you have stepped over the line and compromised your integrity. Once you have done something wrong, you will always have to look over your shoulder and worry about someone revealing the truth, whether it is someone among your superiors who want to use that action against you at a later stage to get rid of you or to coerce you in doing something else that would be considered unethical, or whether the client conducts its own audit at a later stage and discover the fraud. Compromising on one's integrity is never worth it in the long run.

If your superiors are themselves are the problem and you are unable to effect change, even with reporting, you should consider resigning

The risk manager should always be aware of the threats that should be mitigated against and make a concerted effort to educate the business about how these threats could hurt the business when materialised. In this case the obvious threats are:

- Self-review threat



- Self-interest threat

- Intimidation threat

The following safeguards should be considered to mitigating against the threat materialising:

- Implementing policies and procedures that monitor the quality of services performed by the business monthly;
- Implement a policy that would prevent a situation where an individual whose performance and rewards are dependent on the key indicators is also the person who reports on the key indicators;
- Documenting and training staff on internal policies and procedures that ensure compliance with the clients' key performance indicators;
- Ethics training; and
- Timely communication of key findings to Superiors and affected departments for corrective measures to be put in place.