

CASE 2-3 Starnes-Brenner Machine Tool Company: To Bribe or Not to Bribe?

The Starnes-Brenner Machine Tool Company of Iowa City, Iowa, has a small one-man sales office headed by Frank Rothe in Latino, a major Latin American country. Frank has been in Latino for about 10 years and is retiring this year; his replacement is Bill Hunsaker, one of Starnes-Brenner's top salespeople. Both will be in Latino for about eight months, during which time Frank will show Bill the ropes, introduce him to their principal customers, and, in general, prepare him to take over.

Frank has been very successful as a foreign representative in spite of his unique style and, at times, complete refusal to follow company policy when it doesn't suit him. The company hasn't really done much about his method of operation, though from time to time he has angered some top company people. As President Jack McCaughey, who retired a couple of years ago, once remarked to a vice president who was complaining about Frank, "If he's making money—and he is (more than any of the other foreign offices)—then leave the guy alone." When McCaughey retired, the new chief immediately instituted organizational changes that gave more emphasis to the overseas operations, moving the company toward a truly worldwide operation into which a loner like Frank would probably not fit. In fact, one of the key reasons for selecting Bill as Frank's replacement, besides Bill's record as a top salesperson, is Bill's capacity to be an organization man. He understands the need for coordination among operations and will cooperate with the home office so that the Latino office can be expanded and brought into the mainstream.

The company knows there is much to be learned from Frank, and Bill's job is to learn everything possible. The company certainly doesn't want to continue some of Frank's practices, but much of his knowledge is vital for continued, smooth operation. Today, Starnes-Brenner's foreign sales account for about 25 percent of the company's total profits, compared with about 5 percent only 10 years ago.

The company is actually changing character, from being principally an exporter, without any real concern for continuous foreign market representation, to having worldwide operations, where the foreign divisions are part of the total effort rather than a stepchild operation. In fact, Latino is one of the last operational divisions to be assimilated into the new organization. Rather than try to change Frank, the company has been waiting for him to retire before making any significant adjustments in its Latino operations.

Bill Hunsaker is 36 years old, with a wife and three children; he is a very good salesperson and administrator, though he has had no foreign experience. He has the reputation of being fair, honest, and a straight shooter. Some back at the home office see his assignment as part of a grooming job for a top position, perhaps eventually the presidency. The Hunsakers are now settled in their new home after having been in Latino for about two weeks. Today is Bill's first day on the job.

When Bill arrived at the office, Frank was on his way to a local factory to inspect some Starnes-Brenner machines that had to have some adjustments made before being acceptable to the Latino

government agency buying them. Bill joined Frank for the plant visit. Later, after the visit, we join the two at lunch.

Bill, tasting some chili, remarks, "Boy! This certainly isn't like the chili we have in America."

"No, it isn't, and there's another difference, too. The Latinos are Americans and nothing angers a Latino more than to have a 'Gringo' refer to the United States as America as if to say that Latino isn't part of America also. The Latinos rightly consider their country as part of America (take a look at the map), and people from the United States are North Americans at best. So, for future reference, refer to home either as the United States, States, or North America, but, for gosh sakes, not just America. Not to change the subject, Bill, but could you see that any change had been made in those S-27s from the standard model?"

"No, they looked like the standard. Was there something out of whack when they arrived?"

"No, I couldn't see any problem—I suspect this is the best piece of sophisticated bribe taking I've come across yet. Most of the time the Latinos are more 'honest' about their *mordidas* than this."

"What's a *mordida*?" Bill asks.

"You know, *kumshaw*, *dash*, *bustarella*, *mordida*; they are all the same: a little grease to expedite the action. *Mordida* is the local word for a slight offering or, if you prefer, bribe," says Frank.

Bill quizzically responds, "Do we pay bribes to get sales?"

"Oh, it depends on the situation, but it's certainly something you have to be prepared to deal with." Boy, what a greenhorn, Frank thinks to himself, as he continues, "Here's the story. When the S-27s arrived last January, we began uncrating them and right away the *jefe* engineer (a government official)—*jefe*, that's the head man in charge—began extra-careful examination and declared there was a vital defect in the machines; he claimed the machinery would be dangerous and thus unacceptable if it wasn't corrected. I looked it over but couldn't see anything wrong, so I agreed to have our staff engineer check all the machines and correct any flaws that might exist. Well, the *jefe* said there wasn't enough time to wait for an engineer to come from the States, that the machines could be adjusted locally, and we could pay him and he would make all the necessary arrangements. So, what do you do? No adjustment his way and there would be an order canceled; and, maybe there was something out of line, those things have been known to happen. But for the life of me, I can't see that anything had been done since the machines were supposedly fixed. So, let's face it, we just paid a bribe, and a pretty darn big bribe at that—about \$1,200 per machine. What makes it so aggravating is that that's the second one I've had to pay on this shipment."

"The second?" asks Bill.

"Yeah, at the border, when we were transferring the machines to Latino trucks, it was hot and they were moving slow as molasses. It took them over an hour to transfer one machine to a Latino truck and we had ten others to go. It seemed that every time I spoke to the dock boss about speeding things up, they just got slower. Finally, out of desperation, I slipped him a fistful of pesos

and, sure enough, in the next three hours they had the whole thing loaded. Just one of the local customs of doing business. Generally, though, it comes at the lower level where wages don't cover living expenses too well."

There is a pause, and Bill asks, "What does that do to our profits?"

"Runs them down, of course, but I look at it as just one of the many costs of doing business—I do my best not to pay, but when I have to, I do."

Hesitantly, Bill replies, "I don't like it, Frank. We've got good products, they're priced right, we give good service, and keep plenty of spare parts in the country, so why should we have to pay bribes? It's just no way to do business. You've already had to pay two bribes on one shipment; if you keep it up, the word's going to get around and you'll be paying at every level. Then all the profit goes out the window—you know, once you start, where do you stop? Besides that, where do we stand legally? The Foreign Bribery Act makes paying bribes like you've just paid illegal. I'd say the best policy is to never start: You might lose a few sales, but let it be known that there are no bribes; we sell the best, service the best at fair prices, and that's all."

"You mean the Foreign Corrupt Practices Act, don't you?" Frank asks, and continues, in an I'm-not-really-so-out-of-touch tone of voice, "Haven't some of the provisions of the Foreign Corrupt Practices Act been softened somewhat?"

"Yes, you're right, the provisions on paying a *mordida* or grease have been softened, but paying the government official is still illegal, softening or not," replies Bill.

Oh boy! Frank thinks to himself as he replies, "Look, what I did was just peanuts as far as the Foreign Corrupt Practices Act goes. The people we pay off are small, and, granted we give good service, but we've only been doing it for the last year or so. Before that I never knew when I was going to have equipment to sell. In fact, we only had products when there were surpluses stateside. I had to pay the right people to get sales, and besides, you're not back in the States any longer. Things are just done different here. You follow that policy and I guarantee that you'll have fewer sales because our competitors from Germany, Italy, and Japan will pay. Look, Bill, everybody does it here; it's a way of life, and the costs are generally reflected in the markup and overhead. There is even a code of behavior involved. We're not actually encouraging it to spread, just perpetuating an accepted way of doing business."

Patiently and slightly condescendingly, Bill replies, "I know, Frank, but wrong is wrong and we want to operate differently now. We hope to set up an operation here on a continuous basis; we plan to operate in Latino just like we do in the United States. Really expand our operation and make a long-range market commitment, grow with the country! And one of the first things we must avoid is unethical . . ."

Frank interrupts, "But really, is it unethical? Everybody does it, the Latinos even pay *mordidas* to other Latinos; it's a fact of life—is it really unethical? I think that the circumstances that exist in a country justify and dictate the behavior. Remember, man, 'When in Rome, do as the Romans do.'"

Almost shouting, Bill blurts out, "I can't buy that. We know that our management practices and relationships are our strongest point. Really, all we have to differentiate us from the rest of our competition, Latino and others, is that we are better managed and, as far as I'm concerned, graft and other unethical behavior have got to be cut out to create a healthy industry. In the long run, it

should strengthen our position. We can't build our future on illegal and unethical practices."

Frank angrily replies, "Look, it's done in the States all the time. What about the big dinners, drinks, and all the other hanky-panky that goes on? Not to mention PACs' [Political Action Committee] payments to congressmen, and all those high speaking fees certain congressmen get from special interests. How many congressmen have gone to jail or lost reelection on those kinds of things? What is that, if it isn't *mordida* the North American way? The only difference is that instead of cash only, in the United States we pay in merchandise and cash."

"That's really not the same and you know it. Besides, we certainly get a lot of business transacted during those dinners even if we are paying the bill."

"Bull. The only difference is that here bribes go on in the open; they don't hide it or dress it in foolish ritual that fools no one. It goes on in the United States and everyone denies the existence of it. That's all the difference—in the United States we're just more hypocritical about it all."

"Look," Frank continues, almost shouting, "we are getting off on the wrong foot and we've got eight months to work together. Just keep your eyes and mind open and let's talk about it again in a couple of months when you've seen how the whole country operates; perhaps then you won't be so quick to judge it absolutely wrong."

Frank, lowering his voice, says thoughtfully, "I know it's hard to take; probably the most disturbing problem in underdeveloped countries is the matter of graft. And, frankly, we don't do much advance preparation so we can deal firmly with it. It bothered me at first; but then I figured it makes its economic contribution, too, since the payoff is as much a part of the economic process as a payroll. What's our real economic role, anyway, besides making a profit, of course? Are we developers of wealth, helping to push the country to greater economic growth, or are we missionaries? Or should we be both? I really don't know, but I don't think we can be both simultaneously, and my feeling is that, as the company prospers, as higher salaries are paid, and better standards of living are reached, we'll see better ethics. Until then, we've got to operate or leave, and if you are going to win the opposition over, you'd better join them and change them from within, not fight them."

Before Bill could reply, a Latino friend of Frank's joined them, and they changed the topic of conversation.

QUESTIONS

1. Is what Frank did ethical? By whose ethics—those of Latino or the United States?
2. Are Frank's two different payments legal under the Foreign Corrupt Practices Act as amended by the Omnibus Trade and Competitiveness Act of 1988?
3. Identify the types of payments made in the case; that is, are they lubrication, extortion, or subornation?
4. Frank seemed to imply that there is a similarity between what he was doing and what happens in the United States. Is there any difference? Explain.
5. Are there any legal differences between the money paid to the dockworkers and the money paid the *jefe* (government official)? Any ethical differences?

Part 6 Supplementary Material

6. Frank's attitude seems to imply that a foreigner must comply with all local customs, but some would say that one of the contributions made by U.S. firms is to change local ways of doing business. Who is right?
7. Should Frank's behavior have been any different had this not been a government contract?
8. If Frank shouldn't have paid the bribe, what should he have done, and what might have been the consequences?
9. What are the company interests in this problem?
10. Explain how this may be a good example of the SRC (self-reference criterion) at work.
11. Do you think Bill will make the grade in Latino? Why or why not? What will it take?
12. How can an overseas manager be prepared to face this problem?