

Henry West's Commentary on "Gifts From a Supplier"

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Gifts From a Supplier

I

Larry Newman's offer looks like a benefit for both Scott Bennett and Larry's uncle. Scott needs a place to stay at a moderate price; Larry's uncle needs to rent his condo. It looks like a mutually beneficial arrangement. In asking Larry to see if the condo is available, Scott does not put himself under any greater obligation to buy from Larry's company than he has already done by playing golf with him, does he? Is there any reason for him to refuse the offer?

II

When Larry tells Scott that the condo is available for \$100 a week, Scott might well feel that he is getting into something more than a business transaction, for the going rate for condos in vacation areas is several times that. The cheapest motel room would cost more than that. But Larry reassures him that his uncle isn't interested in renting to strangers at the market rate. After all, although he is getting it through Larry's recommendation of Scott as a reliable renter, it is Larry's uncle's condo, not Larry's or Larry's company's. And it is a bargain, not a free gift.

When the vice president issues the new policy statement, two questions arise. First, is Scott accepting an incentive from a vendor? And, second, if he is, isn't he still obligated to go through with the rental since he has agreed to do so and he agreed to do so before the new policy was stated? Scott could easily claim that he has not accepted an incentive from a vendor. Larry has done Scott a favor, but he has done it as an individual acquaintance in the golf league, not as a representative of his firm. Does this make any difference? If the company that Larry represents is not

paying for anything, does that mean that it does not classify as an incentive? If this is not an incentive, what could count as one, given by the representative but not the company? If Larry had gotten the condo for him for free, would that have been an incentive? If Larry had said something about remembering him the next time he called as a sales representative, would that have made it an incentive?

From the description of the case, it sounds as if Scott Bennett and Larry Newman are only golf and business acquaintances, not close friends. If they were close friends, accepting a favor would be different; but it could still involve delicate ethical issues when company policy prohibits accepting incentives from vendors. Supposing that Scott does interpret the favor as an incentive, what should he do? Since the vice president's is a "new" policy statement, Scott might feel that it does not apply to an agreement made before the statement came out. Would that be true? Should Scott have known without such a statement that he should not accept incentives from vendors? Having agreed to take the condo, Scott is under some obligation to Larry's uncle. Larry's uncle is now counting on him to occupy the condo and to pay the rent. He could get in touch with the uncle and explain the situation, offering to pay the rent but not occupy the condo or offering to pay a full market price for it so that it does not count as an incentive. Would one of those be an appropriate way out?

Suppose Larry's uncle says that he has no connection to Larry's company, and if Scott doesn't take the condo at that price, he wants to find someone else who will. He is looking for someone to occupy the place so that it won't be burglarized and to merely cover his costs, not to make money. So he would still like for Scott to take it. In fact, Scott's telephone call convinces him more than ever that Scott is a responsible person who could be relied upon to take care of the place. Should that ease Scott's qualms about it being an incentive, so that he could now take it with a clear conscience?

If it isn't clear whether accepting the condo is an incentive, what should Scott do? One possibility is to go to his superior to get clarification. But then he puts his superior on the spot. Isn't Scott capable of making a responsible decision on his own? What would his superior know that Scott doesn't know? The superior is likely to be extra conservative and not want to get himself into trouble, and he may feel that whatever decision he makes will set a precedent. It might be better to go ahead with the use of the condo this time, since Scott would be in a difficult situation if he were told that it is prohibited, and learn that he should avoid ambiguous favors in the future. Why do you think that Upscale is stating a policy against incentives from

vendors? Can't its buyers be trusted to do what is best for the company, rather than buy an inferior product or one at a higher price because of a favor? If they can't be trusted not to be corrupted by incentives, can they be trusted not to play favorites with their golf friends? Should Upscale have a policy against socializing with vendors? Politicians are often offered contributions from interest groups who have something to gain from legislation that the politician must vote on. Should they refuse the contributions? If they don't accept contributions from someone, they can't finance their campaigns. Is there any difference between the situation of public officials and private officials in accepting favors?