

C. A Separate Hazmat Guideline Is Particularly Objectionable

ACC is especially opposed to the creation of a new guideline applicable only to hazardous materials. Entirely apart from the appropriateness or equities of the sentences that might be handed down under it, establishment of such a free-standing guideline would greatly complicate the job of organizations attempting to implement an effective compliance system. Presumably the separate guideline would have its own concept of such a system, and any business involved in hazardous materials transportation would then need to implement, and integrate, its generic organizational and hazmat Guidelines compliance programs. Even a business that does nothing but hazmat transport would need two compliance programs, one for its hazmat-regulated activities and one for the balance of its federally-regulated activities (e.g., tax, corporate, antitrust).

* * *

ACC appreciates this opportunity to comment on these two aspects of the instant notice. If you have any questions, please do not hesitate to contact the undersigned at 703-741-5166.

Sincerely,

James W. Conrad, Jr.
Counsel

Attachment A: Responsible Care Fact Sheet

Attachment B: Testimony of ACC in connection with the Commission's November 14, 2002 public meeting.

Fact Sheet

Responsible Care®

Contact: Lisa S. Grepps at 703-741-5842
2003

May 1,

SUMMARY

The chemical industry applies its tremendous knowledge and technologies to make life better, healthier and safer – not only in the products it manufactures, but in the processes by which it operates. For the past 15 years, the industry's Responsible Care initiative has guided the industry's performance by addressing issues that go beyond the bottom line and resonate on a personal level: the safety and well-being of employees and communities; enhanced security; environmental quality; and consumer protection. By focusing on these values, Responsible Care has elevated the chemical industry – greatly improving its environmental performance and making it the safest workplace in the United States. To follow through on its commitment to continuous performance, the chemical industry must regularly set new, more stringent goals for its performance. This year, ACC members considerably raised the bar for the industry by adopting a number of enhancements to Responsible Care.

DETAILS

Responsible Care continues to strengthen its commitments and enhance the public credibility of the industry. New program enhancements adopted by the American Chemistry Council as a condition of membership include:

- **A Responsible Care Management System (RCMS).** Responsible Care is moving beyond codes of management practices to achieve better EHS performance and obtain more business value for our members and partners. The RCMS replaces the current practice of applying six codes with a combined 106 management practices (e.g., community awareness and emergency response, distribution, employee health and safety, pollution prevention, process safety and product stewardship). Instead, relevant aspects of the existing codes are subsumed into a RCMS that is based on effective management practices of leading private sector companies, initiatives developed through the Global Environmental Management Initiative, International Standards Organization and other bodies, and requirements of national regulatory authorities. The framework for the RCMS includes such areas as Policy & Leadership; Planning; Implementation, Operation & Accountability; Performance Measurement & Corrective Action; and Management Systems Review.
- **Independent Third-Party Certification.** A credible, independent third party will certify that each Responsible Care company has a RCMS in place. The mandatory certification will be conducted at company/business group headquarters and chemical facilities on a regular cycle. The RCMS provides the framework and content for the identification and implementation of management systems elements that enable continuous improvement in all aspects of Responsible Care implementation.

- **Performance Measures.** Responsible Care has a set of uniform industry wide metrics to measure individual company and industry performance through the program. The measures will enable member and partner companies to identify areas for continuous improvement and provide a means for the public to track individual company and industry performance in an accessible and transparent way. The measures address performance across a broad range of issues including economics, environment, health, safety, security and products.
- **Security Code.** Safety is an inherent part of how the chemical industry does business. In fact, the industry's practices and procedures have made it the safest industry in the country. The Security Code is designed to help companies enhance this long-standing safety culture, safeguard their facilities and surrounding communities, and continuously improve their security performance. It provides a framework for companies to check potential vulnerabilities, act on them and have an independent third party verify that security enhancements have been made. Since the security of our companies, communities and nation is so critical, implementation of this code is mandatory for ACC members.
- **Responsible Care 14001.** The Responsible Care 14001 certification process combines ISO 14001 and Responsible Care and allows participating organizations to gain accredited certificates for both ISO 14001 Environmental Management Systems and Responsible Care Management Systems in a single audit. Responsible Care 14001 certification is an option for companies that may be required by customers or other parties to gain ISO 14001 certification, but want to also gain credit for their existing Responsible Care activities that go beyond the scope of an environmental management system such as occupational health and safety, product stewardship, community outreach and transportation safety activities.

STATEMENT OF JAMES W. CONRAD, JR., ESQ. FOR THE AMERICAN CHEMISTRY
COUNCIL TO THE ADVISORY GROUP ON ORGANIZATIONAL SENTENCING GUIDELINES
TO THE UNITED STATES SENTENCING COMMISSION
RELATED TO THE REVIEW OF CHAPTER EIGHT OF THE
U.S. SENTENCING GUIDELINES
NOVEMBER 14, 2002

Good morning, my name is James Conrad, counsel with the American Chemistry Council. On behalf of the Council, I thank you for the opportunity to testify today before the Advisory Group on Organizational Guidelines to the United States Sentencing Commission.

The American Chemistry Council represents the leading companies engaged in the business of chemistry. Council members apply the science of chemistry to make innovative products and services that make our lives better, healthier and safer. The business of chemistry is a \$460 billion-a-year enterprise and a vital part of our nation's economy. It is the nation's #1 exporting sector, accounting for 10 cents out of every dollar in U.S. exports. Chemistry companies invest more in research and development than any other industry.

The Council submitted written comments to the Advisory Group on May 16 and October 11 of this year. We have explained our views in some detail in these comments, including our responses to some of the specific questions posed by the Advisory Group. I would like to highlight some important principles for you today.

The Advisory Group has initiated the action called for by Congress in Sarbanes-Oxley.

In Section 805(a)(5) of the Sarbanes-Oxley Act of 2002, Congress directed the Commission to ensure that the *Guidelines* "are sufficient to deter and punish criminal misconduct." At least with respect to those elements of the *Guidelines* establishing the criteria for an effective compliance assurance program, the Advisory Group is already considering this question. Sarbanes-Oxley does not call for a separate or new review: you are simply ahead of schedule.

The *Guidelines* should continue to focus on criminal conduct in the context of criminal sentencing.

The Commission is charged with promulgating "detailed guidelines prescribing the appropriate sentences for offenders convicted of federal crimes." The courts use the *Guidelines* to sentence those convicted of crimes. The purpose of the *Guidelines*, therefore, is to "further the basic purposes of criminal punishment: deterrence, incapacitation, just punishment, and rehabilitation." The Commission should not stray from this mission. The *Guidelines* should not be expanded to address general issues of corporate social responsibility or ethics that are not governed by criminal laws or that are not directly relevant to criminal sentencing.

The Council's members strongly believe in ethical behavior and responsible social conduct. However, the Commission is tasked to address criminal conduct, not promulgate a code of ethics. Any suggested



Responsible Care®

changes to the *Guidelines* must be evaluated in the very serious criminal sentencing context in which the *Guidelines* are used.

The *Guidelines* should not be used to encourage organization to foster "ethical cultures" to ensure compliance with the "intent" of the law as opposed to "technical compliance." Our members certainly support ethical conduct by organizations, and recognize that encouraging organizations to create an "ethics infrastructure" that goes "beyond compliance" with criminal law is a laudable goal. However, that is not the function of the Sentencing Commission. Establishing criminal sentences based on ethical judgments would effectively be creating new federal crimes, a course of action that lies within the jurisdiction of Congress, not the Commission. The focus of the *Guidelines* should remain on systems that assure compliance with legal requirements, not ethics programs that may focus on important questions in a wider domain. This is particularly true given that there is no agreed-upon set of ethical criteria against which organizations can be measured and that can be the basis for setting criminal penalties.

Any changes to the *Guidelines* should be based on objective evidence and a demonstrable need for change.

Any suggested changes to the *Guidelines* should be based on facts, not theory. Thousands of organizations have invested significant resources implementing compliance systems based on the *Guidelines*. Yet, we are unaware of any actual data or other evidence in the public record showing deficiencies in the *Guidelines* that need correcting. On the contrary, as the Commission has noted, the "organizational guidelines have had a tremendous impact on the implementation of compliance and business ethics programs over the past ten years." The Advisory Group should follow the adage: "If it ain't broke, don't fix it." Material changes should only be considered after finding the *Guidelines* are flawed and that the user community is demanding changes.

Some may say that something must be done because of the alleged criminal activities and corporate governance scandals that currently are high-visibility issues. However, the mere existence of alleged illegal or unethical conduct in some organizations does not mean that the *Guidelines* were at fault or that changing the *Guidelines* would have produced a different result. Changes to the *Guidelines* should be based on objective evidence that the *Guidelines* have not established adequate criteria for effective compliance systems, not on general concerns about unethical conduct.

The *Guidelines* must remain flexible, practical and generally applicable to all organizations in all sectors.

The *Guidelines* currently offer the flexibility needed to allow organizations of all sizes and types to implement effective compliance programs. Any proposed changes to the *Guidelines* should take into account the small and medium-sized organizations that are the vast majority of U.S. businesses. This is not a theoretical concern. The Commission's statistics reveal that in FY 2000, some 87% of organizations sentenced under Chapter 8 had fewer than 200 employees, while approximately 65% of all sentenced organizations had fewer than 50. Whatever obstacles small and medium-sized businesses face will not be lessened by increasing the level of detail or complexity in the *Guidelines*. Further, attempting to create unique provisions in the *Guidelines* for small and medium-sized businesses would require the Sentencing Commission to be able to discern which obstacles are unique to such businesses

and to draw arbitrary lines between which businesses would “qualify” for any unique provisions and which would not.

The “best practices” developed by sophisticated companies, consulting firms or academia should not become the model for what all organizations must undertake. While smaller organizations should follow the *Guidelines*, they should not be potentially subject to greater criminal penalties if they cannot implement the “best practices” of large enterprises. Indeed, “raising the bar” might only serve to discourage organizations from implementing effective compliance assurance systems.

The *Guidelines* already provide sufficient guidance on designing, implementing or auditing compliance systems.

Some commenters have suggested that the *Guidelines* should include more detailed guidance on designing, implementing or auditing compliance systems. These suggestions, however well-intentioned, are misplaced. The *Guidelines* should remain generic and applicable to all organizations.

There is no evidence of a “market need” for the Commission to provide detailed implementation guidance. There has been a proliferation of sector-specific, public, private, national and international guidance documents and standards on compliance assurance, many of which we surveyed in our May 16 comments. This vast literature is already available to the user community. Indeed, it is not the function of the Commission to provide such general educational assistance through the *Guidelines*, since the failure of an organization to conform to the *Guidelines* can have direct implications in the criminal sentencing context.

Moreover, if the Commission were inclined to provide more detail on compliance programs, the practical impact of that effort must be carefully weighed. The available specific guidance on compliance programs continues to be refined and tailored to the needs of specific areas of regulation. For example, several Federal agencies have already developed sector-specific guidance or even regulations on compliance management systems. Adding detail to the *Organizational Guidelines* could create conflicts with these other efforts, leading to practical implementation problems.

The *Guidelines* do not need to provide more detail on “corporate governance.”

It is no secret that corporate governance is a significant topic of public interest, and that there are several major legislative and regulatory initiatives that are making significant changes to corporate governance. Not the least of these are the new requirements just created by Congress in the Sarbanes-Oxley Act of 2002 and are being implemented by various regulatory and self-regulatory bodies such as the Securities & Exchange Commission, the New York Stock Exchange and the National Association of Securities Dealers.

Adding specific corporate governance responsibilities in the *Guidelines* at this time could create conflicts with the flood of new requirements already being generated. For example, the *Guidelines* should not provide detail on the responsibilities of boards of directors or equivalent governance bodies in overseeing compliance programs. Not all organizations, particularly smaller ones, have such governance bodies, and the *Guidelines* already embody the principle that compliance programs should be supervised by “high level” personnel. Further, specifying the responsibilities of particular functions

associated with corporate governance (e.g., CEO or CFO), expanding the definitions of “high level personnel,” or providing additional comments on what is intended by “specific individual(s) within high-level personnel of the organization” would decrease the flexibility that is currently an outstanding feature of the *Guidelines*. These are all issues that are already topics of considerable federal legislative, regulatory and self-regulatory attention.

To provide one last example, more specificity on whistleblower protection is not necessary. We agree that whistleblowers must be completely protected from acts of retribution. However, the *Guidelines* already clearly state that internal reporting should be without fear of retribution. Further, many statutes already provide specific whistleblower protections. Adding more specific whistleblower provisions in the *Guidelines* might either create conflicts with existing substantive laws or be duplicative, or even create loopholes that might result in less protection.

It is not the function of the Sentencing Commission to create new corporate governance rules. That is properly the province of Congress and the numerous regulatory bodies that have been delegated the authority to promulgate and enforce regulations on this topic. The flurry of legislative and regulatory activity demonstrates that there is not a “gap” that the Commission must fill. As the legal requirements on corporate governance are revised and expanded, organizations that implement compliance assurance systems that conform to the criteria in the *Guidelines* will necessarily have to include those new requirements in their systems. Therefore, without any modification to the *Guidelines* themselves, any new corporate governance requirements will become elements of an effective compliance assurance system.

Thank you again for the opportunity to speak today. I would be happy to answer any questions you may have, and look forward to participating in this afternoon’s sessions.



American Express Company
General Counsel's Office
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February 24, 2004

Mr. Michael Courlander
Public Affairs Officer
United States Sentencing Commission
One Columbus Circle, N.E.
Suite 2-500, South Lobby
Washington, DC 20002-8002

Dear Mr. Courlander:

I am writing to respond to the request for public comment on the proposed amendments to Chapter Eight of the sentencing guidelines for organizations. I previously wrote to the Ad Hoc Advisory Group on October 4, 2002, to address the need for confidential reporting in any revision to the Commentary to the Organizational Guidelines and to discuss how we at the American Express Company accomplish that goal, in part, with our ombuds program.

In reviewing the recommendations and report from the Advisory Group, I note that while they have cited a great deal of authority on the need for confidentiality, the recommendation for a new section 8B2.1(b)(5)(c) does not contain any reference to confidentiality. I understand that the Advisory Group may have felt that referring to ombuds programs would be too restrictive, but such programs are responsive to the need for confidentiality cited by the Advisory Group. Moreover, they demonstrate that confidentiality can be achieved consistent with other legal requirements. I am enclosing the 2003 Annual Report of the American Express Office of the Ombudsperson to provide the Commission with a better sense of just how this type of program can be implemented to provide a confidential resource for employees who are concerned about misconduct. The composite scenarios included in the report are particularly revealing of how this program fits into our overall efforts to foster "an organizational culture that encourages commitment to compliance with the law."

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Mr. Michael Courlander
Public Affairs Officer
February 24, 2004

Other organizations may have other good ways to permit employees to raise issues confidentiality. Even though one specific solution such as an ombuds program may not be appropriate for all organizations, some provision for confidentiality should be included in the new guidelines. The ideal answer would be to add the word "confidential" to the end of the section to require "...mechanisms to allow for *confidential* and anonymous reporting. This would be consistent with the language used in the Sarbanes-Oxley Act of 2002. Even if the Commission were not willing to make that change, it could amend the recommendation for the beginning of that section to provide that a system allow employees and other agents to "report or *confidentially* seek guidance...." Such an amendment also would be responsive to the need for confidentiality while steering clear of the legal tangle involving "confidential reporting."

Regardless of which of these two approaches the Commission may take, I urge the Commission to address the need for confidentiality in its final recommendations to Congress.

Very truly yours,



John Parauda
Managing Counsel

Enclosure

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10th
year
1994-2004

OFFICE
OF THE

OMBUDSPERSONS

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"We urge you to raise any issues that prevent us from achieving our employee, customer, and shareholder goals and from ultimately winning in the marketplace."

Ken Chenault

REPORT TO EMPLOYEES

Dear Colleagues:

2004 marks the tenth year since the Office of the Ombudspersons was established at American Express. The Office was created in 1994 to meet a need for an alternative channel of communication where American Express people could discuss concerns in a confidential environment and without fear of retribution. Since that time, we have provided assistance to more than 25,000 people, helping to raise issues that might not have surfaced through the formal channels.

Individuals were able to put aside their fears and consequently, the organization was able to appropriately address the concerns. In

the past ten years, we have also

shared trends with leaders in many markets and helped to influence policy and practice changes when necessary.

As we move through the rest of 2004, we will continue to focus on raising issues that could negatively impact corporate governance and the American Express brand. We will also ensure our communications clearly articulate the types of issues to bring to our Office and utilize opportunities to reinforce our confidentiality based on the feedback you gave us in our 2003 survey.

In the meantime, we encourage you to read the Code of Conduct, become familiar with the Company's policies and take responsibility to speak up when you become aware of unethical or inappropriate actions.

Sometimes our culture and beliefs may go against speaking up, however American Express fosters a global work environment

that encourages employees to voice concerns, and supports those who come forward. We each have a duty to report Code of Conduct and policy violations, so that the Company can take steps to rectify the problem and prevent recurrence. The formal resources in the organization, including management and Human Resources, are available to assist; however, you

can also speak informally and confidentially with an Ombudsperson.

We invite you to read more about how our Office can help the people of American Express in the following pages.

As always, you have our commitment for continued assistance in a neutral, informal and confidential environment, utilizing our worldwide team of Ombudspersons.

Cordially,

Wendy E. Friede
Corporate Ombudsperson

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For more information please visit: www.aexp.com/ombudsperson



Wendy Friede—Minneapolis



Tom Barnette
Greensboro



Beatriz Barciela Dale
Miami Lakes



Jan Sullivan-Chalmers
Brighton



Pradeep Chatterjee
Singapore

Office of the Ombudspersons

WHAT IS THE OFFICE OF THE OMBUDSPERSONS?

The Office of the Ombudspersons is a confidential, informal and neutral resource where you can air work-related issues with confidence that your concerns will remain off the record and without fear of retribution.

The Office is an alternative resource available to all American Express full time, part time and temporary employees; vendors; and independent contractors.

WHAT DOES THE OFFICE DO?

We listen, coach, and assist in developing options within the Company's processes and structures to help move issues to resolution. For example, an Ombudsperson can:

- Provide coaching on how to approach your leader or other formal channels within the company to resolve your issue.
- Help you pass on information to your leader or other formal channel while protecting your identity.
- Identify alternative options when you have already approached your leader or other formal channel with your issue but reached no resolution.

IS THE OFFICE AN ADVOCATE FOR EMPLOYEES?

An Ombudsperson does not take sides. We are a designated neutral; neither an advocate for the inquirer,* coworker, manager nor any other party involved. The Office is an advocate for a fair process.

The Ombudsperson listens without passing judgment, assists in identifying resolution options within the Company and does not take sides as to the outcome.

The Office is an independent function that reports to the Office of the Chairman and to the Audit Committee of the Board of Directors.

Our Office does not report to or form part of any business unit or staff function.

*Consistent with our commitment to neutrality, we call the persons who contact us "inquirers" rather than any other term that might suggest we are advocates for any party in an issue.

HOW IS THE OFFICE INFORMAL?

- The Office is not part of the Company's management structure and therefore does not make policy, make management decisions, or conduct formal investigations.
- Contacting the Ombudsperson does not put the Company on formal notice.
- Conversations with the Ombudsperson are confidential and considered off the record.

WHAT SHOULD I EXPECT WHEN I CONTACT THE OFFICE?

The Office of the Ombudspersons will:

- Listen to your concerns with an open mind.
- Remain impartial to all individuals involved.
- Keep information confidential.
- Help you identify approaches in communicating the situation.
- Identify alternative resolutions within the Company.
- Assist in achieving outcomes consistent with fairness, the Blue Box Values, and the Code of Conduct.

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Office of the Ombudsman
USA

HOW CAN I BE SURE THAT MY CONTACT WITH THE OFFICE IS CONFIDENTIAL?

Confidentiality is the cornerstone of our practice. Conversations with the Ombudsman are privileged, off the record and made with the understanding that they will be kept confidential. This agreement to maintain confidentiality is what makes the Office so unique as an alternative channel of communication.

- The Ombudsman will not use an individual's name or raise an issue on his or her behalf unless in the course of our discussions we are granted specific permission.
- Our telephones are separate from the Company's phone system and the phone numbers we contact are not accessible in the billing data provided to the Company.
- We maintain a private computer network separate from that of the Company's.

- The Office keeps no documents or permanent records that identify individuals; we retain only demographic statistics on people who contact us and the types of issues they raise, enabling us to identify trends or concerns within business units or geographic areas.
- We are available, by appointment, to speak with individuals when they are away from work, including evening calls if necessary.
- Individuals may contact the Office anonymously or work with an Ombudsman to have an issue raised within the Company anonymously.

IS THE OFFICE THE ONLY PLACE I CAN RAISE WORK-RELATED ISSUES?

The Office complements but does not replace the formal issue resolution resources you are encouraged to use when raising issues or concerns at American Express. The primary resource is usually a direct one: your leader. Other

resources include: Line management, Human Resources (Employee Online Services), Compliance, Audit, Employee Assistance Program, Employee Representative Bodies, Security, and the General Counsel's Office.

As a guideline, we are an informal and confidential place to go if you:

- Want to discuss suspicions of violations of the Code of Conduct
- Suspect fraud or improper business practices
- Want to discuss possible harassment or discrimination
- See something that presents a potential security risk or conflict of interest
- Want to discuss a concern about improper leadership behavior

THE OMBUDSMAN CODE OF ETHICS

The Ombudsman, as a designated neutral, has the responsibility of maintaining strict confidentiality concerning matters that are brought to his/her attention unless given permission to do otherwise. The only exception at the sole discretion of the Ombudsman, is where there appears to be imminent threat of serious harm.

The Ombudsman must take all reasonable steps to protect any records and files pertaining to confidential discussions from inspection by all other persons, including management.

The Ombudsman should not testify in any formal judicial or administrative hearing about concerns brought to his/her attention.

When making recommendations, the Ombudsman has the responsibility to suggest actions or policies that will be equitable to all parties.

10th year 1994-2004

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1994 US Offices Established

1996 1st Annual Report & Survey Published

1997 Worldwide Toll-Free Lines Available

1997 Total Inquirers Reach 5000

1996 International Offices Established

ORIGIN OF SCENARIOS

While the Office cannot discuss specific cases, we can provide representative scenarios reflecting the kinds of situations we handle. These scenarios are composite examples and do not represent actual cases.

CHANGING TRENDS - THEN AND NOW

Below are the population demographics of people using the Office of the Ombudspersons:

	1994-1996	2003
Female	65%	64%
Male	35%	36%
Exempt	30%	46%
Non-Exempt	70%	64%

Following are the kinds of issues brought to the Office, expressed as a percentage of the total.

Leadership	48%	35%
Communication		
Respectfulness		
Change Management		
Collaboration & Influence		
Job Itself	21%	32%
Counseling		
Company Practices		
Meritocracy	16%	11%
Compensation		
Severance		
Company Assets	15%	22%
Business Process Control		
Financial Control		
Compliance		
Workplace Policy		
Safe & Healthy Workplace		
Fraud		
Theft & Embezzlement		

ALLIANCES CAN BE TRICKY

Andrew had recently been assigned to a project team for developing a new alliance partner in the rich but emerging market of Zoukais. This market had recently gained independence and the country was at a stage where its constitution and governance structures were still evolving. There were however, many wealthy business groups who had built their businesses through traditional trading of commodities for which their country was famous.

Andrew met several of these potential partners who wined and dined him very well. They were more than willing to provide personal favors to establish an alliance with American Express. After several rounds of meetings, Andrew zeroed in on one firm: Zebbellin Pte. They had a strong balance sheet, excellent connections with government regulators, the resources to deal with difficult market situations or competitors, and a history of over 25 consecutive years in profitable businesses.

Andrew was drafting the proposal for his management's approval when his colleague Pete raised a disturbing fact to him. Pete

informed Andrew he had heard from his connections in Zoukais and that this group's real source of cash flow was drugs, narcotics, and gambling. The hotels, designer boutiques, spas, fine dining restaurants, and finance companies were nothing but a front to cover up their real activities. Andrew was distressed upon hearing this information but felt nonetheless that he could still form a strong, profitable alliance with Zebbellin Pte.

Pete was concerned with Andrew's decision to pursue this proposal and decided to talk confidentially with an Ombudsperson. Pete explained that he was aware of a proposal for alliance with a potential business partner that should not be acceptable under Amex's standards and values. He wanted to report the matter, but was unsure as to who could investigate it. The Ombudsperson and Pete reviewed several options for Pete to report his concerns. Pete decided to give permission to the Ombudsperson to anonymously alert the Head of Business Alliance and the General Counsel's Office. The Ombudsperson relayed the information that Pete had provided.

An independent investigation established that Pete's information was correct. Andrew's proposal was not approved. Andrew was counseled by his leader and scheduled for Brand Training. Pete was very satisfied that no one ever knew that he had reported the issue.



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Scenarios

“CAN’T LOOK THE OTHER WAY”

When Max finally worked up the courage to call the Ombudsperson he still wasn't sure he had a legitimate issue. Several weeks earlier, Max had observed some behavior at a social event for his work unit that made him very uncomfortable. It was well known within the group that two colleagues, Alan and Samantha had been involved with each other but Samantha had recently broken off the relationship. Alan and others had been drinking at this event and began rating their co-workers based on their bodies and sex appeal. The group became loud and boisterous and Max became quite disturbed by the comments being made. At one point Alan said very negative personal things about Samantha as well as about her work performance. Samantha heard these comments and left the event, obviously upset. The tough part of this for Max was that Alan and Max's boss, Henry, had heard the whole thing and did nothing.

When Max brought these events to the attention of the Ombudsperson, they discussed options for escalating Max's concerns. They discussed either going to Human Resources, to Henry's boss or to Henry himself. After discussing the pros and cons of each option, Max decided that the fair thing to do was to let Henry know how uncomfortable he was with these events. Max hoped Henry would take appropriate action. Max understood

that if Henry didn't address the events, he still had the option of going to Human Resources or to Henry's boss. Max agreed to follow up with the Ombudsperson after his discussion with Henry.

A few days later, Samantha also called the Ombudsperson to discuss the event she witnessed. The Ombudsperson did not reveal that she already knew about the situation because she had to maintain the confidentiality of the discussion with Max. After reviewing her options, Samantha decided she would directly report the incident to Human Resources who investigated the incident. Alan was given a final warning and Henry was reprimanded, as the Senior Leader, for not taking action to stop the inappropriate behaviors. The Amex Code of Conduct document was also re-distributed to the unit.



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2003 RESULTS

- Increased percentage of issues that were high impact/company asset related from 13% in 2001 to 21% in 2003
- Implemented initial stages of a global servicing model
- Visited over twenty Amex locations to build awareness of the Office, listen to concerns and share trends with business leaders
- Implemented first stages of a plan to build awareness of the Office within third party vendors
- Directed inquirers with concerns around harassment and discrimination to appropriate formal resources
- Helped surface issues about:
 - Travel and expense violations
 - Leadership span of control issues
 - Behaviors of joint venture leaders inconsistent with the Blue Box Values
 - Overspending on consultants
 - Security concerns in handling cash
 - Privacy and confidentiality of employee & customer data
 - Improper sales practices
 - Conflicts of interest with external vendors