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THE CRIMINALS GUIDE TO STEALING A BUSINESS

Linda A. Bressler, University of Houston-Downtown

Martin S. Bressler, Southeastern Oklahoma State University

ABSTRACT

Increasingly, businesses are coming under financial attack by both employees and outsiders seeking to steal from the company or organization through fraud or embezzlement. Experts indicate that an increasing number of businesses fail due to criminal activities of others. In fact, the U.S. Chamber of Commerce reports that as many as 30% of business failures may be the result of criminal activity (U.S. Chamber of Commerce, 1995). According to the Bureau of Justice Statistics (2008), sixty-eight percent of the cyber-attack thefts resulted in a monetary loss of \$10,000 or more (Cybercrime against Businesses, 2008). In this study, the researchers will present a review of criminal activities facing businesses and present a model for businesses to use in the prevention and detection of criminal activity. In addition, the researchers will offer prescriptive measures to help reduce the financial impact of crimes committed against their business.

AN ANALYSIS OF CORPORATIONS' EFFORTS TO STOP HUMAN TRAFFICKING

Katherine Taken Smith, Murray State University

ABSTRACT

A new concern is beginning to gain notoriety in society, and, thus, emerging as an issue about which businesses should be concerned. The issue is human trafficking, also referred to as slavery. There are almost 30 million slaves around the world today. The fact that human trafficking is a 32 billion dollar business indicates either indifference for human rights, or an ignorance of the injustice occurring. Companies exercise social responsibility by not tolerating human trafficking within their business operations and business relationships. The purpose of this paper is to examine the extent to which companies are involved in combating human trafficking. Data for the study were collected from all the Fortune 500 companies. Findings indicate that companies can do more, as only 31 percent of companies are addressing the problem of human trafficking.

Key Words: Human trafficking, Slavery, Corporate social responsibility, Human rights, Code of ethics

THE NCAA DEATH PENALTY: A REVIEW OF LEGAL AND BUSINESS IMPLICATIONS

Angela J. Grube, Western Carolina University
Shea R. Browning, Western Carolina University
Dan P. Grube, Western Carolina University

ABSTRACT

In the wake of the recent sanctions levied against The Pennsylvania State University (Penn State) by the National Collegiate Athletic Association (NCAA), the NCAA's "Death Penalty" is again on the minds of all who follow intercollegiate athletics. In this paper, the authors explore the potential issues that may affect a school that has had a sport prohibited from some or all outside competition. The authors have reviewed available conference affiliation agreements; conference media rights agreements; team competition contracts; employment agreements; and other agreements as relevant. Additionally, the authors have experience working with many of the agreements and relationships listed. The purpose of this paper is to broadly examine the legal issues and practical business ramifications that would ensue should the NCAA mandate that a major sport program cease operation for a period of time.

NEW CONCERNS IN ELECTRONIC EMPLOYEE MONITORING: HAVE YOU CHECKED YOUR POLICIES LATELY?

**Janet C. Ford, Western Carolina University
Lorrie Willey, Western Carolina University
Barbara Jo White, Western Carolina University**

ABSTRACT

Employee monitoring is a significant component of employers' efforts to maintain employee productivity and, to a great extent, the means by which to avoid legal liabilities and business injuries which stem from employee misconduct. From sexual harassment to commercial disparagement, employers must guard against employee injury to third parties, inside or outside of the workplace. Moreover, disgruntled employees can expose valuable business trade secrets or engage in corporate espionage or sabotage.

Developing technologies allow for extensive monitoring with video, phones, internet, social media and other devices with which employee behaviors can be tracked. If an employer goes too far, or not far enough, to identify and prevent employee misconduct, the legal consequences that could befall the employer are costly to both revenue and reputation. This balancing act, and the dilemma it creates, demonstrates the need for businesses to develop effective electronic monitoring policies. However, policies, once developed, need to be periodically reviewed to ensure compliance with evolving legal changes. For example, recent legal decisions from the National Labor Relations Board and emerging trends in state legislation regarding employee monitoring necessitate review of employee monitoring policies.

SUSTAINABILITY IS APPLIED ETHICS

Sharon Seay, University of West Georgia

ABSTRACT

This paper posits that sustainable management and accounting are in fact applied ethics. Some companies currently reporting on sustainability entitle their report as a “Good Citizenship Report.” Good citizenship, safeguarding the environment, giving back to the community, promoting workforce health and safety, and ‘doing the right thing’ are all examples of ethical behavior. Sustainability reporting focuses on corporate accountability or stewardship. Accounting as a profession has often been characterized as the watchdog of business, ensuring reporting that is fairly presented, reflecting economic reality. Accountants and auditors are bound by their professional code of ethical conduct to protect the public interest. Accountants and auditors are ethical detectives holding businesses to ethical standards of honesty, neutrality, completeness and representational faithfulness. So grounded, accounting is the provider of one of the essential checks and balances on commerce. This paper explores a holistic definition of sustainability as viewed through the lens of contemporary ethical theory, stakeholder theory, and accountability theory. The role of accounting and auditing as related to sustainability measurement and reporting is also examined. Accounting is often considered as applied ethics. Accountants and auditors are the gatekeepers of business ethics. Contemporary ethical models are applied to the accounting profession and to sustainability. This paper posits that sustainability is applied ethics. This paper contributes to the definition of sustainability, and to the literature relative to the integration of sustainable imperatives within the business entity and how to account for sustainable performance.

CAN A STATE BAN A REGULATED PROFESSION FROM PRACTICING A DISCREDITED TREATMENT ON MINORS WITHOUT VIOLATING THE FIRST AMENDMENT?

John W. Yeargain, Southeastern Louisiana University

ABSTRACT

California passed a statute (SB1172) which prohibited mental health practitioners from attempting to change the sexual orientation of minors. Two suits were filed by practitioners and joined in one by parents objecting to the ban under the First Amendment. One court granted the parents a preliminary injunction (Welch v. Brown). The other court refused the request to issue an injunction prohibiting the enforcement of the statute (Pickup v. Brown). The United States Ninth Circuit Court of Appeals affirmed Pickup and reversed Welch. When an en banc motion was presented, it was denied.

INTRODUCTION

The California legislature passed SB1172 to reflect a change by health care professional organizations as to the origins of sexual orientation. Formerly, homosexuality was regarded as a disease which could be cured by changing a person's sexual orientation from homosexual to heterosexual. Methods to cure this illness included inducing nausea, vomiting, or paralysis; electric shocks; or snapping a rubber band around the wrist when aroused by same-sex images. Beginning in 1973, homosexuality was removed by the health care profession as a disease. Today, mental health associations advocate positive approaches to sexual orientation such as coping with the effects of stress and stigma. However, a small number of mental health care providers continue to support sexual orientation change effort (SOCE) therapy (Pickup, 2014,12). It was some of these providers that filed suit challenging SB 1172 as an infringement on their First Amendment free speech rights.

PROCEDURE

The Welch trial court judge held that the First Amendment was applicable to SB 1172 and thus strict scrutiny was required in analyzing whether the statute restricted the practitioners' speech. Using this analysis, the court found that a statute banning the use of SOCE did impinge on that right and thus granted a preliminary injunction against enforcement of the statute. The

Pickup court held the First Amendment did not apply thereby requiring a rational basis test to see whether the statute was a reasonable regulation of the health care professions. Based on that analysis, the court refused to issue a preliminary injunction. Both cases were then appealed to the U.S. Ninth Circuit.

FREE SPEECH RIGHTS

The panel held that strict scrutiny was not required because SB 1172 did not regulate speech but only conduct. The statute did not prevent providers from advocating SOCE to the public, expressing their views to patients, administering SOCE to adults, referring minors to unlicensed counselors, such as religious figures, prevent religious figures from administering SOCE to children or adults, or prevent minors from seeking SOCE from providers in other states. Thus, the statute banned a conduct of treatment, but not a discussion of that treatment which was protected by the First Amendment. Under its police powers, California has authority to regulate licensed mental health providers' treatments that the legislature has declared harmful.

FREEDOM OF ASSOCIATION

The Pickup plaintiffs claimed that SB 1172 interfered with their right of freedom of association because the First Amendment protects their choices to maintain relationships between counselors and clients. The appellate court held the statute did not prevent health care providers and their clients from maintaining therapeutic relationships. It only forbade practices that seek to change a minor's sexual orientation.

PARENTS' FUNDAMENTAL RIGHTS

The Pickup plaintiffs believed SB 1172 interfered with their parental right to make health care decisions for their children. The court viewed the issue as whether parents' fundamental rights included the right to choose for their children a provider for a particular medical or mental health treatment that the state deemed harmful. While acknowledging parents' right to make decisions regarding the care, custody, and control of their minor children, the court noted states may require school attendance, impose curfew laws for minors, require compulsory vaccinations and may intervene when a parent refuses necessary medical treatment for a child.

DISSENTERS

Three out of twenty-six Ninth Circuit judges voted to hold an en banc review. They believed the court should have considered the First Amendment application on the ban and applied more rigorous scrutiny, even if doing so would not have changed the result. Judge O'Scannlain noted that he was on the majority side which upheld a federal felony conviction of a

man who falsely claimed to be a Medal of Honor holder. The Supreme Court later reversed the conviction in *U.S. v. Alvarez* holding federal statute violated the First Amendment protection of public speech because there were other ways to determine the truthfulness of Alvarez's claim, such as the public posting by the Department of Defense of a list of Medal of Honor recipients.

CONCLUSION

California is not the only state to ban sexual orientation change efforts. New Jersey has also banned gay conversion therapy for minors (Khorasanee, 2014). The plaintiffs have indicated that they plan to seek writs of certiorari from the Supreme Court.

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