

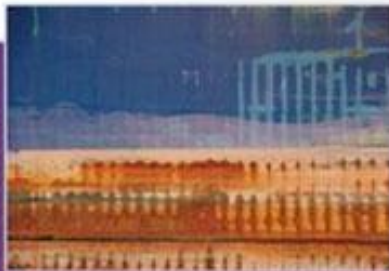
# TEST BANK

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SOUTH-WESTERN LEGAL STUDIES IN BUSINESS  
ACADEMIC SERIES

## LAW & ETHICS IN THE BUSINESS ENVIRONMENT

SIXTH EDITION



HALBERT | INGULLI

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# LAW & ETHICS IN THE BUSINESS ENVIRONMENT

## CHAPTER 2

### The Duty of Loyalty: Whistleblowing

#### Questions

1. Select the best definition of whistleblower:
  - a. the sole goal of modern ethics training
  - b. originated from the Latin "*qui tam pro domino rege quam pro sic ipso in hoc parte sequitur*" meaning "who as well for the king as for himself sues in this matter."
  - c. a narrow exception under the general rule of at-will employment
  - d. people who report unethical or illegal activities under the control of their employers

ANSWER: D

PAGE: 36

2. Under the legal doctrine of "employment at will" an employee can be lawfully terminated from her job for:
  - I. wearing a shirt that clashes with her suit
  - II. any non-discriminatory reason
  - III. complaining about illegal activity in the workplace
  - IV. only for good cause
  - a. a. I only
  - b. b. II only
  - c. c. I and II
  - d. d. III and IV

ANSWER: C

PAGE: 36

3. The Sarbanes Oxley Act was passed in response to:

- I. concerns that investors received full and complete information about potential corporate fraud
  - II. a lack of investor confidence
  - III. corporate scandals beginning with Enron
  - IV. discrimination against an employee when providing information she reasonably believes constitutes a violation of federal security laws
- a. I only
  - b. II only
  - c. I and II
  - d. I, II, III, IV

ANSWER: C

PAGE: 52

4. The Constitution does not always protect free-speech rights for what public employees say on the job. Which of the following is true?
- a. When a citizen enters government service, the citizen by necessity must not accept certain limitations on his or her freedom.
  - b. Citizens speak out on matters of public concern but not when they speak out in the course of their official duties.
  - c. Citizens cause an acceptable chilling of the speech of all potential whistleblowers.
  - d. None of the above

ANSWER: B

PAGE: 57

5. Exceptions to the rule of employment-at-will include which of the following?
- I. organization of unions
  - II. passage of Sarbanes Oxley Act
  - III. raising of public policy issues
  - IV. promise of implied-contract or covenant-of-good-faith

- a. I only
- b. II only
- c. I and II
- d. I, II, III, IV

ANSWER: D

PAGE: 40-41

6. Phoebe Claire was employed at will as an accountant for the Save the Government Foundation (SGF). While preparing the organization's 2007 tax returns she discovered a loan application that she believed contained lies representing the organization's financial condition. She called the FBI to report this situation and then went home for the weekend to calculate her recovery under the False Claims Act. After the FBI completed its investigation (but before revealing findings to the SGF), the executive director of SGF fired her for being incompetent. As it turns out, in her rush to complete the 2007 returns she read the "offending" information incorrectly and she was mistaken on all representations she made to the government. What result?
- a. Since her claim was false she can collect money from the federal government.
  - b. Her claims were unsupported and she cannot look to the False Claims Act for protection.
  - c. As a whistleblower she is entitled to back pay under the good-faith exception.
  - d. She must be reinstated since her discharge was in retaliation for assisting a federal investigation.

ANSWER: B

PAGE: 66

7. At the crux of a whistleblower's decision is the basic question of where loyalties lie.
- a. True
  - b. False

ANSWER: A

PAGE: 50

8. "Groupthink" is always to be trusted because the great number of people needed to come to one consensus is usually correct.

a. True

b. False

ANSWER: B

PAGE: 55

### Essay Questions

9. Given the information in the text, why is public policy towards whistleblowing an inconsistent issue?

ANSWER: It is an exception to employment-at-will developed simultaneously in different states, providing a variety of rules. Often states look to the courts for guidance; however, not all states recognize this tort at all.

PAGE 36

10. How was Sherron Watkins of Enron a typical whistleblower? An atypical whistleblower?

ANSWER: Ms. Watkins is typical of whistleblowers because she had knowledge of damaging information, and she disclosed it to her supervisor's superior. However, she was an atypical whistleblower because as an accountant, she had sufficient expertise to know that her corporation was possibly breaking the law and defrauding the public. Second, her disclosure to the president of the company did not lead to the type of investigation that was necessary to stop any wrongdoing. Her actions did not cause the immediate collapse of Enron. Third, even though she blew the whistle on her boss, she did not immediately get fired; in fact, she received praise for the action.

PAGE 50

11. Explain what happened in the 1968 Supreme Court's re-interpretation of the First Amendment to the U.S. Constitution regarding public employees' limited speech protections.

ANSWER: In 1968, the case of *Pickering v. Board of Education* addressed a public school teacher's criticism of the local school board. The Court weighed "the interests of the teacher, as a citizen, in commenting upon matters of public concern" against the State (a.k.a. the school board). The *Pickering* case gave public employees limited speech protection.

PAGE 56

12. Describe at least two other times since the *Pickering* decision in which the Supreme Court revisited the ruling. What were the outcomes?

ANSWER: In 1983, in *Connick v. Myers*, Ms. Myers had distributed a questionnaire at her place of employment. The circular not only addressed internal matters, but also matters of legitimate public concern, including pressure put on employees to work on political campaigns. The *Connick* court determined that the questionnaire had just enough public interest to be examined under the *Pickering* test, although a statement limited to internal matters would not be. Myers lost the case since the court demonstrated that her questionnaire interfered with working relationships in the workplace.

In 2006, Richard Ceballos, a deputy district attorney, supervised other lawyers in the DA's office. A defense attorney contacted Ceballos to tell him he would be challenging a search warrant because the warrant was based on "inaccuracies" in the supporting affidavit. Ceballos agreed to investigate. When he arrived at the scene in question, a "long driveway" was a separate road. Ceballos told his supervisors that the case should be dismissed because of the obvious misrepresentations in the affidavit. Ceballos was later reprimanded for this behavior, which in turn led to retaliations, reassignments, transfers, and denied promotion. He sued, claiming those actions violated his First Amendment rights. The Supreme Court Justices were divided in their opinions.

PAGE 57

13. What does Dworkin suggest in her essay are four activities any organization should implement for effective compliance behavior towards whistleblowing?

ANSWER: (1) Establish a written compliance program; (2) Train employees regarding compliance; (3) Establish a simple reporting procedure; and (4) Investigate and respond quickly to allegations.

PAGE 63