

4.5: Case Studies

Fashionable



Source: Photo courtesy of Ralph Aichinger, <http://www.flickr.com/photos/sooperkuh/3275153928/>.

In her blog *Love This*, MJ (full name not provided) relates that she's been an aspiring clothes designer since she started sewing tops for her Barbie dolls. Things weren't going well, though, as she tries to break into the industry. One thing she notices is that there aren't a lot of female fashion designers out there—Vera Wang, Betsey Johnson, and a few more. Not many. So she starts trying to figure it out with questions like these:

- Do women want straight guy designers to dress them because they dress to please the men? It could make sense: what that designer likes, the man in her life is going to love too.
- Do women prefer gay men to dress them because gay men are their new girlfriends? Gay men are usually more receptive to trends and physical appearances too.
- Do women prefer women designers because she knows a woman's body better?
- Do men have the same issue? Do some men prefer a lesbian designer? Would they balk at being dressed by a gay designer? "Sexual Orientation in the Fashion Industry," *Love This!* (blog), accessed May 24, 2011, lovethis.wordpress.com/2007/07/28/sexual-orientation-in-the-fashion-industry.

? Exercise 4.5.1

1. Assume MJ is right when she hypothesizes that most women like straight male designers because straight guys are the ones they're trying to impress, so they want clothes straight guys like. Now imagine you've been put in charge of a new line of women's clothes. Your number one task: sales success. You've got five applicants for the job of designing the line. Of course you could just ask them all about their sexual orientation(s), but that might leave you open to a discrimination lawsuit. So could you devise a test for new applicants that's fair—that gives everyone an equal chance—but still meets your requirement of finding someone who produces clothes that straight guys get excited about?

2. Four standard filters for job applicants are

- education level,
- high-risk lifestyle,
- criminal record,
- flamboyant presence in social media.

Which of these might be used to winnow out applications for a job as a clothes designer? Explain in ethical terms.

3. MJ wonders whether women might prefer women designers because she knows a woman's body better. Is there a bona fide occupational qualification for a women's fashion company to hire only women designers? Is there a difference between a BFOQ based on sex and one based on sexual orientation?
4. MJ asks, "Do women prefer gay men to dress them because gay men are their new girlfriends?" Assume you think there's something to this. Could you design a few behavioral interview questions that test the applicants' ability to become girlfriends (in the sense that MJ means it) with their clients? Would these be ethically acceptable interviews, or do you believe there's something wrong and unfair about them?



Source: Photo courtesy of Geoff Stearns, <http://www.flickr.com/photos/tensafrogs/1523795/>.

The University of Charleston is a private, nonreligious institution with a very particular job opening: the Herchel and Elizabeth Sims “In God We Trust” Chair in Ethics. According to the job description, the successful candidate for this job as a professor “must embrace a belief in God and present moral and ethical values from a God-centered perspective.” Rob Capriccioso, “Divinely Inspired Bias?,” *Higher Ed*, March 1, 2006, accessed May 24, 2011, <http://www.insidehighered.com/news/2006/03/01/charleston>.

? Exercise 4.5.2

1. You’re in charge of getting applicants for this post and you’ve got a small advertising budget. What ethical responsibilities should you consider when determining where to place the ad? How broadly should you advertise the position?
2. According to Erwin Chemerinsky, a law professor at Duke University, “The description that ‘candidates must embrace a belief in God and present moral and ethical values from a God-centered perspective,’ violates the Civil Rights Act as religious discrimination in employment.” Rob Capriccioso, “Divinely Inspired Bias?,” *Higher Ed*, March 1, 2006, accessed May 24, 2011, <http://www.insidehighered.com/news/2006/03/01/charleston>. Imagine you’re in charge of every step of the process of filling this job. How could you respond in terms of
 - bona fide occupational qualifications (BFOQs),
 - testing,
 - interviewing?
3. You’re the university president. The person who currently holds the In God We Trust Professorship has, by all accounts, been doing a mediocre to poor (but not directly unacceptable) job. One day you happen to trip across the person’s blog page and notice that your professor claims to be a sadist and practices a mild form of devil worship (also, the prof’s favorite movie is *The Omen*). Right now the In God We Trust Professor of ethics is down the hall lecturing to seventy-five undergrads. You sneak to the door and listen from outside. The professor sounds just like always: dull and passionless, but the talk is about the Bible, and nothing’s being said that seems out of line with the job description. Still, you decide to terminate the relationship.
 - In a pure at-will working environment, you can just fire the professor. But imagine you want to demonstrate just cause. How does this change the way you approach the situation? What would your just causes be?
 - The professor’s classes are passionless because he doesn’t believe in what he’s teaching. Still, his teachings are not directly *wrong*. Does this case show why a manager may be ethically required in certain situations to implement a strategy of *rank and yank*? Explain.

Testing Baseball Players' DNA



Source: Photo courtesy of katkimchee, <http://www.flickr.com/photos/midwestkimchee/206762729/>.

The *New York Times* reports that there's a "huge difference between sixteen and nineteen years old," when you're talking about prospects for professional baseball. A kid whose skills knock your socks off for a sixteen-year-old just looks modestly good when he practices with nineteen-year-olds. Michael S. Schmidt and Alan Schwarz, "Baseball's Use of DNA Raises Questions," *New York Times*, July 21, 2009, accessed May 24, 2011, <http://www.nytimes.com/2009/07/22/sports/baseball/22dna.html?hp>.

This is a significant problem in the Dominican Republic, which produces excellent baseball players but little in the way of reliable paperwork proving who people really are and when they were born. The Cleveland Indians learned all about that when they gave a \$575,000 bonus to a seventeen-year-old Dominican named Jose Ozoria, only to later find out he was actually a twenty-year-old named Wally Bryan.

This and similar cases of misidentification explain why baseball teams are starting to apply genetic tests to the prospects they're scouting. Typically, the player is invited to provide a DNA sample from himself and his parents to confirm that he's no older than he claims. The player pays for the test and is reimbursed if the results show he was telling the truth.

? Exercise 4.5.3

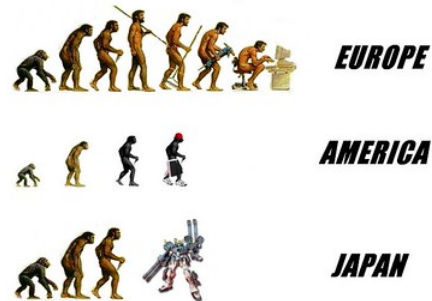
1. Many experts in genetics consider testing an unethical violation of personal privacy.
 - What does it mean to "violate personal privacy"?
 - Can a utilitarian argument (the greatest good for the greatest number should be sought) in favor of DNA testing in the Dominican Republic be mounted? What could it look like?
2. In the baseball world, other tests that clearly *are* allowed as part of the hiring process include testing a player's strength and speed. Is there anything in the fair application of these tests that may ethically allow—even require—that baseball teams extract DNA to confirm the age?
3. Assume you accept that testing a prospect's age is a bona fide occupational qualification (after all, the job is to be a *prospect*: a developing player, not an adult one). Once you accept that, how do you draw the line? Couldn't teams be tempted to use DNA facts for other purposes? The *Times* article interviews a coach who puts it this way:

I know [the baseball teams taking the DNA samples] are looking into trying to figure out susceptibility to injuries, things like that. If they come up with a test that shows someone's connective tissue is at a high risk of not holding up, can that be used? I don't know. Michael S. Schmidt and Alan Schwarz, "Baseball's Use of DNA Raises Questions," *New York Times*, July 21, 2009, accessed May 24, 2011, <http://www.nytimes.com/2009/07/22/sports/baseball/22dna.html?hp>.

Can you formulate an ethical argument in favor of teams secretly using DNA tests to do just that, check for as many yellow and red flags as possible in the young prospect's genetic code?
4. Baseball scouting—the job of hiring excellent future players and screening out mediocre ones—is very competitive. Those who do it well are paid well; those who don't are cycled out quickly to make room for someone else. You have the job, you have the DNA sample. What do you do? Why?
5. You decide to do the test in question four. The problem is people aren't trees; you can't age them just by counting genetic rings—you also need to do some cross-testing with the parents' DNA. You do that and run into a surprise: it turns out that the young prospect's father who's so proud of his athletic son isn't the biological dad. Now what?
 - Is there an argument here against DNA testing, period? What is it?
 - Remember, the family paid for the test. Do you have a responsibility to give them these results? Explain.

6. Lou Gehrig was the first athlete ever to appear on a box of Wheaties. From 1925 to 1939 he played for the Yankees in every game: 2,130 straight appearances, a record that lasted more than fifty years. He was voted into the baseball Hall of Fame in 1939. He died in 1941 from a genetic disorder—yes, Lou Gehrig’s disease—that today’s DNA tests would identify. Is there an ethical argument here against DNA testing of prospects or one in favor? Or is the argument about this more theoretical—should the rules be decided regardless of what has actually happened at some time or place? Explain.
7. In a different sport, the sprinter Caster Semenya won the world eight-hundred-meter challenge in 2009 with a time that few men could equal. She looked, in fact, vaguely like a man, which led the International Athletics Federation to run a genetic gender test. She is, it turns out, neither a woman nor a man; she’s a hermaphrodite: a little bit of both. Does the fact that genetic tests don’t always return clean, black-and-white results make their use less advisable from an ethical perspective? Why or why not?

Windfall at Goldman



Source: Photo courtesy of Manuel Cernuda, <http://www.flickr.com/photos/melkorcete/180238980/>.

Goldman Sachs is an expansive financial services company. Many clients are institutional: private companies and government organizations wanting to raise cash seek Goldman’s help in packaging and then selling stock or bonds. On the other side, private investors—wealthy individuals wanting to multiply their riches—receive a hearty welcome at Goldman because they have the cash to purchase those stocks and bonds. Ultimately, Goldman Sachs is a hub where large companies, governmental powers, and wealthy people come and do business together.

Executives at Goldman Sachs are among the world’s highest paid. According to a *New York Times* article, “At the center of Goldman’s lucrative compensation program is the partnership. Goldman’s partners are its highest executives and its biggest stars. Yet while Goldman is required to report compensation for its top officers, it releases very little information about this broader group, remaining tightlipped about even basic information like who is currently a partner.” Susanne Craig and Eric Dash, “Study Points to Windfall for Goldman Partners,” *New York Times*, January 18, 2011, accessed May 24, 2011, dealbook.nytimes.com/2011/01/18/study-points-to-windfall-for-goldman-partners/?hp.

The rest of the article investigates this shadowy partnership. The conclusions: “Goldman has almost 860 current and former partners. In the last 12 years, they have cashed out more than \$20 billion in Goldman shares and currently hold more than \$10 billion in Goldman stock.”

This tally of accumulated wealth in Goldman stock doesn’t even include the standard salary and cash bonuses the partners receive, but leaving that aside, here’s the math: \$30 billion divided by 860 divided by 12 should give some sense of the wealth each of these corporate stars is accumulating over the course of a year. To give a provisional idea of how large the number of dollars is here, when you try plugging \$30 billion into an iPhone calculator, you find the screen can’t even hold a number that long. Using a different calculator yields this result: \$2.9 million per partner every year.

The 2.9 million can be compared with the salary earned by the average American: \$50,000 a year. The Goldman partner gets that in less than a week. This huge money explains the clawing fight that goes on inside Goldman to become a partner. The odds are long. Each time the books are opened to admit a new class, only 1 of 330 Goldman employees makes the cut. It is, in the words of one former partner, “a very Darwinian, survival-of-the-fittest firm.”

In the public comments section of the *New York Times* story about Goldman, a person identified as GHP picks up on the firm’s characterization as a “Darwinian, survival-of-the-fittest” place. He wrote, “The French revolution was also very Darwinian, let’s give that a try.” During the French Revolution, the wealthy and powerful were rewarded with a trip to the guillotine.

Probably, GHP isn't just annoyed about how much money executives at Goldman make, he, like a lot of people, is peeved by the fact that the company was bailed out by the federal government during the 2008–9 financial crisis. Had the taxpayers (people making \$50,000) not kicked in, Goldman might've gone bankrupt, and all that money its partners accumulated in stock would've vanished. As it happens, the US government's bailout was masterminded by US Treasury Secretary Henry Paulson. His previous job was CEO (and partner) at Goldman.

? Exercise 4.5.4

1. Goldman is dominated by a “Darwinian, survival-of-the-fittest” mentality. What does that mean?
 - In ethical terms, how can this mentality be justified?
 - Would a company dominated by this mentality, whether it's Goldman or not, be more likely to announce job openings to a limited public, or as a massive public announcement? Why?
2. Describe the advantages of a “behavioral interview.” If you were in charge of hiring for a company seeking employees who flourish in a survival-of-the-fittest environment, what kind of question might you ask in a behavioral interview? Why?
3. One contributor to the *New York Times* comments section writes, “There are sure to be lots of pointed, angry posts about how unfair it is that these guys make so much money etc. But if we are honest, there is a fair amount of envy and pure remorse that we weren't bright enough to go down that path! And these guys are very bright.”

How could these comments be construed to explain why high wages and big bonuses are used by Goldman to motivate its workers? What is it that makes big money (or the possibility of big money) function as a powerful motivator to encourage employees to work hard and well? Ethically, how can this use of big money be justified?

4. One difference between offering an employee a wage increase and offering a bonus is that the latter doesn't come automatically the next year. The employee has to earn it from scratch all over again.
 - Why might managers at Goldman award their best workers with a bonus instead of a wage increase?
 - By appeal to an ethical theory, could you make the case that, in general, employees should be paid mainly through a bonus system? How would the theory work at two extremes: wealthy Goldman executives and waitresses at a corner diner?
5. Given the kind of work that's done at Goldman—bringing wealthy people and powerful organizations together to make deals—why might party aptitude (the ability to mix socially after hours) be considered when deciding who does and who doesn't make partner at Goldman? How could that decision be justified ethically? How could it be criticized ethically?
6. Make the case that in theoretical terms, managers at Goldman have an ethical responsibility to institute the process of rank and yank.

The Five O'Clock Club



Source: Photo courtesy of C.P. Storm, <http://www.flickr.com/photos/cpstorm/140115572/>.

A *Washington Post* story about firing employees relates that some companies use “the surgical method: terminations that last about 15 seconds, after which former employees are ushered off company property.” Eli Saslow, “The Art of Letting Employees Go,”

Washington Post, August 9, 2009, accessed May 24, 2011, www.washingtonpost.com/wp-dyn/content/article/2009/08/08/AR2009080802659.html?hpid=topnews.

It doesn't have to be that way, though. For about \$2,000 per fired employee, the outplacement company Five O'Clock Club will help employers manage the actual termination moment more compassionately. Later on, the fired worker receives a year of career coaching to help get back on track.

What does the Five O'Clock Club recommend managers do at the critical moment when giving the bad news? To answer, according to the *Post*, they offer a booklet titled *How to Terminate Employees While Respecting Human Dignity*, which "asks managers to approach layoffs with the understanding that, 'unlike facilities and equipment, humans have an intrinsic worth beyond their contribution to the organization.'" Eli Saslow, "The Art of Letting Employees Go," *Washington Post*, August 9, 2009, accessed May 24, 2011, www.washingtonpost.com/wp-dyn/content/article/2009/08/08/AR2009080802659.html?hpid=topnews.

Then some catchphrases are provided for managers to use:

- George, you've been a trooper. I'm sorry that this organization has moved in a different direction.
- George, you have made many good friends here. We hope those friendships will continue.
- George, you have made considerable and long-lasting contributions and they are acknowledged and appreciated. Eli Saslow, "The Art of Letting Employees Go," *Washington Post*, August 9, 2009, accessed May 24, 2011, www.washingtonpost.com/wp-dyn/content/article/2009/08/08/AR2009080802659.html?hpid=topnews.

Five O'Clock Club vice president Kim Hall—who downs a lot of Tylenol and coffee on the job—relates several other phrases that may be helpful:

- I know this is hard, but you'll get back on your feet.
- The timing could actually work in your favor. A lot of people take vacation in the summer. There's no competition for job hunters.
- Maybe this is a chance to begin your dream career. Follow your heart. Eli Saslow, "The Art of Letting Employees Go," *Washington Post*, August 9, 2009, accessed May 24, 2011, www.washingtonpost.com/wp-dyn/content/article/2009/08/08/AR2009080802659.html?hpid=topnews.

In sum, the Five O'Clock Club helps workers feel better when they're fired, and helps them get on with their lives. Meanwhile, employers get a hedge against lawsuits. The outplacement service, according to the Five O'Clock Club literature, "can redirect anger or anxiety away from the organization and...encourage the newly-fired to sign their severance agreements so they can get on with their lives." Eli Saslow, "The Art of Letting Employees Go," *Washington Post*, August 9, 2009, accessed May 24, 2011, www.washingtonpost.com/wp-dyn/content/article/2009/08/08/AR2009080802659.html?hpid=topnews.

? Exercise 4.5.5

1. The Five O'Clock Club charges \$2,000 per firing. If you were fired, would you prefer to receive the compassionate end the Five O'Clock Club provides, or just get shown the door but also get to keep that \$2,000 for yourself?
 - If you're the boss, do you have the right to decide this for the fired employee? Why or why not?
 - If you're the boss, do you have the *responsibility* to decide this for the fired employee? Why or why not?
2. According to the Five O'Clock Club, "Unlike facilities and equipment, humans have an intrinsic worth beyond their contribution to the organization."
 - Does this sound like utilitarian ethical thinking to you, or is it more in line with the notion of an ethics guided by basic duties and rights? Why?
 - Probably, everyone agrees that humans aren't just machines that can be installed and replaced. But can an ethical argument be made to *treat people in the workplace as machines*—that is, to abruptly hire them when they're useful and fire them when they're not? What ethical theory (or theories) could help you make the case?
3. In general terms, here are three firing situations:
 - an economic downturn (good workers are sacked because the company can't afford to keep them)
 - rank and yank (workers are fulfilling their duties but not as well as most of the others)
 - misbehavior (a worker is fired directly because of something done or not done)

Looking at these three contexts and the Five O'Clock Club, do you think their services should be hired in all three situations? Do the ethics of firing change depending on *why* the person is being fired? Explain.

4. Recall some of the Five O’Clock Club’s prepacked firing sentences:

- George, you’ve been a trooper. I’m sorry that this organization has moved in a different direction.
- George, you have made many good friends here. We hope....
- George, you...are acknowledged and appreciated.
- Maybe this is a chance to begin your dream career. Follow your heart.

The contrasting method of firing employees—the surgical method—is to look the person in the eye, say you’re fired, and have security march the ex-employee out the door, all in less than a minute.

- Is it possible to make the case that the surgical method is actually more compassionate and respectful?
- Is there a place for compassion in business? From a manager’s perspective, how should compassion be defined within a business context?

5. Maybe the Five O’Clock Club gets hired because a company really wants to help and support fired employees. *Or* maybe the company doesn’t really care about them; all they want is to avoid wrongful termination lawsuits. Ethically, does it matter *why* the company contracts the Five O’Clock Club? Explain.

This page titled [4.5: Case Studies](#) is shared under a [CC BY-SA 4.0](#) license and was authored, remixed, and/or curated by [Anonymous](#) via [source content](#) that was edited to the style and standards of the LibreTexts platform.

- [8.5: Case Studies](#) by Anonymous is licensed [CC BY-NC-SA 3.0](#). Original source: <https://2012books.lardbucket.org/books/business-ethics>.