Legal and Ethical Scenarios

Student’s Name

Institution

Date

**Scenario 1 Securities**

**Task 1: Was Bryant's lie about having a college degree material?**

The fact that Bryant’s lie regarding is resume is a material. He lied of having a BBA in accounting and this means that he was employed using fake certificate, which is illegal. By informing the board that he had a bachelor degree while in a real sense he did not violate section 11 of the 1933 Act and section 10 (b)-5 of the 1934 act. Section 11 of the 1933 Act states requires mandatory disclosure of information to investors. The act serves as a protection to ensure that information regarding the security being sold is revealed to the public, or investors to conduct appropriate evaluation or assessment before making the right decision. And the effect that Bryant lied to the company, it affects the investors as well because the assessment was conducted based on a fake document. In this, the investors were not provided with accurate information as required by the Securities Act of 1933, section 10 (b)-5.

**Task 2: Would your answer be the same if a CEO lied about having helped to take a company through an initial public offering and subsequent acquisition by another company?**

It is also important to note that SEC Rule 10b-5 prohibits the act of omission, manipulation, and deception and therefore, such acts are treated as fraud. This rule makes prohibits the use of fake, or false information. It is not permitted for anyone to use the company or the company's name to defraud anyone. Therefore, the lie about having college is a material, which could have affected the performance of the company, and therefore, the investors have the right to sue the company. Failing to undisclosed information knowing is illegal and if the information were vital for the decision making, which could affect investor or the position of a company in the market. Bryant, therefore, committed fraud and because of his actions, investors and the company lost the huge investment.

**Task 3: Would a reasonable member of the BCC board be comfortable keeping Bryant as CEO once they learned that he lied about having a college degree?**

If the Chief Executive Officer (CEO) lied about his or her resume, I would hold the same position regarding the company and I should sue the company as well. If he helped take the company through acquisition and public offering like in the case of First National Bank, a lie would actually affect the entire firm’s performance. And therefore, it is appropriate to sue Bryant against the losses they incurred. In the case of United States v. O'Hagan, 521 U.S. 642 (1997) (BaderGinsburg & States, 1996).In an opinion of the ruling, which was written by Justice Ruth Bader Ginsburg, the judge noted that an individual might be found liable for violating of Rule 10(b)-5 by misappropriating of information. It is therefore required for an individual to reveal all the information of the company to investors. O’Hagan law firm was contracted to represent Pillsbury and instead, they started to purchase the stock share. At the time of representation of the company, the law firm failed to undisclose all this information. However, the judges ruled that by purchasing the stock to become major shareholders, O'Hagan because a major shareholder and therefore, benefited from the same company when it was performing public listing. It is, therefore, evident that O'Hagan did not violate section 10 securities Act of 1993.

However, in the case of Chiarella v. United States, 445 U.S. 222 (1980), the Supreme Court made a decision that an employee of a printer company violated 10 (b) of the Securities Exchange Act of 1934, because an employee deduced the identities of some of the targeted companies and the company failed to disclose such information during the takeover. Therefore, it is expected of Bryant to provide accurate information and by deceiving investors on his resume means that he duped the investors and any loses made as a result of that he could be liable (Clark, 2016). This means that Bryant providing fake resume or degree certificate affected the company’s performance. It is because the investors knew that Bryant was a BBA and therefore, they had confidence and could investor in the company's stock without having any problem because most investors believed the CEO could make the right decision based on his experience, degree, which they discovered is untrue. This makes him liable for the losses the company incurred. It is important to point that the losses were incurred after the media revealed that the CEO did not have a BBA has claimed. It means that the fall in stock is due to the reaction of the lies and if he would have lied to the board about his degree, the company would have experienced fall in stock in the market. It is, therefore, evident that the investors have the right to sue the company and the CEO, Mr. Bryant.

It would be difficult for any board member to keep Bryant as CEO after learning that he lied about his college degree. First, the lies caused the First National Bank stock to stumble in the stock market resulting in a lot of loses. Having him as the CEO would affect the performance of the company negatively. Secondly, the lies violated section 10 of the Securities Exchange. This means that it would be difficult to get support from investors. The investors have lost trust with him whether the board made a decision to keep him as the CEO would not earn the company earning a profit. I, therefore believe that a good number of board members would be willing to see him leaves the company (Restle & Smith J, 2015). When investors purchase the stock of a company, they put trust and believe in the company, which is headed by the CEO. And learning that the CEO lied about his degree certificate could disadvantage the company in the market and therefore, the board would not be willing to continue with the Bryant as the Chief Executive Officer of First National Bank. For instance, the former Vice President of Corporate communication for Wal-Mart, David Tovar lied on a resume, when the company realized he was forced to resign from his position and eventually left the company (Restle & Smith J, 2015). This indicates that it is difficult for most companies to continue to have a CEO or any other employees who have lied on his or resume.

**Scenario II**

**Task 2: Is it necessary to register the Pampered Pooches shares?**

In the case of Pampered Pooches shares, it is would be important to register the share of the company before buying any share. However, if the shares of the company are not listed either in public or private, t would be very difficult to trade shares of the company in the stock exchange and therefore, it would be important to ensure that the shares are listed to preventing the company from incurring related loses. It is also important to point that under section 10 of the 1933 and 1934, registration of the stock or shares guarantee security for the company and therefore, it would attract good investors.

**Task 2: May Smith freely resell his Pampered Pooches shares?**

It is noted that May Smith only has 2% of Pampered Pooches Company. This means that May Smith is the minority shareholders of Pampered Pooches an in the case of acquisition, May will not be able to become a director of the company. He is a minority shareholder and in the case of merger and acquisition, the minority share is diluted and sells the shares. In this case, May Smith would easily sales his shares of the company to other investors (BaderGinsburg & States, 1996). Under section 5 of the Security Exchange Act of 1933 and 1934, a director with minimal shares can decide to sell his or her shares to major shares in the case of merger and acquisition. It would, therefore, be easily and freely for May Smith to sell the 2% of his shares to other directors without any problem.

**Task 3: Would it matter whether the shares were registered in connection with the merger?**

The question of whether it matters when the company shares are registered during the merger is obvious. It is important to ensure that the company's shares are registered according to the Security Exchange Act of 1933 and 1934 before, the merger. A registered share is protected and therefore, it would not be easy to manipulate the shares of the company for the advantage of anyone. It is illegal to trade on unregistered security and under section 20 (b) an individual can seek the redress of the court if unregistered security is sold to him or her. The sale of unregistered security violates section (10), and (20) (b) – 5 of the Security Exchange Act. It is important to point that the SEC can seek court action if it realizes that section 20 (b) – 5 are violated (Bader, 2013). It is, therefore, difficult for any company to trade on trade using unregistered stock. Under section 5 of the Securities Act of 1933, if a company wants to purchase or merge with another company, the law requires the company to register the new shares with SEC. However, in the case of a merger, section 5 (b) of the Security Exchange Act exempt the company from register its shares with SEC. It is because during the merger the company stops its trading on the stock market as its work on the relevant documentation.

# References

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