

CHAPTER 7

Loyalty to Employer: Samurai vs. Free Spirit

What duties are owed an employer? An employment relationship is not the same as agency or trusteeship, but it does entail some duties. Before detailing what those might be, let us first paint the picture in strong tones by contrasting the Samurai and the Free Spirits.

SAMURAI – ABSOLUTE LOYALTY

In the waning months of World War II, Americans learned of the Samurai Code through the kamikaze pilots who flew explosives-laden planes directly into US ships during the last few island assaults of the War. The pilots were volunteers prepared to die for the emperor. They prepared for take off with traditional ceremonies and wrapped sacred scarves around their necks. They jettisoned landing gear on takeoff. The kamikazes were said to revere the Samurai warrior's Code of Bushido.

The samurai arose during Japan's feudal period. They were a special warrior caste, marked by obligations of absolute loyalty to their lords. The caste was abolished after the Meiji Restoration of 1868 brought to an end the 250-year Tokugawa Shogunate. Yet their values soon re-emerged in the period of militarism that ended in the dramatic conquests of 1941-42, and then in the later disasters of 1944-45. The code of Bushido apparently never had an official form, but consisted of notions of duty and honor written down at different times and in different ways over centuries.

The samurai provide one view of the duty of loyalty to an employer. The culture of the samurai has provided grist for many popular films, including Kurosawa's *Seven Samurai* (later remade as the *Magnificent*

Seven, with Yul Brynner), the TV series based on James Clavell's *Shogun*, and the recent *Last Samurai* with Tom Cruise. The tale of the 47 *Ronin* lent its name to another recent film.

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FREE SPIRITS

In modern times, we frequently encounter individuals whose measure of policy is their own "inner voice" – their personal values of what ought to be done. We encounter these individuals in several forms.

There are times when a new administration is voted into office bringing a different political party's platform. Often, the new administration brings very specific programmatic promises. They will re-organize this, change this, change that. Start doing A, stop doing B.

As they set about these tasks, the newcomers may be resisted by career administrators who disagree with the changes, for reasons ranging from self-serving to altruistic. The incumbents may seek to preserve jobs, careers and prerogatives, and they may attempt to advance professional and program goals to which they are deeply committed. The reformers quickly find that their own employees are resisting and undermining their efforts. They are found to be leaking memos to sympathetic members of the press and legislative committees. They are speaking with visible coldness and lack of enthusiasm of the new group's beloved initiatives.

There is a reason that senior officials in government serve at the pleasure of elected governors and presidents. It is simply that the elected officials need to be certain that their top administrators are loyal to their program – come what may. (Disclosure: I have served in two state government positions "at the pleasure" of top officers, where I could be removed "without cause," as the saying goes).

In other contexts, younger individuals embarking on careers usually believe that they know better than anyone else what ought to be done. They seek change, improvement, and what they view as progress. For them, the system can never move fast enough. They are

likely to believe that their view of what is “the law” is correct and if the top legal officers of the organization don’t happen to agree, so much the worse for them. Their supervisors – who never move fast enough – are seen as craven, scared of change, obsessed with their pensions, and/ or sold out to outmoded ideologies.

The Free Spirits see their superiors as the Samurai of a vanished age . . . obsessed by outmoded loyalties to a dying feudal system. Notions of loyalty to employer are seen as defenses for a rotten system, far less important than the Free Spirit’s personal program and principles. Some Free Spirits view a job as an entitlement bearing few reciprocal obligations to the employer.

Sometimes the Free Spirits stick around long enough to achieve some authority and responsibility themselves, or are brought in from the outside by appointment. In due course, they can find themselves wishing that the virtues of the Samurai received a bit more respect in their dominions. It is a challenge to manage a pack of Free Spirits in a time of budget cuts when the press and hostile legislators are circling for the kill, and the Governor is having a hard time squaring the campaign’s promises for a cleaner environment, more jobs, and tax relief.

Not infrequently in modern life, persons who are anything but “Free Spirits” encounter wrongdoing in their own organizations. Despite risks to careers and the ability to pay college tuition and meet the mortgage payment, they summon the courage to challenge and unmask what is going on. Discouraged internally by “channels,” they then go outside to law enforcement or the press, becoming “Whistleblowers.” These people, neither Samurai nor Free Spirits, may then become popular heroes.

DUTIES TO AN EMPLOYER

To return for a moment to the workaday world, few of us wish to volunteer as Samurai – even fewer want to work for one. We may recognize that there will be practical limits on the freedom of our restless spirits, and we seek to understand what is called for of an employee.

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Even though an employment relationship is not legally precisely the same as an agency (or client) relationship, it contains similar elements. Obligations include:

Diligence or “A fair day’s work for fair day’s pay.” In the conservation field, we accept that pay scales are lower than many other fields, and also that the hours will exceed 40, with the evening meetings, travel, and occasional forest fires and overtime during hunting season.

Prudence in making decisions and implementing them.

Fidelity to duly authorized policy (even soldiers are required only to obey “lawful orders”).

Honesty and thoroughness in accounting for employer assets, incomes, and expenditures.

Competence or not misrepresenting our knowledge of the technical factors and skills needed to do our jobs. More importantly, improving that level of competence through formal study, conferences, and interaction with peers and experts. In entry level positions, it is understood that the employee may have a considerable training period ahead.

Refraining from using employer premises/equipment for other purposes (unless authorized, as for charitable or professional association work).

Avoiding conflicts of interest and loyalty.

Offering superiors our unvarnished views when decisions are being debated.

Supporting decisions once reached (if only tacitly). Refraining from publicly criticizing or otherwise undermining those decisions once made.

This is where loyalty to the employer can be severely tested. Few of us can reasonably expect to win every argument, or expect that our view of the best answer will always prevail. We know that considerations of cost, tradition, politics, or timing affect decisions. We have seen political or administrative disasters when bullheaded people plow ahead with their ideas against all contrary advice.

So we must ask the question, when does the situation reach the point that I can no longer serve in this organization? What do I do about it? What are my options? These are too complex to fully discuss here. They might range from:

1. **Placing one's views in writing** (which goes beyond what the Professional Codes requires of us).
2. **Appealing to higher authority within the organization** (some organizations are not very open to this).
3. **Internal or outside "whistle-blowing."** Some organizations have internal Ombudsmen or ethics officials to whom conflicts can be reported if an employee believes illegal or unethical activity is going on. These are not designed to deal with differences over policy. (It is true that many people define policy positions not their own as inherently "unethical" . . . this is not always evident to other observers). Outside law enforcement or legislative bodies can be another avenue, and the final avenue is the press.
4. **Resigning the position or assignment.** This is easy to talk about, but for most of us, if we have mortgages, kids heading toward college, and hopes for retirement, resignation is not a reasonable option.

The difficulty in defining loyalty to employer in an ethics code led the SAF, for example, to delete a provision from its Code that referred to service with "unqualified loyalty to the employer." It was felt that this potentially turned professionals into mere samurai, compelled to obedience even when contrary to professional principles.

RIGHTS OF AN EMPLOYEE

In addition to duties, employees have certain rights. These generalized rights listed here are supplemented by detailed manuals of policy and procedure in large organizations. To quote just one list (Snoeyenbos, Almeder, and Humber, 2001: 247), rights include:

- a safe and healthy work environment.
- job security and due process in hiring and promoting.

- privacy.
- compensation for work-related injury.
- voice in matters affecting employees.
- equality of treatment.
- protection of pensions where provided.
- collective bargaining as provided by law.
- freedom from harassment.
- a living wage.

The specific content and application of these rights are debated at length; some are protected by state and federal statute, others are not.

It is interesting that there is virtually no discussion in the literature of ethics in the conservation field to guide those who assume roles as *Employers or Supervisors*. Nor are there specific provisions in Ethics Codes governing a role as employer or supervisor. Hopefully, the work of this little book in elevating your sensitivity to ethical issues will serve you in good stead if you ever make this transition.

SELF-ABSORBED BUSINESS MANDARINS

The colossal business scandals of recent years all share a common theme. They expose Samurai – very successful ones – who have forgotten the Samurai Code. Isolated, arrogant top executives reported to boards of directors stocked with their own subordinates and compliant cronies. They decided that their primary loyalty was to their own greed rather than to the shareholders whose assets they were charged with managing. They contrived scams ranging from outright theft to incredibly baroque schemes of self-enrichment, all in the shadows of darkness and frequently approved by compliant law firms and accountants. Enablers abounded with whom the goodies were shared.

These self-absorbed samurai replaced their appropriate loyalty to their employers – the shareholders – with loyalty only to themselves and those cronies and enablers who facilitated their accumulation of wealth and power. In the process, they often ruined their companies, destroyed their own reputations and careers, and added to negative perceptions of the legitimacy of the nation's economic system.

Few of us will ever be tempted by the opportunities for default of duty and self dealing on such a scale. But perhaps studying such incidents can help us see the corrosive effects of secrecy, undue personal loyalties, willingness to accept shallow rationalizations for dubious behavior, and wishful thinking.

MOONLIGHTING

Moonlighting is the practice of working for another employer, supposedly on “one’s own time.” Moonlighting gives rise to a fair share of questions about where the ethical limits of loyalty to employers might lie. It is not practical to give them more than brief mention here. Note: moonlighting generally refers to practice of one’s same skills as used for the employer, not selling a bit of maple syrup or trading in antique fishing lures on weekends.

University professors are often authorized to do consulting on the outside up to a specified time limit. They may be encouraged to do so in fields where currency with a fast-changing marketplace is important to teaching. Contacts from consulting work can help gain students entrée into internships and jobs. (Disclosure: I do consulting “on the side.”) Professors are bound by institutional conflict policies and are usually required to report outside involvements yearly.

Yet serving two masters can raise challenges that call for mindfulness. It can lead to protests from others who may feel unfairly disadvantaged when public or university employees compete with them for business. As an example, independent forestry consultants have at times protested moonlighting by state-employed foresters, on grounds that they are unfairly advantaged by state-paid training, and inside information about programs. They may be subject to conflict of interest if they apply on behalf of clients for benefits from public cost-share programs which they themselves administer.

