

Fraternization in Accounting Firms: A Case Study

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OVERVIEW

This case study sheds light on how to avoid risks caused by manager-subordinate dating relationships (fraternization) such as employee misunderstandings, retaliation charges, favoritism complaints, wrongful termination lawsuits, and sexual harassment lawsuits, as well as associated ethical risks. Risk avoidance can be accomplished through a better understanding of the pervasive guidance offered by judicial outcomes and typical accounting firm directives.

This case study can be used in the classroom to amplify the difficult issues that accompany fraternization in accounting firms. The authors estimate that classroom presentation and discussion of this case would require a minimum of 30 minutes of classroom time. Background information and inherent risks associated with fraternization are discussed. We conclude with practical steps to mitigate those risks.

FRATERNIZATION CASE

Facts

- Sam and Sally are peers in the same accounting firm and are scheduled on many of the same audit engagements. After working together for six weeks, they developed a romantic relationship outside the workplace.
- To maintain their privacy and avoid gossip, Sam and Sally agree to keep the personal relationship as low-key as possible and to refrain from publicly displaying affection at work. Sam and Sally are confident that the relationship is not well known within the group.
- In the fall, Sally is promoted. In Sally's new role, she manages Pat, Sam's senior, on several key audit engagements.
- Because Sally will not be directly managing Sam, she and Sam decide to continue to keep the relationship quiet. Both are certain that the relationship will not cause any issues within the audit team and that no conflicts of interest will occur. Sally is not directing or reviewing Sam's work at a detailed level, and they know they can maintain a purely professional relationship at work.
- The accounting firm maintains a non-fraternization policy.

Questions

1. What are the risks involved with maintaining Sam and Sally's relationship?
2. What are the chances that Sam and Sally are in violation of their accounting firm's non-fraternization policy?
3. What actions should be taken if Sam and Sally are in violation of their accounting firm's non-fraternization policy?

Summary Answers to Questions

1. *What are the risks involved with maintaining Sam and Sally's relationship?*

In addition to creating potential mistrust and perceptions of favoritism, the manager-subordinate dating relationship opens the door for lawsuits. While the inception of Sam and Sally's relationship seems to have gone smoothly, a break up, if one occurs, might involve bad will between Sam and Sally, which could open the door to litigation. For example, if Sally were to make unwelcome advances at the end of the relationship, Sam could easily generate a sexual harassment and retaliation lawsuit against Sally and the accounting firm.

2. *What are the chances that Sam and Sally are in violation of their accounting firm's non-fraternization policy?*

While most large accounting firms do not generally prohibit workplace dating, they do prohibit managers from pursuing romantic or sexual relationships with employees whom they supervise. Any amount of supervisory influence infers a supervisory role – even if an intermediary supervisor (such as Pat) exists. Therefore, the chances are very strong that both employees involved in this manager-subordinate dating relationship are in violation of firm guidelines - even if the relationship is completely consensual and not visible within the workplace. Continuing to maintain the relationship could subject both the manager and subordinate to disciplinary action, including termination. The longer the guideline violation continues, the more likely that discipline will occur.

3. *What actions should be taken if Sam and Sally are in violation of their accounting firm's non-fraternization policy?*

Sam and Sally need to take steps to immediately end the supervisory relationship. Steps should be taken to address the problem relationship proactively with upper-level management and the Human Resources Department. If the issue is addressed before the relationship has negatively impacted the workplace, most firms will generally work to modify the professional reporting relationship. Depending upon business needs and opportunities, the involved parties may be reassigned to different operational divisions. However, the subordinate is not legally required to move to a separate division (Keenan, 1995). The appropriate remedy might vary, but the underlying fact remains that the superior may not continue to supervise an individual with whom he or she is involved romantically.

BACKGROUND

Most accounting firms generally do not prohibit workplace dating. Since most accounting firm employees will spend more time interacting with colleagues than they will spend with people outside the firm, workplace dating and intimacy is a natural and likely outcome. However, most accounting firms prohibit managers from pursuing romantic/sexual relationships with employees whom they supervise. The notion of supervision extends to anyone within the manager's direct or indirect chain of supervision. Wilson, Filosa and Fennel (2003) contend that manager-subordinate dating relationships damage workgroup morale, create perceptions of favoritism, and can easily generate lawsuits for sexual harassment, retaliation and wrongful termination.

If the relationship ends, as most do, the subordinate may claim "quid pro quo" harassment. The subordinate can complain that he or she thought their job depended on the continuance of the relationship. Quid Pro Quo represents a form of harassment requiring a favor or interaction as a condition for employment, continuing employment, or in exchange for employment benefits (e.g., promotion, pay raise, etc.). According to Title VII of the Civil Rights Act of 1964, harassment is a specific type of discrimination. The Act prohibits conditioning employment or creating a hostile environment on the basis of race, color, religion, sex, national origin, ancestry, age, marital status, veteran status, sexual orientation, gender identity, or disability (Paul and Seeberger, 2001).

Three recent lawsuits involving UPS illustrate the hazards of manager-subordinate dating relationships:

Prestianni v. UPS.

Prestianni maintained a romantic relationship with a driver, Bob Kidd, whom she supervised. Co-workers noticed the relationship which quickly became the subject of office conversation. While the romantic relationship grew stronger, the work group's organizational health deteriorated. Several employees complained of favoritism by the supervisor toward the driver. When confronted by UPS management, Prestianni refused to end the relationship and was fired for violation of the UPS non-fraternization guideline. She then unsuccessfully sued UPS, claiming UPS had terminated her because of her gender. Lesson learned: manager-subordinate relationships inevitably cause mistrust and perceptions of favoritism that harm work group health and productivity.

Sanguinetti v. UPS

Sanguinetti pursued and then ended a relationship with a female subordinate, Marvel. Marvel continued to pursue the relationship, confronting Sanguinetti at his home and threatening to expose the relationship to UPS. Sanguinetti responded by complaining to UPS that Marvel was making unwelcome advances toward him. UPS terminated Sanguinetti's employment for violating the non-fraternization guideline. Sanguinetti then unsuccessfully sued UPS, claiming gender discrimination and retaliation for having taken a military leave. Lesson learned: costly legal conflict often results from manager-subordinate dating relationships.

Shumway v. UPS.

Shumway, a first line supervisor pursued a romantic relationship that was later broken off by her subordinate. When she persisted in pursuing him after the break up -- twice confronting him at his home -- her subordinate complained to management about Shumway's unwelcome advances and relational pressuring (e.g., sexual harassment). UPS terminated Shumway's employment and Shumway unsuccessfully sued to get her job back claiming gender-based discrimination in violation of Title VII of the Civil Rights Act of 1964. Lesson learned: a supervisor's unwelcome advances regardless of timing – whether in pursuit of, or at the end of a relationship – frequently generate sexual harassment claims/lawsuits against management.

Like UPS, most accounting firms prohibit supervisors from pursuing romantic relationships with subordinates. Most accounting firms have non-fraternization guidelines stating the following:

- Managers are not permitted to date or pursue romantic or sexual relationships with employees whom they supervise directly or indirectly.
- Employees who violate this guideline will be subject to discipline, up to and including termination.

PRACTICAL STEPS TO MITIGATE RISKS

- Review your company policies on fraternization to maintain currency.
- Require all managers/supervisors to periodically review your firm's fraternization guidelines and resolution procedures.
- Direct your human resources department to resolve any current fraternization issues outstanding.
- Address and resolve all new fraternization concerns immediately to lessen the chances of lawsuits.
- Investigate all complaints of favoritism, retaliation, wrongful termination, or sexual harassment for underlying signs of fraternization. Address all concerns immediately.
- Do not allow gossip to flourish and fuel unwarranted perceptions of favoritism that could, if uncontrolled, negatively impact your accounting firm.

REFERENCES

1. Wilson, R. J., W. R. Filosa, and A. Fennel. 2003. "Romantic relationships at work: does privacy trump the dating policy?" *Defense Counsel Journal*. 70 (1), 78-88.
2. Keenan, D. 1995. "A Good Working Relationship?" *Accountancy*. 116 (1227), 90.
3. Prestianni v. UPS. No. 96-2783, *US Court of Appeals for the Fourth Circuit*, 1998 U.S.
4. Sanguinetti v. UPS. Case No. 99-6235-CIV-RYSKAMP/VITUNAC, *US District Court for the Southern District of Florida, Northern Division*, 114 F. Supp. 2d 1313; 2000 U.S. Dist.
5. Seeberger, P. R. 2001. "Managing Reindeer Games: Coping With the Dilemmas of Superior-Subordinate Fraternization Outside the Workplace". *Review of Business*. 22(1/2), 9-14.
6. Shumway v. UPS. Docket No. 96-7911, *US Court of Appeals for the Second Circuit*, 118 F.3d 60; 1997 U.S. App.

Notes