

The salmonella outbreak in usa commerce essay



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The Peanut Corporation of America was formally a family-owned peanut processing business and maker of peanut butter for bulk distribution to institutions, food service industries, and private label food companies. The company was founded in 1977 by Stewart Parnell along with his father, Hugh, and two younger brothers, Hugh, Jr. and Mike (Business Yellow Page, 2009). The company was headquartered in Lynchburg, Virginia, where they started the business working out of their home (Business Yellow Page, 2009). By 1994 the family turned a slow growing peanut roasting operation into a company with sales that surpassed 30 million dollars and employed over 95 permanent employees (Business Yellow Page, 2009). In 1995 the business was sold to a large commodities corporation while Parnell's father, Hugh, retired from the peanut industry (Business Yellow Page, 2009).

Stewart Parnell and his two brothers were kept as management consultants by the company's new corporate owner (Business Yellow Page 2009). The company manufactured roughly 2.5 percent of the nation's processed peanuts (Chapman & Newkirk, 2009). Stewart Parnell served as a peanut-quality adviser to the U. S. Department of Agriculture until he was removed from the board February of 2009 (Chapman & Newkirk, 2009). PCA operated processing facilities located in Blakely, Georgia; Suffolk, Virginia; and Plainview, Texas (Business Yellow Page, 2009). As indicated by Layton and Miroff (2009), PCA "supplied ingredients to some of the biggest names on supermarket shelves: Kellogg, Sara Lee, Little Debbie.

The federal government was a customer, too, buying his peanuts for poor school children, disaster victims and military troops". PCA's products were not sold directly to consumers, but shipped to other manufactures that used

their products as ingredients to make cookies, crackers, pet treats, energy bars, ice cream, and other products (Consumer Affairs 2009). Products ranged from peanut butter, peanut paste and peanut oil (msnbc, 2009). Peanut Corporation of America's scandal began when the company allegedly shipped its peanut butter products knowing they could be contaminated with salmonella which resulted in the outbreak of 2008 (McCormick, 2009). According to Mundy (2009), who interviewed Ron Simon a criminal trial Lawyer for victims of PCA negligence, remarks that " PCA knowingly shipped contaminated products which were positively tested for salmonella by two independent labs the company hired.

These contaminated shipments were sent to nursing homes, school cafeterias, grocery stores and wholesale outlets". Since the beginning of the peanut salmonella outbreak in September 2008, more than 714 people became ill in 46 U. S. states and one Canadian province, which contributed to at least 9 deaths (Lawyers and Settlements. com, 2009). " It's among the largest recalls that we've had," said Stephen Sundlof, director of the FDA's Center for Food Safety and Applied Nutrition (msnbc, 2009). The illness was traced back to the Peanut Corporation of America (PCA) processing plants in Blakely, GA and Plainview, TX according to the Centers for Disease Control and Prevention (Lawyers and Settlements. com, 2009). PCA was no stranger to of selling contaminated products; its Blakely plant was discovered with salmonella in 2006 as a possible result of imported organic peanuts from China according to a letter released by the committee on Nov. 2, 2006 (Zhang and Jargon, 2009).

Mr. Parnell was also informed via letter by Darlene Cowart, President of JLA USA testing service that it was likely that the organic peanuts imported from Chinese could be a source for microbial hazards based on the type of fertilizers that was used on the organic product (Zhang and Jargon, 2009). Ms. Cowart also testified that Peanut Corp. samples were tested positive for salmonella between 2007 and 2008 (Zhang and Jargon, 2009). FDA requested a recall for all products containing peanut butter, peanut paste and peanut oil manufactured since January 1, 2007, at the Blakely, Georgia processing center (msnbc, 2009). Federal inspectors found mold, roaches and a leaking roof at the Georgia peanut factory, Dow Jones Newswires reports (Rubenstei, 2009). There are two forms of stakeholders in business ethics, specifically, primary and secondary stakeholders which the Peanut Corporation of America's case affected.

Primary stakeholders are necessary for a firm's survival and include employees, customers, investors, shareholders, as well as, businesses, large or small (such as small businesses that used PCA's product as raw material to make product and later market to consumers) (Ferrell, Fraedrich, & Ferrell, 2008, p. 32). Whereas, secondary stakeholders are not essential for a company's survival; these include the media, trade association and special-interest groups (for example, the American Association of Retired People - AARP) (Ferrell, Fraedrich, & Ferrell, 2008, p. 32). Two primary stakeholders at PCA were Stewart Parnell, president and CEO, and Sammy Lightsey, the plant manager of the Blakely, Georgia plant . Several email were exchanged between Parnell, Lightsey (plant manager of Blakely, GA) and Mary Wilkerson (employee at the Blakely plant) regarding batches of peanut products that

tested positive for salmonella by two independent laboratories, J. Leek Associates being one company and Deibel being the other and ignored (Committee on Energy and Commerce 2009). Because of this many stakeholders, both primary and secondary were affected by Peanut Corporation of America's unethical decision-making.

The media's impact on the Peanut Corporation of America brought awareness to members of the community by revealing incidents of PCA as it become known, brought awareness to consumers about the actions of PCA. Managers should be mindful of secondary stakeholders and express thoughtfulness in making ethical decisions. In general, "both primary and secondary stakeholders embrace specific values and standards" which govern anything that is deemed "acceptable or unacceptable corporate behaviors" (Ferrell, Fraedrich & Ferrell, pp. 32-33). Peanut Corporation of America was sued by American Candy Company after the FDA discovered in 1990 that Peanut Corporation of America's peanut butter exceeded the FDA tolerance level for aflatoxin, a toxic mold (Blackwell, 2009). Another lawsuit against Peanut Corporation of America was brought by Zachary Confections, Inc. of Frankfort, Indiana in 1991 after a 40, 020-pound shipment of nuts from Peanut Corporation of America was found to have an unacceptably high level of aflatoxin (Blackwell, 2009).

Because of the unethical decisions made by PCA in January of 2009, all but three of the 46 employees at the Blakely plant were laid off (wsbtv. com 2, 2009). And on February 12, 2009 the Plainview, Texas plant, which employed approximately 30 employees, was ordered to shut down by the state health officials (Relative, 2009). These employees, because of their

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association with PCA, lost their jobs. On January 10, 2009, another primary stakeholder, the Solon, OH based King Nut Company, recalled its King Nut and Parnell's Pride peanut butter brands that were manufactured by PCA to a distribution chain involving institutions such as hospitals, schools, restaurants and nursing homes (Ashcraft & Gerel, LLP, 2009). Now PCA's insurer, Hartford Insurance has filed a lawsuit against PCA to determine if they are responsible for claims filed by victims of this nationwide salmonella outbreak and has asked the court "to determine whether the terms of the company's policy exclude coverage for salmonella claims", along with its obligation to Peanut Corp. (Lindsey, 2009).

Peanut Corporation of America's dishonest behavior seriously affected the primary stakeholders because of the unethical decisions made by the company's leaders and partners of the corporation. The unethical decisions as stated earlier by PCA negatively affected the lives of their employees by the loss of their jobs and the disgrace of being previously employed by PCA put employees in an insecure situation with potential employers. In this situation the people that were sickened, the people that died, the states that were affected, and the companies that had to recall products were all stakeholders in one form or another. Investors and shareholders who gave out money to PCA were also affected by the indiscretions of PCA's mismanagement. Executives and managers of PCA shared in a large gamble which impacted and changed the lives of many individuals and corporations both large and small.

Peanut Corporation of America, the company at the center of the nationwide salmonella scare, filed for Chapter 7 in February 2009 (Miroff and Lyndsey, <https://assignbuster.com/the-salmonella-outbreak-in-usa-commerce-essay/>

2009). The filing of bankruptcy negatively affected its investors and shareholders. Others affected by the bankruptcy are secondary stakeholders; government, management agencies and the media. The government was negatively impacted in taxation because of plant closures in the form of income tax and lost sales tax because of lost product sales. The Peanut Corporation of America had its general liability insurance with The Hartford Casualty Insurance Company of Hartford, Connecticut.

According to Simon (2009), PCA has \$24 million dollars in insurance from The Hartford Casualty Insurance Company which is specifically dedicated to covering the food poisoning claims. The insurance coverage is broken up into two policy periods, 10/1/07 – 9/30/08 and 10/1/08 – 9/30/09 (Simon, 2009). The The Hartford Casualty Insurance Company rushed to court to limit what it might have to pay on lawsuits (Levick, 2009). They asked a federal court in Virginia to determine what the responsibility is on three years of policies that was issued to PCA (Levick, 2009).

Legal analysis

The Peanut Corporation of America's lack of respect and nonconformity for the consumer protection laws was one of the key legal issues relating to the salmonella outbreak. That was one of the contributing factor that led them to be non-compliant with the law. Another, the corporation's primary focus was that of making profit and showing complete disregard for consumers and the law thereof. According to Mundy (2009), PCA avoided taking necessary safety measures in safeguarding its facilities which resulted in leaking roofs. Not only did that PCA spend \$60, 000 in August 2008 to repair a leaky roof in the plant, Ron Simon a trial lawyer stated that " the roof was already leaking

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bird feces before it was repaired...”, a clear indication that PCA allegedly failed to maintain proper conditions and practices conducive for managing safety protocols at their facilities (Mundy, 2009). Consumer Protection is government regulations to protect the interests of consumers (Lawyers. com, 2009). The law refers to state and federal consumer protection and product safety statutes and regulations that restrict or prohibit deceptive trade practices such as the Consumer Protection Act (Lawyers. com, 2009).

The Federal Trade Commission is the main agency enforcing consumer protection statutes (Lawyers. com, 2009). It was established in 1914, for the purpose of supporting consumer protection to drive and control unfair or harmful business practices; it exercises consumer rights and prevents them from being swindled and aids against fraud and deception and enables consumers to make well-informed decisions about products and how they spend their money (www. ftc. gov). The state courts (and some federal courts) in the 1930's placed restrictions on “ the freedom-to-contract doctrine by establishing rules of public policy and doctrines of unconscionability and fundamental breach that allow the courts to interfere in contractual relationships” (Brennan, Browne & Kubasek, pp. 772).

Likewise, the Food and Drug Administration (FDA) established in the 1930's, as a part of the U. S Department of Health and Human Services to regulate products which accounted for approximately 25% of the U. S gross national product. As stated by Rep. Rosa DeLauro, D-Conn.

“ The company's actions can only be described as reprehensible and criminal, not only did this company knowingly sell tainted products, it shopped for a laboratory that would provide the acceptable results they were

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seeking. This behavior represents the worst of our current food safety regulatory system" (KDKA2, 2009).

The company had previously told the FDA that some lots of peanut butter had initially tested positive for the bacterium, then were retested and found to be negative before they were shipped. But further investigation showed that the company actually shipped some of the lots before the second tests were completed. Other lots were shipped without testing and, in some cases, no second test was performed even after the first one came back positive (Maugh and Engel, 2009). The company did not initially disclose that to investigators trying to solve the current salmonella outbreak (KDKA2, 2009). The FDA did not formally announce the new findings about the company's testing, but rather made small revisions Thursday to an online report about the investigation (Maugh and Engel, 2009). It was only when a Washington Post reporter discovered the changes and the news become more widely known (Maugh and Engel, 2009).

Ethical Analysis

The Peanut Corporation bottom line was to make a profit and not care about social responsibility to the public. The company continued to ship product they knew was contaminated. The ethical behavior of the company and Stewart Parnell was to keep production going no matter at what cost. This transmitted a lack of morals and value by upper management by keeping their employees working and meeting their shipping demands. The company also continued to run his plants in an unclean manner which put consumer food safety at risk.

There are three ethical perspectives that I will focus on as they exhibit both ethical and unethical behavior. The first being consequential theory, this theory brings out questions of moral issues. Under the consequential theory acts are judged ethically good or bad based on whether the acts have achieved their desired results and the acts are looked at as right or wrong on whether the results can be rationalized (Kubasek, Brennan & Browne, 2009, p. 223). When examining the scandal of the Peanut Corporation of America the consequential utilitarianism school of thought can be applied. Stewart Parnell thought process can be viewed as being both ethical and unethical. The main issue in this case study was Parnell shipping products that were tainted. For the argument of ethics it could be assumed that Parnell was seeking the best interest of his company to obtain a profit.

Parnell's rational included keeping and production flowing and employees working while, the unethical can be argued that a desired outcome was not obtained as a result of the deaths and illnesses of consumers and inability for Peanut Corporation of American to remain in business. Parnell should have had a strategy in place that should have been customers first then his employees.

The second ethical perspective is the deontological theory which is derived from the Greek word meaning "ethics" refers to moral philosophies that focus on the rights of individuals and on the intentions associated with a particular behavior rather than on its consequences (Ferrell, Fraedich, & Ferrell, 2008, p. 153). Deontological theory is also from the Greek word "duty", in which actions can be judged ethically good or bad based on rules and principles arrived at by human reason regardless of the action and

whether net happiness is reached (Kubasek, Brennan & Browne, 2009, p. 225). Based on email that Mary Wilkerson sent to Stewart Parnell on June 6, 2008, Peanut Corporation of American used two outside laboratories for testing (Committee on Energy and Commerce, 2009). Because Peanut Corporation of American tested and re-tested their product until they received the results they needed, this could be considered ethical or unethical. Ethical because Mr. Parnell needed to receive a negative result so that he could continue his production and shipping of his product.

It also could be a means of the company double checking results for consumer protection. On the other hand because Parnell sent samples to multiple laboratories until they found their desired results of the product testing to be negative for salmonella poisoning could be considered unethical. A facet of the deontological theory is that a person should engage only in acts that he or she could see becoming a universal standard (Kubasek, Brennan & Browne, 2009, p. 225). Another email sent to Sammy Lightsey from Parnell also shows Parnell's unethical behavior. According to the email Parnell sent to Sammy Lightsey, he instructed Sammy to ship the tainted product by stating, "okay, let's turn them loose then" (Committee on Energy and Commerce, 2009).

The third school of thought, humanist theory, where actions are evaluated as ethically good or bad based on whether they contribute to improving inherent human capacities as it pertains to intelligence, wisdom, and self restraint (Browne, Brennan, & Kubasek, p. 226). According to the USDA, Parnell's previous position on the U. S. Department of Agriculture's Peanut Standards Board, which sets the quality and handling standards, intended

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to assure that satisfactory quality and wholesome peanuts are used in the domestic and import peanut markets (Keefe, 2009). Parnell was first appointed to the USDA's Peanut Standards Board in July 2005 and was reappointed for another term that would have expired in 2011 (Keefe, 2009). On February 5, 2009, the USDA announced that the new Agriculture Secretary Tom Vilsack had removed Parnell from the board (Akre, 2009). Mr. Parnell's ethical behavior based on the humanist theory put him in a great position to help improve quality and handling standards for peanuts grown and marketed domestically and imported.

Parnell's unethical behavior could be considered as a conflict of interest because he did not follow those standards within his own company, which caused his own plants to suffer miserably in unsanitary and unhealthy conditions. It is obvious that Parnell didn't have the understanding, Knowledge, intelligence or even discipline to run a processing plant.

Contributing Factors

The company's culture encouraged unethical behavior and did everything to undermine anything ethical, stemming from sanitation conditions from the beginning because of the history of the overall business operation and that of Mr. Parnell's upbringing. David Brooks, a former buyer for a snack company who was familiar with the conditions of PCA's business operation (Layton & Miroff, 2009, p. 2). Brooks also noted that on three occasions in the mid 1980s, he inspected PCA's Gorman plant to determine whether to buy its peanut products and each time, he gave the plant a failing grade (Layton & Miroff, 2009, p. 2). According to Brooks,

“ It was just filthy; Dust was all over the beams, the braces of the building. The roofs leaked, the windows would be open, and birds would fly through the building . . . It was just a time bomb waiting to go off, and everybody in the peanut industry in Georgia, Virginia and Texas – they all knew” (Layton and Miroff, 2009).

According to two former Blakely employees, one recalls opening a tote of peanuts at the processing plant in this small Georgia town and seeing baby mice in it. “ It was filthy and nasty all around the place,” (Glover, 2009). Unethical behavior of upper management and Stewart Parnell were more concerned about profits instead of the lives of the consumers who were vulnerable to harm and the employees who were deliberately deceived about the true results of the contaminated products. The PCA Georgia Plant contributed to the sanitation problem. There were ethical issues throughout the plant that lead to the tainted products. There were peanuts stored next to the finished peanut butter (Smalley, 2009). The roaster they used was not calibrated to kill deadly germs (Smalley, 2009). Dispirited workers on minimum wage, supplied by temp agencies, donned their uniforms at home, potentially dragging contaminants into the plant, which also had rodents (Smalley, 2009).

The roof of the PCA plant in Georgia leaked when it rained which is a big risk; given that salmonella thrives in water and the facility should have been dry (Smalley, 2009). The Federal officials in Texas did not even know PCA’s Plainview facility existed until after they started investigating the Blakely plant (Layton & Miroff, 2009). It was unlicensed and had been uninspected by the government for four years (Layton & Miroff, 2009). This company has <https://assignbuster.com/the-salmonella-outbreak-in-usa-commerce-essay/>

shown a manner of disrespect for the consumer right laws and obvious disregard for consumer safety that filtered from the top of the corporation down through management. The impatience of not waiting on the results of the test and conducting several re-test to obtain a favorable result was in poor judgment and a sure sign that problems were being ignored and standardized procedures were not being followed by these leaders.

They were comfortable wallowing in filth and infestations within their food processing plants for thirty years. That's a culture that will and did breed all types of legal and unethical problems that was bound to catch up with them. It seemed that they all lacked insight and did not think thoroughly about the results of their actions or to make ethical decisions. They may not have cared about the Consumer Protection Law but they should have been worried about Murphy's Law.

Ethical decision factors to consider

There are three factors to be addressed relating to the ethical theories previously discussed in this case analysis. Based on perspectives of consequential theory where acts are judged as ethically good or bad based on whether the acts have achieved their desired results (Brennan, Browne, & Kubasek, 2009, p. 223-224). Under the consequential theory this ethical issue reiterates Parnell's actions for shipping products that he knew was contaminated, to keep production flowing and their plant's making a profit. The company also had a lack of concern for the consumer's health and management continued filling orders with tainted products.

The golden rule, “do unto others as you would have them do unto you,” is the hallmark of the deontological theory (Brennan, Browne, & Kubasek, 2009, p. 225). Under the deontological theory the ethical issue was “lab shopping”. Parnell’s persistence of conducting multiple tests in order to obtain results pleasing to his satisfaction without thought of the unforeseen consequences. The ethical decision factor to be considered in this situation is the need for ethical policies for quality control checking. All companies should have this process in place for products we consume.

This way it won’t be misinterpreted as lab shopping. And the third school of thought, humanist theory evaluated actions as good or bad depending on whether they contribute to improving inherent human capacities such as intelligence, wisdom, and self-restraint (Brennan, Brown, & Kubasek, 2009, p. 226). Under the humanist theory the ethical issue was Parnell’s conflict of interest based on his previous held position on the U. S. Department of Agriculture’s Peanut Standards Boards. The ethical decision factors to be considered in this situation are showing little intelligence, wisdom or self-restraint, sitting on the board that he was clearly not qualified for.

Recommended corrective action

Outbreaks of salmonella are not unfamiliar to the FDA and Peanut Corporation of America was not the first company to be confronted with this issue. In 2005, a ConAgra Foods factory in Georgia was inspected by the FDA due to complaints about a salmonella contamination (Glover, 2009). Spinach contaminated with salmonella followed by peppers and tomatoes was the big scare of 2006 (Shvartsman, 2009). In June, 2009, Nestle Toll House cookie dough and 380, 000 pounds of beef produced by JBS Swift Beef Company

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were recalled due to E. coli contamination (Shvartsman, 2009). Peanut Corporation of America filed for Chapter 7 bankruptcy protection and closed its doors and is now in legal proceedings (Miroff & Layton, 2009).

ConAgra can be considered the industry leader in setting examples for what should be done when product may be tainted. Therefore, there should be no reason why Peanut Corporation would not know how what to do in a situation such as this. PCA like ConAgra could have voluntarily issued recall voluntarily upon learning about the products which were tested positively for salmonella. PCA could have prevented this tragic end to its business and the lives of those lost if they had attempted to rectify the situation properly and address the root of the problems which were many. It may be too late for implementation of a corrective action for Peanut Corporation of America, but not too late for a corrective action for the remainder of the food processing industry.

Food processing plants and warehouses should base their policies and procedures off the guidelines for food safety set forth by the Food and Drug Administration. As part of a new regulation, Obama administration is working on toughening food safety standards. A bill that recommends a proactive stance in preventing food contamination was approved by the House (Shvartsman, 2009). The bill will step up inspections of high risk facilities every six months, or at least once a year (Shvartsman, 2009). This change will dramatically lower food recalls. The final regulation will come in the fall when the Senate votes on the bill (Shvartsman, 2009).

The House voted to empower the FDA to order recalls (Shvartsman, 2009). Food safety advocates have been lobbying Congress to give the FDA more regulatory power over the food supply, a vast and growing network crossing state lines and international borders (Shvartsman, 2009). As stated earlier PCA had plants in Georgia, Texas and Virginia. This new bill will provide the FDA the power to police companies that have locations in multiple states (Shvartsman, 2009). PCA was unlikely to remain in business given Mr. Parnell's inherent behavior along with those who were a part of his management. PCA was unlikely to remain in business under the direction of Stewart Parnell. Parnell's inherent behavior along with those who were a part of his management did not act in an ethical manner towards the community.

Mr. Parnell consistently put profits ahead of public safety and acted in a manner that proved to be detrimental to society. Therefore, it can be concluded that PCA lacked business ethics and morals and how they portrayed the company's image and conveyed disregard for their employees and members of the community.