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LETTER FROM THE EDITORS

Welcome to the *Journal of the International Academy for Case Studies*. The editorial content of this journal is under the control of the Allied Academies, Inc., a non profit association of scholars whose purpose is to encourage and support the advancement and exchange of knowledge, understanding and teaching throughout the world. The purpose of the *JACS* is to encourage the development and use of cases and the case method of teaching throughout higher education. Its editorial mission is to publish cases in a wide variety of disciplines which are of educational, pedagogic, and practical value to educators.

The cases contained in this volume have been double blind refereed, and each was required to have a complete teaching note before consideration. The acceptance rate for manuscripts in this issue, 25%, conforms to our editorial policies. The Instructor's Note for each case in this volume will be published in a separate issue of the *JACS*.

If any reader is interested in obtaining a case, an instructor's note, permission to publish, or any other information about a case, the reader must correspond directly with the author(s) of the case.

The Academy intends to foster a supportive, mentoring effort on the part of the referees which will result in encouraging and supporting writers. We welcome different viewpoints because in differences we find learning; in differences we develop understanding; in differences we gain knowledge and in differences we develop the discipline into a more comprehensive, less esoteric, and dynamic metier.

The Editorial Policy, background and history of the organization, and calls for conferences are published on our web site. In addition, we keep the web site updated with the latest activities of the organization. Please visit our site and know that we welcome hearing from you at any time.

Inge Nickerson, Barry University
Charles Rarick, Barry University

CASES

GELATO NATURAL S.A.

D.K. (Skip) Smith, Southeast Missouri State University

Carlos Aimar, University CAECE

Ariel Gustavo Davalli, Gelato Natural S.A.

Rafael Barbero, University CAECE

CASE OVERVIEW

This case challenges students to develop a strategy to rescue the company from the fact that its newly-expanded factory is coming on stream (and payments on related loans are beginning to become due) just as the Argentine economy is collapsing. The case is based on discussions conducted by the authors in Argentina. The case is appropriate for senior-level undergraduates as well as students in MBA and Executive Development programs. It is designed to be taught in a one hour and a half class session, and is likely to require at least a couple hours of preparation by students.

CASE SYNOPSIS

Ariel Davalli is the Vice President of Gelato Natural S.A., a company which (at the time of the case) was selling Chungo (it's high-quality homemade ice cream) from several locations in the northern suburbs of Buenos Aires, Argentina. Based on high demand for its products from individual consumers living in the northern suburbs, the company invested \$2,000,000 U.S. dollars to significantly increase the capacity of its factory. This \$2,000,000 expansion was funded by borrowing \$750,000 U.S. dollars (the loan comes due in four years) and by shifting the local-currency equivalent of \$1,250,000 of working capital into fixed assets. Unfortunately, just as the expanded factory started production, the economic environment in Argentina deteriorated significantly. In addition, the exchange rate of the peso with the U.S. dollar fell from 1-to-1 (at the time of the loan) to 3-to-1. Currently, demand for Chungo is stagnating, and the new factory is operating at only 30% of capacity. Additional data and information in the case include:

- 1. For Argentina: Historical overview, a sample of recent statistics from the World Bank, and (for benchmarking purposes), comparable statistics for the United States.*
- 2. On the company: Historical overview, current performance, and numerous factors impacting that performance.*

3. *Characteristics of the company's current strategy, including descriptive information on the product line, characteristics of the distribution system, information on the promotion and pricing strategies the company is currently using, etc.*
4. *Characteristics of the current competitive situation.*
5. *Detailed data on the attitudes and behaviors of buyers of homemade ice cream in Argentina.*

THE SITUATION

Looking at the figures for Gelato Natural S.A.'s most recently-completed month, Ariel Davalli was stunned by how quickly the performance of and prospects for his company had changed. Several months ago, demand for Gelato Natural S.A.'s homemade ice cream had been so strong that the company had borrowed US\$750,000 (repayable in four years, in US dollars) and tied up the local currency (pesos) equivalent of US\$1,250,000 in working capital to finance an overall US\$2,000,000 program to double the capacity of their ice cream factory. The purpose of this expansion was to ensure that the factory would be able to keep up with demand from its customers living in the northern suburbs of Buenos Aires, Argentina. During the time when the new factory was under construction, however, Argentina defaulted on its overseas debt (i.e., the country declared bankruptcy), and demand for Gelato Natural S.A.'s "Chungo" brand homemade ice cream fell dramatically. Looking again at the figures, Davalli saw that utilization of the expanded new factory was currently 30% of capacity. Because the value of the peso had now fallen from "one peso = one dollar" to "three pesos = one dollar," the amount of revenue and profit (in pesos) needed to repay the US\$750,000 loan had tripled. "Unless we figure out a way to dramatically increase revenues and profits," Davalli thought to himself, "this company will follow Argentina into bankruptcy."

THE COUNTRY

At 2.78 million square kilometers (larger than India, approximately 1/3 as large as Brazil), Argentina is South America's second largest country. The country is 3,500 kilometers long (2,170 miles), and 1,400 kilometers (868 miles) wide at its widest point. While the climate ranges from tropical in the north to sub-antarctic in the far south, most of Argentina lies in the temperate zone. Similarly, while the landscapes range from jungles to glaciers, a significant portion of Argentina consists of fertile alluvial plains covered in grasses and known as "pampas." In the west (that is, in the rain-shadow created by the Andes mountains), these grasslands are quite dry. In eastern Argentina, however, the pampa receives adequate rainfall, is one of the best agricultural areas in the world, and is intensively farmed (soybeans, plus wheat, corn, sunflower and other grains) and

ranch. Other parts of the country support a wide variety of additional agricultural activities, including the growing of fruits (including grapes for wine), tobacco, sugar cane, and vegetables. Patagonia (the southern quarter of the country) has a cool, wet climate, and supports some agriculture plus a large sheep-raising industry. Given all the above, it is no surprise that the production and processing of agricultural commodities accounts for a substantial portion of total economic activity in Argentina.

Institutionally, Argentina is composed of 23 provinces and the Buenos Aires Federal District. Since 1995, the president and vice-president are elected for 4-year terms and can be re-elected once. The bicameral national congress has 72 senators (three from each of the above areas) serving 6 year terms. The lower house has 257 deputies, proportionately elected and serving 4 year terms. Because greater Buenos Aires makes up more than 40% of Argentina's total population, the city's influence on the lower house is very large. There is a federal judiciary system, and a nine-person supreme court.

In addition to the federal institutions, there are provincial institutions. In Argentina, each province has a governor, a legislature, and a judicial system. Across the country, the major political parties are the Justicialist Party (Peronists), the Radical Civic Union (UCR), the ARI Party (Alternative for a Republic of Equals); and the Federal Recreate Movement (RECREAR).

THE PEOPLE

Prior to the arrival of the first Europeans, the area which has become Argentina was lightly populated. Starting in 1506 and continuing for the next 300 years, most of the immigrants coming to Argentina were Spanish. While African slaves were brought to Argentina in the 17th and 18th centuries, they were very susceptible to a variety of problems which disproportionately impacted the poor (wars, yellow fever and other epidemics, terrible living conditions for the poorest members of society, etc.), and relatively few of them survived. Beginning in the late 19th century and continuing on through the first third of the 20th, 3.5 million new immigrants arrived in Argentina, mostly from Spain and Italy. However, many other nationalities are represented in Argentina's millennium population of just over 37 million people, including the Welsh (primarily in Patagonia), the British, the French, the German, the Swiss, various Eastern Europeans, and Chileans. Indian peoples make up about 15% of the population. Ninety-three percent of the population is Catholic, 2% is Jewish, and 2% Protestant; yet, at 1%, Argentina has one of South America's lowest population growth rates. A few additional statistical characteristics of Argentine and its people, together with (for benchmarking purposes) comparable figures for the United States can be mentioned:

	ARGENTINA	U.S.
Fertility rate (births per woman):	3.0	2.1
Illiteracy rates (adult males and females):	3%	--
Life expectancy at birth (years):	74	77
Infant mortality rate (per 000 live births):	17	7
Primary school enrollment:	100%+	--
Secondary School enrollment:	74%	--
% of population living in urban areas:	89%	77%
% of population who are internet users:	7%	34%
% of population, access to improved water	79%	100%
% of roads paved:	29%	59%
% of urban population, access to sanitation:	89%	100%
energy consumption per capita(kwh)	1938	11904

THE ECONOMY

With a Gross Domestic Product (GDP) of 483 billion dollars and its population of only 37 million, Argentina has a GDP per capita of approximately US\$12,500. Historically, a very substantial portion of this economic activity has been based on agriculture and/or ranching plus related (for example, food and/or meat processing) activities. By the year 2004, however, 53% of Argentina's GNP was services-related, 36% was industry-related (food processing [including meatpacking, flour milling, and canning] is the largest industry), and only 11% was directly accounted for by agriculture. International trade in goods accounts for 18% of GDP; this figure is approximately evenly split between imports and exports. Major exports include soybeans, wheat, corn, flax, oats, beef, mutton, hides, and wool. Principal imports include machinery, metals, and other manufactured goods. The chief trading partners are the United States, Brazil, Italy, and other European countries.

One might think that a country so richly endowed in natural and human resources should be extremely prosperous. However, in 2002, Argentina was unable to meet its debt obligations. The debt and debt service levels for Argentina in 2000 suggest the magnitude of the problem Argentina faced; those figures were as indicated below:

Present value of total dept:	U.S. \$154.9 billion
Short term dept:	U.S. \$28.3 billion
Debt service as a % of exports:	142%

THE COMPANY

Gelato Natural S.A. was founded in 1973 by Ariel's father, Enrique Jorge Davalli. The sole activity of the company at this time was the manufacture and sale of a small selection of high-quality homemade ice cream flavors from one location (Av. San Isidro 4598, Nunez) in a northern suburb of Buenos Aires. These ice creams were sold under the brand name "Chungo."

Since its inception, the primary target market for Chungo has been families and individuals falling in the "ABC1" categories. Characteristics of these purchasers include: High levels of purchasing power, culturally sophisticated, buyers interested in innovative flavors and quality products, people interested in recreation and pleasant moments, families who want to enjoy ice cream in a very comfortable store, families accustomed to having ice-cream (as a dessert) at home, sophisticated customers who make decisions in terms of new sensations (flavors, names, innovative combinations), etc. In Argentina, 80% of consumers classified in the ABC1 category live in Buenos Aires.

Since the company's beginning in 1973, the product offered by Gelato Natural S.A. has been very consistent: a top-quality homemade ice cream. Over the years, the only changes in the product line have been the addition (from time to time) of new flavors of ice cream. Some of the new flavors developed over the years include: Dulce de Leche Bombom, Malaga al Rhum, Quinotos al Whisky, Super Sambayon con Almendras, Tiramisu, Tramontana, Yema Quemada, Trisapore, Spaghetti Pasta, Mascarpone con Frutos del Bosque, Gianduia, Manzana, Melon, and so on. In any case, Gelato Natural S.A. started out making (and continues to make) one and only one high quality homemade ice cream. However, over the years, a number of different changes have been made to other aspects of the business, including the following:

- 1979: The appearance of the store and the brand image were both revised. Changes made at this time included: (1) Remodeling of the building and the equipment, plus replacement of the original Formica furniture with stainless steel; and 2) White uniforms became mandatory for all workers.
- 1986: The building next to the store was purchased, and both the existing store and the new property were remodeled. Most of the changes in layout were in the manufacturing area.

- 1989: Ariel joined his father in working for Gelato Natural S.A., first as assistant manager and later as business store manager.
- 1990: The old building was torn down, and replaced by a new building with a retail store in the front and a production room in the back. A second retail store was opened in Belgrano, at Olleros 1660.
- 1993: The company opened another retail store in Belgrano, at Virrey del Pino 2500.
- 1993: After four years as business store manager, Ariel became Vice President of Gelato Natural S.A.
- 1994: Construction of the US\$2,000,000 new factory began in the area of Nunez. A 1000 square meter piece of land was acquired with the purpose of building a fully-equipped plant with the latest technology.
- 1996: The company opened its new manufacturing plant facilities. Also, two additional stores were opened in the northern district: (1) Belgrano, at the intersection of Cabildo Avenue and Olazabal Street; and (2) Palermo, at the intersection of Avenue Bullrich and Libertador.

By the end of 1996, in other words, Chungo was selling its homemade ice creams from five different locations (San Isidro – Olleros – Virrey del Pino – Cabildo – Palermo), all of which were located in the northern suburbs of Buenos Aires.

Over the years, the prices of various forms of ice cream in Argentina have increased considerably. However, the relationship between the price of ice cream from big factories (i.e., industrial ice cream) and the price of homemade ice cream like Chungo has remained fairly constant. Usually, homemade ice creams sell for a bit more than twice as much per liter as industrial ice creams.

Historically, Chungo has not utilized a lot of radio, television, and/or print advertising. Much of the advertising is by word of mouth, that is, satisfied customers sharing their experiences and reactions with friends and neighbors. The promotional tool which Chungo does attempt to use intensively is publicity, that is, reports by newspapers and/or television or radio on various aspects of its business (for example, the opening of a new shop, the introduction of new flavors and the naming of these flavors for family members, etc.). Chungo does print small promotional flyers listing phone numbers and flavors which customers can pick up at the shop and take home with them. Chungo has introduced a continuity program (the Fildelization Customer Card), to reward faithful customers for their multiple purchases. Chungo also has special promotions for frequent customers; an example would be giving birthday gifts to loyal customers. Finally, Chungo does get involved in helping sponsor cultural events organized with neighborhood association/institutions.

THE ICE CREAM INDUSTRY IN ARGENTINA

There are many manufactures of ice cream in Argentina. However, all manufacturers fall into one of two categories: (1) Producers of industrial ice cream; or (2) Producers of homemade ice cream. Differences between these two product categories can be illustrated by comparing Chungo to industrial ice cream. The batch size for an industrial producer of ice cream is approximately 1000 liters, and a batch can be produced in about one hour. Because a lot of air is blown into industrial ice cream, one liter weights approximately half a kilogram. For Chungo, on the other hand, batch sizes are 120 liters, producing one batch takes a couple of hours, and (because no air is blown into the ice cream) each liter of Chungo weighs 50% more than a liter of industrial ice cream. Prices for industrial ice cream are in the range of 10–12 pesos per liter, while prices for homemade ice creams are in the range of 24–28 pesos per liter.

Ice cream is very popular in Argentina, especially in the summer (that is, December-March). In the winter, however (that is, June through September), demand for ice cream usually falls dramatically (i.e., by nearly 50%). While this does not create big problems for large diversified retailers (other products which do sell well in winter will offset the decline in purchases of summer products like ice cream), it does create problems for companies like Gelato Natural S.A., where ice cream is the only product. Ariel Davalli would be very interested in adding a few products which would sell well in the winter and therefore offset the seasonal nature of the ice cream business and the revenues it generates. Another reason for his interest in adding products besides ice cream is that per capita consumption of ice cream in Argentina (3.5– 4 liters per year) is lower than per capita consumption of ice cream in some neighboring countries (per capita consumption of ice cream in Chile is six liters per year).

CONSUMERS IN ARGENTINA AND THEIR BEHAVIORS

Shopping behaviors of consumers in Argentina are somewhat different than the behaviors of consumers in the United States. In the U.S., consumers are likely to go to a Wal-Mart or a large supermarket and do one big shopping trip each weekend. During that trip, consumers will buy not only frozen and canned goods plus other packaged goods, but also fresh goods like bread, fruit, and vegetables. In Argentina, on the other hand, while consumers may make a large shopping trip to a large shopping center or supermarket on the weekend for frozen and/or canned and packaged goods, they are likely to buy fresh products (bread, fruit, vegetables, etc.) every day from small shops located in their immediate neighborhood.

As regards ice cream, shopping behaviors of customers in Argentina also differ somewhat from those of customers in the U.S. In the U.S., a very large portion of all ice cream purchased (both industrial quality ice cream as well as upmarket brands such as Hagen-Das, Ben & Jerry's, etc.) is

sold in bulk packages (for industrial ice cream) or pints/quarts/half-gallons (premium brands) through supermarkets. In Argentina, however, consumers purchase ice cream in three separate ways: (1) Impulse purchases of bulk containers of industrial ice cream at supermarkets and of small containers of homemade ice cream in supermarkets, gas stations, movie theaters, etc.; (2) Destination store purchases, where the individual drives or walks to an ice cream outlet and then enjoys ice cream there (in cones or cups) with friends and/or family; and (3) Home delivery, where customers finish up dinner and then (for dessert) call their local ice cream store and place orders to be delivered (by motorcycle) to their house. By volume, the amounts of ice cream purchased by consumers in Argentina these three ways are approximately 55%, 30%, and 15%, respectively.

THE COMPETITION

As indicated earlier, ice cream products in Argentina fall into one of two categories: (1) Industrial ice cream; and (2) Homemade ice cream. Supermarkets are full of industrial ice creams; however, those products are not serious competitors for homemade ice creams like Chungo. Chungo's most serious competitors fall into two categories: (1) Local homemade ice creams like Chungo; and (2) High-quality imported ice creams like Hagen-Das.

Chungo's primary local-brand competitors include brands such as "Freddo," "Munchis," "Volta," and "Persico." Like Chungo, these local competitors offer very high-quality homemade ice creams in a variety of flavors, from small shops located in the upmarket suburbs of Buenos Aires. Prices for these brands are very similar to the prices charged by Chungo. As for preferences, some consumers have a preference for the flavors offered by one brand or the other, but basically, all of these ice creams are quite similar and very delicious. Like Chungo, all of these local competitors do offer home delivery (by motorcycle), for customers living close to a shop who call in their orders.

The case of Hagen-Das in Argentina is different. Prior to the economic downturn in Argentina, Hagen-Das ice creams were imported from France. After the peso lost two-thirds of its value, the cost of importing from France was too high, and General Mills (the U.S. multinational company which owns Hagen-Das) stopped selling ice cream in Argentina. Rumors indicate, however, that General Mills is eager to begin manufacturing ice cream in Argentina and/or Brazil. If General Mills does this, it is very likely that they would re-introduce Hagen-Das and sell their ice cream in Argentina using that brand.

THE CHALLENGE

Assume you are Ariel Davalli. How will you "dramatically increase" revenues and profits, so as to ensure that Gelato Natural S.A. does not follow Argentina into bankruptcy?

THE FUSION ENERGY EXPERIMENTAL TOKAMAK SITE NEGOTIATION

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CASE DESCRIPTION

The purpose of this case is to provide an international negotiation simulation exercise, derived from a specific setting adapted from a real situation, that tests the ability of students to overcome cultural and political obstacles while engaging in coalition building in order to structure an integrative and mutually beneficial agreement. The case is appropriate for upper division undergraduate students or graduate students, depending upon the depth with which the instructor wishes to explore the case and the instructor's comfort level with the issues included in the case. The negotiation exercise is designed to take about two to three hours (including the debrief), although more time may be spent on it. The case requires that students devote approximately one hour of preparation for the case, but this time can be spent outside class if necessary.

CASE SYNOPSIS

The Fusion Energy Experimental Tokamak ("FEET") Site Negotiation simulation is a multi-party and coalition building negotiation exercise. Inspired by the real-world negotiations surrounding the International Thermonuclear Experimental Reactor (ITER), this fascinating multi-party negotiation simulation provides outstanding lessons in coalition building, difficulties in maintaining coalitions, intercultural communication, real world politics and, of course, negotiation skills. The real-world ITER negotiations (pronounced "ee-ter", which is Latin for "the way") had their roots in a 1984 proposal by the Soviet Union seeking a method to harness nuclear fusion as an energy source. More specifically, the proposed ITER reactor would essentially be a gigantic vacuum vessel surrounded by super-conducting coils that magnetically confine hydrogen plasma in the shape of a doughnut. Once accomplished, the temperature of the plasma will then be increased to the point of igniting fusion, a method that scientists view as a credible first step to capturing fusion as a feasible commercial energy source.

Despite having had its genesis in 1984, the real-world negotiation involving ITER was not completed until June of 2005. Distilled to its essence, the ITER negotiation resulted in France being designated as the location for the reactor with Japan being granted the lead role in managing and directing the effort. Accordingly, the research related jobs primarily will go to Japan, and the

construction jobs will go to France. This real-world outcome – after such protracted negotiations spanning over 20 years – is provided for informational purpose only and is not at all suggestive of what should or should not happen when conducting the FEET simulation.

FEET, while inspired by ITER, is nevertheless separate and distinct from ITER and, in fact, the outcome with the most possible points for ALL of the parties in the FEET simulation would be for the parties to agree to build two reactors. Interestingly, none of the six parties individually has the allocated resources to fund one FEET reactor, but collectively the six parties actually have the resources to fund two FEET reactors. Despite intense disagreement by the parties over where to build any FEET reactor, the parties nevertheless share a desire to fund FEET. Given that, no one party has enough money its budget to fund a FEET reactor on its own, the parties are required to negotiate over 1) where to locate the FEET reactor, and 2) how to apportion the cost.

While none of the parties knows for certain whether there are sufficient funds for two FEET reactors, if any one party withdraws from the negotiation it is certain that there will only be enough money for one FEET reactor. In addition to each party's primary motivation to fund at least one FEET reactor, each party has a secondary motive: For Russia it is to procure funding for a second FEET reactor, for all others it is to advance their preference for the site location.

Each party's tertiary goal is to minimize cost (i.e., to reduce its financial contribution to FEET). While this cost reduction motive may lead some parties to withdraw from the negotiations and let other parties bear the full financial burden of FEET, this is balanced by the risk of triggering a cancellation of FEET (which requires \$15 Billion to fund) and the lost opportunity to influence the site location of FEET (or in the case of Russia, the funding of a second FEET reactor).

Given that the best outcome for ALL parties is to agree to build two reactors, the scoring component in this simulation operates less as a pie-expansion or trade-off mechanism and more as an incentive to prioritize. In addition to the specific prioritizing function of getting at least one reactor funded (if not two), the scoring component also provides a modest incentive for the participants to assume various cultural and political roles during the simulation. A remarkable phenomenon to observe during the simulation is how the secondary cultural and political components can overtake what should be the dominant objective of agreeing to fund at least one FEET reactor.

THE FUSION ENERGY EXPERIMENTAL TOKAMAK SITE NEGOTIATION

General Information

The year is 2003 and the issue is site selection for the \$15 Billion Fusion Energy Experimental Tokamak ¹ (FEET). Negotiators, having in previous rounds of negotiation narrowed the site list down to just three candidate locations, have now been tasked with selecting the site for FEET and with apportioning the cost among the six participating countries.

FEET will not produce power, but is instead a stepping-stone to an actual fusion power plant. Scientists from around the globe will conduct experiments on FEET over a 20-year operational period, and use the results of these experiments to advance understanding of fusion energy. All FEET research is made public, so all countries will benefit from its construction. The country that hosts the FEET reactor will benefit from increased prestige, so competition to host the experiment is fierce.

FEET construction will take 10 years and cost \$5.85 Billion. In addition, there will be \$1.15 Billion in management, engineering, and R&D costs over the 10-year construction period. Operations will last 20 years with operating costs averaging \$375 Million per year. The plant will employ 300 professionals and 600 support staff during this time. After the 20 year operational period, the reactor will be decommissioned at a cost of \$500 Million. Thus the total cost of FEET is \$15 Billion.

There are six parties to the FEET negotiations: the E.U., China, Russia, Japan, South Korea, and the U.S. Previous rounds of negotiation have established that each country must contribute at least \$1 Billion to the \$15 Billion project or withdraw. Previous negotiations have also winnowed the list of FEET sites to just three locations: Rokkasho, in Northern Japan; Cadarache, in the South of France; Vandellós, in Northeast Spain. Each of these locations is perfectly suited for a FEET reactor. Identifying possible FEET sites is a lengthy and expensive process; finding an alternative site would take 1 year and cost \$6 Million.

Previous rounds of negotiation have indicated that each country is keenly interested in at least one FEET reactor, and that Russia strongly prefers two FEET reactors. A second FEET reactor would cost an additional \$15 Billion.

This round of negotiation is being held in Vienna, Austria over a three day period. The E.U. negotiator will serve as chair and is tasked with running the meeting according to rules of order.

Role of China Negotiator – General Information

It is very important that these negotiations conclude with a site selected for FEET. The FEET reactor will advance our understanding of fusion energy, and make possible the development of a pollution-free fusion energy plant sometime in the late 21st century.

China can contribute no more than \$3 Billion to FEET. Furthermore, you have been instructed to try to minimize the financial contribution. However, since participation in FEET brings prestige, it would be better to participate than to withdraw altogether just to save a few Yuan.

These negotiations are an excellent opportunity to punish the Japanese for their wartime atrocities; you should try to ensure that that Japanese do not receive the honor of hosting a FEET reactor.

As a Chinese negotiator, you understand face and can be expected to use flattery on the other negotiators.

China Scoring (max 200)

Number of FEET built	Points (max 100)
2	100
1	80

Site Selection	Points (max 50)
No FEET in Japan	50

Financial Contribution	Points (max 40)
For each \$50 M under the \$3 Billion cap	1 (max of 40 points for \$1 B)
\$0 (withdraw in first day of negotiation)	15
\$0 (late withdrawal, FEET canceled, or no agreement)	10

Cultural	Points (max 10)
Flattery	1 point for each flattering comment given to another negotiator (max 10)

Negotiation Style of China Negotiator

During the course of this negotiation it is very important that you maintain your role as a Chinese negotiator. Staying in character will greatly enhance your negotiation experience and the simulation as a whole. While there are numerous negotiation styles among the Chinese, and we prefer not to stereotype, for purposes of this intercultural negotiation certain generalities will be made.

China is a collectivist society strongly influenced by the principles of Confucianism; propriety, harmony, and the common good are valued over individualism. Individualism is considered selfish. A Chinese negotiating team will display a harmonious relationship (i.e. a united front) and will negotiate as a team. Decision-making is done collectively rather than individually. Because of their concerns for harmony and building consensus, decision making is slow.

The Chinese are reserved and known for their hospitality and good manners. They do not like to be touched, so a short bow and brief handshake are used during introductions. Introductions are formal. Use formal titles. Chinese value rank and status.

The Chinese believe that nothing is final until it is signed. Chinese negotiators may imply that there is no compromise position or third choice, when in reality there is plenty of room for compromise.

Role of European Union Negotiator – General Information

It is very important that these negotiations conclude with a site selected for FEET. The FEET reactor will advance our understanding of fusion energy, and make possible the development of a pollution-free fusion energy plant sometime in the late 21st century. Nonetheless, we must not lose sight of the short-term. These negotiations are an excellent opportunity to punish the Spanish for their support of the Iraq war, and to reward the French for their opposition.

The E.U. can contribute no more than \$9 Billion to FEET. You have been instructed to try to minimize the financial contribution. However, since participation in FEET brings prestige, it would be better to participate than to withdraw altogether just to save a few Euros.

As E.U. negotiator, you understand the importance of order. Moreover, you are serving as chair for this round of negotiations, and would be embarrassed if negotiations were anything other than respectful and orderly. Negotiators should make motions (e.g. “I move that...”), which must be seconded, discussed, and voted upon. At your discretion you may make full use of Robert’s Rules of Order.

Russia Scoring (max 200)

Number of FEET funded	Points (max 100)
2	100
1	80

Site Selection	Points (max 50)
No FEET in Spain	25
FEET in France	25

Financial Contribution	Points (max 40)
For each \$200 M under the \$9 Billion cap	1 (max of 40 points for \$1 B)
\$0 (withdraw in first day of negotiation)	15
\$0 (late withdrawal, FEET canceled, or no agreement)	10

Cultural	Points (max 10)
Orderly	2 points for each vote called after a motion and second (max 10 points)

European Union Negotiation Style

During the course of this negotiation it is very important that you maintain your role as a European negotiator. Staying in character will greatly enhance your negotiation experience and the simulation as a whole. While there are numerous negotiation styles among Europeans, and we prefer not to stereotype, for purposes of this intercultural negotiation certain generalities will be made.

Europeans are, in general, deal-focused and are ready to get down to business in negotiations as opposed to building relationships. Europeans, like other monochronic cultures, value punctuality, adhere to plans, and do one thing at a time without interruptions. Europeans tend to be formal, and pay close attention to formal titles.

Of course, there is no such thing as a generic “European” negotiator since the E.U. is really comprised of several different cultures. The E.U. FEET negotiator is from France. If there are two negotiators, the second one is from Germany.

The French are the most aggressive and confrontational of European negotiators. In negotiations with allies (NATO negotiations, for example), the French have demonstrated a willingness to take extreme positions at the start of negotiations, but later compromise at the last minute to demonstrate flexibility. The French negotiator will argue over principles because, once one can agree on principle, it should be easy to get reasonable people to agree on a course of action. The French have also demonstrated an attention to detail when it comes to language: they can be expected to be very detail-oriented about the exact words used in any agreement. The French also have a well-developed sense of history.

Germans are even more deal-focused and monochronic than other Europeans. They find it very rude to interrupt a speaker. Like other low-context communicators, the Germans speak directly. Their yes means yes and their no means no. Their words communicate meaning, not the context in which the words were used. Like other Europeans, Germans pay close attention to formal titles; for example, when referring to a doctor, Germans will be careful to use “Herr Doctor” for men and “Frau Doctor” for women. Note that in German culture, it is polite to use “Frau” when referring to any female over age 20, whether she is married or unmarried.

Role of Russian Negotiator – General Information

It is very important that these negotiations conclude with a site selected for FEET. The FEET reactor will advance our understanding of fusion energy, and make possible the development of a pollution-free fusion energy plant sometime in the late 21st century.

It would be very useful to build a second FEET reactor. FEET is a type of tokamak, a Russian invention. Our scientists are convinced of the merits of the tokamak approach to fusion energy.

It would be a source of great pride if we could get a FEET reactor in Russia. While there is currently no Russian site on the table, it would be possible to identify a site given perhaps a year of research and \$6 Million.

Russia can contribute no more than \$3 Billion to FEET. Furthermore, you have been instructed to try to minimize the financial contribution. Take note, though, that since participation in FEET brings prestige, it would be better to participate than to withdraw altogether just to save a few Roubles.

As a Russian negotiator, you understand the effectiveness of being demanding in a negotiation. You also take pride in the fact that the tokamak is a Russian invention.

Russia Scoring (max 200)

Number of FEET funded	Points (max 130)
2	130
1	80

Site Selection	Points (max 20)
Russia	20

Financial Contribution	Points (max 40)
For each \$50 M under the \$3 Billion cap	1 (max of 40 points for \$1 B)
\$0 (withdraw in first day of negotiation)	15
\$0 (late withdrawal, FEET canceled, or no agreement)	10

Cultural	Points (max 10)
Demanding	1 point for each demand made (max 5 points)
Pride	1 point for each time a non-Russian negotiator mentions that the Tokamak is a Russian invention (max 5)

Russian Negotiation Style

During the course of this negotiation it is very important that you maintain your role as a Russian negotiator. Staying in character will greatly enhance your negotiation experience and the simulation as a whole. While there are numerous negotiation styles among the Russians, and we prefer not to stereotype, for purposes of this intercultural negotiation certain generalities will be made.

Russians are addressed by their full name and tend to be formal. They are very concerned with age, rank, and protocol and have a deeply entrenched hierarchy. Superiors have authority over subordinates and are responsible for final decisions.

Russians are in no hurry to make an agreement and like to control the agenda. They view compromise as a sign of weakness. They will prolong negotiations by refusing to back down until the other side agrees to make sufficient concessions or shows exceptional firmness. Russian negotiators will make minor concessions and ask for major ones in return. Delay tactics, emotional outbursts, threats, and other pressures are common Russian tactics. Face-saving is important to Russians.

Russians are often very animated in their discussions. They do not, however, like surprises. When a Russian says “no” it might mean “we’re not comfortable with this now but that may change later” or “we can’t give a yes or no answer right now.” No does not necessarily mean a categorical no. Russians will often interpret silence by other parties to signify agreement. They do not, however, apply this same standard to themselves.

Role of Japanese Negotiator – General Information

It is very important that these negotiations conclude with a site selected for FEET. The FEET reactor will advance our understanding of fusion energy, and make possible the development of a pollution-free fusion energy plant sometime in the late 21st century.

Furthermore, it is very important that Japan host a FEET reactor. FEET will bring prestige and jobs to Japan.

Japan can contribute no more than \$9 Billion to FEET. You have been instructed to try to minimize the financial contribution. However, since participation in FEET brings prestige, it would be better to participate than to withdraw altogether just to save a few Yen.

As a Japanese negotiator, you understand the importance of saving face. Only very rude negotiators would ever say “No” directly. Also, you are comfortable with silence and will often sit quietly for a while before responding to another negotiator.

Japanese Scoring (max 200)

Number of FEET built	Points (max 100)
2	100
1	80

Site Selection	Points (max 50)
FEET in Japan	50

Financial Contribution	Points (max 40)
For each \$200 M under the \$9 Billion cap	1 (max of 40 points for \$1 B)
\$0 (withdraw in first day of negotiation)	15
\$0 (late withdrawal, FEET canceled, or no agreement)	10

Cultural	Points (max 10)
Silence	1 point each time you respond to others with 15+ seconds of silence
Face	5 points to completely avoid responding to demands with a direct "No"

Japanese Negotiation Style

During the course of this negotiation it is very important that you maintain your role as a Japanese negotiator. Staying in character will greatly enhance your negotiation experience and the simulation as a whole. While there are numerous negotiation styles among the Japanese, and we prefer not to stereotype, for purposes of this intercultural negotiation certain generalities will be made.

Japan is a collectivist society strongly influenced by the principles of Confucianism; propriety, harmony, and the common good are valued over individualism. Individualism is considered selfish. A Japanese negotiating team will display a harmonious relationship (i.e. a united front) and will negotiate as a team. Decision-making is done collectively rather than individually. They have great respect for family, age, and hierarchy. Japanese are addressed by their family name or their title, not their first name.

It takes the Japanese a while to establish rapport with others. Prolonged eye contact is avoided as it is considered rude. Arriving to a meeting late is an insult.

During the negotiation, the Japanese will ask many questions. Their goal is two-fold: (1) to acquire information; and (2) to check consistency and personal credibility. By knowing as much as possible about the people with whom they are dealing, they can better evaluate whether to enter into a long-term business relationship.

Business etiquette is very important in Japan. Business cards are exchanged with both hands at the first meeting. The proper technique is to bow and carefully present the business card such that recipient can read the card. Japanese often exchange small, inexpensive gifts when meeting. The gift itself is not important. The focus is on the ritual of gift giving.

Role of South Korean Negotiator – General Information

It is very important that these negotiations conclude with a site selected for FEET. The FEET reactor will advance our understanding of fusion energy, and make possible the development of a pollution-free fusion energy plant sometime in the late 21st century.

South Korea can contribute no more than \$3 Billion to FEET. Furthermore, you have been instructed to try to minimize the financial contribution. However, since participation in FEET brings prestige, it would be better to participate than to withdraw altogether just to save a few Won.

Despite their historical differences, South Korea slightly prefers Japan as a site for FEET because of its proximity and business ties. It can be expected that, should Japan be selected as a FEET site, that Korean companies will gain a cultural advantage over Western companies bidding for pieces of FEET construction. In addition, South Korea does not want an more time or money spent locating other sites for FEET: one or two sites should be selected out of the three sites currently on the table.

As a Korean negotiator, you put value on getting as much as possible out of every deal. A favorite tactic is to make last-minute demands when you know the other party's deadline.

South Korean Scoring (max 200)

Number of FEET built	Points (max 100)
2	100
1	80

Site Selection	Points (max 50)
FEET in Japan	25
At least one site funded, but no sites outside of current three	25

Financial Contribution	Points (max 40)
For each \$50 M under the \$3 Billion cap	1 (max of 40 points for \$1 B)
\$0 (withdraw in first day of negotiation)	15
\$0 (late withdrawal, FEET canceled, or no agreement)	10

Cultural	Points (max 10)
Last minute demands	1 point for each demand made in day three (max 5)
Take all you can get	1 point for each country that contributes more money than South Korea (max 5)

South Korean Negotiation Style

During the course of this negotiation it is very important that you maintain your role as a South Korean negotiator. Staying in character will greatly enhance your negotiation experience and the simulation as a whole. While there are numerous negotiation styles among the South Koreans, and we prefer not to stereotype, for purposes of this intercultural negotiation certain generalities will be made.

Korea is a collectivist society strongly influenced by the principles of Confucianism; propriety, harmony, and the common good are valued over individualism. Individualism is considered selfish. Koreans have great respect for family, age, and hierarchy. Koreans are addressed by their family name or their title, not their first name. In negotiations, Koreans use their formal titles and their full names. The family name, being more important, comes before the first name. For example, John Smith is Smith John.

Koreans have an elaborate set of rules concerning propriety and ceremony. Observing protocol protects face by helping to avoid open conflicts. (The importance of “face” in Korea is well known). A person who fails to follow proper protocol may suffer a considerable loss of face. Blaming or accusing someone in public should never be done. Harmony prevails over brutal truth. Koreans are polite and non-confrontational. Proper business cards are a must in South Korea. You should accept a business card with both hands. Cards are also presented with both hands.

In negotiations with foreigners, Koreans are notorious for being demanding. An often used negotiation tactic is to make last minute demands.

Role of U.S. Negotiator – General Information

It is very important that these negotiations conclude with a site selected for FEET. The FEET reactor will advance our understanding of fusion energy, and make possible the development

of a pollution-free fusion energy plant sometime in the late 21st century. Nonetheless, we must not lose sight of the short-term. These negotiations are an excellent opportunity to punish the French for their opposition of the Iraq war, and to reward the Spanish for their support.

The U.S. can contribute no more than \$5 Billion to FEET. Furthermore, you have been instructed to try to minimize the U.S. contribution. However, since participation in FEET brings prestige, it would be better to participate than to withdraw altogether just to save a few Dollars.

As a U.S. negotiator you value speed, efficiency, and punctuality in negotiations. You would like to see these negotiations conclude as soon as possible. It would be embarrassing to show up late to any meeting—better to show up a few minutes early.

U.S. Scoring (max 200)

Number of FEET built	Points (max 100)
2	100
1	80

Site Selection	Points (max 50)
Spain	25
No FEET in France	25

Financial Contribution	Points (max 40)
For each \$100 M under the \$5 Billion cap	1 (max of 40 points for \$1 B)
\$0 (withdraw in first day of negotiation)	15
\$0 (late withdrawal, FEET canceled, or no agreement)	10

Cultural	Points (max 10)
Businesslike	1 point for each full minute ahead of schedule that a meeting day is concluded (max 5)
Punctual	1 point for each full minute you are early to any meeting day (max 5)

U.S. Negotiation Style

During the course of this negotiation it is very important that you maintain your role as an American negotiator. Staying in character will greatly enhance your negotiation experience and the simulation as a whole. While there are numerous negotiation styles among Americans, and we prefer not to stereotype, for purposes of this intercultural negotiation certain generalities will be made.

When greeting one another, Americans expect a firm handshake and direct eye contact, which signals confidence. If you are meeting several people at once, maintain eye contact with the person you are shaking hands with until you have moved on to the next person. Introductions include one's title if appropriate, or Mr., Ms, Mrs. and the full name.

Americans are not as concerned with "saving face" as many other cultures are – this may lead Americans to be quick with "constructive criticism" that may be humiliating or uncomfortable for other cultures. Americans, like other low-context communicators, speak directly. Their yes means yes and their no means no. Their words communicate meaning, not the context in which the words were used.

American negotiators tend to be confrontational and competitive. It takes Americans only a short period of time to establish rapport and get to the task at hand. The expression "time is money" is the motto of many American negotiators.

FEET Negotiation – Rules of Order²

The meeting is to be run by the EU Negotiator(s). If there is one EU Negotiator he/she is French and is the Presiding Officer/President. If there are two EU Negotiators, the second negotiator is German and is the Secretary. The Presiding Officer/President enforces the rules and designates who is to speak at any given time. He/she is referred to as "Mr. President" or "Madam President." The Secretary creates a written record of what is done (the "minutes"). For simplicity, refer to the Secretary as "Mr. Secretary" or "Madam Secretary." For purposes of this negotiation, the requirement of a quorum has been met. It is suggested that the meeting be run according to *Robert's Rules of Order*.

Scoring Guide

Observers can use this score sheet to assist in totaling the negotiation score. For items with *, see notes below.

[CAVEAT: *The score sheet is to be provided ONLY to designated formal observers prior to the negotiation, but definitely NOT to those representing the various parties.*]

Item	E.U.	Japan	U.S.	China	Russia	Korea
# Funded						
1	80	80	80	80	80	80
2	100	100	100	100	130	100
Subtotal	___/100	___/100	___/100	___/100	___/130	___/100
Site(s) Funded						
Japan		50				25
France	25					
Spain			25			
Russia					20	
Not France			25			
Not Spain	25					
Not Japan				25		
Any of three*						25
Subtotal	___/ 50	___/ 50	___/ 50	___/ 50	___/ 20	___/ 50
Financial*						
Subtotal	___/ 40					
Cultural*						
Subtotal	___/ 10					
Grand Total	___/ 200					

Any of three

South Korea scores 25 points if at least one FEET site is funded, but no money is spent on finding new sites.

Financial

There is a small point reward for not spending any money on FEET. Any party that does not fund FEET receives 10 points if they are not funding FEET because no agreement was reached, because they withdrew from negotiations in day two or day three, or because it was decided to

cancel FEET. But, if a negotiator withdraws in day one they receive 15 points instead of 10 points. For all other cases, calculate their financial contribution score as follows (the max score is 40 points for all countries).

E.U.	$(9 \text{ Billion} - \text{Contribution}) / 200 \text{ Million}$
Japan	$(9 \text{ Billion} - \text{Contribution}) / 200 \text{ Million}$
U.S.	$(5 \text{ Billion} - \text{Contribution}) / 100 \text{ Million}$
China	$(3 \text{ Billion} - \text{Contribution}) / 50 \text{ Million}$
Russia	$(3 \text{ Billion} - \text{Contribution}) / 50 \text{ Million}$
Korea	$(3 \text{ Billion} - \text{Contribution}) / 50 \text{ Million}$

Example: U.S. commits to fund \$3.2 Billion. Their score is:

$$5 \text{ Billion} - 3.2 \text{ Billion} / 100 \text{ Million} = 18 \text{ points}$$

Cultural

Negotiators receive up to 10 points for acting their part.

- E.U.:** 2 points for each vote called after a motion and second (max 10 points).
- Japan:** 5 points to completely avoid responding to demands with a direct “No”; 1 point each time you respond to others with 15+ seconds of silence.
- U.S.:** 1 point for each full minute ahead of schedule that a meeting day is concluded (max 5); 1 point for each full minute they are early to any meeting day (max 5).
- China:** 1 point for each flattering comment given to another negotiator (max 10).
- Russia:** 1 point for each demand made (max 5 points); 1 point for each time a non-Russian negotiator mentions that the Tokamak is a Russian invention (max 5).
- Korea:** 1 point for each demand made in day three (max 5); 1 point for each country that contributes more money than South Korea (max 5).

ENDNOTES

¹ A donut-shaped fusion reactor that confines plasma with a magnetic field; tokamak is a Russian acronym of *Toroidalnaya Kamera Magnitnaya*.

² These rules are based upon *Robert's Rules of Order Newly Revised In Brief*, First Da Capo Press Edition, 2004. Some liberties have been taken.

PUT A LEADER ON THAT HORSE (ASSOCIATION)

LaVon Green, Purdue University Calumet
Susan E. Conners, Purdue University Calumet
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Michael Mick, Purdue University Calumet

CASE DESCRIPTION

The primary subject matter of this case involves the strategic direction of a not-for-profit equine breed association. Additional issues are organization structure, leadership, and financial stability. The case has a difficulty level of one, appropriate for freshman level courses. The case is designed for one class session and will require about two hours outside preparation.

CASE SYNOPSIS

The Arabian Horse Association is responsible for the breed registry, membership, marketing and promotion, and member programs for Arabian and Half-Arabian horses in the United States. The growth of the organization resulted in poor financial planning and no long term strategic plan to guide the organization.

INTRODUCTION

There is a world-wide equine industry involving many breeds of horses. Horses serve primarily as show horses, hobby interest, breeding stock, and in some instances, working horses. In this global market, purebred horses generate a great deal of income and are responsible for a large part of the market's economy in some geographic areas. The various breed associations in each country control the pedigree and show records of these horses. The Arabian Horse Association in the United States has suffered setbacks in its attempts to create a competitive market place for these horses.

US EQUINE INDUSTRY

Horses have been a part of civilization for centuries as one of the primary sources of transportation and work animals. In the 1800s and 1900s during the industrial revolution, much of their purpose was transferred to machines. In the 21st century there are still horses working on

ranches, serving as police mounts, and performing similar functions. The majority of horses today are used for sporting events, breed association shows, and as pets.

There is currently an emphasis on sport horses used in international horse show events such as racing, jumping, dressage, endurance, and reining. The business of breeding such horses can be lucrative and has many tax incentives. There is a global market for these types of horses having pedigrees and show records which often command high prices. There are Horse Councils at both national and state levels that lobby the government on behalf of the equine industry. These councils track economic data related to the equine industry. In some states, such as Kentucky, the equine industry has a major impact on the state's economy. The KEEP white paper reports, "The horse industry has an estimated \$4 billion impact on the state's economy each year" and that "The 2010 World Games will be the largest sporting event in Kentucky history and the largest equine event ever held in the United States with an estimated economic impact of more than a \$150 million and attendance estimated at over 400,000."

The United States Equestrian Federation has responsibility for overseeing horse shows and maintaining international standards at large competitions. They have been successful in the past five years in bringing major international competitions to the United States that generate millions of dollars in revenue for the locations that host these events. In 2010 for the first time, the United States will host the World Equestrian Championships in Kentucky.

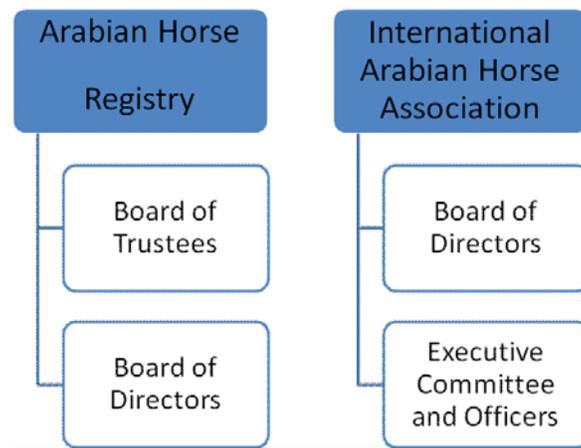
The people in the equine industry look to their breed associations to assist them in this highly competitive industry. The Arabian horse is considered the oldest purebred horse of record in the world and many breeds trace part of their ancestry to these horses. The Arabian horse industry is a major player in this global market.

ARABIAN HORSE INDUSTRY

After the importation of Arabian horses to the United States in the late 1800s and early 1900s, the Arabian Horse Registry was formed to authenticate pedigrees and register purebred Arabian horses. A second organization, the International Arabian Horse Association, was formed later to register Half-Arabian horses and provide a marketing and member services organization. The organization chart in Figure 1 represents these organizations. These organizations duplicated efforts and did not run efficiently as separate entities. In the late 1990s there was discussion regarding merger of the two organizations to form a more efficient method for coordinating all matters concerning Arabian and Half-Arabian horses. The resulting organization was the new Arabian Horse Association. The organization chart in Figure 2 represents the new organization. The merger did not go smoothly and the result was a loss in market share for the Arabian horses. The growing pains of merging two different organizations seemed to create a lack in both leadership and strategic planning.

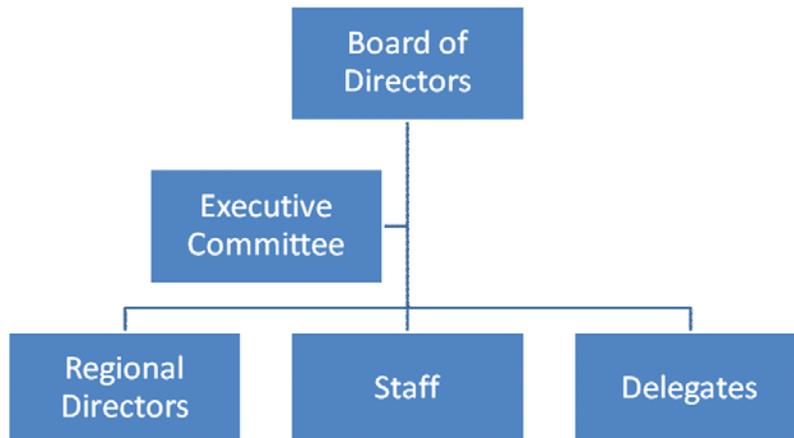
Prior to Reorganization

Figure 1



After Reorganization

Figure 2



ARABIAN HORSE ASSOCIATION

The Arabian Horse Association (AHA) is headquartered in Colorado. Its primary mission remains as guardian of pedigree records and the authority to register purebred and Half-Arabian horses. The secondary mission is to provide membership records, promote the Arabian horse through advertising, horse shows, and other programs. Additionally the AHA puts on the three national shows held every year. They maintain a web site at www.arabianhorses.org.

After the merger, the AHA faced declining registration numbers as fewer horses were being bred each year and declining membership. This resulted in a loss of revenue and resulting financial problems. The existing leadership did not engage in adequate long term strategic planning. The Breeders Sweepstakes incentive program, for example, was paying out more than it was receiving in revenues. There were pending lawsuits regarding the policies on registration of horses. The association was facing serious problems and an increasingly unhappy membership.

In 2004, the membership sent a clear message that change was necessary by voting to change the leadership. The new officers are all club members that are professionals in the equine industry – breeders, trainers, and horse show judges. They immediately accepted the challenge of creating a long term strategic plan and implementing standard business practices, which included a serious look at the staff of the association. This resulted in a restructuring and the creation of new positions to address critical issues. A new Breeders Sweepstakes Commission was seated and dramatic changes to the program occurred to stop the financial losses.

Marketing research was done and brought new information to the association, which had incorrectly identified its client base. The new information on the actual client base resulted in a shift of programs to serve these clients. Professionals in the areas of information systems, marketing and finance now direct these departments.

After two years of major changes in the organization, the numbers of horses registered and members is starting to increase. The lawsuits have been settled and new contracts for the national shows have been implemented. The association is actively promoting Arabian horses in many venues and recognizes the role Arabian horses can play in the marketplace. The AHA is solvent again and forecasting profitability.

DISCUSSION QUESTIONS

1. What one aspect of strategic planning was the most beneficial to this organization and its restructuring? Explain how it helped them.
2. Evaluate the potential benefits and pitfalls of this rapid restructure.

3. What suggestions would you make to the Arabian Horse Association for future strategic planning?
4. What would you have done with this organization to correct the situation after the merger?

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THE STITCH HOUSE: A CASE OF ENTREPRENEURIAL FAILURE

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CASE DESCRIPTION

This case concerns why entrepreneurs fail. Issues related to the case include how entrepreneurs make decisions, the marketing, financial, and accounting issues that should be considered when starting a new business. A secondary issue illustrated by the case is the risks involved in mixing business and personal finances in a start-up business. This case has a difficulty level of three. However, it may be used, with time allowed to develop alternate scenarios of the business owner's choices, in both senior and first-year graduate courses. The case is designed to be taught in one 75 – 90 minute class session and is expected to require one to two hours of outside preparation. Alternatively, an instructor may elect to use this case to challenge advanced students to create a business plan that would have a greater likelihood of success. For such use, the case may require up to 5-6 hours of outside preparation. Additionally, a shortened version of this case has been used effectively as an examination case in a senior-level Entrepreneurship course.

CASE SYNOPSIS

Why did The Stitch House fail so quickly? Louise had business experience, adequate start-up capital, and people with experience in marketing her product. But, in less than six months time what seemed like a certain success consumed her capital, was abandoned by her erstwhile partners, and left her with substantial personal debt. This case gives students the opportunity to learn from one of the majority of new small business startups – those which fail in less than two years. Based on an actual entrepreneurial situation, the case illustrates the impact that each decision an entrepreneur makes may have on the ultimate survival of the business and how easily a new business can fail. It presents students with the opportunity to analyze the basic decisions that an entrepreneur must make in creating a new business. Alternatively, advanced students may be challenged to re-construct the business concept and create a business plan for The Stitch House.

INTRODUCTION

“What am I going to do now,” Louise thought to herself. “Oh well, if we can’t make this work out maybe I can get something out of it on Ebay.” The “It” Louise was looking at was a 15-needle, single-head commercial embroidery machine, the kind used to stitch designs on fabric – company logos on polo shirts for example. “It” and the office equipment stored in her garage were the only things remaining from Louise’s venture into her own business; she still owed several thousand dollars on the purchases.

THE ENTREPRENEURIAL URGE

Louise wanted to start her own business. In Fall, 2004, newly divorced and holding a reasonable financial settlement, Louise moved back to San Antonio, Texas, where most of her family lived. After ten years in California, she was ready to restart her life. Thinking over her options, Louise decided that, with the cash she had from the settlement, now was the time to do it – to go into business for herself. After all, she had worked with her now ex-husband in his furniture business for over 5 years and knew how a small business operated – and she liked the idea of being her own boss.

As luck would have it, about three weeks after moving to San Antonio, Louise met Robert and his friend, Luis, at a social event at her cousin’s house. Both Robert and Luis were in the commercial embroidery business and both were unhappy with their present employer. Most importantly, Robert had many contacts in the business and was sure that there were opportunities in the area, in some aspect of the commercial embroidery business. Economic conditions in San Antonio and the South Texas region were better than they had been in years. The two men seemed to have all the skills needed to get started: Robert sold embroidery products – so he had an established clientele – and Luis worked in the operations side of the business – so he understood the production process. Robert suggested to Louise that the three of them should go into the embroidery business.

On her way home from the party, Louise started feeling a little uneasy about entering into business with total strangers. She realized that she knew very little about them, although she assumed they were “OK” since she had met them at her cousin’s house, and she trusted her cousin. Still, she thought she had better find out a little bit more about why they were so eager to start a new business. She decided to call Robert and Luis over for an informal get-together at her house, supposedly to discuss the business, but more importantly to get to know them better and determine their motivation for entering into this venture.

What she found out was that both of her prospective partners had problems and both wanted to make money as quickly as possible. Robert had a disagreement with his current boss over his ‘selling practices’, and expected to be fired soon. Instead, he had decided to ‘quit at the first

opportunity’, and ‘take away’ his client base with him. This new venture seemed a good opportunity to be his own boss, and get rich at the same time. Louise also noted that he had two grown sons, and he was paying for their college education.

Luis on other hand seemed much less interested in making money although, having recently been divorced, he certainly needed it. He seemed like a very shy individual as well – she was not able to get much out of him until he had had a few drinks. She found out that he was ‘bored’ with his current job and was looking for a new ‘interest’, as he put it. He seemed very excited to talk about the production side of the business – about how to set up production runs, and about how to spool the threads, etc.. but did not seem very excited about the financial side of the business. When asked about it, he said, “You two seem very capable...I will leave it in your hands.” Luis spent a lot of spare time in the local bar watching sports and drinking ‘with the boys.’ Oh well, she decided, they weren’t perfect, but they seemed like the best chance she’d get to start her own business with experienced people. After this conversation and subsequent conversations over several days, Louise agreed to form the venture. She thought Robert and Luis were a good match with her administrative and bookkeeping experience from her ex-husband’s furniture business.

Louise set up her business, Louise _____ d.b.a The Stitch House, as a sole proprietorship. She then wrote a contract specifying that all three participants – Robert, Luis, and she – would share in the profits as partners. Thus, salary expenses could be at a minimum but all would be committed to the success of the enterprise. Initially, Robert’s idea was that they would be in the business of supplying thread bobbins (bobbins loaded with thread for the embroidery machines) to commercial embroidery shops in San Antonio and the South Texas region. However, due to the need to invest in a large inventory to start a bobbin supply business, the three partners decided this was not feasible. Based on Robert’s recommendation, they then decided that their success would lie in being in the commercial embroidery business – not in being suppliers to it. The role that each was to play in the business matched their perceived expertise: Robert was responsible for sales, Luis would operate the equipment to produce the embroidered products, and Louise would manage bookkeeping, and order processing and fulfillment. Louise supplied all of the working capital. Still, nothing about the responsibilities and authority of each partner was specified in the contract, but Louise thought she knew enough about Robert and Luis to start the business – and The Stitch House was born.

THE INDUSTRY

The commercial embroidery business produces a wide range of goods, all of which consist of a fabric product embellished with an embroidered design. Products may range from large quantities of apparel, such as polo shirts or baseball caps with corporate or team logos, to individual items with monograms or personalized designs.

Products sold into the high-volume corporate market are typically catalog items that, for marketing purposes, may be grouped together with other advertising specialty products such as embossed desk accessories, corporate coffee mugs, or other business souvenirs. This segment of the market usually purchases in large quantities (>100-250 pieces) and pricing to it reflects the volume orientation. Typically, the marketing channel is catalogs (both print and online) and manufacturer's representatives. Smaller-volume items and one-of-a-kind items are most often marketed locally or regionally through direct sales at retail outlets or via personal selling, mail-order, or websites. A significant, and highly competitive, segment of the market is for monogrammed goods for local groups, such as sports teams. This segment is supplied most commonly by local embroidery firms who sell in bulk at wholesale prices.

From a production standpoint, the industry may be divided into three types of firms: contractors, wholesalers, and retailers. A 2004 industry survey by Stitches magazine, an industry trade journal reported that respondents classified themselves as follows: 22.8% contractors, 16.6% wholesalers, and 59.7% retail. A simple way to understand this specialization of production is that contractors sell in large quantities through intermediaries. In a 2005 industry survey, the four largest firms in the U.S. each reported embroidering more than 3,000,000 pieces. However, it should be noted that a number of large firms reported that production volume was essentially flat year-on-year. This segment of the industry also faces significant foreign competition.

Wholesalers sell medium-sized lots to group purchasers such as local sports teams and clubs who may re-sell the products (hence the term wholesalers) for fund-raising. Although many wholesalers are small operations with few employees, they typically operate higher-capacity equipment in order to fill bulk orders quickly. Retailers, the segment subsequently entered by Louise and her partners, typically sell single items or small quantities to individuals. Although some may operate out of a mall kiosk, most retailers operate from home. A further indication of the structure of the industry is that, in the 2005 survey, only 18.6% of the 500+ respondents reported having 3 or more employees.

Barriers to entry into the industry are relatively low; an individual may enter the retail segment of the industry with a relatively low investment in production equipment or may enter as a reseller, or representative, selling the production of any small job-shop operation. Additionally, embroidered goods are not a necessity. While embroidered goods may convey the image of higher quality and embroidery has better wear characteristics (lasts longer), embroidery can be replaced by lower cost stenciling or screen-printing in many applications and in fact, many embroiderers also sell screen printed merchandise. Locally in San Antonio, 60 firms (not including The Stitch House) are listed as embroidery suppliers in the Yellow Pages directory. In summary, the industry is highly fragmented, with competitors of all sizes and a wide range of customer types and sizes (Parsons, 2004, 2005, 2005).

START-UP DECISIONS ARE MADE

After dropping the idea of becoming thread bobbin suppliers, the partners decided to target a specific market segment: the baby industry. While there were many competitors trying to sell embroidered baseball caps to teams, she felt that was a strong potential demand for baby clothes with embroidered designs. Her mother told Louise that everyone liked baby clothes with embroidery – but no grandmothers had the time to do that by hand anymore. And unlike baseball caps – baby clothes get outgrown and have to be replaced often. It seemed like a great opportunity – not only would they make money on the embroidery – they would get a markup on the clothing item also.

Once the decision was made to produce embroidery, Louise also went to work to get the business going. She leased commercial space, got a friend of hers to create a web page for the business, and set about obtaining the necessary equipment. After some research, Louise was given a proposal by the firm that seemed to be the best equipment supplier; a bit concerned about the price, she asked for and was given an alternate proposal. Either option could be acquired via a lease with a fair market value purchase option at the end of the 45 month lease. The lease would be through a commercial leasing company that frequently worked with the equipment company. The two equipment choices and their costs are shown in the table below. Louise wanted to do this right – so she decided not to consider looking for used or re-conditioned equipment. They couldn't afford equipment that might break down when they needed to produce a big order. But at the same time, she was concerned about costs; Louise decided to lease the single-head embroidery machine. However, before she made the phone call to lease the machine, she wondered if she should solicit the advice of the other two partners in this decision. She decided, she had made all the important decisions so far anyway – she was the boss, wasn't she? With a deep sigh, she placed the lease order for the machine.

	15 needle – 6 head*	15 needle – 1 head
Purchase price	\$46,690.00	\$19,990.00
Installation	\$1,295.00	\$995.00
Due at lease signing	\$9,098.00	\$3,824.00
Monthly lease payment	&1,144.00	\$487.00

* number “heads” determine the number of pieces that can be worked at one time, a 6-head machine can work 6 pieces a 1-head machine can work one piece.

READY FOR BUSINESS – BUT...

By late January they were ready to go. The equipment was in place, the website was up, and Luis was ready to start production. There was only one problem: orders were coming much slower than Louise had expected. Robert complained that it took much too long to make product with the single-head machine that Louise had leased. So, or at least he said, he couldn't go after the really big orders he needed to make real money. After four weeks, he abruptly quit. With what she had already invested in the business – over \$20,000 at this point – Louise decided that she couldn't quit now. She'd helped her ex-husband sell furniture, now she'd sell baby blankets, or caps, or whatever embroidered products she could sell to the many independent baby and clothing stores around San Antonio. Then she remembered – Luis – where was he? He did not answer his cell phone but Louise knew she could *always* find him at the sports bar. But she decided that he was next to useless when important decisions had to be made. So, she decided that she could 'go it alone' if need be.

However, orders proved extremely hard to come by. She couldn't even get a special order for ball caps from her cousins Little League team – they'd made the playoffs and wanted 60 special caps made in four days. While Luis said they could do it, they'd have to charge \$1.00/cap more than another supplier and then they'd just cover their costs.

SHUT DOWN OR RE-START?

By April, Louise was ready to quit. Total revenues since startup were still less than \$1,000. As the charges on her credit cards mounted she gave up the commercial space and moved the embroidery machine into her garage. A family member told her about an acquaintance of theirs who was working on an MBA degree at a local university – maybe she would have some ideas that could help Louise get the business back on track. After talking on the phone to the student several times, Louise was optimistic. This kid sounded pretty bright. She'd asked Louise to put together some information for their first meeting. After going through the reports she had from her accountant and remembering some of the things that had occurred, Louise wrote out the following on a legal pad:

1. with pattern, takes about 20 minutes to set up machine to stitch, takes about 5 minutes to stitch one blanket;
2. good blankets cost \$4.00 wholesale, selling price after embroidery is \$10.00 to a store;
3. use the same markup for caps and sweaters, they sell to stores for \$4 and \$10;
4. my costs:
 - A) rent + security service \$1200/month (stopped)
 - B) advertising & website \$ 600/month
 - C) equipment lease \$ 485/month
 - D) general office expense \$ 200/month

E) payoff Visa balance	\$ 350/month (balance is \$7800)
F) Luis	\$ minimum wage + profit share

She sat back – looked at this way the numbers didn't look so bad. Yes she'd spent a lot of money getting started; in retrospect she should not have bought all new office furniture and equipment. But without the rent payment she ought to be able to make a success of this yet, she'd just have to get selling – and get used to having Luis working in her garage. But actually he was sort of cute, so maybe this would all work out after all...

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CENTRAL CITY MAKES A PROMOTION – PART A

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CASE DESCRIPTION

The primary subject matter of this case concerns the alleged discriminatory promotion practices within a governmental agency. Secondary issues examined include the development and application of affirmative action plans affecting several protected classes. The case has a difficulty level of four, appropriate for senior level. The case is designed to be taught in three class hours and is expected to require three hours of outside preparation by students.

CASE SYNOPSIS

Are Affirmative Action Plans meaningful guidelines to employment decisions? Or, are these plans merely an exercise in satisfying legislative directives? The Central City Police Department faces these questions concerning their recent promotion list to sergeant. Specifically, what is the department's justification for not promoting the individual with the second highest score on the promotion test? How can an individual with excellent performance evaluations and a clean discipline record not be promoted? Could it be the individual is a woman?

This case explores the integration of minorities into a predominately white male work environment. For example, the organization as a whole (i.e., city government) has developed affirmative action plans for over a decade. Only in the last several years has the branch level (i.e., police department) developed separate goals addressing their specific operation. Branch managerial decisions over the years did not eliminate discriminatory practices. In fact, branch management faced separate lawsuits from African American and then Hispanic employees over employment discrimination issues based on race. Now, branch management faces the integration of a new protected class within the workforce. Will they follow their previous managerial behavior?

[NOTE: This case is a fictionalized version of a real-life situation. Names and other potentially identifying information have been changed to protect identities. The applicable fact situation is true to the real case.]

INTRODUCTION

Mary Jones joined the Central City Police Department almost seven years ago. After successfully completing the training academy, she was assigned to the Field Bureau. The Field Bureau is comprised of the uniformed officers in cruisers patrolling the city. In the past six-plus years, in addition to the Field Bureau, she has also been a car accident investigator (1 year) and in the public affair unit (1 year). Although Off. Jones is currently assigned to the Field Bureau on the day shift in the 1st Precinct; she is on maternity leave having just given birth to her first child.

Jones is a married, white female in her early-thirties. She graduated summa cum laude from State University nine years ago with a bachelor degree in Criminal Justice. Eight years ago she was initially hired by Central City as a jailor. She applied to be a police officer with the city about a year later and was hired. Eighteen months ago Jones married a college professor and lives in Central City with her husband and newborn son.

CITY BACKGROUND

Central City has approximately 500,000 people. Women make up almost 55% of the adult population of Central City. Almost 84% of the population is Caucasian, 13% Black/African American, 1% Asian/Pacific Islander, ½% Native American and the remaining 1½% identified in another classification. People of Hispanic origin comprise just over 3% of the population, with half of them identifying their race as Caucasian.

The city government may be described as a strong mayor form of government. The mayor is directly elected by the voters for a term of four years. It is a full-time position. The mayor selects his/her cabinet, except for the Director of Legal Affairs, Police Chief and Fire Chief. These three cabinet positions are covered by civil service protection; therefore, incumbents remain in their positions despite changes in mayor. All other cabinet members serve at the pleasure of the mayor. The legislative body for the city, the city council, has nine members elected by the voters for four-year terms.

The Central City Police Department, like most other police departments, uses a paramilitary structure utilizing a chain of command. The department is headed by the chief of police. Collectively officers at the rank of sergeant or above are referred to as *command officers*; with officers with the rank of captain or above called *senior command officers*. The current breakdown by rank are:

Rank	Number
Chief	1
Deputy Chief	7
Captain	18
Lieutenant	40
Sergeant	120
Police Officer	554
Total Sworn Officers	740

The city only hires from outside the department at the ranks of police officer and chief. All promotions except to chief are closed, meaning that only current sworn officers on the Central City Police Department are eligible. The chief may be done in an open (outsiders and insiders) or closed (insiders only) process at the discretion of the mayor.

Central City was divided into six precincts for the purposes of the police department's organization. Each precinct has one captain. Then there is a lieutenant assigned to the precinct on each shift (three total lieutenants in each precinct). Within each precinct there are three crews per shift. Each crew is lead by a sergeant and has five to ten officers. Two of the three crews per shift will work on any particular day. (See Appendix 1)

All of the sworn officers from police officer to captain are represented by the police union. The union contract provides that twice a year officers may bid (in order of preference) what shift they want to work (days, evenings, midnights). Officers are assigned to the shift by seniority in rank. Once their shift has been determined, the officers in the Field Bureau then can make requests as to which precinct and sergeant they want to work for. Generally these requests are honored but the contract does not require that Field Bureau officers be assigned to precinct and sergeant per their preference.

A little more than ten years ago, about a decade after Title VII became effective against municipal governments, the city changed its police ranks. Prior to then there were two entry level ranks, policeman and policewoman. Policewomen were limited in the duties that they could perform. Policewomen were not allowed to be assigned to the Field Bureau. The policy was not changed until a female applicant threatened a lawsuit if she was not hired at the same rank and with the same duties as males being hired. The first women officer was promoted to sergeant six years ago. The first female lieutenant has been at that rank for less than a year. There has never been a female to hold, or even qualified to apply for, a rank higher than lieutenant.

AFFIRMATIVE ACTION

As a recipient of significant federal funds, the city has had an affirmative action plan in place for at least eleven years. In that time period the city has approved three plans and a fourth is under consideration. The plans covered all of the departments within city government. In regard to the goals contained in the plans, only in the current and proposed plans has the police department had separate goals compared to other city departments. The city does not have a good record in voluntarily meeting its police department goals for African-Americans, Hispanics or women. In the affirmative action plan created eleven years ago, the city admitted to discriminating against women in police department employment practices.

Over the past eleven years the city has never been closer than 60% of its goal concerning female police officers at the entry-level rank. Currently the city has achieved less than 50% of its goal. There are 60 female police officers on the department at this time. The goal is 125 females at the entry-level rank. In regard to minority (Black and Hispanic) entry-level police officers the city has exceeded its goal for almost eight years.

While the affirmative action plan in place eleven years ago was in effect, 3.3% of the male applicants were hired and 2.4% of the female applicants were hired. During that time 29% of male applicants passed all phases of the testing process, while 16% of the female applicants passed all phases. During the time period covering the next affirmative action plan the pass rate of men was 17.4% and the success rate of female applicants was 12.5%. Regarding the applicants hired, 7% of the male and 6.5% of the female applicants became police officers. Under the current affirmative action plan 3.4% of the male applicants were hired and 0.7% of the female applicants were hired. The pass rate for male applicants was 74.5% and the pass rate for female applicants was 47.8%. Only one of twelve recruit classes over the past eleven years had at least 20% female recruits. Five of those recruit classes had less than 10% new women police officers. The remaining six classes were comprised of 10-20% female recruits. For the past eight years the goal for entry-level female officers has been over 20%.

Until last year, the goal for women at the rank of sergeant was 22.7% or higher. Last year the city redefined its goals and set the goal for female sergeants at 5.3%. The city made the change because only 5.3% of the officers eligible to test for sergeant were female. The goal for lieutenant was dropped from 20.1% to 2.7% for the same reason. The city dropped all goals for women at the ranks of captain, deputy chief and chief because no women were eligible at the time the goal was set to test for these ranks. The impact of changing the method of determining the goals for minority officers was that the goal for sergeants went from 13.8% to 13.5% and the goal for lieutenant went from 14% to 13%. The changed halved the goal for minorities in the upper ranks.

Ten years ago, a group representing the African American officers sued the city for employment discrimination based on race. The United States Justice Department also filed a lawsuit versus the city for employment discrimination against black officers. Before trial the parties entered

into a settlement that was incorporated into a consent decree (court order). Among the settlement terms, the city agreed to set 9.3% as the long-term goal for black officers at each rank.

The Hispanic officers sued the city last year and settled out of court in a manner similar to the Black police officers' group. The long-term goal set in this consent decree was 3.2% at each rank.

PROMOTION PROCESS

Because all police officers, no matter rank, are covered by civil service, the city has established a merit system for selection. To be considered for promotion to sergeant, a person must have been an officer on the Central City Police Department for at least four years at the time of the application deadline. As with other eligibility lists, once established the sergeant eligibility list is valid for two years. The selection process for promotion to sergeant primarily involves a two-step process in order to establish the eligibility list. When a vacancy at the rank of sergeant occurs, then further steps are taken to fill the vacancy, including an interview with the chief. The step-by-step process is described in Appendix 2.

Central City's Human Resource Department is responsible for the testing process and establishing the eligibility lists. The city uses a modified rule of three, which means that for one opening the top three names on the eligibility list will be referred for consideration. If there are more than one opening in a rank, then the number of names referred will be double the number of vacancies to be filled. In the past the Human Resource Department has modified this process in a couple of different ways to take into account the affirmative action plan. They have either dropped the last name on the list and included the top name of the next highest scoring applicant of the protected class in which there is an underutilization or they have simply added one or two names to the list for underutilization purposes. The chief may, under law, promote any person whose name appears on the referral list.

CURRENT SITUATION

The city has just recently established a new sergeant eligibility list. For the purposes of this case, the following officer's placement on the list is relevant:

Right after the list came out, Jones was due to give birth. A couple of days before she started maternity leave, Jones met with Chief George Cline. She told Cline that she suspected that there would be a couple of promotions made to sergeant during her maternity leave, and she wanted to make sure being on maternity leave would not impact her being promoted. Chief Cline assured her that she would not be passed over for promotion.

Rank	Name	Race	Gender
1	Isaac Williams	black	male
2	Mary Jones	white	female
3	Bill Wright	white	male
4	Joel Peterson	white	male
5	Samantha Miller	white	female
10	Mimi Kuebs	white	female
19	Robert White	black	male
36	Fred Taylor	black	male
48	Johnnie Brown	black	male

About three weeks after giving birth, Jones found out that the City intended to promote two people to the rank of sergeant. Further, she was informed that her name had not even been referred for consideration. Instead of referring the top four names as required by city law, the Human Resources Department sent the names of the only four Black officers on the eligibility list. In addition to Williams (#1), these officers were Robert White (#19), Fred Taylor (# 36) and Johnnie Brown (# 48). All four of these Black male officers were in the same recruit class as Jones. This will be the first time in Central City history that an affirmative action promotion would be made before the top two people on the eligibility list were promoted.

It has been two years since a woman has been promoted to sergeant. During that two- year period, there have been thirteen men promoted to sergeant. Until the latest affirmative action plan was put into place a few months ago, the city was five female officers underutilized at the rank of sergeant. Under the current plan, with the new methodology for determination of the goal, the department is not underutilized.

JONES VISITS ATTORNEY

After learning of the City's intent to promote two officers without even considering her for promotion, Jones went to see a lawyer. She explained to the attorney that she finished with the second highest score on the promotion test and that she had not received any special treatment (affirmative action considerations) to achieve this ranking.

Jones told her attorney, Perry Matlock, that she knew of no reason that she would not be promotable. She had never been disciplined. Her performance evaluations have always been excellent. She had been a team player and worked hard to improve the public image of the police department.

KUTZTOWN UNIVERSITY OF PENNSYLVANIA

When Chief Cline received the referral list for the promotion he noticed that Off. Jones' name was not on the list. Cline called Ben Mason, the deputy city attorney responsible for the police department, to advise Mason of his conversation with Jones.

After the telephone call Mason decided that the legal department needed to do some preliminary work on this matter. So Mason made arrangements to interview the primary people involved with the promotion decision.

Archie Hill, the Employment Director, was the first to talk with Mason. Among his responsibilities Hill oversees the creation and administration of all employment testing and development of the eligibility list. The following is the relevant part of their conversation.

MASON: Archie, I appreciate you meeting me. I need to discover what is happening regarding Jones' possible claim that she has been discriminated against. How do you determine who on the eligibility list is qualified for promotion?

HILL: The department believes that all candidates whose names appear on the eligibility list are qualified for the job.

MASON: Does ranking on the list convey who is most qualified?

HILL: Not really, as there are other factors. Clearly number 1 is better qualified than number 60. But is number 3 less qualified than number 1, I can't say so.

MASON: Were you actively involved in the current promotion process for sergeant?

HILL: I met with Jerry Franklin, Assistant Human Resources Director, to discuss the proper procedure for determining the names that would be referred to the chief for this promotion. Jerry had completed the underutilization analysis that indicated there was an underutilization of two blacks at the rank of sergeant. We decided to recommend that only the names of black candidates should be referred for these two openings. That way we would be in full compliance with the court decree entered in the Black Police Officers Association case against the city.

MASON: Before this promotion, have we ever referred only the names of members of a protected class?

HILL: This was the first sergeant position that only the names of black candidates were referred. Prior to this particular promotion if there was an underutilization of black sergeants we would use a different process. For example, if there was one opening, the top two or three candidates plus the top one or two black applicants would be referred for consideration. So the chief might then select from among four to six candidates under the old system. We would advise the chief of the underutilization, but he was under no obligation to promote a black candidate.

However, we did use a similar process for a recent lieutenant promotion. In that case the lieutenant's list was about to expire. There were only two black officers on the eligibility list. We made the referral shortly after the black officers had unsuccessfully brought the city back to court claiming that we were not making progress toward the goals in the consent decree. So, instead of referring three names, we only referred the names of the two black sergeants for consideration.

MASON: Didn't we have a referral of only Hispanic officers for promotion?

HILL: Yes, approximately six months ago for a sergeant promotion. That promotion was made because the Hispanic consent decree specifically required that at least one Hispanic officer be promoted to sergeant within 180 days. The 180 days was coming to a close and no Hispanic officers had been promoted.

MASON: What is the Human Resource Department's policy regarding referrals?

HILL: There is no official policy regarding how the court consent degrees and affirmative action plan are incorporated into the employment decision process. Prior Human Resource Directors did not agree with the "black only," or "Hispanic only" method of referral. However the current acting director has no objection to such referrals.

MASON: Does the chief know the order on the eligibility list when the names are referred?

HILL: When names are referred to the chief for consideration, they are listed in the order of placement on the eligibility list. So the top name on the list of referrals is the name of the referred person who is highest on the eligibility list. However, there is no indication as to the exact placement on the eligibility list.

MASON: When is the last time a woman was promoted to sergeant under the city's affirmative action plan?

HILL: I can't remember any incidents where a women officer has been promoted to sergeant under the affirmative action program. There have been cases that black and Hispanic officers have been promoted to sergeant under affirmative action policies.

MASON: How many people of color and females were on this eligibility list?

HILL: Four out of sixty-nine names on the eligibility list were black males. If I remember correctly they ranked 1, 19, 36 and 48. There were seven were white female. Jones ranked highest at number 2. The others' approximate rankings were 5, 10, 45, 46, 56 and 62. I believe there were two Hispanic males, 26 and 60. All but two of the black candidates, Williams and White, and two of the female candidates, Jones and Kuebs, were on the list because of affirmative action. All but those four people scored lower than 60th on the multiple choice test after seniority and education points were added. But we invited them to participate in the assessment center by virtue of the affirmative action program.

Next Mason talked with Jerry Franklin, Assistant Human Resources Director. Franklin is in charge of development and implementation of the city's affirmative action program and compliance with court decrees regarding hiring and promotions. Their conversation went as follows:

MASON: Historically, how were the affirmative action goals for women at the rank of sergeant determined?

FRANKLIN: In the original affirmative action program developed eleven years ago, the goals were set based collectively on all city departments. Police sergeants were lumped into the category of Technicians. For Technicians throughout the city the goal for women was 22.7%.

MASON: Has the city changed the method of determining affirmative action goals for sergeants?

FRANKLIN: Three months ago when the latest affirmative action plan was approved the city broke out the police department from the rest of the city departments in determining the goals. Sergeants were switched from technicians to professionals. Finally the method of determining the base for the goals changed. The new method narrowed the potential pools to only those females/minorities on the department at the rank of police officer with at least four years experience. The interim goals for blacks and

Hispanics under the respective consent decrees were incorporated into the last affirmative action plan because those goals were higher than the goals determined by the new method being used by the city. There were no court decrees regarding women; so, the goal for women was simply based on the percentage of women with four or more years experience at the rank of police officer.

MASON: How do you prioritize court orders and the city's affirmative action plan?

FRANKLIN: It is the city's position that the court decrees are superior to city ordinances and the affirmative action plan. So as long as there is an underutilization of blacks or Hispanics, there will be no efforts made to hire or promote females even if there is a serious underutilization of women.

MASON: How are the terms of court orders and the affirmative action implemented?

FRANKLIN: There is no policy within the city as to how to apply consent decrees or affirmative action plans in the hiring decisions. At the time that the referral list in question was being prepared there were 120 sergeants authorized, nine of whom are black. The consent decree goal is 9.3% of sergeants should be black. That means that the city needed 11 black sergeants to be in full compliance with the goals of that consent order.

Chief Cline was the next official to meet with Mason. Cline has been chief for only seven months, but he has been on the Central City Police Department for twenty years. Chief Cline shared the following with Mr. Mason:

MASON: Chief, did you consider promoting Mary Jones to sergeant?

CLINE: No I did not. Her name was not referred to me and she was not interviewed for promotion.

MASON: What role do you see the chief's interview playing in determining the qualifications of candidates for promotion?

CLINE: The Human Resource Department's testing process is designed to determine if the applicants for promotion have the necessary knowledge, skills and abilities. The chief's interview is only 15-minutes or so. It is simply to get to know the person a little better to make sure that there is no glaring reason against promoting the person.

MASON: How is the police department doing toward meeting the goals of the affirmative action plan?

CLINE: Well, the most recent recruit class that just completed training a week ago has 22 new police officers. Only one of those recruits is female. Overall, out of the 740 current sworn officers, approximately 68 are female. Seven of those females are sergeants and one is a lieutenant. As far as blacks on the police department, there are 78 black sworn officers. Of those 17 hold command rank. I believe there are 12 black sergeants, 4 black lieutenants, and 1 black captain.

MASON: Are you familiar with Officer Mary Jones?

CLINE: Although Off. Jones was not interviewed for promotion, I am familiar with her. She has never worked directly under my command but I am familiar with her work. A couple of my captains for whom she worked directly have talked about her with me. I also am generally familiar with her work through observing the results of her actions. .

MASON: Do know of any reason that you would not promote Off. Jones?

CLINE: I know of no reason to believe that Jones could not perform the duties of a sergeant. At this point I would promote her under the right circumstances.

MASON: Don't Williams and White have relatives in high positions within city government?

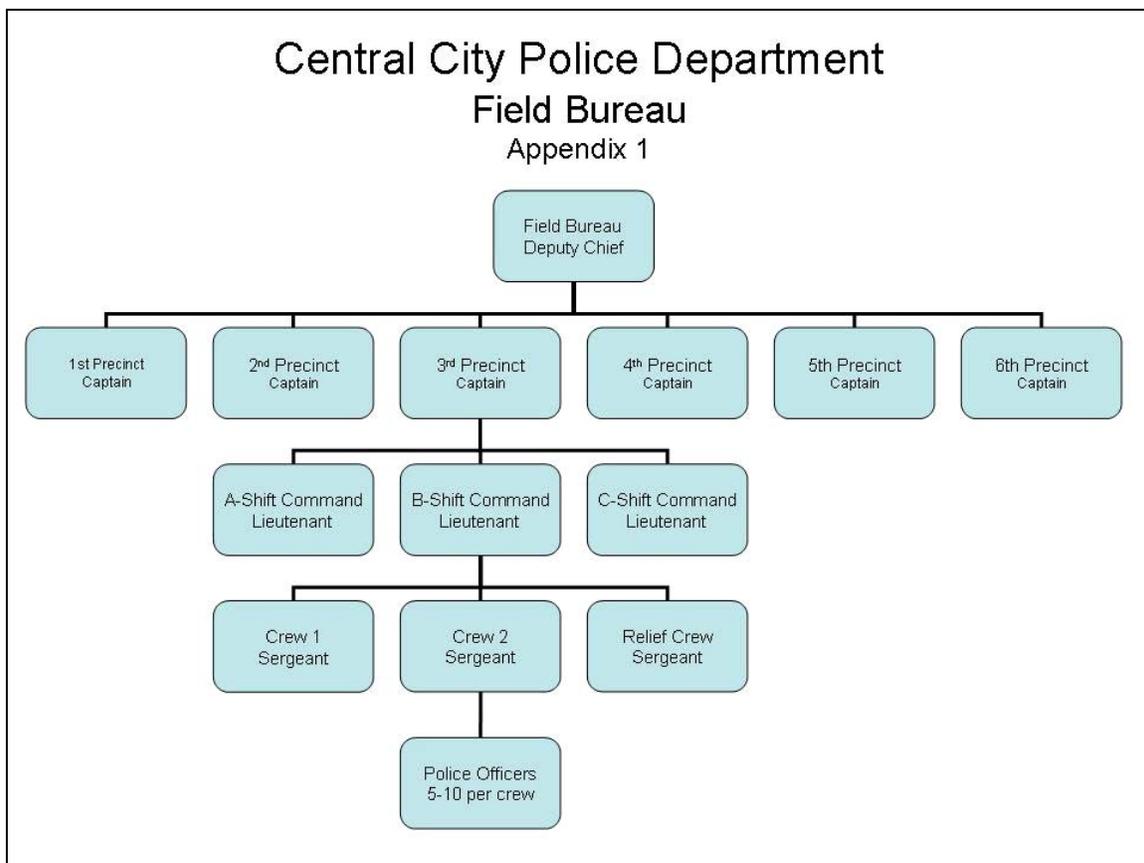
CLINE: Yes, Williams is the son of one of the mayor's top aides and White's sister is a member of city council. The fact they have relatives within city government did not impact the promotion decisions or who would be referred for consideration. I decided to promote these two individuals because they were the two highest listed people referred for promotion.

Isaac Williams, Sr., Off. Isaac William's father, briefly met with Mason. Williams, Sr. is the mayor's assistant responsible for public safety. He is also a captain on the police department; although he is currently on a leave of absence to serve the mayor. Mr. Williams admitted to Mason that in his opinion that women have been the target of discrimination within the police department. He is seeing improvement within the department over the past several years, but women still are not treated 100% the same as men. He also believed that black males were not treated the same as white

males. Williams agreed that he has seen improvement in the treatment of black officers over the course of his career.

CONCLUSION

The day has come for the promotion of two police officers to sergeant. The promotion ceremony is scheduled for 3:00 p.m. in the police department's auditorium. In attendance will be most senior command officers, many co-workers of the people being promoted, the family and friends of those being promoted, the mayor and the local media. However, before the ceremony commences, Mary Jones and city officials have to make some important decisions.



**CENTRAL CITY
SERGEANT PROMOTION PROCESS**

Appendix 2

Applications Submitted: Approximately every two years the Central City Human Resource Department accepts applications from current police officers who meet minimum qualification during a 30-day period of time. Job announcements are posted only a day or two before the application period begins

Applications Reviewed: The Human Resource Department reviews each application to determine if the applicant is a current sworn police officer with the Central City Police Department and has been so employed for at least the immediate four years prior to the application closing date.

Multiple Choice Test: The Human Resource Department administers a multiple choice test over state and city laws involving the police department and the department's standard operating procedures.

Creation of Preliminary List: The Human Resource Department creates a preliminary list by using the score on the multiple choice test plus up to 10 points for seniority and up to 10 points for education.

Initial cut off: Applicants are invited to participate in the second phase (usually top 60 scores plus additional applicants in protected classes if necessary for affirmative action purposes)

Assessment Center: The assessment center usually includes an in-basket exercise and two or three additional exercises that deal with employees or the public.

[The following description of an assessment center is a direct quote from McGrath Consulting Group, Inc. of Wonder Lake, Illinois. It does an excellent job of summarizing assessment centers

(Source: <http://www.mcgrathconsulting.com/assessmentcenter.asp>):

An assessment center is a systematic and comprehensive testing process in which pre-selected candidates are tested in an environment that provides a high degree of reliability and insight into his/her supervisory, leadership, and/or management potential by testing skills

and ability, rather than just knowledge. Assessment testing is appropriate for all supervisory ranks.

The candidates participate in a series of exercises tailored to represent the culture and environment of your organization and community. The assessment center process allows the assessors to observe the candidate's thought process, organizational skills, leadership ability, stress tolerance, analytical skills, influence, delegation ability, decisiveness, sensitivity and/or empathy, both verbal and non-verbal communication, ability to function as a team member, and his/her ethics.

The assessment center testing process has both individual and group tasks that are observed by a series of assessors, trained by McGrath Consulting in behavioral observation techniques. Each assessor will rank the candidates and then, as a group, discuss and agree upon a composite evaluation of each candidate.

The hiring authority is able to evaluate, before hiring and/or promotion, how an individual is likely to perform in the job via observation of the candidate's ability to handle job-simulation exercises.]

Eligibility List Established: The Human Resource Department establishes the eligibility list based on the assessment center score. The person with the highest score on the assessment center is number 1 on the list.

Notice of Vacancy: The police chief sends a notice of opening to the Human Resource Director.

Referral List Sent: The Human Resource Director refers a list of names to the chief for consideration. If there is one opening, then the top three names on the list are contained on the referral. If there is more than one vacancy to be filled, then the list of names referred will contain twice the number of names than there are vacancies to be filled. Generally, if there is an underutilization of a protected class, the name(s) of the top or two top members of that protected class will be added to the referral list.

Chief's Interview: Once the names have been referred, the police chief will interview each of the applicants whose name was on the referral list.

Chief's Recommendation: After interviewing the candidates, the police chief makes his/her recommend for promotion to the mayor. The chief does not have to take the candidates in

order, nor does the chief have to give a reason for recommending someone other than the top name on the list.

Mayor Promotes: The mayor, upon receiving the chief's recommendation, makes the formal promotion decision. This is a rubber-stamp decision, as the mayor will almost always promote whoever the chief selects.

CENTRAL CITY MAKES A PROMOTION – PART B

Steven C. Palmer, Eastern New Mexico University

Lee Weyant, Kutztown University of Pennsylvania

George W. McNary, Creighton University

CASE DESCRIPTION

The primary subject matter of this case concerns the alleged discriminatory employment practices within a governmental agency. Secondary issues examined include the development and application of affirmative action plans affecting several protected classes and management policies to insure equal employment opportunity. The case has a difficulty level of four, appropriate for upper level undergraduate and graduate students. The case is designed to be taught in three class hours and is expected to require three hours of outside preparation by students.

CASE SYNOPSIS

Are Affirmative Action Plans meaningful guidelines to employment decisions? Or, are these plans merely an exercise in satisfying legislative directives? What is an equal opportunity employment environment? The Central City Police Department faces these questions concerning their recent employment practices. More specifically, what is the department's justification for not promoting the individual with the second highest score on the promotion test? How can an employee with excellent performance evaluations and a clean discipline record not be promoted? Could it be that the individual was a woman? Does the work environment penalize women? Finally, are supervisors and employees appropriately trained and supervised regarding employment discrimination issues?

This case explores the integration of women into a predominately white male work environment. For example, the organization as a whole (i.e., city government) has developed affirmative action plans for over a decade. Only in the last several years has the branch level (i.e., police department) developed separate goals addressing their specific operation. Branch managerial decisions over the years did not eliminate discriminatory practices. In fact, branch management faced separate lawsuits from African American and then Hispanic employees over employment discrimination issues based on race. Now, branch management faces the integration of an additional protected class within the workforce. Will they follow their previous managerial behavior?

[NOTE: This case is a fictionalized version of a real-life situation. Names and other potentially identifying information have been changed to protect identities. The applicable fact situation is true to the real case.]

CENTRAL CITY MAKES A PROMOTION – PART B

Mary Jones joined the Central City Police Department almost seven years ago. After successfully completing the training academy, she was assigned to the Field Bureau. The Field Bureau is comprised of the uniformed officers in cruisers patrolling the city. In the past six-plus years, in addition to the Field Bureau, she has also been a car accident investigator (1 year) and in the public affair unit (1 year). Officer Jones is currently assigned to the Field Bureau on the day shift in the 1st Precinct. She just returned to duty after being on maternity leave for the birth of her first child.

Jones is a married, white female in her early-thirties. She graduated summa cum laude from State University nine years ago with a bachelor degree in Criminal Justice. Eight years ago she was initially hired by Central City as a jailor. She applied to be a police officer with the city about a year later and was hired. Eighteen months ago Jones married a college professor and lives in Central City with her husband and newborn son.

CITY BACKGROUND

Central City has approximately 500,000 people. Women make up almost 55% of the adult population of Central City. Almost 84% of the population is Caucasian, 13% Black/African American, 1% Asian/Pacific Islander, ½% Native American and the remaining 1½% identified in another classification. People of Hispanic origin comprise just over 3% of the population, with half of them identifying their race as Caucasian.

The Central City Police Department, like most other police departments, follows a paramilitary structure utilizing a chain of command. The department is headed by the chief of police. Collectively officers at the rank of sergeant or above are referred to as *command officers*; with officers holding the rank of captain or above called *senior command officers*. The term *sworn officers* refers to police officers who have been certified by the state as law enforcement officers, regardless of rank. The current breakdown of sworn officers by rank and gender are:

The city only hires from outside the department at the ranks of police officer and chief. All promotions except to chief are closed, meaning that only current sworn officers on the Central City Police Department are eligible. The selection of chief may be done in an open (outsiders and insiders) or closed (insiders only) process at the discretion of the mayor.

Rank	Number	Males	Females
Chief	1	1	0
Deputy Chief	7	7	0
Captain	18	18	0
Lieutenant	40	39	1
Sergeant	120	114	6
Police Officer	554	501	53
Total Sworn Officers	740	680	60

Because all police officers, no matter their rank, are covered by civil service, the city has established a merit system for selection. To be considered for promotion a person must have held an appropriate rank on the Central City Police Department for a specified length of time prior to the application deadline. Promotional eligibility lists, once established, are valid for two years. When a vacancy at a particular rank occurs, individuals from the list are selected and further steps are taken to fill the vacancy, including an interview with the chief.

Central City's Human Resource Department is responsible for the testing process and establishing the eligibility lists. The city uses a rule of three, which means that for one opening the top three names on the eligibility list will be referred for consideration. If there is more than one opening in a rank, then the number of names referred will be double the number of vacancies to be filled. In the past the Human Resource Department has modified this process in a couple of different ways to take into account consent decrees and the affirmative action plan. They have either dropped the last name on the list and included the top name of the next highest scoring applicant of the protected class in which there is an underutilization or they have simply added one or two names to the list for underutilization purposes. The chief may, under law, promote any person whose name appears on the promotional eligibility list.

About a decade after Title VII was extended to apply to municipal governments, the city changed its police ranks. Prior to then there were two entry level ranks, policeman and policewoman. Policewomen were limited in the duties that they could perform. Policewomen were not allowed to be assigned to the Field Bureau (cruiser duty). The policy was not changed until a female applicant threatened a lawsuit if she was not hired at the same rank and with the same duties as males being hired. The first women officer was promoted to sergeant six years ago. The first female lieutenant has been at that rank for less than a year. There has never been a female to hold, or even qualified to apply for, a rank higher than lieutenant.

The city must follow state and federal laws regarding employment discrimination. The city charter, municipal ordinances and union contract also prohibit employment discrimination.

AFFIRMATIVE ACTION

As a recipient of significant federal funds, the city has had a voluntary affirmative action plan in place for at least eleven years. In that time period, the city has approved three plans and a fourth is under consideration. The plans covered all of the departments within city government. In regard to the goals contained in the plans, only in the current and proposed plans has the police department had separate goals apart from other city departments. The city does not have a good record in voluntarily meeting its police department goals for African-Americans, Hispanics or women. In the affirmative action plan created eleven years ago, the city admitted to discriminating against women in police department employment practices.

Over the past eleven years the city has never been closer than 60% of its goal concerning female police officers at the entry-level rank. Currently, the city has achieved less than 50% of its goal. There are 60 female sworn officers on the department at this time. The goal is 125 females at the entry-level rank. In regard to minority (Black and Hispanic) entry-level police officers, the city has exceeded its goal for almost eight years.

Only one of twelve recruit classes over the past eleven years had at least 20% female recruits. Five of those recruit classes had less than 10% new women police officers. The remaining six classes were comprised of 10-20% female recruits. For the past eight years the goal for entry-level female officers has been 22.7%. During the time the affirmative action plans have been in effect the hiring and pass rates have been:

	1 st Plan		2 nd Plan		Current Plan	
	%Male	%Female	%Male	%Female	%Male	%Female
Applicants Hired	3.3	2.4	7.0	6.5	3.4	0.7
Applicants passing all phases of the testing process	29.0	16.0	17.4	12.5	74.5	47.8

Until last year, the goal for women at the rank of sergeant was 22.7% or higher. Last year the city redefined its goals and set the goal for female sergeants at 5.3%. The city made the change because only 5.3% of the officers eligible to test for sergeant were female. The goal for lieutenant was dropped from 20.1% to 2.7% for the same reason. The city dropped all goals for women at the ranks of captain, deputy chief and chief because no women were eligible to test for these ranks at the time the goals were set. The impact of changing the method of determining the goals for minority officers was that the goal for sergeants went from 13.8% to 13.5% and the goal for lieutenant went from 14% to 13%. The changed halved the goal for minorities in the upper ranks.

Ten years ago, a group representing the African American officers sued the city for employment discrimination based on race. The United States Justice Department also filed a lawsuit versus the city for employment discrimination against black officers. Before trial the parties entered

into a settlement that was incorporated into a consent decree (court order). Among the settlement terms, the city agreed to set 9.3% as the long-term goal for black officers at each rank.

The Hispanic officers' association sued the city last year and settled out of court in a manner similar to the black police officers' group. The long-term goal set in this consent decree was 3.2% at each rank.

The city police department has not yet been sued for employment discrimination based on sex. There is a complaint on file with the Equal Employment Opportunity Commission (EEOC) that is under investigation. The complaint was filed by Kathy Kelly regarding promotion practices and hostile work environment. Central City has maintained throughout the investigation that it has done nothing illegal. The EEOC has taken no final action on the complaint.

Central City has not submitted for approval any of the affirmative action plans to the courts that entered the consent decrees. Instead, the city has tried to make sure that the goals stated in the affirmative action plans equaled or exceeded the goals contained in the consent decrees. Further the Personnel Department has given priority to the consent decrees over the affirmative action plan,

Despite having a voluntary affirmative action plan, Central City did little to implement the provisions to attract, keep and promote qualified females and people of color. The city assigned a female police officer and an officer of color to the recruitment team. All pictures used in recruitment would include these officers. The police department recruiting team would set up a table in a couple local grocery stores on weekday mornings and early afternoons to take applications. The city took no action to dispel rumors that the police department was a hostile environment for people of color and women.

The approach used by Central City centered only on the goals for entry-level and promotions. In the testing process the city would advance people of color and women who did not make a cut-off if the Hiring Director believed there were not enough applicants in a particular protected class. Likewise, as described above, the names of people of color would be added to referral lists if there was an underutilization based on a consent decree.

CURRENT SITUATION

Recently, while on maternity leave, Mary Jones learned that she was being passed over for promotion. Despite being number two on the eligibility list, her name was not even referred for promotion consideration to fill one of the two sergeant vacancies. The City decided that it would only consider African-Americans for promotion to the two vacancies. So the city decided to promote two African-American officers, Isaac Williams (#1 on the eligibility list) and Robert White (#19). Believing that she was being discriminated against, Jones visited an attorney the day before the promotions were scheduled to occur.

Jones' attorney, Perry Matlock, filed a lawsuit on her behalf and temporarily stopped the promotion of any person who ranked below Jones on the eligibility list. When a new vacancy at the

rank of sergeant arose, the City agreed to promote Jones to that opening. So Jones was promoted at the same time that White was promoted. However, White was given higher seniority than Jones.

In preparing the case, Mason asked Jones about the work environment within the police department. Below is an excerpt of that conversation:

MATLOCK: Off. Jones, how would you characterize the overall treatment that you have received at the police department?

JONES: From the first day it has had its ups and downs. Not all of the officers have treated me and the other women poorly, but there are a significant number of people who do not want women here.

MATLOCK: Mary, you said that some people have treated you poorly. Can you give me an example?

JONES: One day I was dispatched to a car accident call. In the initial phase of my investigation I learned that one of the drivers involved had an outstanding felony warrant. Per procedure I called for back-up. Officer Dan Casey soon arrived. We arrested the driver who was extremely obese. SOP, excuse me, standard operating procedure was to cuff people's hands behind their backs; however, it was not possible because of the suspect's size and inflexibility. So Dan cuffed the suspect with hands in front. We transported the suspect to the police station for processing. Lt. Larry Benson saw the suspect with the hands cuffed in front. At the time I was the only officer with the suspect. Benson, without inquiry and in front of other officers and members of the general public, screamed at me for not cuffing the suspect behind the back. When I tried to tell Benson that Casey had cuffed the prisoner in front because we could not get him cuffed behind the back, Benson ignored me. He just continued to yell.

MATLOCK: Was that the end of the incident?

JONES: No, Benson advised our sergeant, Rick Olson, about the incident. Benson only mentioned my involvement and did not tell Sgt. Olson that Off. Casey was also involved.

MATLOCK: Was any formal disciplinary action taken?

JONES: No, there was no disciplinary action taken. In fact, neither Benson nor Olson even talked to Casey about the incident.

MATLOCK: Excuse me but I am not sure why you think this was improper treatment. You handcuffed the suspect in front instead of behind the back as required by standard operating procedure. A senior officer witnessed you with the prisoner and took action. His management style may need work but how was this mistreatment?

JONES: Let me finish the story. A week or two later, Officer Jose Martinez and I arrested another obese suspect. Our efforts to cuff the suspect behind the back failed; so we cuffed the suspect with hands in front. As we pulled into the garage, I saw Lt. Benson and told Martinez what had happened earlier. Martinez replied, "Don't worry he will not say a thing." Benson saw us getting out of the cruiser with the suspect cuffed in front. Benson said nothing.

MATLOCK: Are there any other incidents you can share with me?

JONES: While I was working for Sgt. Olson there was an incident when a drunk suspect vomited in the back of my cruiser. When I requested permission from Sgt. Olson to have the cruiser cleaned, change cruisers or partner with someone else because of the vomit, Sgt. Olson refused. He advised me to keep using the cruiser for the rest of the shift.

MATLOCK: Was that unusual?

JONES: I am unaware of any other officer ever being required by a command officer to continue to use a vehicle without it being cleaned up by the maintenance shop after a suspect vomited in the car.

MATLOCK: Was there another car available?

JONES: We had spare cars and there were other officers with whom I could have partnered instead of driving my original car.

The conversation between Matlock and Jones continued. Jones told Matlock that Officer Lois Street had told her about a conversation with Lt. Benson. Benson had told Street that he generally did not like female officers but that Street was okay because she had worked for him and proven herself.

Jones then told yet another incident involving Benson. While talking about a new program to assist officers deal with extremely stressful on-duty occurrences which was being instituted by the department, Benson told a group of ten, mostly new officers, "I can tell you the definition of stress – talking with Off. Mary Jones." The only officer present that knew Jones relayed the comment to her. Because Benson was part of the good ole boy network, Jones feared that a complaint through channels would disappear. So she took her concern directly to Chief James McNeal. An investigation was done, and Jones was told that Benson had received a written reprimand. However the department did nothing to correct the misimpression left by Benson with those nine officers that did not know her. Likewise, Benson never apologized in any manner to Jones for the comment.

After Benson was reprimanded in regard to the incident above, according to Jones, he kept appearing on calls involving her, despite his being assigned to a different precinct. She said her own lieutenant, Kevin Knight, and others advised her that Benson was out to get her.

As the conversation continued, Jones related another incident involving Benson. Off. Jones was handling a bar disturbance call. After the fight was stopped, she went to the cruiser to write the report. Off. Jones realized she needed additional information from the manager; so she walked back to the bar. She was not wearing her hat, as technically required by SOP. Benson, who was off duty, saw her and reported her, through the chain of command, for not wearing her hat. She received a counseling form from her sergeant documenting this incident. Off. Jones, before and since this incident, has seen Lt. Benson with groups of male officers who were not wearing their hats. No action was ever taken against those male officers.

Within the past six months according to Jones, Off. James Clayton and she jointly handled a call that required two reports upon conclusion. Each officer wrote and signed one of the reports. Off. Clayton sent his report to the wrong office, so Off. Jones went to get it. Off. Clayton took the report prepared by Jones to Lt. Benson for his approval (signature) as required by SOP. When Benson saw that Jones had written the report, Benson asked Clayton if he had read the report and required Clayton to sign the report also. Neither of these actions was consistent with department practices. When Jones brought Clayton's original report to Benson for approval, Benson signed the report without asking her if she had read it or requiring her to sign it.

Jones then told of another incident that occurred on the same day as the report incident. Officers Jones and Clayton overheard Benson talking with a female civilian employee who had just been hired in the next police recruit class. Benson said, in an inappropriate way, "Your butt is under my control now." Clayton observed to Jones, "I would be suspended or fired if I said something like that." The female civilian employee was offended but afraid to say anything. She had been trying for years to become a police officer. Off. Jones made a formal complaint about both incidents directly with the captain of internal affairs. Nothing was done in response to the complaint.

Matlock continued with Jones:

MATLOCK: It appears that many of your problems deal with Lt. Benson. Are there incidents that you want to share with me that involve other officials at the police department?

JONES: Well, throughout the first seven years of my employment with the Central City Police department, I tried unsuccessfully on numerous occasions to be assigned to the Detective Bureau.

MATLOCK: What is the procedure for assigning officers to the Detective Bureau?

JONES: There is no real selection process to determine who would be assigned to the Detective Bureau. Oh, there is an application and interview that are perfunctory. In the end, the command officers in charge of a unit simply pick who they wanted to work for them.

MATLOCK: Were you ever told why you were not selected for the Detective Bureau?

JONES: I was told that I did not have enough time in cruisers for appointment to the Detective Bureau.

MATLOCK: Was there a specific rule regarding how much time you needed working a cruiser before you could be appointed to a detective position?

JONES: No, the rules simply say that an officer must be on the police force for a minimum of two years before being assigned to the Detective Bureau. When I was told that I did not have enough time, I had been on the force for more than two years. However, male officers with equal or less time in cruisers than me were being assigned to the Detective Bureau.

MATLOCK: Was there a problem with your experience?

JONES: I was told that my work in the public affairs unit was not real police work and thus they would not count it as police experience toward the two years. The public affairs assignment was a sworn officer position. Some of the male officers who were in my recruit class were being assigned to the Detective Bureau.

MATLOCK: Were you ever given other reasons for not being assigned to the Detective Bureau?

JONES: One year I tried for an opening in a personal crimes unit of the Detective Bureau. A command officer told me that I needed to get experience in the property crime units before seeking assignment to the personal crimes units. That time he and other male command officers took male officers with no Detective Bureau experience into the personal crimes units.

MATLOCK: Are these the only experiences you have had regarding the Detective Bureau selection process?

JONES: Another time when I went through the interview process, the interview panel was composed of Lt. Irving Zucker, Lt. Steve Ramm and Capt. Ted Morton. Instead of asking me meaningful questions, it was a session ridiculing me.

MATLOCK: Do you have any other stories about the detective selection process?

JONES: Just a couple months ago I was being interview for the Detective Bureau by Sgt. Patricia Meyers, Sgt. Vincent Bell and Lt. Wayne Fox. Bell asked me who was going to baby sit my child after birth if I got called out at night.

MATLOCK: Did anything else happen to you in the process?

JONES: Not to me. Off. Rita Brown told me about one of her experiences. Rita had tried to get an assignment in a personal crimes squad. Like me, Rita was told that she needed to get experience in a property crime unit. She was able to be assigned to a property crime unit. After getting the experience, Brown again sought assignment to a personal crimes unit. This time she was told that there were no openings. Then when the new assignments were published a male officer without any detective experience was assigned to the personal crimes unit.

MATLOCK: You talked about personal crimes and crimes against property units. Do officers in one unit hold higher rank than in the other?

JONES: Although all detective units are officially the same, in reality some units are seen as more important and prestigious than others.

MATLOCK: Are women assigned to these prestigious squads?

JONES: No woman had ever served as a detective in the areas of homicide, auto theft, vice, narcotics or robbery; these are the squads with the most prestige within the department. Oh, women have been assigned to vice for the purpose of being a prostitution decoy. Women who have been assigned to the Detective Bureau have been in the youth services, sex crimes, burglary, and checks and frauds squads. Burglary is seen as the worst squad in the Detective Bureau.

Matlock inquired of Jones if there were any other incidents which Jones believed indicated different treatment between men and women by the police department. Jones relayed more occurrences.

For example, in the Field Bureau most cruisers have one officer; however sergeants may authorize two-officer cruisers for patrol. The unofficial practice was for sergeants to use seniority as the means for determining two-officer units. For many calls, based on department standard operating procedures, two officers would be dispatched. If there was a two-officer cruiser dispatched, it would be the only cruiser sent; otherwise two one-officer cruisers would be dispatched to handle these calls. Off. Jones and Off. Samantha Miller had been a two-officer car for more than a year, under two different crew sergeants in their precinct. There had been no complaints or incidents concerning them being a two-officer car. When a new sergeant was assigned to their crew, Sgt. Joseph Caniglia, he refused to allow the two female officers to partner in a cruiser. Caniglia did, however, allow male officers with lower seniority to partner in cruisers. In the past in other precincts Caniglia had used seniority in assigning officers to two-officer cars.

The precinct sergeants for all crews and shifts shared office space. Off. Jones told about a time she was in a sergeants' office and noticed derogatory comments about female officers posted in the office. She did not know who posted the comments.

Jones told Matlock that standard operating procedure was for officers, at the beginning of the shift, to radio dispatch to indicate that the cruiser was available for calls. In doing this the officer was to identify themselves as a "1-officer" or "2-officer" car. Several male officers would sign on as a "1-man" or "2-man" car. These male officers were not spoken to, corrected or otherwise told to follow procedure. One day Jones signed on as a "1-woman" car. Although not her supervisor, Lt. Dan King chewed her out and threatened her with disciplinary action if she ever again signed on in that manner. The 1-man or 2-man sign-ins continued long after Jones was told not to use 1-woman. Jones remembered that Lt. King for years has used the term 1-man or 2-man car at the beginning of his shifts. Jones knows of no male officers who were either warned or disciplined for saying 1-man or 2-man car.

In another incident Off. Jones told about investigating her first fatal auto accident approximately four years earlier. She went into a nearby home to interview witnesses. It was an extremely hot day and one of the witnesses invited her and the other witnesses into the house to talk about the accident. When Sgt. Matthew Jacobson arrived at the scene, Jones was inside interviewing

the witnesses. Jacobson started a false rumor within the department that Jones could not handle a fatal accident and had to go inside a nearby home to sip coffee and avoid the accident. This rumor has been cited recently by a senior command officer, Capt. Dallas Wilson, as why Jones is incompetent. For the record, Jones explained that she does not drink coffee.

Jones pointed out that at the main police building there is a workout room for officers to use. It is equipped with free weights, weight machines, treadmills and similar equipment. The workout room has only one entrance. That entrance is through the men's locker room making it inaccessible to female officers unless the female officer was willing to walk through the men's locker room to access it. Of course if there are men in the locker room, women might not be able access or leave the workout area. Likewise only half of the police locations had shower facilities for women; however, all locations have shower facilities for men. Despite numerous complaints from female officers, the city has done nothing to remedy the situations.

Finally, Off. Jones told the attorney that not everyone within the department treated her or other women poorly. She mentioned two captains, Adam Wayne and Bill McDouglas, who have been very supportive of her. These two captains have been like mentors to her. Both captains had asked Jones to work for them in various capacities. She felt comfortable asking them questions and did not fear being laughed at or becoming the butt of rumors. Jones said that if she asked other command officers questions, a rumor to damage her reputation may be circulated.

Matlock asked Jones if she had reported any of the incidents, other than the ones she already noted. Her reply was that she did not make formal complaints for fear of retaliation. She said that the department had a reputation for retaliating against anyone who tried to fight the good ole boys in power.

After telling about her experiences, Off. Jones shared with the attorney that many other female officers had similar experiences. Women on the police department tend to look to each other for support. They tend to talk about their experiences with a few other female officers to see if they have had common experiences or ideas on how to handle a situation. Matlock decided to talk with some of the other women officers.

Off. Mimi Kuebs was the first person to talk with Matlock. Off. Kuebs has been on the Central City Police Department for about five years. Like all new officers, Kuebs was originally assigned to the Field Bureau. After eighteen month in a cruiser, Kuebs was assigned to the Public Affairs Bureau. After nine months in Public Affairs she was temporarily assigned to the recruitment team. When that assignment was completed she returned to Public Affairs for a month before being assigned to Field Bureau again. She has been in the Field Bureau for the past two-and-a-half years. Kuebs told about the following incidents:

MATLOCK: Can you relate any incidents to me that you believe you were discriminated against by the police department?

KUEBS: While I was assigned to Public Affairs I worked with several officers, including Ford Kramer. Kramer regularly made derogatory and sexual remarks concerning women and female police officers. Frequently, these comments were made in front of male command officers. No action was taken by any of these command officers to get Kramer to stop or to discipline him.

MATLOCK: Can you tell me about any other situations?

KUEBS: While in Public Affairs, Off. Brent Bush and I were sent to observe a meeting at which Off. Kramer was going to make a presentation to a local business group. Sgt. Brian James, who was our direct supervisor, was also present. Prior to the meeting Kramer told me an offensive joke in private.

MATLOCK: Do you remember what the joke was?

KUEBS: I don't remember the exact words. But the joke was about playing pocket pool.

MATLOCK: Did you do anything when Kramer told you the joke?

KUEBS: I immediately told him that the joke was offensive to me and improper. But it did no good. Moments later, while making his presentation to 30 local business people and the police officers present, Kramer told the same joke.

MATLOCK: What happened next?

KUEBS: At the conclusion of the meeting, we had three police department t-shirts to give away. We decided to give the T-shirts to the three women who organized the meeting. As Kramer was giving out the t-shirts he looked directly at me and announced to the group, "Now all we have to do is get Mimi over here and we can have a wet t-shirt contest." I was offended and furious.

MATLOCK: Did you report the incident?

KUEBS: Sgt. James was present for both incidents but said nothing to Kramer. Two days later Sgt. James still had not done anything, so I decided to follow the recommendations of the department and talk directly with Off. Kramer. It was the next day before I was able to get Kramer isolated to talk to him. I asked Kramer to accompany me to the lunch room so we could talk privately. Lt. Bill McDouglas, who was not our

lieutenant, was working at a back table, so I tried to keep my voice soft. I explained to Kramer that I was offended by his comments and actions at the meeting and not to treat me in that manner again. He responded that two wives had not changed him and that I certainly wasn't going to change him. Kramer also said he had nothing to apologize for and that it was my problem not his. When Kramer left the room, Lt. McDouglas asked me about the situation. I said that I did not want to be accused of going outside the chain of command and that I would rather talk with my sergeant about it.

MATLOCK: Did you talk to your sergeant about it?

KUEBS: Yes. Sgt. James told me that he had planned to say something to Kramer but just had not had the opportunity. I decided to make a formal complaint against Kramer. Later I was told that Kramer was talked to but to my knowledge no formal action was taken on my complaint against Kramer.

Kuebs then told Matlock of the consequences of making a formal report against Kramer. For three months after that incident Kramer would not talk with her, despite the two working together. Kramer would not even tell Kuebs when she received a telephone call or a message. The behavior was obvious to the other officers assigned to the unit, as many of them asked Kuebs what was going on. Kramer treated Kuebs in this manner in front of command officers who did nothing to improve the situation. After the incident with Kramer, Kuebs also was treated differently by officers, as well as command officers, who she did not know well. She was told by friends that she had the reputation as a troublemaker because she filed a complaint against Kramer. This resulted in the cold treatment by others.

Kuebs told Matlock about being on the department's recruitment team. While she was on the recruitment team, Kuebs saw no meaningful effort by the department to recruit qualified women, other than having her and a black female on the team. She said their idea of recruiting qualified women was to set up a recruitment table in the entrance way of local grocery stores for a few hours on a weekday morning or early afternoon.

The officers on the recruitment team were not receiving general department communications during those two months, according to Kuebs. So after the assignment was completed, Kuebs realized that she missed the opportunity to apply for a position in the Detective Bureau. Kuebs' request to apply late was allowed by the department. When she was being interviewed one of the male panel members asked her, "Are you afraid to go back to the streets?" She was then told that she was not qualified to be appointed to the Detective Bureau because she did not have two years experience in cruisers. Kuebs had been with the department for 2½ years by this time. When the assignments were made, Off. Brent Bush was assigned to the Detective Bureau and Kuebs was not.

Bush and Kuebs were in the same recruit class. They started in Field Bureau at the same time. They were both transferred to Public Affairs at the same time. They both were still in Public Affairs at the time they were seeking a position in the Detective Bureau.

At the time that Kuebs attempted to get appointed to the Detective Bureau there were few female officers in the bureau. Those that were assigned to the Detective Bureau were in juvenile service, sexual assault and burglary. Kuebs said that she was so discouraged that she did not apply for the Detective Bureau again.

Officer Penny Grant, a Native American, was the next woman to talk with Matlock. She has been with the department approximately four years now. Her starting with the department was anything but smooth:

GRANT: A few days before I was contacted by Ginger Wells of the city's Human Resources Department and offered a position in the recruit class, I learned that I was 2-3 months pregnant. I informed Wells that I just learned that I was pregnant. Wells said that she would have to get back with me about the job offer.

MATLOCK: Did Ms. Wells get back to you?

GRANT: About a week later she called me back and said that I had to decide if I wanted to be part of the recruit class or not. I talked with my physician for advice. He advised me that he would need more information about the activities before he could tell me that it was safe to complete all of the class activities. So I contacted the city to get more information.

MATLOCK: What happened next?

GRANT: I met with Ben Mason, Tim Flynn and Archie Hill.

MATLOCK: Who are these people?

GRANT: Ben Mason is the number two attorney in the City's Legal Department. Tim Flynn is the Human Resources Director. I believe that Archie Hill's title is Employment Director. I know that Hill works for the Human Resource Department.

MATLOCK: What can you tell me about the meeting?

GRANT: The meeting was in the Legal Department's conference room in city hall. No one appeared to know how to handle the situation. I asked if I could wait for the next

recruit class. I offered to take the physical agility test and another medical examination before that class started. If I failed either, I told them that I would walk away.

MATLOCK: Did they accept your offer?

GRANT: The response from Mason, on behalf of the city, was that I would either be in this recruit class or forfeit my possibility of getting hired off the current eligibility list. I then would have to retest the next time the exam was given and see where I finished. Mason also insisted that if I was to accept a spot in the current class I would be expected, without exception, to do every activity required of the recruits. Mason said that the city would accept no physician restrictions during the training. Flynn added that I would have to sign a waiver relieving the city of any liability if something happened to me or the baby during training. I felt that the three men were trying to intimidate me at this meeting and were pressuring me to forfeit the appointment to the recruit class.

MATLOCK: So what did you do?

GRANT: I really wanted to be a police officer. I was afraid if I didn't accept the appointment to this class, the city would never offer me another opportunity to be on the police force. So, I decided to accept the appointment to the recruit class.

According to Grant, once at the training academy conditions did not improve. During the first month or so when Grant would ask questions regarding safety of an activity, the response was always, "You will be fired if you refuse to do this activity." Grant stopped making the inquiries and simply did each activity. Finally in the third month of the academy, some of Grant's training officers refused to allow her to participate in firearms training, arrest techniques and physical training. These officers feared for the baby's safety. Grant sent a memo to the chief for assistance because she was afraid that she would be flunked out for not completing all of the requirements. The chief, James McNeal, advised her that she would complete the academic portion of the academy. If she was successful, she would be assigned to an inside position until the birth of the child. After that she would be required to complete the remaining physical portions of the training.

While in the academy Grant said she was required to wear the regular recruit uniform complete with gun belt. She was forced to personally purchase four different sizes of pants during that time, until finally she was given permission to wear elastic-wasted pants. She also had to go through considerable efforts to get permission not to wear the gun belt.

Then Sgt. Larry Benson was assigned to the training academy during Grant's training. Benson, until Grant's seventh month of pregnancy, made Grant do push-ups twice daily in what Grant believed was an attempt to get her to quit the department. Benson would constantly be more critical and demanding of her than the other recruits.

Grant told Matlock that many male officers had problems when a female officer would become pregnant.

GRANT: Two years later, I became pregnant again. Things were not much better than during the recruit class.

MATLOCK: What happened?

GRANT: I was pressured to bid an inside job although I still had no medical restrictions that would prevent me from being in Field Bureau. I was told by my sergeant and lieutenant that if I remained in Field Bureau at shift change, I would be forced to quit my job once I could not perform the duties due to medical restrictions. A light duty job, I was told, would not be made available to me. There were always rumors going around that pregnant women would not be given light duty jobs.

MATLOCK: So did you bid an inside job?

GRANT: Yes, because I did not have sufficient vacation and sick leave built up, I was told that I would have to quit or be fired once I could not be in a cruiser. I could not risk that, so I bid an inside job.

MATLOCK: What would happen if an officer broke an arm playing softball?

GRANT: Clearly an officer with a broken arm cannot handle regular duties; so the officer would be placed on light duty. Once the arm healed, the officer would be placed on regular duty. I know of no example of an officer with a broken bone who was not placed on light duty.

Off. Lois Street told Matlock about her attempt to be assigned to the SWAT team. There had not been any female officers on SWAT. To get on SWAT officers make an application and go through a selection process. This process included attending a two-week training session and a physical agility test. Street, whose husband was already part of SWAT, was one of eight officers, and the only female, selected to attend the training session. When the SWAT list was created, she was number 3 on the list. Five of the eight people were selected for the unit. Off. Street was not

selected. When she inquired as to why she was not chosen, she was told that Department policy prohibited a husband and wife from serving in the same unit. Off. Street asked to see the policy, but none was produced for her to see. Street was aware of three examples at that time in which husbands and wives were in the same unit. In one instance the husband was the wife's direct supervisor. In a second case, the husband and wife were frequently dispatched to the same radio calls that had a potential for violence.

Off. Street also told of harassment when she was pregnant. Street was told by a deputy chief that the light duty policy for pregnant officers was being reviewed. Instead of allowing officers to perform light duty tasks, once the doctor restricted the activities of the pregnant officer or the department deemed it unsafe for the pregnant officer to be in a cruiser, the pregnant officer was going to be sent home. She could draw sick pay and vacation pay until gone. Then she would have to be on unpaid leave until released to full duties by her doctor. Street knows of two male officers with broken bones that required light duty during this same time frame. Neither of them was told to be prepared to be sent home until their bones healed.

Off. Tammy Nolan told Matlock about the time a city councilman called the watch commander and complained that the police department dispatched a "little girl" to handle a disturbance call. On that particular call two female officers were originally dispatched. A large fight ensued requiring more officers. The city councilman who witnessed part of the incident expressed his concern to the police chief about such a call being handled by two female officers.

Next Off. Betty Kelly talked with Matlock and shared her experiences:

MATLOCK: When did you join the Central City Police Department?

B. KELLY: I was hired about four years after my sister, Kathy Kelly, joined the department. That would have been seven years ago.

MATLOCK: Do you feel that female officers are treated the same as male officers?

B. KELLY: No, I think there is a difference. I was the only woman assigned to the public window at the main police building. My sergeant, Jimmy Baker, required me to give at least 48-hour notice before taking a vacation day. However, the male sworn officers were allowed to call in immediately before the shift began when they wanted to take a vacation day.

MATLOCK: Any other differences in treatment?

B. KELLY: The female civilian workers at the public window and I were required by Sgt. Baker to submit a memorandum explaining why we were late. Again the male personnel

working for Sgt. Baker were not required to do the same. My attendance record while at the public window was not different than my male co-workers.

Off. Kelly also spoke of the difficulty she had in being selected for special training and schools. According to her, several other female officers were also frustrated by the selection process. Priority for such training and schools was based on people assigned to or those who anticipated assignment to the specialty units in the area of the training. Since women were not assigned to these units (i.e. homicide, assault, traffic, SWAT, etc.), women were not selected for these schools. All of the people who were selected as anticipating assignment to such units were men.

The final person interviewed by Matlock was Off. Betty Kelly's sister, Kathy Kelly. Lt. Kathy Kelly has been on the department longer than all but three of the female officers. Approximately six years ago she was the second female ever promoted to sergeant. The first female was promoted to sergeant just six months earlier. About eight months ago Kelly became the first female lieutenant on the department.

MATLOCK: Were you promoted to sergeant as a result of the affirmative action policy?

K. KELLY: When the eligibility list from which I was promoted was originally created there had never been a female sergeant. The affirmative action plan indicated that there was an underutilization of approximately 24 females at the rank of sergeant at that time. But Central City did not use the affirmative action plan to promote any females to sergeant. The three females promoted to sergeant off that list were promoted in order as their names appeared on the list despite the affirmative action plan being used to promote black officers to the rank of sergeant off that and previous lists.

MATLOCK: You said that there were black officers promoted off that list by virtue of the affirmative action plan?

K. KELLY: Yes all were males. At the start of the list blacks were underutilized by three sergeants. Also, one female officer on the list was passed over for two white males. She was not promoted before the eligibility list ended. The female officer was never given a reason why she was not promoted.

MATLOCK: Was affirmative action used in regard to your promotion to lieutenant?

K. KELLY: I finished fifth on the current eligibility list. This was the first time I was eligible for promotion to lieutenant. There has never been a female lieutenant on the Central

City Police Department. The affirmative action plan indicates that there is an underutilization of two women at the rank of lieutenant based on the latest method of determining underutilization. Under the old method, the city was short approximately 8 women. When the list was first approved, three promotions were made. I was not one of those promotions. A male officer who was ranked below me on the eligibility list was promoted however. When the next promotion was made from the list, my name was not even referred to be considered for promotion. Then another vacancy occurred at lieutenant. My name again was not referred for consideration. This time the names of two black male sergeants were referred. Of the five promotions from the list at that time two had been affirmative action promotions to black sergeants who ranked below me on the eligibility list. Despite never having a female lieutenant, affirmative action was not used in regard to females. Twice, in violation of the Rule of 3, my name was not referred for promotion consideration. About eight months ago, I was promoted to lieutenant. It was the seventh promotion from the eligibility list.

MATLOCK: As the first woman promoted to lieutenant, were you treated the same as new male lieutenants?

K. KELLY: No. Capt. Jake Richards informed me that as a newly promoted lieutenant I would “have to pay my dues in Field Bureau.” I was assigned to the midnight shift. The male sergeants promoted to lieutenant around the same time were given other assignments on days or evenings and not “required to pay dues in Field Bureau.”

Matlock then asked Lt. Kelly if she ever experienced different treatment than the male officers. Lt. Kelly told the attorney that she has a complaint on file with the EEOC and shared a few other incidents with Matlock that occurred when she was a sergeant.

A blackboard, in the roll call room at the substation at which then-Sgt. Kelly was assigned, was being used to harass female officers. Inappropriate comments were being written by unknown people. Despite Kelly’s complaints, the offensive postings continued, so she had the blackboard removed. This action angered Sgt. Ryan Dale, so Dale disposed of a calendar that Sgt. Kelly hung at her desk. This calendar had been a gift to Kelly, and she considered it special. Dale also hung a calendar featuring semi-nude women at the substation in a location that the female officers had to pass by to get to their locker room. Kelly complained to her lieutenant about Dale throwing away her calendar and hanging the calendar with semi-nude women. The lieutenant’s response was for then-Sgt. Kelly to forget about the incidents. Nothing was done by the lieutenant or anyone else about these two incidents.

Because Kelly was one of the few female sergeants, female officers tended to indicate a preference for her crew. Many male officers did not want to work for a woman, so they would indicate other preferences. This resulted in several female officers being assigned to her crew. As indicated above derogatory, offensive and inflammatory anti-female remarks were frequently written on the roll call room's blackboard. Off. Samantha Miller was harassed more than the other female officers; although all were subjected to harassment. The final straw with the blackboard occurred when a very offensive caricature of Off. Miller was drawn on the blackboard. That is when Kelly ordered the board removed.

The removal of the blackboard intensified the harassment of Off. Miller. Off. Miller complained that the male officers on the prior shift, contrary to standard operating procedures, turned the cruiser over to her in a filthy condition. Then-Sgt. Kelly would pass on the complaints to the lieutenant in charge of the prior shift. This only made the filth become progressively worse. One day when Off. Miller went to her cruiser at the beginning of the shift, she found a used condom with an unknown substance inside waiting for her in the cruiser. Another female officer on Sgt. Smith's crew, Patsy Hanover, found a vibrator strategically placed in the trunk of her cruiser one day. Kelly reported these incidents to her lieutenant but no action was taken to determine who left these items in the cruiser or to end the harassment of women.

Kathy Kelly has frequently found anonymous written notes complaining about the inadequacies of female officers or otherwise degrading comments about female officers. One such note read, "FLASH, FLASH, FLASH. A 3rd precinct Central City female officer was assaulted by a male suspect. Luckily, male bar patrons came to her assistance." When Kelly investigated the incident she discovered that the officer was Tammy Nolan. Nolan had been dispatched to a call at a bar without any backup being dispatched. Nolan's lieutenant, Sam Bunker, told Kelly that he had heard the radio call. He told Kelly had it been a male officer dispatched to the call, he would have ordered a backup cruiser be dispatched because bar calls should be two-officer calls. However, because it was a female officer dispatched he did not order backup to be sent. Lt. Bunker indicated that he did not want the women police officers to think that he believed a female officer could not handle her job. Before and since that incident Lt. Bunker has frequently expressed his very negative feelings about women police officers. One such exchange between Bunker and Kelly occurred shortly after Kelly was promoted to lieutenant. Bunker stated that the women hired in the new recruit class were less qualified than the male officers in the class. He continued that the women would have to be more closely supervised than then men. Lt. Bunker was neither involved in the hiring nor the training process regarding the recruit class. He had no first-hand knowledge about the qualifications or abilities of any of the recruits.

Lt. Kelly relayed another incident regarding Lt. Bunker. According to Kelly, Off. Tammy Nolan and Off. Patsy Hanover were just completing an assignment when Sgt. James Helms arrived on the scene. Helms was not in uniform and had no supervisory duties over these officers. In fact one of the female officers did not even know who he was. Sgt. Helms, without identifying himself

to the officers, proceeded to yell at the officers about their handling of the call. He arrived at the end of the call and therefore could not have seen the entire situation. Sgt. Helms reported the two female officers for not performing their duties in a correct manner to Lt. Bunker. (Bunker and Helms were close friends.) Bunker proceeded to make every officer present at the scene write a report about what happened. When it was determined that the two female officers handled the call appropriately and that Sgt. Helms was the one who was out-of-line, the reports were destroyed by Lt. Bunker. Bunker neither reported nor disciplined Helms for his improper actions. Helms, like Bunker, had constantly made derogatory remarks about female officers.

Over the past few years some of the comments that Kathy Kelly has heard male command officers say include:

“Why does a woman want to take this job away from a man who has to support his family?”

“Women should work in juvenile or the sexual assault units only.”

“Women can’t physically handle the job.”

“I won’t work with a woman partner.”

“Women have their place – under men and in the home.”

Sgt. Smith told Matlock that all the substations where officers are based in Field Bureau have shower facilities for male officers but only half of these substations have shower facilities for women. Women have been assigned to the Field Bureau for more than ten years.

Approximately six years ago the city changed its light duty policy. The policy no longer guaranteed pregnant officers a light duty assignment. No changes in the policy were made for officers who are under doctor restrictions because of injury or illness.

Recently the Secret Service was conducting a special training session for local law enforcement officers. Sgt. Kelly, knowing that there were still four vacancies for the training, submitted a request to go. She was denied. When she asked why, she was told by her deputy chief that she was denied permission to go because no midnight-shift personnel were going to be sent to the training. When the list of those attending the training was published, a male sergeant who was also working the midnight shift was being sent to the training.

Lt. Kelly was the last female officer Matlock intended to interview at that time. Matlock now needs to finish preparing for the hearing on the preliminary injunction and make some strategic decisions regarding the lawsuit.

CENTRAL CITY MAKES A PROMOTION – PART C

Steven C. Palmer, Eastern New Mexico University
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CASE DESCRIPTION

The primary subject matter of this case concerns the alleged discriminatory employment practices within a governmental agency. Secondary issue examined is the management policies to insure compliance with equal employment opportunity laws. The case also introduces ethical issues that should be discussed. The case has a difficulty level of four, appropriate for upper level undergraduate and graduate students. The case is designed to be taught in three class hours and is expected to require three hours of outside preparation by students.

CASE SYNOPSIS

What is an equal opportunity employment environment? What constitutes illegal retaliation under the 1964 Civil Rights Act? The Central City Police Department faces these questions concerning their recent employment practices. More specifically, what is the department's justification for not promoting the individual whose name is on top the promotion list at the time the promotion is being made? How can an employee with excellent performance evaluations and a clean discipline record not be promoted? Could it be that the individual was a woman? Was the fact the woman had previously filed a sex discrimination lawsuit a factor in the decision? Does the work environment penalize women or people who stand up for their legal rights? Finally, are supervisors and employees appropriately trained and supervised regarding employment discrimination issues?

This case explores the integration of women into a predominately white male work environment. A woman has previously filed an employment discrimination lawsuit against Central City for its discriminatory employment practices regarding women. The city eventually chose to settle the lawsuit rather than go to trial. The settlement is a comprehensive plan to address the issue of sex discrimination. The case picks up several years later when the woman is being considered for promotion. Despite her being the top candidate on the eligibility list at the time, the new police chief decides to pass her over for promotion. There is a new police chief but has the workplace environment changed?

[NOTE: This case is a fictionalized version of a real-life situation. Names and other potentially identifying information have been changed to protect identities. The applicable fact situation is true to the real case.]

CENTRAL CITY MAKES A PROMOTION – PART C

“Chief, this is Ben Mason. I need to see you as soon as possible to discuss the latest captain promotion,” the voice on the other end of the phone said sternly. Ben Mason was the Chief Deputy City Attorney for Central City. His duties included handling legal affairs for the police department. Mason was talking to the police chief, Sam Adams. As he hung up the phone, Adams grabbed some materials off his desk and headed for Mason’s office. Adams knew who this was about – Lt. Mary Jones.

CENTRAL CITY

Central City, with a population of 500,000, is the largest city within a several-hour drive. It has a predominately Caucasian population. Almost 90% of the adult population have a high school education and 30% have a college education. The city has a full-time, popularly-elected mayor who is responsible for the day-to-day operations of the city.

The police chief reports directly to the mayor. Unlike most police chiefs in cities of this size, in Central City the police chief, as well as all other sworn police officers, has civil service protection. The Central City Police Department is organized in a paramilitary structure utilizing a chain of command. The department is headed by the chief of police. Below the chief, highest to lowest rank, are 7 deputy chiefs, 18 captains, 40 lieutenants, 120 sergeants and 554 police officers. Officers at any rank are considered *sworn officers*. Collectively all officers at the rank of sergeant or above are referred to as *command officers*; officers with the rank of captain or above are called *senior command officers*.

The city charter requires a merit process be used for determining hires and promotions. This means that there must be a competitive testing process with a final ranking of applicants based on quantifiable test results. The process is conducted by the Human Resource Department. An eligibility list, ranking the applicants from high to low, for each position is created. For most positions, an eligibility list is valid for two years from the date it is certified by the Human Resource Director.

When there is a vacancy to be filled the *Rule of 3* is applied. If there is one vacancy then the top three names from the appropriate eligibility list are referred to the department head for consideration. If there is more than one vacancy to be filled simultaneously, then two names from the top of the list are referred for each position to be filled. The department head may fill the vacancy with anyone whose name is referred.

The promotion process for the rank of police captain is a closed process. This means that only current employees of Central City are eligible. In fact, only current lieutenants who have held the rank of lieutenant for two or more years are eligible to apply. Once the applicants have been screened for eligibility standards, the applicants undergo an assessment center. Their performances are scored by outside assessors trained by the Central City Human Resource Department. The assessors generally hold the rank of captain or higher in a police department of similar or larger size than Central City. Based on their individual scores, the applicants are ranked on an eligibility list from highest score (number 1) to the lowest score.

SAMUEL ADAMS

Adams has only been police chief in Central City for approximately seven months. His policing career started thirty years earlier as a police officer on the Las Vegas Police Department (LVPD). After being with the LVPD for four years Adams was promoted to sergeant. Approximately two years later, he was promoted to lieutenant. While with LVPD, Adams gained a variety of experiences in different areas of policing.

Approximately twenty years ago Adams became police chief in Salem, Massachusetts. He spent thirteen years in Salem before becoming the police chief in Brownsville, Texas. About a year ago, Adams started an extended paid leave as chief of Brownsville. Adams and Brownville parted ways with a confidential agreement under which Adams would be on leave and receive a paycheck for no more than one year or until he accepted a new position.

Six months into the leave period, Sam Adams accepted the chief position in Central City. He and his wife moved to Central City and are becoming engaged in the community. Adams belongs to a local chapter of a national service club. He also sits on various civic committees as a representative of the city.

MARY JONES

Mary Jones is a married, white female in her late thirties. She graduated summa cum laude from State University sixteen years ago with a bachelor degree in Criminal Justice. Jones worked in retail before being hired by Central City as a jailor. She applied to be a police officer with the city about a year later and was hired. Jones is married to a political science professor and has one child, Andrew.

Mary Jones has been a sworn officer in Central City for approximately fourteen years. After being a police officer for seven years Jones was promoted to sergeant. Three years later she was promoted to lieutenant. During the past fourteen years, Jones has never been officially disciplined for improper actions or violating department policies.

Jones' climb through the ranks has not been smooth. She tested for sergeant when she had seven years experience on the police department. This was the first opportunity for her to apply for promotion. Despite her placing second on the eligibility list, the police chief at the time, George Cline, decided to pass over Jones for promotion. Jones filed an employment discrimination lawsuit and was able to temporarily stop the promotions from occurring. The city agreed to concurrently promote Jones and their original choice, Robert White, to sergeant. Approximately four years later, the parties settled the lawsuit. As one of the settlement provisions, Jones and Patricia Meyer were promoted to lieutenant. Jones was the only female on the then-current lieutenant eligibility list. Meyer had been on a previous lieutenant eligibility list and was passed over for promotion. Meyer had not applied for promotion to lieutenant when the then-current lieutenant list was created.

As a lieutenant, Jones has been assigned to the Field Bureau as a shift supervisor in one of six precincts in the city. Over the course of the past three years, she has been assigned to the two most crime-ridden, inner-city precincts during the busiest shift (evenings: 4:00 p.m. – midnight). It was not until last year that she was assigned to a more suburban precinct during the day shift. Assignment to shift and precinct in the Field Bureau is determined by a bidding process based on seniority.

The lawsuit Jones filed originally concerned only her not being promoted to sergeant. However, within a month of filing the lawsuit, it was amended to a class action lawsuit addressing several concerns of female officers, and Kathy Kelly was added as an additional plaintiff. As the parties were conducting discovery, the city took the depositions of about eight female officers. Each of the female officers related personal experiences of harassment and discrimination. Shortly after taking these depositions the city decided to settle the lawsuit. The settlement document became known throughout the police department and other city offices as the Jones Agreement. The settlement agreement required the city to establish and follow nondiscriminatory processes and established goals related to hiring, promotion, assignment and training.

CURRENT SITUATION

It has been just over four years since Central City settled the original Jones class action lawsuit. The city was still bound by the terms of the settlement agreement and that agreement was regularly impacting police administration's decisions and policies. Whether accurate or not, police administration has a history of blaming the *Jones Agreement* for policies and decisions that are not well-accepted by rank-and-file officers.

Central City completed the testing process to establish a new police captain eligibility list about five months ago. Approximately twenty lieutenants completed the process. When the eligibility list was certified the top five applicants were:

-
1. Mike Moore (WM)
 2. Gerald Bailey (WM)
 3. Bill Wright (WM)
 4. Robert White (BM)
 5. Mary Jones (WF)

So far, five people have been promoted to captain from the current eligibility list. Mike Moore was promoted to captain shortly after the list was certified. Within the following two months Gerald Bailey and then Bill Wright were promoted to captain. This past week at a joint promotion ceremony, two more vacancies at the rank of captain were filled with the promotions of Robert White and Patricia Meyer. Meyer, a white female, ranked five spots lower than Jones on the eligibility list. With five promotions to captain, no one expects any more captain promotions during the life of the current eligibility list.

Adams and Mason Meet

Adams arrived at Mason's office to discuss the situation. Mason expressed his concern that Jones may talk with her attorney about the failure to promote her. Mason explained that he wanted to be ready to address any issues that may arise. The conversation continued:

MASON: Chief, were there specific reasons that you felt Lt. Jones was not the appropriate person to be promoted?

ADAMS: Absolutely. She is not qualified to be a captain. Lt. Jones lacked trust and confidence in leadership. I question her ability to meet deadlines. Finally, I am concerned about her reactions under stress.

MASON: Can you support these reasons?

ADAMS: Of course I can. For example, shortly after I started in Central City I was confronted by Lt. Jones regarding the FBI National Academy. She was under the misunderstanding that she had been approved to attend. She claimed that one of the deputy chiefs because of her lawsuit retaliated against her in getting her authorization canceled. When I denied that, she questioned my veracity. To me this demonstrates a lack of trust and confidence in leadership.

MASON: Has she done anything else to make you question her loyalty?

ADAMS: No.

MASON: Does she have a problem meeting deadlines?

ADAMS: Yes, she does. Recently she was an acting captain. She was given an assignment in that capacity. The assignment was not completed in a timely fashion. She simply walked away from the assignment when the permanent captain arrived.

MASON: Were there any other assignments that she did not complete on time?

ADAMS: No other assignments that I gave to her.

MASON: Did you check with anyone to see if she had a history of being late on assignments?

ADAMS: No.

MASON: The third reason you said was that she was not good under stress. How did you reach that conclusion?

ADAMS: In the chief's interview I asked her a question she could not answer. The next day, I got an email from Lt. Jones outlining her response to the question.

MASON: Chief, do you know of any incidents while Lt. Jones was in the field that she was unable to perform under pressure?

ADAMS: Not really. I just figured if she can't answer a question in a job interview, she is not able to handle the job pressure.

MASON: Did her department personnel file give you any further evidence regarding her lack of trust or loyalty, inability to handle pressure or her tardiness in completing assignments?

ADAMS: To be honest, I have no idea what's in her personnel file. I never looked at it in making my decision that she is not competent to be a captain. I made this decision on my own; based on my own experience with Lt. Jones and without considering the input from any one else.

As the conversation continued, Adams stated that he was aware of the Jones Agreement and that another police officer, Deputy Chief Kathy Kelly, had filed a lawsuit trying to stop his appointment as chief based on the city not following the procedures required under the Jones Agreement. The court denied the motion for a preliminary injunction and Central City hired Adams as chief. Kelly later dismissed her lawsuit. He was further briefed about the document and its requirements within his first week on the job.

Adams said that he was bothered by a couple of other circumstances about Jones. First, it bothered him that Jones wanted him to violate the terms of the Jones Agreement in sending her to the National Academy. In his judgment the list for the National Academy had expired. She wanted him to send her based on an expired list. Adams was also troubled because several letters of recommendation were sent to him concerning Lt. Jones. He explained that such letters were not part of the process, and he assumed she, simply being a police officer asking for the letters, pressured the citizens into sending letters to him on her behalf.

Adams and Mason ended their conversation with Mason telling Adams to be prepared for a lawsuit. Mason said that Jones had filed a lawsuit in the past; there was no reason to believe she would not do so again.

Jones Meets with her Attorney

Mary Jones went to visit her attorney, Perry Matlock. Matlock had represented Jones when she filed her lawsuit against Central City nine years earlier. Over the course of time, Jones and Matlock became friends; so he had a good idea about why she wanted to visit.

MATLOCK: Mary, don't tell they are at it again.

JONES: Well, I think we need to talk about a couple of incidents. In particular, the FBI National Academy and passing me over for promotion to captain.

MATLOCK: What is the FBI National Academy?

JONES: It is a police management school taught by the FBI for local law enforcement agencies. It is considered one of the most prestigious police management training programs. In fact, attendees earn graduate-level credit for the classes.

MATLOCK: Do you have to be accepted into the program to go there?

JONES: I think the FBI offers the academy four times a year. Local FBI offices are given the opportunity to nominate state and local law enforcement officers within the area they

serve; however, the local does not have the opportunity to nominate people each session. Foreign law enforcement officials are also invited to attend. Our local office tries to rotate so a representative of the Central City police department is nominated every three or four nominations that the local can make.

MATLOCK: If the local FBI office makes the nomination, how does this concern the police department?

JONES: Our local FBI office let's the Central City Police Department nominate its own attendee. Whoever the city nominates gets to attend unless they fail the background check.

Jones went on to explain that she had just returned from a family vacation about seven months ago. There was an urgent message for her from Deputy Chief Ted Morton. When she contacted Morton he told her that she was the top name on the list and he asked her if she was still interested in attending the F.B.I. National Academy. When she said yes, Morton told her that he had been told by Chief Adams that she could attend. Morton also told her that time was running out to make the nomination, so she should contact the local FBI agent in-charge as quickly as possible. Jones told how she quickly did everything she was told to do. The last step was for her to drop off the official nomination form to the chief for his signature. She never heard anything from the chief, until she received an email from Deputy Chief Morton's secretary saying that Chief Adams had rescinded the authority to send her to the F.B.I. National Academy.

MATLOCK: Mary, do you know why the chief changed his mind?

JONES: From talking with Deputy Chiefs Morton and Kelly, it is my understanding that Deputy Chief Schmidt went ballistic when he heard that I was going to be sent to the F.B.I. National Academy. He supposedly yelled at both Morton and Kelly for suggesting that I be sent. Then Schmidt went to see Chief Adams.

MATLOCK: Did Deputy Chief Schmidt have that much influence?

JONES: Oh yes. Chief Adams was new at the time. Deputy Chief Schmidt was the head of the unofficial good ole boy system. Because Schmidt could make Chief Adams' life much easier, Adams would keep Schmidt happy, especially on matters that really did not matter to Chief Adams.

MATLOCK: Were you given a reason for the change?

JONES: Yes, after I learned that I was not going to be sent to the National Academy I requested a meeting with the Chief.

MATLOCK: Who was present?

JONES: Just the Chief and me. We met in his office. I did not know him, so I tape recorded the conversation. Here is the tape.

MATLOCK: What did the Chief tell you?

JONES: After some small talk, the conversation went to the National Academy. I told him that I heard that Deputy Chief Schmidt had complained that they were sending me to the National Academy. I also told him that Deputy Chief Schmidt did not like me because of the employment discrimination lawsuit that I filed. Further, that he treated me poorly and would not give me any assignments that would be viewed as real police work. He would give me the assignments that no one else wanted.

MATLOCK: How did the Chief respond?

JONES: He told me the reason that I was not sent to the National Academy was that the list had expired.

MATLOCK: Have you seen the list?

JONES: No. But I have been told that the names on the list were alphabetical and that there was no expiration date on the list. There was an order that was distributed seeking people interested in attending the National Academy to apply. That order was written about four years earlier. In the body of the order there was a statement that anyone interested in going to the National Academy over the next three years should apply. The order did not specifically say that the list would expire in three years.

MATLOCK: During this conversation did you raise your voice or call the Chief a liar?

JONES: No, our conversation was always congenial. I did not question the Chief's honesty; rather I questions Deputy Chief Schmidt's motives in bringing this issue forward.

MATLOCK: Is that all that happened in your meeting with the Chief?

JONES: No, after we discussed the National Academy, the Chief continued talking about the police department. He told me that he really did not like the fact that retired sergeant John Salisbury was purchasing video cameras for the cruisers. According to the Chief, these cameras were annoying, and he did not want them in the cruisers. The Chief also made some derogatory comments about Salisbury. Then we said goodbye.

MATLOCK: You mean John Salisbury of the John Salisbury Jr. Memorial Foundation?

JONES: Yes.

About three years earlier, John Salisbury's son, John Jr., a police officer in Central City, was ambushed and killed by drug dealers. The father shortly thereafter retired from the department and started a foundation in his son's honor. The foundation's purpose was to improve safety for law enforcement and fire fighters by purchasing additional equipment. The foundation, among other things, purchased video cameras for Central City police cruisers. Salisbury was an extremely popular public figure with considerable political clout.

The conversation with Matlock then turned to the issue of the captain's promotion. Jones explained that this was the second time that she had tested for promotion to captain. The first time her name was never referred for consideration. In fact only one promotion was made from that list, Isaac Williams. This second time she was fifth on the list. When the fifth promotion was made from the current list, the city promoted Patricia Meyer instead of her.

MATLOCK: What reason were you given for not being promoted?

JONES: No one has given me any reason.

MATLOCK: Was there anything in the promotion process that you think may have negatively impacted you?

JONES: I tested fine. In the chief's interview I was not prepared to answer a question he asked me.

MATLOCK: What question did he ask that you were not prepared to answer?

JONES: He asked me what assignments had Deputy Chief Schmidt given me since the Chief and I had talked in his office about the National Academy incident. I sent an email to the Chief the following day with a list of those assignments.

MATLOCK: Any other questions that you feel you did not answer appropriately?

JONES: No the rest of the questions were the type I was expecting and was prepared to answer. I think I did well on those questions. I really wanted this promotion so I spent considerable time preparing for the test and the interview. In fact, when it was time to make the fifth promotion off the list, I even asked some people to write letters of recommendation to the Chief because he was new to the department.

MATLOCK: Who did you ask to write letters?

JONES: For the most part, I asked a group of people who had already sent unsolicited letters to the department over the years praising my work. I had an on-going working relationship with these people. They had on their own volition written a letter about me to the former chief, so I simply asked them if they would be willing to write one to the new chief. I also asked Bill McDouglas to write a letter. Bill was a former Deputy Chief in Central City who left the department four months after Chief Adams came. Bill became the chief of a department about two hours away. I had worked several years within Bill's chain of command. If anyone knew my capabilities it was Bill. Since he was no longer part of the Central City department, I asked him to write the new chief on my behalf.

Jones relayed some conversations that she had had with some senior command officers. Both Deputy Chiefs Jane Bauer and Kathy Kelly told her, after she was passed over for promotion, that Chief Adams intended to make an affirmative action promotion on the third opportunity. There had never been a female police captain in Central City, so he wanted to address the underutilization. Jones was also told that Lt. Meyer had told Deputy Chief Bauer that she did not want the promotion under the circumstances. So the Chief promoted Bill Wright whose name was at the top of the list at the time.

Only four weeks earlier Lt. Wright had been put in charge of the Homicide Unit. The Chief transferred the lieutenant who was heading Homicide to another assignment without any explanation. When this assignment was made, the senior command already knew that a captain promotion was to be made within a month to replace retiring Captain Carl Belt and that Wright's name was on the top of the list. Wright also made last-minute plans for an out-of-town vacation over the period of time that the promotion was expected to be made. Kathy Kelly told Jones that Wright had been told that he was to be passed over for an affirmative action promotion, and that he was given his choice of assignment in exchange for not being promoted.

Jones was made acting captain upon Belt's retirement. She remained in that capacity for almost six weeks. When Wright returned from his vacation, Wright took over Belt's former precinct. Jones went back to her duties as a shift supervisor in the precinct.

According to Kathy Kelly, when Meyers was promoted above Jones, no one asked Meyer about being promoted. The announcement was made by the Chief before Meyer knew she was being promoted. Kelly also told Jones that she was not told about the meeting the Chief had with the deputy chiefs to discuss the promotion. She learned about the meeting and the decision after the fact.

As the meeting concluded, Jones and Matlock decided that another employment discrimination lawsuit should be filed. So Matlock prepared the appropriate documents and filed the case.

The Lawsuit

Within six weeks of the promotion of Meyer to captain, Matlock was taking Adams' deposition. This proved to be a very frustrating activity for Matlock, as Chief Adams was evasive and responded to Matlock's questions more than 100 times that he could not recall or a similar response. Although Adams testified as to the importance of the Jones Agreement, he could not recall any specific provisions of the document. Adams' testimony as to his reasons for not promoting Jones was similar to what he said in the initial interview with Mason.

After Adams testified about the letters of recommendation that Jones' supporters had sent, the following exchange took place:

MATLOCK: Chief, when you applied for the Central City chief's position, do you recall your application?

ADAMS: Vaguely, yes.

MATLOCK: Do you recall the application process?

ADAMS: Yes.

MATLOCK: Did the application process ask for the candidates to submit letters of recommendation?

ADAMS: Not that I recall.

MATLOCK: Did you submit any letters of recommendation?

ADAMS: I think there was a letter attached to my resume from my current employer as well as a member of the private community.

MATLOCK: Letters of recommendation that you attached to your application?

ADAMS: General letters, yes.

MATLOCK: That you asked those people to write?

ADAMS: Could I go back and finish what I was saying?

MATLOCK: Go ahead.

ADAMS: I did not ask anyone to write a letter touting Sam Adams for chief of police in Central City. I had two generic letters that were part of my resume from my current employer and the head of the police academy that I submitted with every resume as a matter of routine.

MATLOCK: And those letters spoke well of you and were letters of recommendation in a general nature, correct?

ADAMS: As my abilities as police chief, that's correct.

The following question was asked and answered while discussing the meeting that Chief Adams had with Jones regarding the National Academy:

MATLOCK: If Lt. Jones had made accusations that she believed Deputy Chief Schmidt was holding the lawsuit against her, would you have made an investigation into those accusations?

ADAMS: No, I would have considered it just her opinion.

The deposition switched to the chief's interview that was part of the promotion process. The following exchange took place.

MATLOCK: My question is why is she not qualified and competent to be a captain?

ADAMS: In the specific instances I dealt with her she could not recall in a stress situation answers to questions that I asked in one particular interview.

MATLOCK: And what would that be?

ADAMS: In her chief's interview for captain I asked her specifically what were the duties and tasks that Deputy Chief Schmidt had given her in response to her concern that she was not a part of the management team as expressed in an earlier interview. She could not recall any duties that he had assigned to her, no other results thereof.

MATLOCK: Did you ask the other candidates who you interviewed for promotion, for promotion to captain the same question?

ADAMS: No.

MATLOCK: A similar question?

ADAMS: No.

MATLOCK: Did you ask any of the other candidates questions that you did not ask Lt. Jones?

ADAMS: I can't recall that there were any. If they were, they were small talk.

Matlock then shifted the focus to Lt. Jones' inability to timely complete assignments. Adams said he gave the assignment to Deputy Chief Schmidt after he had met with a city council member who was concerned about graffiti in the city. Chief Adams could not remember when the assignment was to be completed but he thought it was within a month. It was not until a week or two after the due date that Adams learned that Schmidt had given the assignment to Jones.

Jones leaned over and whispered to Matlock that when she received the assignment from Schmidt as acting captain she gave it to Lt. Wayne Fox to complete. Jones said that Capt. Wright, the permanent precinct captain, had taken over captain duties on the due date. She had a status report memorandum waiting for Wright that day. The graffiti assignment, its due date and status, was the first item in the memo. She also met with Wright early that morning and verbally advised him of the graffiti assignment and its status. According to her, Wright said he would handle the matter.

Then the following question and answer exchange took place between Matlock and Adams:

MATLOCK: Now, at the time that request came down Lt. Jones was the acting captain, correct?

ADAMS: I believe she was.

MATLOCK: When you talked to Deputy Chief Schmidt he told you he assigned it to Lt. Jones, correct?

ADAMS: Right.

MATLOCK: Okay. Later did he tell you anything else about that assignment regarding Lt. Jones?

ADAMS: Only at my request I returned probably two weeks later and asked the status and he indicated that he would either send an e mail or he would check to see because he didn't have any information. He did indicate that there was a due date and I don't recall what it was, that it came back to him the date it was due and it was still not there so I asked him to go look for it and find it and get it. We had to talk to Mr. Lott.

MATLOCK: On the due date was Mary Jones still the acting captain?

ADAMS: I don't know.

MATLOCK: This would be a captain's assignment, correct? The deputy chief would give it to the captain for further action, correct?

ADAMS: In this particular case, the captain is a precinct commander so the deputy chief would assign it to the precinct commander since the action was occurring in that precinct.

MATLOCK: Chief, would it be appropriate, an assignment was given to a person who is in an acting capacity, in their capacity as acting captain and a new captain is assigned, would it be appropriate for the former acting captain to advise the new captain of the assignment, of the due date and of the fact that the input was not there and wait for the direction of that captain?

ADAMS: I don't know what you're talking about. Simplify it for me.

MATLOCK: Do you know what happened at the precinct level with this assignment?

ADAMS: No, I know it didn't get there on time.

MATLOCK: Okay. You didn't make any personal investigation as to what happened with the assignment?

ADAMS: No.

MATLOCK: You assumed that Lt. Jones was at fault?

ADAMS: The detail was assigned to Lt. Jones and when it did not appear on time, it was Lt. Jones's responsibility to get it there so it was not an assumption, it was simply it was not done.

MATLOCK: If Lt. Jones was no longer captain, acting captain of the precinct during that period of time was it still her responsibility or would it be the captain's responsibility if he has knowledge of it?

ADAMS: It would be the responsibility of the individual it was assigned to.

MATLOCK: Would a lieutenant have the authority to order another lieutenant to do -- to take an action?

ADAMS: As acting captain they would, certainly.

MATLOCK: If they're no longer acting captain do they have that authority?

ADAMS: Not in the hierarchy of chain of command, no.

MATLOCK: Within the structure of the Central City Police Department does the lieutenant have the right to order another lieutenant to do anything?

ADAMS: Only in certain circumstances when one lieutenant's in charge of a scene and the other is assisting.

MATLOCK: So if Lt. Jones was no longer acting captain on the due date of that assignment, would she have the authority to order the lieutenant to do anything regarding that assignment?

MASON: Object to the form of the question as compound and assuming -- assuming -- he doesn't have the foundation to answer whether Capt. Jones could have gotten this done beforehand, he doesn't know what the facts are, he doesn't know what you're asking him and he's not familiar with the circumstances Because you're asking him questions about a circumstance that he doesn't know the facts of, he doesn't know who was acting captain or whether this acting captain could have told the other acting captain who was acting at the time, acting, that Capt. Wright that wasn't there.

MATLOCK: You have no idea of the facts and circumstances, correct?

ADAMS: Facts and circumstances of what?

MATLOCK: Regarding what happened at the end of the period of time in which this assignment was due.

ADAMS All I know is that there was a due date and the report was not there on the due date.

MATLOCK: And you did no personal investigation as to facts or circumstances?

ADAMS: No.

MATLOCK: You never talked to Lt. Jones about that, did you?

ADAMS: No.

MATLOCK: Does Lt. Jones have a history of not timely completing assignments?

ADAMS: I wouldn't know.

MATLOCK: Did you ever investigate whether this was her usual course of conduct or if this was an exception to her usual course of conduct?

ADAMS: No.

MATLOCK: Do you know if Patricia Meyer was ever late for an assignment?

ADAMS: I have no idea. It was not a concern of mine.

At another point Chief Adams testified about another time he saw Lt. Jones in action:

MATLOCK: Okay. Chief, let's -- other than the meeting you had with Lt. Jones about seven months ago regarding the F.B.I. National Academy and the interview you had for the captain's promotion, have you had any other personal contact with Lt. Jones?

ADAMS: I saw her at the precinct open house, I believe.

MATLOCK: What was your impression of the open house at the precinct?

ADAMS: The open house went well. I was somewhat concerned that Lt. Jones didn't circulate and network more, that she appeared to pay more attention to the condiments and the refreshments than she did meeting people and talking with people at least while I was there.

MATLOCK: How long were you there?

ADAMS: About a half hour, 45 minutes.

MATLOCK: And during that time about how many people were there?

ADAMS: It would be an estimate but I would say 40 to 60. I'm not sure. It was a fluid crowd in and out.

MATLOCK: Did she network with people at all?

ADAMS: Excuse me?

MATLOCK: Did Lt. Jones network with people at all while you were there?

ADAMS: I observed her pouring beverages for people, offering snacks, that sort of chit chat while myself and Deputy Chief Bauer circulated shaking hands, introducing ourselves, talking to members of neighborhood groups, that sort of thing, listening to issues.

MATLOCK: Do you have a reason to believe Lt. Jones doesn't do that on a daily basis when she was lieutenant in that precinct?

ADAMS: I was simply talking about the observable behavior that I observed in that particular instance was inadequate.

MATLOCK: Did that go into your role of deciding she wasn't -- in your decision not promote her to captain?

ADAMS: I don't remember when the open house was. If the date was prior to making any captaincies, it would have had an impact certainly on my decision to make the promotion.

MATLOCK: But you don't recall whether it did or not?

ADAMS: That's not what I said. I said if it had happened before the promotions were made, certainly it would have had an impression. If the open house occurred after the promotions were made, it's a moot issue, but I don't remember what date the open house was.

With the taking of the Adams deposition there are plenty of actions that must be contemplated. Matlock has to decide if the case is worth pursuing. Mason must consider the city's position and whether to settle or defend the lawsuit. Meredith Snow, the Director of Human Resources, must review the city's policies and processes to determine what actions, if any, are necessary to correct problems.

NINE DRAGON THEME PARK: MARKETING STRATEGY IN CHINA

Jindong Zhang, Tourism Bureau of Dongcheng District, Beijing

Kuan-Chou Chen, Purdue University Calumet

Keh-Wen arin Chuang, Purdue University North Central

Denise M. Woods, Purdue University Calumet

CASE DESCRIPTION

The primary subject matter of this case concerns the destination marketing strategies used for a Chinese amusement theme park. The case follows the theme park from its inception and discovers how the changing tourism environment in China affected the success of the theme park.

CASE SYNOPSIS

This case examines the development and role of destination marketing in the China tourism industry in general and in the theme park in particular. A case study of Nine Dragon Theme Park in Beijing, China is demonstrated to explore the destination marketing development. The China tourism industry has effectively merged its service with that from local attractions to the development of global and modern theme parks. This study provides a comprehensive viewpoint for China destination marketing development and strategies.

INTRODUCTION

In the past 20 years, tourism has had rapid growth and has become a new and prosperous industry in China. At the first stage in the early 1980s, the tourism destinations were famous landscapes, historical sites and big cities. Tourists wanted to travel around, but they had little traveling experience and had few choices of where to go and what to see. The first generation of artificial landscape destination such as theme parks came to the public before and after the year 1990, attracting a lot of tourists because of the high quality and renovation of attractions. The Chinese tourists then were a little more experienced and wanted new and exciting amusement. This kind of destination met their desire and was therefore very successful. With time, however, the taste of the tourists changed away from the artificial attractions back to enjoying nature and selecting a well-organized trip from a lot of choices, including travel abroad.

In the process of the Chinese tourism industry development, the theme park experienced a fluctuation of ups and downs. From the first welcome in early 1990 to the following dislike around 1995, to the severe competition afterwards, the theme park has not reached its peaks in China. In fact, any assumed theme park in China can have any chance in competing with Disney, the pioneer and symbol of theme parks.

The Nine Dragon Amusement Park Company (NDA) is one of the first joint ventures established in the Chinese tourism industry. This amusement concept was originally influenced by the Disney company, especially Tokyo Disney World. NDA combined this theme park example with China culture and specific environment and was referred to as the first Disneyland-like amusement in China. But the finished amusement park does not have the whole theme park design because of the policy restrictions and insufficient capital. The experience of NDA shows to some extent the first generation of joint venture in China.

NINE DRAGON AMUSEMENT PARK

NDA was founded in 1985 as a Sino-Japan joint venture. The Chinese investor is BMTR (Beijing Ming Tombs Reservoir development Company), which is a state-owned enterprise under BWCBC (Beijing Water Conservancy Bureau) of Beijing Municipal Government. The Japanese investor is a construction company XGZ, which is among the first foreign companies come to the China market.

During the development process, three questions had been discussed before it became a specific cooperative project that could be presented to prospective investors. These questions are: program decision, location selection, and product attractions.

The idea of establishing a Theme Park is given birth and encouraged by the success of Tokyo Disney. The Tokyo Disney Park was opened to the public in 1985 and had great success in Japan, more than its effect in the U.S.A, This conveyed a clear message that amusement theme parks would be welcomed and have a large market in Asia. At the same time, there is no Theme Park; even the concept of Theme Park is new in China. So, it is a potential opportunity to develop a theme park in China. In fact, NDA is only one of the two amusement theme parks that the Japanese investor planned to establish in Beijing.

Another idea of Theme Park is consistent to the forecast of the Chinese tourism industry development. A Theme Park would be the next popular concept.

Beijing Water Conservancy Bureau is the administrator of water resources in Beijing district, including the prevention and diminishment of flood, drought and water pollution, as well as distribution of water resources. In the early 1980s, with the support of the Beijing Government, this bureau practiced a series of new policies among its approximately 20 management offices. These policies encouraged the subordinates to transfer to market, which resulted in a positive effect both in terms of economy and society. This gave the bureau confidence in a market economy, and made

good use of water resources. Ming Tombs Reservoir has the following exclusive advantages in tourism development and was selected as the location of the proposed amusement park.

Ming Tombs Reservoir is attractive for tourists in such areas as having a famous history, beautiful scenery, and a favorable location. First of all, it is located in the Ming tombs tourism district and on the way to the Great Wall and Ming Tombs Museum, which are among the most frequently visited tourism sites in Beijing. Secondly, Ming Tombs Reservoir itself is also world-famous because of its construction history. It a man-made reservoir in a valley between mountains. All of the leaders of the young People Republic of China including Chairman Mao, many officers and staff members in the foreign embassy then in China, many famous Chinese people together with Chinese laborers took part in this construction. There is a memorial with the four most respected leaders inscriptions, a museum with precious photos and items. The dam is still inlaid with the Chairman Mao inscription of Ming Tombs Reservoir. The Chinese laborers then still had great respect for Chairman Mao and his colleagues. Thirdly, Ming Tombs Reservoir is the only water scenery around this area and the nearest one from Beijing city, with its clear water against the green mountains, white clouds and blue sky, the reservoir is very scenic in this royal mausoleum area. In summary, Ming Tombs Reservoir has an image mixed with imperial mystery and revolutionary worship, combining natural scenery with human creation.

With the opening up of Chinese policy in the early 1980s, the international and domestic tourism industry had rapid growth. As per conservative estimates, there are approximately 3,000,000 visitors to this area, including 300,000 from abroad who used this golden tourism line to visit The Great Wall and the Ming Tombs Museum in 1983. Some of them also visited the Ming Tombs Reservoir. In fact, the staff of the Office of the Ming Tombs Reservoir made good use of these advantages and got into the tourism business, first by serving the thirsty tourists with tea water.

So, the Ming Tombs Reservoir had the basic and necessary elements needed to develop a thriving tourism industry.

In Chinese legend, a dragon is a miraculous monster that controls water and water creatures, in determining whether to rain or not. King Dragons always are very old, having many prince and princess dragons, and the whole dragon family has magnificent palaces underwater. The dragon is also the symbol of the Chinese imperialist. The stories about dragons are always among the most popular because they are full of mystery and wonder.

The originally proposed attractions of NDA included an Underwater Dragon Palace Tour, Northern Border Restaurant of about 5400 square meters and Nine Dragon Hotel of 350 rooms in the original Feasibility Report. Because of policy restrictions and insufficient capital investment, the restaurant and hotel had to be canceled. The Underwater Dragon Palace Tour was designed to include a Palace, an aquarium, a panoramic movie and a show room. The finished Dragon Palace Tour only has a long corridor decorated with a view from the seashore to deep sea, a Dragon Palace with scenes of the aquatic animal waiters and waitresses, the distinguished members in the dragon family, such as king and queen dragon, fire dragon, and water dragon. Transported by motorized

vehicles along this corridor, visitors can reach the magnificent Palace and then exit from the tunnel. They can also walk around on the island above the water. By using modern technology, this Dragon Palace Tour built an elaborate world of underwater attractions, so, it was referred to as the first Disneyland-like amusement in China

The underwater Dragon Palace Tour was once the major and most successful attraction of this amusement park. The computer simulation ride is another successful attraction. Dragon-boat Racing and winter-swimming are two special attractions offered in the summer and winter respectively. The other attractions include an aquarium, a water ramp, a Kids City, an F-1 racing ride, holiday cabins, motorboat racing. This is all in addition to the Ming Tombs Reservoir Memorial park and museum. The park also has a restaurant, gift shop, passenger cars, and a travel agency.

DESTINATION MARKETING APPROACH FROM 1990 TO 1995

Destination marketing is designed to identify the target market by the way to collect information about its visitor as well as to audit the destination attractions and select segment that might logically have an interest in them (Kotler, Bowen & Makens, 2003). The objective is to create a brand image for tourism destination that highlights the attractions best features, provides an economic impact to the destination. One of main destination marketing mix to implement is building a new destination. Theme park is a new tourism product under destination marketing approach. The 1970s steered in an era of theme park led by Disneyland and Walk Disney World. More than 100 theme parks have since opened in the United States. Given Walt Disney Company success, many places have sought replication on a smaller scale. Tokyo Disneyland has been success, and a \$4.4 billion Disneyland opened 20 miles outside of Paris in 1992. The same concept of destination marketing has been merged into China tourism market.

This first period of increase from 1990 to 1995 benefited from the favorable macro environment, the prosperous tourism market, the exciting and attractive programs and the effective management including a successful marketing approach.

After 10 years of China open policy and the first step toward a market model, the Chinese people became more open-minded. They also had more disposable income and travel time. Because of this, travel around the country became more fashionable, which boosted the first golden time of the Chinese tourism industry. Big cities, famous historic places, and scenic tourism areas are the favorite destinations of most tourists in China. As the capital of the current government and six Dynasties, Beijing has combined a long history of modern development, political idealism, and contemporary civilization. Beijing is definitely the priority for most tourists who visit China. On the other hand, the tourism product is very simple. The top tourism destinations in Beijing are Imperial remnants such as The Great Wall, the Forbidden City, and political memorials such as Tian Anmen Square. Sightseeing is the overwhelming model within a tourist travel itinerary.

At this time, since it is a seller market and the amusement attractions are highly sought after, selling an idea is simple. Even with the ease with which they attracted tourists, NDA still utilized some successful marketing practices.

- ◆ It is among the pioneer companies making advertisements in the weather report program of the CCTV, one of the highest audience-rated programs in the dominating television in China. This advertisement brought NDA a nation-wide reputation, hence attracting many visitors outside of Beijing.
- ◆ It worked hard to become one stop on the five stops a day bus tour system by its public relationship with government, transport department and numerous bus operators. Since some first class tourism sites are located 50 miles away from Beijing, they are not easily accessible by public transportation. The five stops a day tour system was established to meet the needs of tourists visiting the world famous sites in China: The Great Wall and Ming Tombs Museum in the northern suburb of Beijing. By being one member of this five stops one day tour system, visitors from the country poured in every day.
- ◆ It managed to get in the government support tourism destination lists, participating in the official promotion activities, showing up in the official tourism guides, brochures and handbooks that are distributed in hotels. This gave NDA high visibility and a good reputation.
- ◆ It made full use of the support, influence and favorable policy from its investors: the government background from the Chinese investor and the joint venture background from the Japanese investor, which supplied NDA with a more favorable and free environment in the Chinese plan economy.
- ◆ It set up a travel agency and a passenger car group in Beijing City to attract more customers and supply group visitors with more convenience. The company name and logo painted on the cars body is a good moving advertisement of itself.
- ◆ It also launched some influential activities, such as hosting the annual dragon-boat races in this reservoir every summer. The newspaper reported this sport, commenting that NDA lost money but gained a good reputation. This successful annual boat racing made Ming Tombs Reservoir the site of dragon boat racing in northern China until now.
- ◆ There are many new activities in addition to the fixed attractions: from the New Year winter swimming (January 1) in the reservoir to the dragon-boat racing in the summer (Lunar year May 5, about June or July) to the fireworks show on the National Day (October 1), and the Entertainment Show on every Sunday during the summer.

- ◆ It arranged ample budget and capable employees to accomplish its well-organized marketing strategy and plan by using media, newspaper, advertisement and all resources.

Meanwhile, some new amusement attractions were launched afterward. They included:

- ◆ The once first class aquarium in the Beijing area was finished in 1993.
- ◆ The computer simulation ride is another successful attraction, especially among the young people. This Hollywood-like ride lasted only about ten minutes, but was full of exciting and unexpected experiences. It was also one of the first of its kind in China.
- ◆ Ming Tombs Reservoir Memorial Park and Memorial was included as a part of the tourist activities of NDA.

With a series of powerful marketing campaigns and new products, the Nine Dragon Palace Tour was so successful that there were always a lot of tourists standing in line about two or three hours for this 20-minute tour. Over two million tourists visited NDA in the consecutive three years prior to 1995.

The brand-new model of amusement program was in the right location, and had the help of good management and sufficient advertisement. NDA achieved great success and profit in the first five years of its existence.

DESTINATION MARKETING APPROACH FROM 1996

The turn of business from 1996 was mainly due to policy change. The Beijing Municipal government decided to cancel the tour system of five stops a day and replaced it with a suburban public system. This five stops a day tour system was very welcomed at its first introduction, but was receiving more and more complaints from customers about cheating and bad service.

At the same time, with more tourism destinations coming to the market, the Chinese tourism market is getting more mature and more competitive. Tourists had more choices and higher and more diverse demands. So, after a decade of fast growth from the 1980s, the Chinese domestic tourism industry moved to a new stage of stable development. The needs of customers changed from sightseeing anything to selecting things and places worth seeing and participating in. The customers now, unlike the first stage, had a choice.

In order to improve its image and meet the new development of the tourism industry, Beijing Municipal government ordered the cancellation of the five stops a day tour system. In this new public system, there are bus routes from Beijing city to some famous tourism destinations, giving tourists more choices. In the beginning, there were only a few main bus routes covering the most

famous destinations, such as the Great Wall and Ming Tombs Reservoir. NDA became a bus stop on a single public line, and it took two hours to arrive. This became very negative to prospective visitors.

This change was a definite business setback to NDA. The inconvenient traffic was the bottleneck, spending three or four hours in transit just to have a 20 minute tour is far less attractive for Beijing residents and nearly impossible for tourists outside of Beijing. The once crowded theme park became silent, with only one million visitors to NDA during the year.

The reaction of the NDA is direct and simple: it made its best effort trying to convince the government to change this new policy and resume the five stops a day tour system. The normal marketing was affected.

DESTINATION MARKETING APPROACH FROM 1997

A continued decrease period from 1997 resulted from the mature and competitive tourism market, the poor marketing strategy, and the operation of NDA.

Additionally, around the Ming Tombs Reservoir district, more competitors were encouraged by the success of NDA and built their own visitor sites. Apart from the Dingling, more Ming Tombs and other attractions became tourism sites. Even The Great Wall has its competitor: another part of the great wall relic opened to the public in another district. Some of the major competitors were in Old Beijing City and the Xiaozhou Museum of the Emperors of the Ming. These new destinations attracted more tourists and gave them more choices.

The domestic Beijing tourism market changed and had some new characteristics; however, the strategy of NDA remained the same. The management did not even realize this change was a trend in China. Instead of adapting strategies and practices to deal with this unfavorable situation, the NDA management focused on persuading the government to change its mind and resume the five stops one day tour system. Three years were wasted, and NDA missed the opportunity to survive.

With the severe competition coming after 1996, the customer dropped to one-third of the level at its peak time; the financial situation kept getting worse; and the morale decreased. Still, the new management kept blaming the unfavorable environment for its failure. They had no more effective marketing strategy than just following the former procedure and did not initiate any new creative efforts. During this period, NDA has to give up its fruitless effort in changing the policy.

At this time, a lot of things changed. The biggest problem it met then is its once successful attractions are no longer attractive to the customers as they were before. The new attractions are not as good as it expected. The worst thing is that it has no money to renew its products because both of the investors refused to invest again.

- ◆ The once successful underwater Dragon Palace Tour was now outdated as the artificial landscape fashion died away. It is also old in decoration and was not maintained well or renewed during these years.
- ◆ The computer simulation ride is still good, but the film has not been changed annually and hence loses the novelty.
- ◆ The aquarium has no competitive advantage with the two new aquariums in Beijing city in either location or size.
- ◆ The water ramp, Kids City, F-1 racing ride and motorboat racing are not special from those of the same kind of park.
- ◆ The holiday cabins in the Ming Tombs Reservoir Memorial park are simple and tough in accommodation and service, and they cannot provide the basic demands for meetings.
- ◆ The other activities have been canceled year by year. The Dragon-boat Racing and winter-swimming are the only two special activities that are offered in the summer and winter respectively. Even these are now very routine, and the NDA itself has no interest to continue these activities.
- ◆ The restaurant, gift shop, passenger cars and travel agency also are operating at a loss due to an insufficient number of customers.

From the perspective of the management, the most important task is to keep costs low and earn more revenue. So, the marketing strategy and approach of NDA is practiced as follows:

- ◆ It gave a limited budget and no overall plan in marketing. It gave up any kind of cheap advertising and promotions; it occasionally uses the popular media like TV, youth newspaper.
- ◆ It raised their entrance fees to each attraction and added a new entrance fee at the main gate; it tried to improve its financial situation by getting more revenue, which drove away some prospective visitors and worsened its reputation.
- ◆ It determined that its major customers were groups such as school students and staffs in offices and companies, and travel tours from outside Beijing. So, it made a great effort to develop relationships with travel agencies and transport department and car drivers with commission. This partnership would result in the end customers paying more and getting less than they expected.
- ◆ It managed to receive from the government the title of Education Base for Patriotism and Education Base for Science Knowledge in the name of Ming Tombs Reservoir. In order to get the student visitors, it collected about 10 girls to do personal selling targeting to the middle schools in Beijing cities. Because these girls are less trained and work without other kinds of support from the company; they did not achieve the

expected results. In addition, the student customers are also less profitable because of the commissions.

- ◆ It decided to only launch new attractions at low cost or just keep it running. For example, it insisted on using the same film for the computer simulation ride, and replaced the film with another dull one after several years. This strategy made this exciting computer simulation attraction very disappointing. All of the newly launched attractions have the same characters of low cost and low popularity, opposite the spirit of attractions for the theme park.
- ◆ As the only two remaining activities, The Annual Dragon-boat Racing sometimes combined with the sport game, such as the Minority Sport Game of China and the Overseas Chinese Dragon-boat Racing. Even with the support from these games, the Dragon-boat Racing still could not get the same publicity as it had in the former years. It certainly could not attract visitors in today's innovative advertising world. Winter-Swimming in Ming Tombs Reservoir fell to an activity involving several participants for several hours.

DISCUSSION QUESTIONS

1. Identify the destination marketing strategies that apply in each of the three periods in the NDA case.
2. What specific suggestions would you make to NDA for a new marketing strategy, taking into consideration their limited revenue and investor funding?
3. What did you learn from this case regarding the tourism industry in China using a destination marketing approach?

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CHILDREN AND FAMILY SERVICE CENTER CASE STUDY

Vickie Tomlinson, Tennessee Children's Home, Inc., Retired
Terry J. Ward, Middle Tennessee State University
G. Robert Smith, Jr., Middle Tennessee State University

CASE DESCRIPTION

Students often fail to understand that much of the FASB's work does address not-for-profit entities. This case attempts to demonstrate to students the differences between for-profit and not-for-profit organizations and how SFACs impact the theory underlying subsequent FASB standards on reporting. Thus, this case attempts to help students better understand the basic principles and concepts that differ between for-profit and not-for-profit organizations. This case specifically addresses SFAC # 4 and SFASs 116 and 117.

This case was designed to be used in a graduate theory or financial reporting class that has a nonprofit component. The case allows students to see through basic research how nonprofits fundamentally differ from for profit entities conceptually and theoretically.

An instructor could also use this case in an undergraduate nonprofit class as a project to introduce students to parts of the FASB's Conceptual Framework that relate to nonprofits, thus helping students to understand the theory behind reporting in a nonprofit environment. Thus, this case can be used in either undergraduate or graduate classes depending on which of the requirements the instructor wishes the students to complete.

CASE SYNOPSIS

In this case, you are asked to take the role of the Director of Fiscal Operations of a not-for-profit organization, Children and Family Service Center. The Trustees have hired you because of concerns that the accounting records are not adequate. You are given ten areas of concern and asked to answer various questions related to these concerns. Thus, you attempt to determine the appropriate treatment for each item. This case will help you to better understand the basic principles and concepts that differ between for-profit and not-for-profit organizations.

INTRODUCTION

Kate Jones looked at her calendar. The day was March 1, 2002. She had been with Children and Family Services Center (CFSC) for only a few short weeks and had spent most of her time in

meetings, reading files, and becoming generally acquainted with the organization. The Chairman of the Board of Trustees hired her as Director of Fiscal Operations because of concerns expressed by the Trustees over the accounting records. The former Director of Fiscal Operations left CFSC after serving for two years. However, he lacked experience in working with not-for-profit organizations. The Trustees discovered after his departure that the organization's financial reporting had not incorporated Statements of Accounting Standards (SFASs) 116 and 117. (See Exhibit 1 for the December 31, 2001, Balance Sheet.) They were also concerned the financial reports did not present all the information they would need to judiciously manage the affairs of the organization.

The Children and Family Services Center began operations during the early 1930s. At that time, the organization was known as The Children's Center. Its operations consisted primarily in the care of children who, for various reasons brought about by the country's economic depression and World War II, no longer had a family able to take care of them. During the 1960s, CFSC became incorporated and gained not-for-profit (503(c)) recognition by the Internal Revenue Service. As society changed, so did the organization. It expanded its services to include foster care, therapeutic foster care, group home residential treatment, child and family counseling, emergency shelters, and diagnostic treatment. CFSC also expanded geographically to satellite locations within the State. Formerly wholly dependent upon charitable gifts, it expanded its financial resources by contracting with Federal and State agencies. The contracts provided "per diem" fees for certain contractual services the governmental agencies needed in particular geographic locations. Each contract was designated for a distinct program.

As Kate read through the files, she came across several documents that made her believe the Trustees' concerns were justified. She was particularly concerned with ten items that may need adjusting entries to incorporate SFASs 116 and 117. Enumerated below are these items that concerned Kate:

1. CFSC had two savings accounts in two different small, rural banks. The names on these accounts were W. M. Kaiser Educational Fund, with a balance of \$5,236.00, and Amanda Wellbanks Memorial Educational Fund, with a balance of \$6,550.00. These accounts were begun in the late 1950s. Kate could not find any documentation as to how or why these accounts were originally set up. She contacted the banks, but only one still had documentation on microfilm. Evidently, the Kaiser account was set up to provide a source of educational funds for children in care who had no other financial resources. Unfortunately, neither bank could determine the original deposit amount.
2. One of the files contained documentation regarding a \$5,000 certificate of deposit and bank statements on a checking account that had a balance at December 31, 2001, of \$7,500.00. It appeared to have originally been a restricted gift. However, also in the file was an unsigned "Authorization for Termination of Accounts." (See Exhibit 2.) The Institute for

Family Services is no longer operating and its phone number is disconnected. Kate wondered if this authorization had ever been executed.

3. A copy of a will declaring the Children's Center to be the recipient of an estate to be used for college scholarships. See Exhibit 3. Kate knew the children currently in care and believed that it is highly unlikely that any of the children served by CFSC would continue their education beyond high school. The amount of the funds received from this estate was \$50,000.
4. Two years ago, the Board of Trustees authorized a fund-raising campaign to raise money to construct a diagnostic treatment center in Bristol, Tennessee. During 2000, \$250,000 was raised; during 2001, \$550,000 was raised. Construction began during 2001 and completion was expected in mid-2002. Estimated construction cost was \$600,000, less than the amount raised. An architect donated his services. Kate estimated the value of the architect's services during 2001 at \$20,000, and this amount had not been reflected on the financial reports. Total cost incurred through December 31, 2001, was \$100,000.
5. As part of her duties, Kate read all of the minutes of the Board of Trustees' meetings for the past five years. She discovered that the Trustees had determined that all charitable gifts from bequests should be placed in a Board-restricted permanent endowment fund. The interest and dividends generated from this fund would be used for operations. The corpus amount and any gains in market value would be permanently maintained in the fund. She knew the Trustees wanted this information reflected in the financial reports. The current investment account was considered by the Board to be a permanent endowment fund.
6. Kate discovered a deed restriction on a piece of property that was given to CFSC several years ago. (See Exhibit 4.) While researching the property deeds, she discovered this property had a fair market value of approximately \$20,000 at the date the property was given. She could not determine whether this gift had been reflected in the financial statements.
7. CFSC was given 1,000 shares of Enron stock during 1997. The donor requested the gift to be part of a permanent endowment with any earnings from interest or dividends used for on-going operations. On the date the stock was assigned, its market value was \$25 per share. Unfortunately, the stock is currently worthless.
8. The Chairman of the Board of Trustees provided Kate with a certified letter, dated October 31, 2001, from a businessman who pledged to give CFSC \$30,000 for a permanent

endowment. The donation was dependent on whether or not CFSC could find donors who would be willing to match the gift, or CFSC could “match” any shortage. The letter stated the “deadline” for raising a matching \$30,000 was December 31, 2001. Kate determined \$25,000 had been raised from outside donors.

9. As of December 31, 2001, gifts designated to refurnish a residential group home totaled \$15,000. Pledges totaled \$5,000, with expectation that 90% would be collected. The furniture was purchased in November 2001.
10. During January 2001, CFSC received a \$10,000 gift. The donor conditioned the gift on the possibility CFSC would begin a program for unwed teenage mothers by January 2002. The Board of Trustees decided not to pursue development of this program.

Required

1. Explain what makes a not-for-profit entity distinct from a for-profit entity? You may wish to include in your discussion how Statement of Financial Accounting Concepts (SFAC) # 4 distinguishes the two types of entities.
2. According to SFAS # 117, what is the primary purpose of not-for-profit financial statements? Based on SFAC # 4, what are the objectives of not-for-profit financial reporting? Compare these objectives to the objectives of financial reporting for business enterprises described in SFAC # 1. What are the similarities and dissimilarities?
3. SFAS # 117 requires that the net assets of nonprofit organizations be classified in one of three ways. Identify these three classifications and briefly distinguish between them.
4. Based on SFAC # 6 and SFAS # 116, explain the difference between a donor-imposed gift restriction and a conditional promise to give. How is a conditional promise to give reported on the financial statements?
5. Following the enumerated items in this case, prepare the journal entries necessary to reclassify net assets at December 31, 2001 into the various classes required by SFAS # 117. Explain the reason for each reclassification and the reason for each non-reclassification.
6. SFAS # 117 further requires certain financial statements be prepared for nonprofit entities. Identify these financial statements and briefly describe what is reported in each. Based on

the data provided in the case and the journal entries prepared in question five, prepare an adjusted Statement of Financial Position.

ACKNOWLEDGMENT

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Exhibit 1		
CHILDREN AND FAMILY SERVICES CENTER		
Balance Sheet		
December 31, 2001		
Assets		
Cash and cash equivalents		\$ 75,250
Receivable from state and federal contracts		507,851
Other receivables		97,743
Prepaid expenses		27,502
Investments		10,305,350
Notes receivable		413,672
Land, buildings, and equipment, net		5,545,076
Total assets		<u>\$16,972,444</u>
Liabilities and Net Assets		
Liabilities		
Accounts payable	\$ 204,000	
Accrued expenses	140,324	
Notes payable	<u>735,000</u>	
Total liabilities		\$ 1,079,324
Net Assets		<u>15,893,120</u>
Total liabilities and net assets		<u>\$16,972,444</u>

Exhibit 2
AUTHORIZATION FOR TERMINATION OF ACCOUNTS

We, Wayne Thompson, James Phillips, William Ingram, and Allen Morris, are the Trustees of the Institute for Family Services. We originally invested funds in Northern Bank of Tennessee, now First American Bank, and for the past several years, the interest from said investment has been delivered to Children and Family Services Center in Nashville, Tennessee. The accounts that are presently established are C.D. No. 61644, issued August 12, 1992 to mature August 12, 2002, and account number 17-9014-5, which is an interest bearing checking account. It is now the desire of the undersigned that said accounts be closed and the principal and all accrued interest from said accounts be delivered to Children and Family Services Center in Nashville, Tennessee, to be used as Children and Family Services Center sees fit in its operation.

This 20th day of September 2001.

Wayne Thompson

James Phillips

William Ingram

Allen Morris

Exhibit 3
Last Will and Testament
Terrill V. Greene

Know All Men By These Presents: That I, Terrill V. Greene, being of sound mind

Fourth: I direct that all the rest, residue and remainder of my estate be converted to cash and shall go to The Children's Center in Nashville, Tennessee with the stipulation that said funds shall be used for college scholarships by the children in said home and that The Children's Center in Nashville, Tennessee shall have the sole discretion to determine the recipients and the amounts of said scholarships.

Exhibit 4
Warranty Deed

As a gift and for no consideration, William Travis and wife, Madeline Travis, (the “Grantors”) have bargained and sold, and by these presents do transfer and convey unto the said Children and Family Services Center, Inc. (the “Grantee”) Grantee’s successors and assigns, a certain tract or parcel of land in the 7th District of Davidson County, State of Tennessee, described in Exhibit A which is attached hereto and incorporated herein by reference (the “Property”).

This conveyance of the Property is made expressly subject to the following:

1. This Property shall become a part of the Children and Family Services Center, Inc. and shall not be sold or conveyed to any other party by the Grantee.
2. The Property shall be forever maintained in its present state of pastureland and wild beauty. Hunting and fishing shall be restricted to the exclusive use of the residents of Children and Family Services Center, Inc, the employees and members of their families.
3. In order to preserve the natural state of the tracts conveyed hereby, it is agreed that no residential buildings shall be built upon said tracts.

STRAYER EDUCATION, INCORPORATED: AN EQUITY VALUATION

James Stotler, North Carolina Central University

CASE DESCRIPTION

This case will require the student to value the equity of Strayer Education, Incorporated, (NYSE:STRA) and make a buy or sell recommendation as an independent analyst. The data given should be examined to determine whether or not the company's stock is valued above or below the market price in order for investors to make a buy or sell decision. The student must assess the real estate industry environment using Porter's five-force model of competitive strategy and the DuPont identity. Valuation techniques employed include the capital asset pricing model, the two-stage dividend-discount model, the P/E valuation approach, and the Gordon model.

CASE SYNOPSIS

The student is placed in the role of an equity analyst and asked to prepare a buy or sell recommendation for Strayer Education, Incorporated (NYSE:STRA) stock. Strayer Education, Inc. through its subsidiary, Strayer University, offers graduate and undergraduate degree programs in business, information technology, education and public administration. The student must assess the competitive environment of Strayer using the DuPont identity and Porter's five force model of competitive strategy as well as estimate the value of the stock. All information in the case is publicly available.

STRAYER EDUCATION INCORPORATED

Strayer Education, Incorporated is an educational services holding company whose primary asset is Strayer University, a 115 year old institution of higher learning focused on educating working adults. Strayer University offers associate, bachelor's and master's level degree programs in Business Administration, Accounting, Computer Information Systems, Education and Public Administration. Strayer serves students at 39 physical campuses in Maryland, the District of Columbia, Virginia, North Carolina, South Carolina, Tennessee, Pennsylvania, Georgia, Florida and Delaware. Strayer serves students in all 50 states and 60 foreign countries on the Internet through Strayer University Online.

Strayer's revenue comes from tuition payments and fees paid by, or on behalf of, Strayer University students. The revenue comes in three forms. Roughly half is paid through federally

insured student loans by banks, approximately 20 percent is paid directly to Strayer by corporations or institutions on behalf of their employees who attend Strayer, and the remainder is paid by students through their own sources of credit.

Strayer's expenses include salaries paid to the faculty at the University who perform the teaching duties, salaries paid to the administrative and admissions staff who manage the campuses and recruit the students, and salaries paid to corporate staff who manage the company's affairs. Expenses also include lease payments for campus buildings which are leased and depreciation for campus buildings which are owned, as well as advertising and marketing costs for recruiting prospective students to Strayer. Finally, expenses also include educational equipment and supplies.

Item	2005	2004	2003
Total Assets	225,845	210,114	182,556
Total Revenue	220,507	183,194	93,909
Net Income	48,065	41,240	33,674
Stockholder's Equity	151,840	148,992	32,976

EDUCATIONAL SERVICES INDUSTRY

The educational services industry is currently being affected by both positive and negative trends. On the positive side, most educational service providers are expected to benefit greatly from strong online enrollment growth and positive demographic trends. Online education is becoming more widely accepted and respected while more and more people around the world are realizing the importance of a good education. Most firms in the industry are generating strong free cash flows and using the excess cash to repurchase shares, while some are making acquisitions with the free cash flows.

The most important negative trend facing the industry is a deceleration of campus based enrollment rates and a continuing rise in acquisition costs. The recent trend of slowing campus based enrollment rates is expected to continue in the short term. Among the factors affecting campus based enrollment growth rates is poor student-starts growth. A stronger job market has led some individuals to choose a better job rather than return to school. Higher marketing costs have also made it more expensive to recruit students.

Online enrollments are expected to remain a strong point for firms in the industry. Online enrollments are expected to continue to grow in excess of 20 percent for the majority of firms in the industry. Most of the firms realize the profitability of these operations and therefore are making

investments to upgrade their online offerings. Over the next several quarters, online operations are expected to become a greater proportion of firms' total operations. Strength in this area should help offset weakness in campus based enrollments.

Company	ROE	PROFIT MARGIN	ROA
STRA	31.7	21.8	31.7
APOL	71.23	18.45	40.4
COCO	8.50	3.56	6.92
DV	8.03	5.13	4.48
CECO	12.86	6.39	14.88
Industry	21.7	11.6	19.68

Source: Value Line Investment Survey

Based on the information in Table 3, firms in the educational services industry have been quite profitable recently, both in terms of profit margin and return on equity. Strayer has been particularly strong in light of its debt free balance sheet.

VALUATION DATA

Your analysis requires some information about the market in general as well as information on how the price of STRA stock behaves under certain conditions. While compiling the following information, you realize that your estimate of the value of STRA stock is quite sensitive to certain factors. In this regard, you decide to conduct a sensitivity analysis to determine how sensitive the value estimate is to various input variables.

The data collection begins with interest rates. Consulting a reliable source, you learn that the interest rate on a 90 day United States treasury bill is 4.5 percent while interest rates on a 6 month treasury bill are 4.9 percent. A long term government bond is trading to yield 5 percent. Recent rates on certificates of deposit at large banks are around 4.8 percent and large creditworthy corporations have issued commercial paper with a yield of 5 percent. During this same time period, the standard and Poor's 500 earned an average return of 10.2 percent.

In addition to the above information on market interest rates, Table 4 contains some information you compiled relating to Strayer Education and the market. Strayer's income statements for the past three years are also presented. The dividends and earnings of Strayer grew over the past 5 years rapidly. This growth rate of approximately 16 percent is expected to continue over the next 5 years due to market conditions and the economic outlook for the industry.

Strayer Education Inc., Balance Sheets			
ASSETS			
Current Assets	12/31/05	12/31/04	12/31/03
Cash And Cash Equivalents	74,212	97,004	82,089
Short Term Investments	45,594	25,753	25,951
Net Receivables	55,935	41,698	36,062
Inventory	-	-	-
Other Current Assets	2,581	3,679	1,656
Total Current Assets	178,322	168,134	145,758
Long Term Investments	-	-	-
Property Plant and Equipment	46,684	41,137	35,930
Other Assets	839	843	868
Total Assets	225,845	210,114	182,556
LIABILITIES			
Current Liabilities			
Accounts Payable	11,658	13,349	11,864
Short/Current Long Term Debt	-	-	-
Other Current Liabilities	55,778	42,059	39,134
Total Current Liabilities	67,436	55,408	50,998
Long Term Debt	-	-	-
Other Liabilities	6,364	4,707	2,666
Deferred Long Term Liability Charges	205	1,077	228
Minority Interest	-	-	-
Total Liabilities	74,005	61,192	53,892
STOCKHOLDERS' EQUITY			
Misc Stocks Options Warrants	-	-	-
Redeemable Preferred Stock	-	-	95,686
Preferred Stock	-	-	-
Common Stock	143	147	107
Retained Earnings	47,020	7,983	(26,918)
Treasury Stock	-	-	-
Capital Surplus	105,328	140,943	59,838
Other Stockholder Equity	(651)	(151)	(49)
Total Stockholder Equity	151,840	148,922	32,978
Net Tangible Assets	\$151,840	\$148,922	\$32,978

Strayer Education, Inc. Income Statements			
PERIOD ENDING	31-Dec-05	31-Dec-04	31-Dec-03
Total Revenue	220,507	183,194	147,025
Cost of Revenue	76,977	63,860	53,116
Gross Profit	143,530	119,334	93,909
Operating Expenses			
Research Development	-	-	-
Selling General and Administrative	68,666	53,851	42,781
Non Recurring	-	-	(1,772)
Others	-	-	-
Total Operating Expenses	-	-	-
Operating Income or Loss	74,864	65,483	52,900
Income from Continuing Operations			
Total Other Income/Expenses Net	2,982	1,595	2,420
Earnings Before Interest And Taxes	77,846	67,078	55,320
Interest Expense	-	-	-
Income Before Tax	77,846	67,078	55,320
Income Tax Expense	29,781	25,838	21,646
Minority Interest	-	-	-
Net Income From Continuing Ops	48,065	41,240	33,674
Non-recurring Events			
Discontinued Operations	-	-	-
Extraordinary Items	-	-	-
Effect Of Accounting Changes	-	-	-
Other Items	-	-	-
Net Income	48,065	41,240	33,674
Preferred Stock And Other Adjustments	-	(1,389)	(5,136)
Net Income Applicable To Common Shares	\$48,065	\$39,851	\$28,538

Beta Coefficient for STRA	.85
Price/Earnings Ratio For STRA	30
Return on S&P 500	.10
Recent Price for STRA	106
Dividend declared for next year	1.00
Earnings per share estimate	3.55

DR. TALAL'S HONDA

Nile M. Khanfar, Nova Southeastern University

David Loudon, Samford University

CASE DESCRIPTION

The primary subject matter of this case concerns the consumer purchase decision process for a new automobile. Secondary issues examined include the ethics involved in certain actions by dealer representatives, how small businesses must tightly manage their sales efforts, proper business etiquette when dealing with customers, and understanding customer satisfaction issues in the automobile selling environment. The case has a difficulty level of four, appropriate for senior level. The case is designed to be taught in one class hour and is expected to require one hour of outside preparation by students.

CASE SYNOPSIS

Dr. Sultan Talal and his wife have made a decision that they need to purchase a new minivan to replace the older large-size van they own. Talal has decided on a Honda Odyssey, even without test driving the vehicle for confirmation. The case takes the reader through the various stages in the decision process from information gathering to decision and post-purchase activities. Talal experiences many typical consumer interactions in this environment. The case focuses on some of the ineffective actions taken by employees in the dealership including inadequate sales effort, rudeness, unethical behavior, and poor customer relations and follow-up.

BACKGROUND

Sultan Faisal Talal, Ph.D. and his family recently moved over 1000 miles from a medium-sized, mid-south city to the Ft. Lauderdale, Florida area where he began a new job as an Assistant Professor on the science faculty of a major university in the area. Although born in Kuwait, Talal had lived in the U.S. for many years and recently became a citizen. The county where Talal resides is ranked ninth in the United States in the number of millionaire households, according to a recent study conducted by a research group. There are approximately 70,000 millionaire households in the metropolitan area, with an average net worth of \$1.5 million.

With an improved income (no longer a graduate student) and a growing family (wife, two children and another on the way), Dr. Talal decided the time was right to purchase a newer vehicle than his 6-year old Chevrolet full-size van. He wanted another van, but one that was smaller than his old one. He decided to purchase a new Honda Odyssey minivan. The choice to buy a Honda

was not difficult since he already owned a Honda Accord. Also, the Odyssey was ranked highest of all minivans by *Consumer Reports* in safety and dependability. His quick search on the Internet turned up the following Honda 4-door minivan models, all with automatic transmission, 3.5-litre 6-cylinder engine: LX (MSRP: \$25,345); EX (MSRP: \$28,395-\$34,595); and Touring (MSRP: \$36,595-\$38,795). Extra options for the EX and Touring models include leather, entertainment and navigation systems.

Since the Odyssey was available in different models, prices, and equipment, he thought it was necessary to obtain a brochure from a local dealership in order to review the various vehicle and option alternatives. He checked the area Honda dealers and found the following three available within a reasonable distance from his home: East Coast Honda (4.5 miles), Performance Honda (16.3 miles), and Southeast Honda (26.2 miles).

Dr. Talal drove almost five miles to the nearest Honda dealership, East Coast Honda. At the entrance door of the dealership's large and beautifully designed building, a receptionist asked if she might help. Dr. Talal replied that he would like to speak to their top salesperson about a minivan. The receptionist recommended Mr. Ralph Donald. The following conversation took place between Mr. Donald and Dr. Talal:

Donald: "Hi! My name is Ralph."

Talal: "Hello, I am Sultan Talal. I am interested in purchasing an Odyssey van."

Donald: "OK." (He left and came back with a brochure to hand to Dr. Talal.) "Here is the brochure. Let me know when you are ready to buy."

Talal: "I am ready to buy now. If the price is right, I prefer to conduct business in this dealership since it is close to my house and work. I have worked as a sales and finance manager at Mercedes Benz dealerships for over thirteen years before I went back to school to pursue graduate school. Therefore, please give me your best price and make the transaction go smoothly."

Donald: "That is great! Please tell me which van you like and I will be more than glad to give you my best price tomorrow."

Talal: "I like the Odyssey EX with Leather." (He handed Mr. Donald his business card which showed his degree and university affiliation.)

Donald: "You are a professor? Great! Are you paying cash or are you financing?"

Talal: "Most probably cash."

Donald: "The price will be different because of factory incentives. You know....you have been in the business."

Talal: "It will be a cash deal."

The following day Mr. Donald called Dr. Talal at his office and gave him a price of \$26,994 plus fees. These fees included sales taxes, title, and license. Dr. Talal thanked Donald for his follow-up and told him that he will get back with him in the next two days.

Dr. Talal called a friend in his previous hometown who is the sales manager of the Honda dealership there. Dr. Talal told him of his vehicle purchase plans. He told him that because of the distance between the two cities he preferred to buy it locally. His friend understood and provided Dr. Talal with the following specific information available to the dealer:

Manufacturer's Suggested Retail Price	\$31,345
Invoice cost	28,268
Manufacturer incentives*	1,000
Hold-Back**	923
Net Cost	26,345
*cash given back to dealer	
**additional cash given to dealer to help with costs	

THE PURCHASE

Dr. Talal realized that Donald had given him an attractive price; even Talal's friend told him that it was a very attractive deal and that he should definitely buy it. Based on Talal's experience, the quoted price should leave the dealership with about \$650 profit and the sales rep's commission could be approximately \$50-100. Talal did not want to drive too hard a bargain because he wanted to establish a relationship with the personnel and dealership for future needs. Dr. Talal then asked him which Odyssey model would give him the best value for his money. His friend replied that the LX model sells quite well. However, the EX-Leather sells better and has a higher resale value. Dr. Talal thanked him for the valuable information and then called Donald to order the van. The following conversation ensued:

Talal: "Hello Ralph. This is Sultan Talal."

Donald: "Hello Sultan."

Talal: "OK, I would like for you to get me a 2006 EX-Leather. The exterior color should be silver with a gray interior.

Donald: "I don't have that color in my inventory...how about a green one?"

Talal: "No, that is not negotiable. If I am going to spend almost \$30,000 for a vehicle, I will get my wife the color she wants."

Donald: "It will cost more money to get the vehicle from another dealer."

- Talal: "Did you check the inventory of the other two area dealerships?"
Donald: "No"
Talal: "I can assure you, I will buy my wife what she wants. And that is silver with gray leather interior."
Donald: "OK, I will look for it and call you back."

A couple of hours later, Donald called Dr. Talal and said that he had located the vehicle and wanted him to come by and give the dealership a deposit. Dr. Talal was excited and told him that he would come by around 5:00 PM that day. At 5:00PM Dr. Talal arrived at the dealership in the company of his father-in-law, Mr. Moreb. Mr. Donald led Dr. Talal and his father-in-law to his office and handed Dr. Talal a credit application to sign.

- Donald: "Please sign this blank application."
Talal: "What is this for?"
Donald: "This is part of the privacy act."
Talal: "What privacy act?"
Donald: "You know...the post 9/11!"
Talal: "No, I do not know. In fact this is the first time I have heard about this. I need to make a phone call to my friend at another dealership."
Donald: (apparently becoming frightened) "If you do not want to sign, it is OK."
Talal: "This is a cheap trick by the finance manager to pull my credit and get me to finance with the dealership."
Donald: "I agree."
Talal: "I am paying cash for the vehicle and do not want to have my credit pulled because I am in the process of buying a house, and pulling my credit will lower my credit score."
Donald: "Let me get you to just sign the purchase order and all the papers for the vehicle."
Talal: "How do you expect me to sign papers on a vehicle I have not seen?"
Donald: "I will have the van here in two hours and I need your signatures on the papers because it is the middle of the month and the dealership is offering a start-up bonus for salespeople if all paperwork is signed."
Talal: "I will not sign for an unseen vehicle. Why don't we come back in two hours to see the van and sign the papers?"

Two hours later, Dr. Talal, his wife, children, father-in-law, and mother-in-law arrived at East Coast Honda to look at the van. Dr. Talal's wife and mother-in-law were wearing the customary Islamic scarf on their heads. Also Dr. Talal's mother-in-law was wearing the long traditional Middle Eastern outfit. The van had been delivered to the dealership and it was just what the Talals were

looking for. This time, Mr. Donald was not available and another employee, Fred Johnson, came to greet the Talals and their party. He said that the van would not be ready until tomorrow because it needed to be detailed (cleaned and waxed). The Talals agreed. Then Mr. Johnson asked Dr. Talal if it would be okay if he paid for the full amount of the vehicle by a personal check that evening. Dr. Talal told him that the funds were in his savings account and he would feel very uncomfortable if he had not made the transfer first before writing the check. Mr. Johnson then left the Talals for a few minutes and returned.

Johnson: “If you bring a check tomorrow, the dealership will take only a cashier check and not a personal check.”

Talal: (becoming very upset) “This purchase will either be done my way or we will walk out of this dealership and buy the van somewhere else. I am a loyal Honda customer. I have owned a Honda and am buying another one without even driving it. That is how much I love the vehicle. I am also a professor at a college and a former auto dealer sales manager, which means that I have lots of credibility! If my bank has approved me for a \$350,000 mortgage, then I guess I can buy what I want.”

Johnson immediately backed off and told Dr. Talal to calm down and that the paperwork would be ready in ten minutes. Dr. Talal waited for over 1½ hours, and then finally told Johnson that because the kids were getting annoyed his group would have to go home. Five minutes later the dealer’s finance manager, Austin Reed, appeared at Johnson’s office and asked Dr. Talal for his credit card in order to charge a deposit on it. He left with the card and came back with a receipt for \$2000. Based on Talal’s Mercedes-Benz dealership experience, he was accustomed to requiring no more than \$500 for a deposit. Thus, he was very surprised that the finance manager had not told him of the amount before making such a large charge; but since he was paying cash for it, Dr. Talal thought it would be alright.

Immediately following retrieving the receipt from Dr. Talal, Reed asked Johnson to seat Dr. Talal and his wife at Reed’s office and he will follow in a few minutes to print all the van paperwork for the Talals to sign. Dr. Talal asked his wife and in-laws to come and wait with him in Reed’s office. Mrs. Talal was in the finance office because she was a co-buyer on the paperwork. Her parents were there because if they were left outside the office it might be culturally disrespectful. The finance manager’s computer had a screen saver with a photo of two young males wearing marine uniforms. When Dr. Talal inquired of the salesman about the two soldiers, he was told that they were the finance manager's two sons.

Minutes later, the finance manager walked into his office without acknowledging Dr. Talal or greeting anyone in his party. Instead, he simply printed all the papers and pointed where Talal needed to sign. After Dr. Talal and his wife signed all the papers, the finance manager left the office without saying congratulations or even offering a smile.

Dr. Talal later told Johnson that he will remember this behavior when the Honda customer satisfaction survey arrives. He also told him “How can a Honda dealership that is a member of the prestigious President’s Club have an employee like this finance manager?” Johnson apologized and told Dr. Talal that the vehicle would be ready to be picked up the following day.

The next day, Dr. Talal brought a cashier’s check for the full amount of the van and handed it to Johnson and Donald and told them that he was still amazed and could not believe the breach of company etiquette at the dealership.

Two days later, Dr. Talal received a letter from East Coast Honda congratulating him on the purchase of his new minivan. Dr. Talal called the telephone number of the dealer’s General Manager listed on the letter to inform him about the ordeal with the credit application and the company’s finance manager. Unfortunately, the GM was not available. Dr. Talal left a voicemail message on the GM’s phone, but he never received a return call. A few days later, Donald called to again apologize on behalf of the dealership and told Dr. Talal that American Honda Motor Company, Inc. (Honda’s U.S. corporate office) would call him with a survey and that Donald would truly appreciate high marks from him.

A few days later, a female researcher from American Honda called to survey Dr. Talal. He recounted everything that had happened to him and stated that he did not expect this type of treatment from a Honda dealership.

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