

Michael Davis' Commentary on "New Supervisor Policies"

Commentary On
New Supervisor Policies

What makes this case seem hard is that everything is, or at least seems to be, extreme. Tom Banks is in the last day of his month's training. According to his trainer, Charles Yost, Banks is already good enough to be out on his own. Banks agrees. Yost is also quite ill, his sick leave already exhausted, and his finances so bad that he can't afford to take off a day without pay. He is unwilling to tell his superior, Howard Hanson, any of this. He tells Banks, "Howard doesn't have anyone available to replace me this week and this job can't wait." All this may be as it seems. Then again, it may not be.

For example, Hanson might have someone to spare for a day of supervising or he might do it himself. He might even be willing to wait until Monday. After all, his motto is "Better late than sorry!" What Yost is proposing to Banks is that they cut Hanson out of the decision-making process, that they take over management of this job to do something (they should know) their employer would probably not approve. Whether or not Banks is ready to supervise installation of containers on his own is almost irrelevant. Though later events may suggest Banks needs more training, he has already received as much training as he is going to get. One day more or less should make no difference to his reliability.

The question is simply who should decide to put aside Axtell's standard procedures for the convenience of one of Axtell's employees. Clearly, Hanson should. Even in the short run, this might also be the more prudent course. Hanson could do things neither Yost nor Banks could. For example, Hanson might have informed Cameron Chemical, the company for whom the work was to be done, obtained its approval for Banks to work alone, and told Banks to go ahead. Hanson might have thought such a departure from his usual (but not legally mandated) procedure permissible given both Banks' training and Cameron's approval. Well, that's not how Banks thought about it. He and Yost made the decision on their own. By all rights, that should have been the end of it. But it was not.

Three installations performed on that day seem to have been defective. Chemicals leaking from three containers damaged valuable equipment. Cameron is threatening to sue. What should Banks tell Hanson when he tries to find out what happened? The truth: though the records report that he and Yost inspected the three installations on the last day of his training period, in fact he alone inspected the, Yost being too ill to do his part. Why not tell Hanson that? He needs the information to formulate his legal strategy. The information is hardly decisive. It reveals Hanson's legal position to be only slightly weaker than he supposed it to be. Axtell's procedure at Cameron on that day, though not quite Axtell's usual procedure, still went well beyond what the law requires or the industry generally practices. Cameron's storage facility, improper handling of the containers, or even sabotage still remain more likely than three improper installations Banks failed to catch.

People not used to business often panic at the first mention of a law suit. Yet, law suits are simply part of doing business (and usually end up as disputes between insurance companies). Hanson should no more be shielded from the facts while he prepares for the suit than he should have been shielded from deciding whether Banks should go it alone. Once Hanson knows what happened, he will be in a better position to decide whether to fight or settle. But what if Hanson responds, "That's not what I want to hear"? Banks should look Hanson in the eye: "I'm sorry, Howard, I failed you when I was a trainee. I've learned my lesson. I've learned to keep you informed. You can fire me if you like, but I'm not going to lie for you. Think about it: If I lie for you in court, will you ever be able to trust me again? Can you run this business with liars?" Whatever Hanson answers, Banks should not lie about any of this. Lying is never part of an engineer's job. (NSPE Code III.1.)

If, however, Hanson simply asks Banks not to volunteer the information to anyone else, Banks should do as told. Indeed, he should keep quiet anyway. The information in question is clearly confidential. (NSPE Code III.4.) Though there are times when confidentiality must be violated, this is not one of them. Neither the public health, safety, or welfare is at stake. Banks does not know, or even have good reason to believe, he made any error at Cameron. Banks should not worry about working with Axtell's lawyer. Presumably the lawyer will coach Banks in how to avoid revealing confidential information during legal proceedings, not try to get him to lie about what happened at Cameron. Like engineers, lawyers have a code of ethics. Their code forbids them to cooperate in perjury.