

Workplace Investigations Appendix G: Guidelines for Outside Counsel

Memo

To: Outside Counsel

From:

Date: January 1, 2013

Subject: Guidelines for Misconduct Investigations

The Corporate Compliance department (“Compliance”) implements and oversees legal-compliance and comprehensive business-ethics programs throughout the company. The Code of Conduct applies to all temporary and full-time employees. From time to time, circumstances arise within the conduct of the company’s business that leads to allegations of misconduct by an employee of the company, or a potential violation of law or regulation.

Referrals

It is the company’s policy to investigate thoroughly all allegations of legal or ethical misconduct, whether committed by full-time employees or temporary employees. The investigation process is conducted in a manner that treats those affected with dignity and fairness.

When Compliance learns of an allegation of possible legal or ethical misconduct, we review the matter to determine whether an investigation is required. If so, we will open an investigation of the matter. In many instances, we conduct the investigation in-house, without the assistance of outside counsel. We conduct the investigation according to our specified investigation protocol, which applies to all company investigations.

Under certain circumstances, it is appropriate to have the matter investigated by outside counsel. Regardless of whether the investigation is conducted internally or by outside counsel, however, each investigation should follow the same standards to ensure the confidentiality, objectivity and impartiality of the investigation. This will help to ensure that the investigation is adequately documented if the company must later defend how the investigation was conducted.

Your investigation should, to the extent possible, preserve the company’s attorney-client privilege. Your findings should make clear that the investigation is for the purpose of providing legal advice to the company and, if appropriate under the circumstances, is being conducted in anticipation of litigation.

When we refer a matter to outside counsel for investigation, we will define for you the scope of that investigation based on the information available at that time. Generally, the scope of the investigation will be to determine (i) whether the particular allegation(s) can be substantiated by the facts elicited during the investigation, and (ii) to identify relevant areas for the improvement of the operations, efficiency or effectiveness of the department involved. (For example, an investigation may find that there is ineffective management supervision, insufficient training or the lack of a needed corporate policy.) Your investigation should not be conducted simply to uncover sufficient facts to determine if misconduct occurred.

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