RUNNING HEAD: LAW AND INTERNATIONAL LAW

Assignment 3

[Name of the writer]

[Name of the institution]

Assignment 3

***Introduction; Identification and Explanation of 3 Forms of Misconduct Identified by the Royal Commission***

 The misconduct by Australian banks was in highlights as citizens were played and ripped off by banks which cost them their life savings. Commissioner Kenneth provided his report to the Royal Commission on 1st February 2019. The report was discharged after the Commissioner finished more than a year of examination and enquiries into the acts of banks, retirement plans and other money-related administration foundations (Al-Saggaf, Burmeister and Weckert, 2015). The Royal Commission was propelled in December 2017 after cases of client misuse, poor administration and dishonest loaning rehearse embraced by banks. With all the investigation and news that has been circulating around, it became evident that the following 3 forms of misconduct were considered heinous.

* Charging customers without providing any sort of financial advice. These banks and advisors were charging customers even after they have died.
* Advisors were giving advice to the clients that only benefitted advisors and lacked skills and professionalism.
* There was a conflict of interest and as a result, very poor advice was given to the clients.

These three forms of misconduct are the worst fears of any client. Having an interest in only benefitting themselves, advisors and financial institutions made bold moves in order to pursue their own interests (Al-Saggaf, Burmeister and Weckert, 2015). The level of professionalism is not present in these 3 scenarios where clients are being cheated and not given the desired results, they want and even the clients who have died are not left. They are being charged by these corrupt institutions and not caring how this will affect the families. Furthermore, these advisors and financial institutions were being rewarded for the type of work they were doing, and, in his report, Commissioner Haynes has protested against such conduct. The trustworthiness of capital markets has been essentially affected thus debilitating the dimension of trust and certainty customers have in the industry of finance and economy (Al-Saggaf, Burmeister and Weckert, 2015). Without a thorough and straightforward arrangement of a monetary council, the customer was presented to essentially higher dangers than it could ever be foreseen. This has prompted a significant loss of the customer's riches and livelihood. The advice that as given to the client was not up to the client's expectations and would force the client to purchase a product that will again cause him to lose a certain portion of his wealth. Based on these advises and selling products to the customers, advisors will gain commissions and will only see the benefit for themselves. Furthermore, financial advice and the financial product was rendered as a single product and in this way, clients had to pay double just to benefit the advisor (Conroy, Henle, Shore and Stelman, 2017). Additionally, the international and national standards were completely ignored by these financial institutions and as it became a tool for making a hefty amount of money, no one was being held responsible for these criminal acts and thus everyone in the business of finance were making money out of their clients and no one was being charged for these acts.

***Explanation of the Main Reason the Commission gave for the Unethical Behaviour and Bad Corporate Culture***

The Royal Commission has termed the misconduct of banks and financial institutions as unethical and it has been termed that the financial sector is on the verge of losing all hopes of trust from the nation as it is lacking a great sense of leadership, there is no such thing as accountability in the financial sector. The Royal Commission is of the view that banks and monetary institutions have for the sake of short-term benefits and not considering any sort of business ethics, conducted practices that have hurt clients and the whole nation. This consistent and endless journey for accomplishing one's very own advantages to the detriment of those of the customers was propelled by eagerness and narrow-mindedness (Coleman, 2016). The job of corporate culture expects basic significance in the Final Report. This is not astounding: The Provisional Statement distinguished culture as a reason for both offense and as a driver of reactions to it. Official Hayne remains exceedingly disparaging of corporate societies that esteem deals and benefit over consistency and thought of the client where the client is not given much importance and self-interest only pursue. Such kind of social qualities are frequently installed in compensation and motivator programs that deem benefit as the key proportion of accomplishment (Tomasic, 2018).

The Final Report inspects top to bottom the convenient connection between compensation and business culture. Any element's compensation game plans, especially factor compensation and motivator programs, tell staff what the element rewards and what it esteems the most. Such policies where compensation and rewards are given more importance than the wellbeing of the client and only falls under the domination of self-success are considered the driving forces in the final report that was represented to The Royal Commission (Coleman, 2016). Such methodologies tell workers that the component gives importance to revenue over the welfares of clients or more consistency with the law. The statement does not advocate a solitary 'best practice' for making or keeping up an alluring society. Corporate businesses are rather urged to look at fundamentally their current structures and keep on taking a shot at approaches to spur their workers to act to the greatest advantage of their customers. In the report, the commission states that organizations should follow certain paths to enhance their corporate culture and along with that discourage certain aspects as well (Conroy, Henle, Shore and Stelman, 2017). The ascent of the idea of culture inside law and guideline, and the Royal Commission's emphasis on it, is additionally an impression of the more extensive weight from buyers and different partners on enterprises to do what is 'correct' or 'moral', or what might be reliable with 'network gauges' so as to keep up a 'social permit to work'.

Elements outside of the monetary administration's industry may wish to proactively lead their very own appraisal of the hierarchical culture and distinguish and cure any issues. Business culture valuations can generate lawful threat and chances with a great opportunity for businesses (Trevino and Nelson, 2016). Although business culture valuations must be versatile, there is a part for authorized and compliance purposes to support and guarantee that the appraisal is forensically stable and precise, considers consistence structures, address components that the law and controllers center around while surveying the culture of corporates. The Royal Commission prescribes that APRA, in its sensible supervision of APRA-controlled substances, constructs a supervisory program that advances a culture which alleviates the danger of offense among APRA-controlled foundations (Coleman, 2016). The Final Report underscores the superior job of senior administration in driving the way of life of an association.

A culture that avoids wrongdoing and advances and rewards moral conduct should be given the most priority so the corporate can be led towards a positive direction. The Royal Commission was of the view that because of lack of leadership and accountability, there were certain aspects of corruption in the financial sector and because of this unethical approach were taken for self-interests (Conroy, Henle, Shore and Stelman, 2017). These self-interests were such greedy and unethical that the people who were dead were being charged for financial services. So, an overhaul of the financial sector is required with good leadership where corporate ethics and moral values are given importance and the client's well-being comes first. The final report also values the importance of information and communication. The quality of information and communication is necessary and not the quantity.

*Role of Regulators*

The prospect that the organization could bear any obligation regarding a person's offenses never enters their psyches. Morals, on one hand, are considered nothing in the eyes of management. But this is where it gets wrong. Morals and ethics are everything a corporate business and management is about (Henderson, Swann and Stanford, 2018). Without ethics and defined morals, a business cannot flourish and cannot have the trust of clients and the work environment is affected adversely (Davies, 2016). Managers who neglect to give legitimate initiative and are not able to find frameworks that encourage moral lead share obligation with the individuals who imagine, perform, and intentionally gain advantage from business offenses. Executives must recognize their job informing authoritative morals and catch this chance to make an atmosphere that can reinforce the connections and notorieties on which they can make their company a big success (Tomasic, 2018). Managers who are not leading their companies under the umbrella of ethics and morals can face many legal issues as with time the laws and regulations for running a business in the corporate world are getting tougher.

Additionally, along with their company, the lives of many workers are on the line and committing criminal offense can cause serious legal issues for the company and for the workers as well. The most imperative aspect of the corporate world is the term culture (Davies, 2016). Culture defines how a company works and what values it deems important. A company where the culture is of providing satisfactory results to the customer is foremost important and the well-being of the employs comes equally important then it can be said that such company is living up to its culture and working under the umbrella of ethics and morals. Having trustworthy connections are critical to moral culture. At the point when an individual is seen as reliable, this implies individuals believe in her capacity, generosity, and respectability. On the off chance that trust is pervasive in the association, individuals are bound to hold inspirational assumptions regarding each other's dependability, inspirations (Gilligan, 2019). To eradicate corruption from the corporate culture, the most important step is to eliminate the corrupt leader first and overhaul the culture of the corporate.

*Corporate Culture should and could be Regulated*

 Corporate culture can be regulated as it can become evident with time that the working of the organization is based upon false and ill morals. It is important for an organization to be successful and provide adequate importance to the clients to ensure success. A survey was made by Carr in 1996 where it was made evident that 10% of the businesses became successful after changing their company culture and the survey made in 1994 by Troy also suggests the same as more than 32 percent of companies became successful after they changed their culture and moral ethos (Gilligan, 2019). Through a strong culture, the strategy is derived and through that strategy, a company can flourish. This has been made evident by many companies. Managing culture can be a difficult task at sometimes as only a leader with clear vision who is eager to move the company and its workers towards success can only change the culture of the company.

There have been many instances where such huge companies have failed to achieve success just because managers and leaders were not ready to accept changed and wanted to continue the same ethos for their company (Hargovan, 2018). Shockingly, in our experience, it is unmistakably increasingly normal for pioneers looking to construct high-performing associations to be frustrated by culture. Human Resource department now is responsible for handling the culture of the organization of the company and it is their duty to maintain a system of checks and balances in the company but that not the case in each company (Leaver and Reader, 2019). There are many aspects of favoritism where the HR department usually ignores the bad deeds committed by the senior managers but do force new and junior level employees to follow company laws and culture. This case of discrimination is very much present and common in all of the corporate worlds and it is yet to be acknowledged how this disease if discrimination can be forever dealt with. There are many companies who provide the best client support and experience but what they are lacking in is their ethos and culture (Hargovan, 2018). The work environment is affected by such issues and people work just because they do not want to get fired or listen to their angry managers. It is conceivable—truth be told, essential—to improve authoritative execution through ethos modification. First pioneers must wind up of the way of life that works in their association. Next, they can characterize an optimistic target ethos (Trevino and Nelson, 2016). At long last, they can ace the center change practices of explanation of the desire, administration arrangement, hierarchical discussion, and authoritative plan.

***Royal Commission should Investigate, misconduct, unethical behaviour and bad corporate culture among Australian companies more widely***

The Royal Commission must use its sphere of influence and other such powers to regulate and investigate more companies where there is misconduct and citizens are being cheated. The financial sector did its best to rip off citizens off their money and time and it was a good step by the Royal Commission to put up a system of checks and balances so that such horrific practices can be regulated and be charged with a criminal offence (Trevino and Nelson, 2016). People were misguided and used for such a long time and who knows how many companies at present are doing the same thing to millions of people all over the country. Such scams and plays are getting common in many developed and under-developed countries. There have been stances of such corruption just as the famous Panama Gate scandal where the powerful and rich were hiding their Billions of worth of wealth away from their countries in a safe haven. From this, it can be surely made a possible stance that such kind of corruption is happening at all times where precious time and money of people are being consumed by the greedy and powerful (Trevino and Nelson, 2016). The Royal Commission should make bold moves and investigate all such private companies especially in the corporate world where Billions of worth of money is being carried away and nobody seems to care at all about it. The final report of the Royal Commission should be a red signal for many such companies which are involved in misconduct and unethical executions. The Australian public should also sign petitions on the provided portals where they can ask the Royal Commission to pursue such type of investigations. Public sectors must be investigated as well, and a pure system of checks and balances must be upheld in this democratic country (Tomasic, 2017).

The basic results that the Royal Commission report produced were that the financial sector was involved in misconduct and unethical executions where advisors lacked professionalism and skills. In this era, we can find such corrupt and nonprofessional representatives at all types of sectors. Many public-sector institutions like water and electricity and the medical sector need to be regulated foremost as there have been many instances of corruption (Tomasic, 2017). The medical industry is looting patients and families all the times and the services provided to them is close to negligible. This is where the Royal Commission can make a huge break but at first, proper action needs to be taken first against the banks and financial institutes who have caused Australians to lose more than 800 Million$. The recommendations that were provided by Commissioner to the Royal Commission are more than enough and all is left is for the Royal Commission to take action against them and act against more such companies whether private or public.

***Royal Commission to consider fundamental reform of the Australian corporate law and corporate governance models***

From here, it should be and it is the responsibility of the state and citizens to pinpoint the corrupt and make sure that proper actions are taken against them so that they can be held responsible as this has put up a huge toll on Australian lives. As under the given scandal, there is a need to change the law for the corporate world and for corporate governance models (Henderson, Swann and Stanford, 2018). As there are many companies that are still working under the old day's laws and have known to get away with whatever they want. Generally speaking, the report recognizes that Australia's corporate administration model, including the partition of the board and the executives, is sound (McGrath, 2018). So, Hayne stresses that the essential duty regarding wrongdoing in the money related administrations industry lies with the substances concerned and with the individuals who oversee and control them: their sheets and senior administration.

 Appropriately, Hayne prescribes that every single money related administration element should, as regularly as sensibly conceivable, find a way to survey the substance's way of life and its administration; distinguish any issues with that culture and administration; manage those issues; and decide if the progressions it has made have been compelling (Hayne, 2018). While this proposal is normally restricted to budgetary administrations elements, it would be opportune for chiefs all things considered – not only those in money related administrations – to think about how and where administration structures can be fortified. Hayne additionally makes various remarks on the nature and degree of executives' obligations. In connection to the prerequisite that executives practice their forces and release their obligations in compliance with common decency to the greatest advantage of the enterprise, and for a legitimate reason, he stresses that the organization is the focal point of their obligations - and that that requests thought of more than the budgetary returns that will be accessible to investors in a specific period. While budgetary come back to investors will dependably be a significant thought, it isn't the main issue to be considered (Hayne, 2018). Hayne additionally made various suggestions in connection to compensation including, pertinently, that every money-related administration element should survey at any rate yearly the structure and usage of their compensation frameworks for cutting edge staff to guarantee that the plan and execution of those frameworks center around on what staff do, yet in addition how they do it (Lumsden, 2019).

The last report additionally stresses a considerable lot of the key standards of good administration, particularly: the significance of board challenge of the board; and having the correct progression of data to the board with the end goal for executives to release their obligations. While maintaining a strategic distance from increasingly extreme proposition on compensation –, for example, restricting variable compensation which had been coasted then report - Hayne made various suggestions including approaching APRA to have more prominent oversight and the requirement for elements to put higher respect on non-budgetary measurements (Hayne, 2018). The Royal Commission has recognized various territories where APRA's prudential and supervisory system can and ought to be reinforced. APRA is assessing its authorization technique with the help of an Independent Expert Panel. This survey incorporates thought of when to consider people answerable. The suggestions will require APRA to build the expansiveness and profundity of its supervision and that assets will be expected. The Royal Commission features that APRA will assume a focal job in supporting better social principles and more grounded responsibility (Schaltegger and Burritt, 2017). By this suggestion, a lot of work can be done and things can be made more streamlined.

Bibliography

Al-Saggaf, Y., Burmeister, O. and Weckert, J., 2015. Reasons behind unethical behaviour in the Australian ICT workplace: An empirical investigation. *Journal of Information, Communication, and Ethics in Society*, *13*(3/4), pp.235-255.

Coleman, W. ed., 2016. *Only in Australia: The history, politics, and economics of Australian exceptionalism*. Oxford University Press.

Conroy, S., Henle, C.A., Shore, L. and Stelman, S., 2017. Where there is light, there is dark: A review of the detrimental outcomes of high organizational identification. *Journal of organizational behavior*, *38*(2), pp.184-203.

Davies, P.W., 2016. *Current issues in business ethics*. Routledge.

Gilligan, G., 2019. The Hayne Royal Commission–just another piece of official discourse?. *Law and Financial Markets Review*, pp.1-10.

Hargovan, A., 2018. Governance in practice: Hayne royal commission interim report: Unclogging the central artery. *Governance Directions*, *70*(11), p.691.

Hayne, D.M., 2018. Submission in response to the Interim Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

Henderson, T., Swann, T. and Stanford, J., 2018. Under The Employer’s Eye.

Leaver, M.P. and Reader, T.W., 2019. Safety culture in financial trading: an analysis of trading misconduct investigations. *Journal of Business Ethics*, *154*(2), pp.461-481.

Lumsden, A., 2019. The Wider Implications of the Hayne Report for Corporate Australia. *Available at SSRN 3342855*.

McGrath, M., 2018. *Safety education: culture, leadership and learning in the workplace: a critical discourse analysis*(Doctoral dissertation).

Schaltegger, S. and Burritt, R., 2017. *Contemporary environmental accounting: issues, concepts and practice*. Routledge.

Tomasic, R., 2017. Exploring the Limits of Corporate Culture As a Regulatory Tool–The Case of Financial Institutions.

Tomasic, R., 2018. Corporate Crime and Corporate Culture in Financial Institutions: An Australian Perspective. In *White Collar Crime and Risk* (pp. 283-315). Palgrave Macmillan, London.

Trevino, L.K. and Nelson, K.A., 2016. *Managing business ethics: Straight talk about how to do it right*. John Wiley & Sons.