

MBA C601

Legal and Ethical Analysis of Ann Hopkins

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LEGAL CASE ANALYSIS

I. FACTS

Ann Hopkins was nominated for partnership at Price Waterhouse (PW) in August 1982 (1). She was a senior manager in the firm's Office of Government Services (OGS) in Washington, D.C., where she specialized in large-scale, computer-based systems designed for government agencies (2). Her 1982 nomination class included 88 total candidates with Ann Hopkins as the only women in the group (3). PW offered partnerships to 47 of them, rejected 21 and placed 20, including Ann Hopkins, on hold (4).

While her partnership was put on hold, Ann Hopkins met with PW's chairman to discuss the decision and the admissions committee's recommendations. PW had suggested that she be given more work with partners and undertakes a quality control review in order to demonstrate her skills and allay concerns about her (5). In 1983, two of the partners which originally supported her nomination opposed her re-nomination and soon after Ann Hopkins was told that she would never become partner at PW (6).

Ann Hopkins was born December 18, 1943 and graduated high school in 1961. She received her B.A in mathematics at Hollins College in 1965 and finished her masters in mathematics from Indiana University in 1967 (7).

She described herself as "third generation, small town Texas" and as an army "brat" who "learned from her childhood how to be an outsider" (8). Her mother taught her that "when you shake hands, you should always shake hands firmly and when you walk into a room, you should walk in as if you owned it" (9).

Her career began as mathematics teacher at Indian University. She later joined IBM and worked as a mathematical physicist and managed a 7 person project for NASA's Goddard Space Flight Center (10). In 1972, Ann Hopkins joined Computer Sciences Corporation where she continued to work on NASA accounts. In 1974 she moved to Computer Usage Corporation where she split her work between NASA and private sectors such as banks in New York and Chicago (11).

In 1976, Ann Hopkins joined Touche Ross, a major accounting firm, as a systems management consultant where she later met and married her husband. She also worked on various projects and managed as many as 20 Touche Ross consultants and other subcontractors (12). In 1978, she first joined American Management Systems and later moved to PW as a manager in the Management Advisory Services department of OGS (13).

The senior partner of PW and a policy board managed the firm and elected all new partners through a formal, annual nomination and review process that culminated in a partnership-wide vote. Partnership was in essence a lifetime appointment and in the history of the firm, only 2 partners had been revoked of their partnerships (14).

The partnership candidates in a particular year were called a class and the firm prepared a booklet for each class member. Notes about the candidates were compiled based on various activities from counseling sessions, staff performance evaluations, partners' evaluations, statistical analysis of the quartile rankings for the candidate in each of the evaluation categories, and comparative rankings of the class candidates (15).

Candidacy and review for partnership began when the partners in a local office proposed a candidate to the admissions committee. The committee then invited every partner in the firm to submit written comments on each candidate. Partners who had significant and recent contact with a candidate submitted a long form evaluation; those with more limited contact used a sort form (16).

The admissions committee met for three days in early December, 1982 for its initial consideration of candidates. The committee member who had visited each candidate's office summarized the result of the visit, the strength of the nominating office's support, and important material from the candidate's personnel file, and then described the candidate's strengths and weakness for the Admissions Committee. The committee ultimately made recommendations on each candidate and forward these to the policy board (17).

Some candidates had been held because of concerns about their interpersonal skills. PW consistently placed a high premium on a candidate's ability to deal with subordinates and peers on an interpersonal basis and to promote cordial relations within a firm which is necessarily dependent on team effort (18).

The Policy Board weights negative comments more than positive comments. However exceptions were given to 2 of the partners for fearing of losing them to competitors as well as valuing their specific skills (19). Approved candidates' names appeared on a ballot for partnership-wide election. For admission to partnership, 2/3 of the entire partnership had to approve a candidate (20).

Hopkins's initial project began in the fall of 1978. It was one of four major assignments during her Price Waterhouse career. The first was for the Department of Interior. It consisted of two contracts worth approximately \$200,000 each, one of which she later managed. The second client was the Department of State. Hopkins was in charge of developing a proposal, in competition with 11 other contractors that led ultimately to a State Department contract whose long term value to Price Waterhouse was \$35 million. The third project was for the Department of Agriculture, a proposal valued at \$2.5 million for work for the Farmers Home Credit Administration." The fourth was also for the Department of State and involved implementing a worldwide real property management system, valued at \$6 million (21).

In mid-1982, Thomas Beyer, the partner in charge of consulting services at OGS told Hopkins over lunch at the International Club that he would propose her as a partner in the admissions cycle about to begin (22). Thomas Beyer then had the first of a series of conversations with Ann Hopkins about how she could improve her chances for

partnership, and gave her advice about her hair, makeup, clothing, and jewelry. Hopkins said she found these conversations offensive (23).

By the summer of 1982, Ann Hopkins was focusing her time on projects other than the State Department work. She participated, along with several partners, in an MAS Quality Control Review in the Houston offices. Ann Hopkins later complained to one of them about his writing obscene anatomical references, such as "This is where our balls are on the line," in the margins of his work papers (24).

Thomas Beyer next assigned Ann Hopkins to manage the St. Louis office's proposal for the design of an automated accounting system for recording and tracking loans to farmers. The client was Farmers Home Credit Association, a U.S. Department of Agriculture agency with major data processing operations in St. Louis (25).

In March 1983, the admissions committee recommended that Hopkins be held "at least a year to afford time to demonstrate that she has the personal and leadership qualities required of a partner" (26). The policy board adopted the admissions committee's recommendation and suggested that Hopkins participate in a quality control review (27).

Ann Hopkins learned from Lew Krulwich, a partner at OGS, that the reason for not promoting her was that she had irritated some senior partners (28). According to Ann Hopkins, some of the nominated partners were "not competent to lick her boots" and that one had worked for PW for less time than her (29).

Ann Hopkins went to New York to meet with Joseph Connor, the firm's chairman, and discuss the decision. She asked him how to overcome the "hold" and make it an "admit." Joseph Connor told her that she had to undergo a quality control review and come out of it with no negative comments. When Ann Hopkins asked what her prospects were, Joseph Connor replied, "Fifty-fifty", and Joseph Connor also advised her to relax and "to take charge" less often (30).

According to Hopkins, Thomas Beyer suggested she "soften her image in the manner in which she walked, talked, dressed. He later said that "when she comes into the office or starts walking down the hall, it is with a lot of authority and forcefulness. However, it does not always appear in the same view or in the same manner to other people. He further advised her to use less profanity and to alter her voice tone, to "look more toward appearing more feminine," to wear more jewelry and make-up, to style her hair, and to dress less in "power blues" (31).

Thomas Beyer also suggested that she stop smoking, not drink beer at lunch, and not carry a briefcase." Ann Hopkins said she explained that carrying a briefcase was easier for her than managing a handbag, a suitcase, and a briefcase simultaneously. She later said she did not wear make-up because she was allergic to it. Even if she weren't she said, "applying make-up would be difficult because she can't see without her trifocals" (32).

Soon after this, two of the OGS partners who had nominated Ann Hopkins withdrew their support for her. The reason one of them gave was the difficulty he had with her as a senior manager and his concern that problems would grow worse if she acquired the power and authority of a partner (33).

He complained that she routinely barged into his office, got her business done, and barged out again. The incident that changed his mind, he said, occurred at a time when he was understaffed and Ann Hopkins offered him one of her staff members, only to withdraw the offer the next day. According to the partner, she had insisted on making the offer without qualification, refused his suggestion that she think it over for a day, then told him the next day that he could not use the staff member she had offered (34).

During the next few months, according to Ann Hopkins, the firm failed to give her opportunities to demonstrate her abilities and gain more exposure. Four months after the policy board's recommendations, with two OGS's strong support, it was felt that her candidacy could not possibly be successful. Ann Hopkins was advised that it was very unlikely that she would be admitted to partnership (35).

Reviews of her work on the State Department Real Estate management project were, on balance, favorable. An initial review by the partner who had been removed from the large State Department project was negative, but the subsequent Quality Control Review conducted on the State Department work, including REMS, was a "strong positive" (36).

Ann Hopkins later wrote that she was "the only candidate who was not admitted to PW initially or after being put on hold—who was criticized solely for deficiencies in interpersonal skills" (37). Similarly situated men, she says, were admitted. Hopkins was at the bottom of overall quartile rankings and only 13 of 32 partners favored her admission, but the firm had admitted one candidate who had support from 14 of 30 partners and another who ranked 39th of 42 in overall quartile rankings (38).

In December 1983, she learned she would not be re-proposed for partnership. Ann Hopkins tendered her resignation and left PW in January (39). In 1984, she started her own management consulting firm and she also filed suit against PW claiming that she had been denied a partnership because of sex discrimination (40). She sought an award of back pay for lost wages and reinstatement at PW as a partner (41).

II. CRITICAL LEGAL ISSUES

The legal issues are:

1. Is it legal to gender stereotype in the workplace?
2. Is it legal to apply gender stereotyping when evaluating workplace performance?

III. LEGAL RULES

Legal Issue 1

Title VII of the Civil Rights Act of 1964 prohibits job discrimination based on race, color, religion, sex, or national origin, except when there are bona fide occupational qualifications reasonably necessary to normal business operations.

“(a) It shall be an unlawful employment practice for an employer -

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin” (USINFO.STATE.GOV)

Legal Issue 2

Title VII of the Civil Rights Act of 1964 further states

“(a) It shall be an unlawful employment practice for an employer -

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.”
(USINFO.STATE.GOV)

IV. OBSERVATIONS

Gender stereotyping falls under the protection of Title VII without much argument since the mere presence of stereotyping reflects an underlying bias that is clearly discriminatory. Ann Hopkins appears to have been a forceful person in her daily dealings with personnel and superiors. Her lack of interpersonal skills was noted in her evaluations as well as tendencies to abuse subordinates. Had gender comments not appeared in the evaluations as explanations or qualifiers, she probably would not have had a cause for action.

She was noted to be “rough on people” with the explanation offered that she “may have overcompensated for being a woman.” A partner suggested that she take “a course at a charm school” which is generally reserved for women improving their feminine traits. She was also described as “macho”, although the comment was backhandedly complimentary, however “macho” is a trait almost exclusively attributed to men. Thomas Beyer advised that in order to improve her candidacy chances, she should “walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled and wear jewelry.” The sheer number of negative evaluations by partners, who had had little interaction with Ann Hopkins, was alarming and discerning.

Dr. Susan Fiske, a social psychologist who testified at the trial on stereotypic behavior, she believes that the innate presence of a stereotype gives some people the rationalization to use shortcuts in interactions with people, especially as those in power already have demands on their attention. Dr. Fiske testified that these powerful men were likely to hold stereotyped expectations about the women and pay less attention to their individual details, such as their qualifications.

The ultimate consideration becomes whether, in the absence of gender stereotypic comments in her evaluations, would Ann Hopkins have been voted into partnership? The evidence is not at all clear that this would have been the case as there were legitimate gender neutral negative impressions of her abilities in certain evaluations. Since the Civil Rights Act of 1991 had not been passed, so that PW had only to show evidence that absent any discriminatory behavior, she would have been refused partnership anyway, and therefore PW was not liable. Even as PW freely admitted the bias and maintained its decision regarding Ann Hopkins’ partnership qualifications.

V. CONCLUSIONS

After four years with Price Waterhouse, Hopkins was nominated for partner. Eighty-eight individuals were nominated for partner, Hopkins being the sole woman in the group. She had generated the most business for the firm, at approximately \$40 million in client revenues. However, in the end the Hopkins was not rewarded a partnership position.

There were 32 evaluation forms commenting on Ann Hopkins' nomination for partner submitted to the admissions committee at PW. Of those, 13 were positive, three suggested she be held until next year nominations, eight had insufficient information and eight were denials. The eight denials criticized Ann Hopkins' lack of personal skills, abrasive personality, and accused her of not being "feminine" enough to be a female partner. Comments were made on how she should "walk more femininely, wear make-up, have her hair styled, and wear jewelry." She was advised to undergo a "Quality Control Review" at the firm in order to work on her weaknesses.

The partners at PW clearly relied on fixed gender stereotypes as to the appropriate behavior of a female executive. Ann Hopkins was being judged based on a gender stereotype instead of her ability to complete assignments and generate profits for PW. In conclusion PW did in fact discriminate by judging Ann Hopkins by the traditional gender stereotypes and not on merit and she should have been made a partner in the firm.

ETHICAL CASE ANALYSIS

I. ISSUES

The ethical issues are:

1. Did PW behave ethically in their evaluation of Ann Hopkins?
2. Is it ethical to use gender stereotyping in corporate decision making?

II. EVIDENCE

While Ann Hopkins' abilities and contributions were overlooked, the PW committee clearly fixated on her negative aspects more than her positive contributions to PW. In addition, comments from both short and long forms were considered in equal measures even though short forms were from partners who did not know Ann Hopkins well. It is clearly unethical to allow such biases to distain a supposedly objective evaluation.

The partnership evaluation process at PW was not perfect and was very subjective and in Ann Hopkins case, it was very sexes. There were many gender biased comments made against Ann Hopkins including changing her dress, hair style, make-up, as well as voice, speech, and mannerisms. Although advice was offered at many levels to Ann Hopkins for her supposed failings, but all where superficial and none were performance oriented. It is unethical to presume that improvements in one's appearance or behavior would necessarily improve business qualifications.

The establishment of stereotypes for female executives by male partners was unconsciously accepted and practiced by the partnership establishment as a whole. Improper or insensitive comments were not discouraged or reprimanded but were widely accepted as valuable data to be given full weight in discussions, even more so even than positive comments. Such a corporate policy of tolerance of stereotypes, whether written or not is unethical in any definition.

III. ASSUMPTIONS

The PW partners were unaware of their stereotypic bias in rendering their evaluations of Ann Hopkins.

The PW partners felt sincerely that their beliefs and comments were constructive.

The PW partners believed that they had the right to promote persons that they felt comfortable with, regardless of ability and performance.

Ann Hopkins had a right not to conform to a preconceived notion of femininity.

IV. ETHICAL ALTERNATIVES

PW as a whole could have reviewed the partnership process in its entirety while disqualifying or reducing personal comments to have a less significant role in determining a candidacy, thus focusing on evaluating objectively.

The weighting of the approval process should give equal measure to positive and negative statements, rather than overly emphasizing the negative.

Partners persisting in gender stereotyping could be counseled as to the appropriate evaluation techniques and remarks.

V. JUDGMENT AND RATIONALE

From a utilitarianism perspective, it can be neither economical nor advantageous for a business to have spent the resources on training an employee for years, only to cause the employee to leave for a possible competitor.

Ann Hopkins' contributions to PW was remarkable, she definitely billed more hours, garnered more important contracts and secured more profits than any other candidate in her class, to an estimated \$40 million dollars, which obviously would seem to find her utility the greatest.

Offsetting these figures would be the negative utility of subordinate dissatisfaction and possible lost productivity resulting from her abrasive personality. These values maybe extremely difficult to quantify, yet must also be considered as well. In reviewing all these facts, one must conclude that PW did not behave ethically as there is no greater utility for a business than that of profit maximizing in every aspect and PW was definitely short sighted.

From another perspective, the utility of lessening the value of potential female candidates due to a preconceived notion of appropriate female behavior is absurd. Removing gender stereotyping from the partnership approval process would increase the availability of the best candidates regardless of sex. The ethical behavior with the greatest utility would be to embrace their presence and maximize the potential utility to the whole.

In applying Kantian values, one must evaluate if the actions satisfied the categorical imperative. Everyone should have a moral right to be treated as a free and equal person and should treat all other in the same way.(Bruce, D. & Parks, J) PW using gender stereotyping cannot argue that they would wish to be evaluated in a similar fashion; therefore their behavior in using gender stereotyping is unethical.

The second dictum of the categorical imperative involves treating persons only as they would have freely consented to be treated beforehand, and develop each person's capacity to freely choose the aims they will pursue. (Bruce, D. & Parks, J) Clearly Ann Hopkins would not have consented to be treated in the manner that she was, since she

was not allowed to freely choose her own aims. Therefore, PW again did not behave ethically.

In conclusion, the partners of PW did not behave ethically in dealing with Ann Hopkins. The correct ethical behavior would have been to offer her a partnership based on the merits of her accomplishments, not smeared by gender stereotype preconceptions.

Notes

(1) Barkan, Ilyse. (1991). Ann Hopkins (A) Harvard Business School, 9-391-155.

(2) Ibid.

(3) Ibid.

(4) Ibid.

(5) Ibid.

(6) Ibid.

(7) Ibid.

(8) Ibid.

(9) Ibid.

(10) Ibid.

(11) Ibid.

(12) Ibid.

(13) Ibid.

(14) Ibid.

(15) Ibid.

(16) Ibid.

(17) Ibid.

(18) Ibid.

(19) Ibid.

(20) Ibid.

(21) Ibid.

(22) Ibid.

(23) Ibid.

(24) Ibid.

(25) Ibid.

(26) Ibid.

(27) Ibid.

(28) Ibid.

(29) Ibid.

(30) Ibid.

(31) Ibid.

(32) Ibid.

(33) Ibid.

(34) Ibid.

(35) Ibid.

(36) Ibid.

(37) Ibid.

(38) Ibid.

(39) Ibid.

(40) Ibid.

(41) Ibid.

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USINFO.STATE.GOV. (n.d.) Civil Rights. Retrieved on January 20, 2006 from <http://usinfo.state.gov/usa/infousa/laws/majorlaw/civilr19.htm>

Bruce, D. & Parks, J. (2002) *Understanding Ethics*. Indiana: Alpha Books.