

to accompany her boss alone on trips, dinners, and outings, and states that he attempted sexual contact several times, once in Central Park in New York City. When she wrote to the senior vice president to seek his help with the harassment, her letter included the following:

*Nowadays, I come to work with anxiety and pray that Mr. Otaka will not ask me to accompany with him to another lunch, another dinner, another business trip. I would like to seek advice from you on the issue that I feel helpless.*<sup>60</sup>

Otaka, sixty-five, is married. Kobayashi married recently and received a note from Otaka, "If I had known you were getting married, I wouldn't have bothered you." Experts have noted that training on U.S. harassment laws for international executives is necessary.

### Discussion Questions

1. Corporate governance experts advise that when a CEO is involved in any allegation of misconduct (whether harassment or financial reporting or any misstep) the board should be involved. To not involve the board leaves the officers dangling, as they were in this case.<sup>61</sup> Why do you think the other officers took no action to report the issue to the board?
2. What are the requirements when sexual harassment is reported?
3. Toyota took the following steps:
  - a. Mr. Otaka was put on leave, eventually reassigned to Toyota Japan, and then retired there.
  - b. Dennis Cuneo was no longer head of HR at Toyota North America.
  - c. Alexis Herman, a former secretary of labor, was retained to review and revamp, as it were, Toyota's sexual harassment policies. Toyota settled the suit with Ms. Kobayashi for an undisclosed amount.

What signals did Toyota send to its employees about its corporate culture through the steps it took, as outlined above?

### Compare & Contrast

Compare the path of the sexual harassment issues raised in the Miller Brewing case and in this, the Toyota case. What reporting issues did both cases have? What is different about the way Miller handled its situation versus Toyota's response? Be sure to consider the final outcomes in the two cases and how the victims were treated. Using the two cases, develop some guidelines, policies, and reporting systems that would result in faster resolution of these situations.

### Case 6.16

#### *Arizona Senate Bill 1070: Immigration Laws, Employers, Enforcement, and Emotion*

On April 21, 2010, Arizona Governor Jan Brewer signed Arizona Senate Bill 1070, a state legislative enactment that has been described as the "broadest and strictest immigration measure in generations."<sup>62</sup> From the moment of its passage, the law created a firestorm of controversy, including boycotts from the cities of Los Angeles, Seattle, and Columbus,

<sup>60</sup>Michael Orey, "Trouble at Toyota," *BusinessWeek*, May 22, 2006, pp. 46–48.

<sup>61</sup>Joann S. Lublin, "Harassment Law in U.S. Is Strict, Foreigners Find," *Wall Street Journal*, May 15, 2006, pp. B1, B3.

<sup>62</sup>Randal C. Archibald, "Arizona Enacts Stringent Law on Immigration," *New York Times*, April 23, 2010, p. A1.

Ohio, from doing business with Arizona. Arizona fired back with a letter from its public utility commission reminding the mayor of Los Angeles that Arizona power plants generated 25 percent of the electricity for his city and asking him to include the power contracts as part of his boycott, a move that would result in brown-outs in Los Angeles. The Phoenix Suns players wore jerseys for one of their May playoff games that read, "Los Suns." Los Angeles Lakers' coach, Phil Jackson, coach of the Suns' opposition team, spoke out and reflected that sports franchises should stay away from political issues and let fans enjoy the sport. The Lakers then had protestors outside their arena the following night who demanded a retraction from Mr. Jackson.

The emotionally charged discussion of the bill did not focus on the language and provisions of the bill. Consider the following portions of the law:

*Unlawful stopping to hire and pick up passengers for work; unlawful application, solicitation or employment; classification; definitions*<sup>63</sup>:

- A. It is unlawful for an occupant of a motor vehicle that is stopped on a street, roadway or highway to attempt to hire or hire and pick up passengers for work at a different location if the motor vehicle blocks or impedes the normal movement of traffic.
- B. It is unlawful for a person to enter a motor vehicle that is stopped on a street, roadway or highway in order to be hired by an occupant of the motor vehicle and to be transported to work at a different location if the motor vehicle blocks or impedes the normal movement of traffic.

*Knowingly employing unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense*<sup>64</sup>:

- A. An employer shall not knowingly employ an unauthorized alien. If, in the case when an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in this state, the employer knowingly contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to perform the labor, the employer violates this subsection.

## Discussion Questions

1. What restrictions do these provisions of the law impose on employers?
2. Will the employers have to profile by race to be in compliance with either of these sections?
3. Is this bill an ethical issue?
4. Consider the following illustration of one employer's conduct with respect to its workforce and the lack of documentation.

The Agriprocessor Inc. plant in Postville, Iowa, has been called the largest kosher slaughterhouse in the country. Federal authorities conducted a raid at the plant in April 2008 and arrested 400 undocumented workers at the plant.

The company had received more than 12 letters in 2005 and 2006 that indicated the Social Security numbers that the company was using for its workers did not match the information that the federal agency had in its files. The 3,000 discrepancies the agency found affected 78% of the plant's workers. The letters did not result in any response from the company and the Social Security Administration stopped sending letters after 2007.

The following chart, from the Social Security website, shows the discrepancies pointed out to the company by the agency:

<sup>63</sup>A.R.S. §13-2928(2010).

<sup>64</sup>A.R.S. §23-212 (2010).



**Social Security Administration Correspondence with Agriprocessors**

Date	SS# Discrepancies	Tax Year
May 9, 2002	22	2001
May 19, 2005	500	2004
May 19, 2005	500	2003
May 19, 2005	500	2002
May 19, 2005	500	2001
May 19, 2005	461	2000
March 24, 2006	52	2004
March 24, 2006	42	2003
March 24, 2006	37	2002
March 24, 2006	24	2000
April 21, 2006	68	2005
May 5, 2006	500	2005

In 2008, federal authorities served a search warrant on the Postville, Iowa, company and arrested over 900 employees for violations of immigration laws as well as fraud in the use of Social Security numbers. Also charged with violations were the following officers of the company:

- Abraham Aaron Rubashkin—principal owner and president of Agriprocessors, Inc.
- Sholom M. Rubashkin—son of Mr. Rubashkin, manager of the slaughtering and meat packing plant at Postville and a company officer
- Elizabeth Billmeyer—human resources manager of Agriprocessors, Inc.
- Laura Althouse—management employee in the human resources department at Agriprocessors in Postville
- Karina Freund—management employee in the human resources department at Agriprocessors in Postville

In September, 2008, the Iowa Attorney general charged the food processor with over 9,000 violations of child labor laws. The charges focused on 32 minors who were working at the company and had been assigned work tasks or worked in areas not permitted for minors under Iowa law. The charges filed included the following:

*During the period of Sept. 9, 2007, through May 12, 2008, the persons as listed as employee-victims in the attached Complaint were employed and permitted to work at Agriprocessors' slaughtering and meat packing establishment. All were under eighteen years of age on each of the dates listed. Throughout their employment these children were exposed to dangerous and/or poisonous chemicals, including, but not limited to, dry ice and chlorine solutions. Several of these employee-victims were also under sixteen years of age during the dates for which they are identified as such in the Complaint. Throughout their employment, these children, while under sixteen years of age, were employed in the operation of or tending of power-driven machinery, including, but not limited to, conveyor belts, meat grinders, circular saws, power washers, and power shears.*

Agriprocessor filed for bankruptcy in 2008, was purchased by a Canadian company, and is now known as Agristar. Agriprocessor and the Rubashkin family were known for their generosity in the community and the convictions and change in ownership have resulted in a different complexion for the community. Discuss who is harmed when federal immigration laws are not followed. Does the Agriprocessor situation present additional issues not envisioned in the objections to the 1070 law?