



## **ETHICS OF RECRUITING AND SELECTION**

Executives are often surprised to discover how many ethical dimensions exist in recruiting, probably because selection is typically viewed as a practical, rather than philosophical, decision-support system. Our experience has demonstrated that personal and corporate ethics influence not only who is selected, but how jobs are defined and who becomes a candidate.

In the pages that follow, we will explore the implications of those (often subtle) ethical issues that impact every employment decision. We will highlight our belief that there is a moral imperative attached to the recruitment and selection process which can be stated as arriving at a decision which -- within the constraints of time, economics and the law -- places the future of the candidate and that of the employer in the least possible jeopardy. It is epitomized by choosing a candidate who will be challenged while succeeding and who contributes to the organization's goal attainment by adding uniquely to its fabric of talents.

Making an ethical personnel selection involves gathering and carefully analyzing all relevant data so that the decision is wisely drawn, balancing the short and long-term benefits -- as well as the liabilities -- which could accrue to the organization and the individual. To achieve such an optimal result requires thoughtful vigilance throughout the planning, sourcing, interviewing and referencing process.

### **INHERENT ETHICAL PROBLEMS**

A variety of ethical dilemmas are inherent in every recruitment or selection decision. Others are unique to the relationship between an executive recruiter and his or her client. We will explore these issues with the belief that striving to act in the most ethical manner will best serve the organization and the individual and will result in sound management decisions as a natural by-product. The first section discusses those ethical issues which affect all recruiting and selection situations -- without regard to whether candidates are internally or externally generated. The second section will evaluate the ethics of recruiter/client relationships.

#### **The Starting Point**

Ethical behavior begins with the definition of position requirements. If it is unethical to place someone in a role where they will fail, thereby harming their career or jeopardizing the results of the organization, failing to adequately define the job and its requirements can be a breach of ethical behavior. If the requirements for success and the expectations for performance have been inadequately analyzed, the chances for an improper selection decision and moral injustice are heightened. This reinforces the practical concern recruiters have for thorough review of position requirements, credential parameters, organizational climate and its effect on the participants.



From a moral perspective, defining relevant experience is critical. Unnecessarily stringent requirements -- which exclude otherwise qualified individuals -- are clearly as defective on an ethical basis as those that are too broad or unspecific. Such unrealistic experience requirements were responsible for much of the federal legislation that now requires cumbersome statistical reporting of hiring practices.

### **Candidate Generation**

Regardless of the method used to generate candidates -- through advertising, direct sourcing, or other means -- ethical boundaries clearly exist, particularly in how the organization and position are presented to the prospect. Any misrepresentation of the scope, difficulty, reward structure or other key elements is unfair and will tend to protract the recruiting process. Candidates will withdraw when they sense an untruth, or become turnover statistics if the misrepresentations become known after employment.

If an employer is using the direct sourcing process, there are additional ethical concerns involving misrepresentation. First among these is the potential for the individual making the sourcing call to misrepresent him or her self in an effort to gather data that would otherwise be withheld for competitive purposes. Posing as a member of the press, a directory publisher, or any comparable ruse is generally not necessary to gather needed data and, though perhaps a benign practice, certainly casts a cloud over the general ethical behavior of a firm employing such methods. Another area of concern is the potential elimination of prospects due to age, sex, race or other prejudicial biases of the person doing the sourcing.

### **Interviewing**

There are critical ethical considerations attached to the interviewing process as well. By far, the most significant breach of trust between the professional interviewer and the hiring official is not doing the interviewing job well. Failure to pursue all relevant aspects of interview investigation can result in placing a candidate in a role in which he or she will not succeed. This violates the primary ethical consideration of the employment process -- protecting the individual and the organization from predictable failure.

All dimensions of a candidate's skills, abilities, credentials and experience need to be carefully explored through appropriate lines of questioning in a setting conducive to a free exchange of information. Failure to allow adequate time for an interview can do harm to both parties if an unqualified individual is placed in a role beyond his or her ability.

Another problem with an inappropriately structured or overly abbreviated interview is that it may not allow a candidate adequate opportunity to demonstrate his or her qualifications for the position and unfairly eliminate them from consideration.

Once a conclusive opinion has been formed about a candidate's capabilities, an ethical position will communicate both strengths and weaknesses to the hiring official. To recommend an apparently qualified candidate whom the interviewer believes incapable of



performing in the role for whatever purposes -- be they political or formed from expediency -- is a gross breach of ethical behavior.

Another purpose of the interview (in addition to assessing the candidate's capabilities) is to share information regarding the position and its context with the candidate. In the same fashion that it is unethical to gloss over the shortcomings of the candidate in discussing a recommendation of that candidate, it is not right to disguise the shortcomings of a position or the department, division or company in which it is situated. An appropriate match of challenge and capability is achieved when the candidate and the employer are fully knowledgeable of each other's realities.

Sharing of compensation information also contains an ethical dimension. Where a pay range exists, it is acceptable to state the range or that part of the range that is the target at the time of employment. Using only the top end of the range as a method of luring candidates (when the offer may be less than the top of the range) is a misleading and unethical practice. So, too, is exaggerating the top end earnings potential.

Finally, a word about stress interviews and related tactics: An interview -- particularly one which will determine whether an individual will be employed or promoted -- is perhaps one of the most inherently stressful situations people experience in their work-related lives. From this perspective, it might be said that there's no such thing as a non-stress interview. The point, however, is that creating a situation which artificially heightens the tension level serves only to impede the flow of data and is probably unfair to a candidate. While it is true that some jobs require the ability to work under pressure, those abilities can be more accurately verified through referencing than they can be estimated from an unnecessarily stressful interview.

### Referencing

The most frequently committed sin of omission in recruiting is the failure to do references. Given the vast amounts of first-hand data that can be gathered through referencing, it is unfair to both candidate and employer not to take full advantage of the information that exists. In conducting references with the people for whom and with whom the candidate has worked, the veracity of interview data can be confirmed and professional credentials verified.

Out of fairness to all parties, it is important that references be representative of all the candidate's relationships and should not be restricted only to those people suggested by the candidate, then a "halo effect" will in all probability occur. In those situations where the candidate is currently employed, permission must be obtained in checking all references so that the candidate shares in the risk decision process. Where a candidate is not presently employed, specific permission need not be obtained for each person contacted. However, it is a professional courtesy to inform the candidate that a variety of people will be called.



Candidates whose educational, professional or experiential credentials are misrepresented should be withdrawn from consideration.

The second significant abuse of the reference process relates to negative information uncovered and not communicated to the decision maker. The temptation is great -- once a recruiting effort has gone through all the preliminary stages -- to rationalize "not complicating" the final decision by excluding negative reference data. Shielding such data is a clear breach of ethical recruiting behavior. Mature managers recognize that every candidate has relative strengths and weaknesses and that both will play a role in how the person performs and how they need to be managed. Having all the data available will yield superior decisions.

Perhaps the most difficult moral dilemma arising from the referencing process is hearsay regarding health limitations, alcoholism, drug use, romancing on the payroll, expense account padding, and so on. Equally as difficult are those situations where extraordinary office politics have more to do with the perceptions of a candidate's behavior than actual skills and contributions. These are areas that will test the skill of the individual conducting the references and will require multiple conversations and in-depth questioning to get beyond generalizations and search for observations of actual data.

Seeing an otherwise good candidate damned by hearsay is a very unfortunate situation but, where the allusions are frequent and apparently supported with factual data, the information must be communicated. If the comments appear to be spurious, a judgment may be reached to withhold the information. Confronting a candidate may lead to a resolution of these issues, however, it may also precipitate a lawsuit if handled incorrectly. Nowhere in the employment process do ethics and financial liability become quite so intertwined.

## **CLIENT RELATIONS**

There is a second set of ethical considerations that should regulate the relationship of third party recruiting firms and their clients. The issues discussed previously can be applied equally to internal recruiting, while those that follow relate primarily to an employer using an outside recruiter.

A strong case can be made that ethical recruiting means doing the job at the highest of professional standards. As a result, clients should ascertain the ethical position of their executive recruiting support organizations. Since the tone of a business relationship is normally set by the behaviors exhibited in the selling encounter, the following sections will explore both the ethics of selling executive recruiting services and the ethics that should control the client relationship once a firm has been retained.

### **Ethics of Selling**



The primary goal in evaluating an executive recruiter is determining the recruiter's ability to carry out the client assignment. A significant part of this decision is based upon the client's perception of the recruiter's professionalism. A second major consideration relates to the nature of the other clients the recruiter's firm serves.

**Recruiter Credentials-** The actual experience of the firm and the individual recruiter should be fully disclosed so that the client can evaluate their competence to do the work. Any misrepresentation of recruiter credentials, market or industry experience or the technical background of the recruiter is a significant breach of ethics. Such a deceit may be an indication that engagement performance might be similarly flawed under ethical analysis.

Another misrepresentation can occur at the point of sale when a senior member of the firm is present at the sales encounter and, without the client's prior knowledge, delegates the work to a junior member of the staff. It is later learned that the senior practitioner never intended to dedicate personal time to the conduct of the search. This situation is clearly misleading, unethical -- and maddening -- to clients.

**Firm Off-Limits Constraints-** Hiding off-limits blockages is perhaps the most significant violation of ethics which exists in selling executive recruitment. This relates to a basic executive search tenet wherein each firm maintains an off-limits status for a specified period of time (normally two to three years) for the companies that retain the firm. Simply stated, this means the recruiting firm will not solicit candidates from client organizations for a period of years following the conclusion of the last engagement for that client.

This has dramatic impact in those recruitment situations where candidates can only be obtained from a limited number of competing organizations. When a recruiting firm has a significant number of those companies as its clients, it will be unable to generate a complete field of candidates because of its off-limits blockages. It is incumbent on recruiters to fully disclose their relevant client list to a potential client -- and it has become necessary for the client to demand such data so that they may make a sound decision to employ a recruiter.

A significant controversy has precipitated due to some executive search firms pushing for a re-definition of the off-limits rule. Traditional policy applies to the total client organization and its legally related operations. Therefore, if a recruiting firm were to work for a subsidiary of a company, the parent company would also be protected from use as a source of candidates for other clients. Similarly, if the recruiter worked for the parent company, all of its divisions and subsidiaries would be held as off-limits.

Several of the large recruiting firms are attempting to move the industry standard to a sub-component level of definition such that -- if there is no business relationship between the parent company and the recruiter, but there is a business relationship within one of the subsidiaries -- the recruiting firm can feel justified in actively soliciting candidates from the parent company for its other clients. This has become an issue because larger recruiters



are running low on target organizations as their client lists have grown. Some are also lowering the off-limits timetable to one year instead of two or three.

Clients tend to be resisting the new definition, believing it to be unethical -- while the recruiting firms point out that the client's other subsidiaries or divisions employ recruiters other than themselves. They feel no particular economic reason to hold an entire worldwide organization as off-limits if they deal with only one business unit. This may be an ethical dispute or it may simply be a matter of major clients trying to protect their executives from accessing the marketplace through some recruiters and the large recruiters trying to provide a reasonable level of service to their other clients. Whether the issue is moral or practical, it needs to be explored at the time a recruiter is selected.

**Refusing Assignments-** The recruiter also has ethical responsibilities when accepting a client assignment. Three situations exist in which an assignment should be refused. The first of these would be where the client is asking that the recruiter engage in illegal activity such as using the search process as a vehicle for conduct of industrial espionage into technical areas or government contracts. Other illegal requests would be to violate federal age discrimination or related employment legislation. Clearly, such an assignment must be refused.

A second circumstance where work should not be accepted occurs when the recruiter cannot allocate adequate staff time for assignment completion. Virtually every search has a critical time dimension. This occurs because the opening was created through an unexpected resignation, a reorganization, health or disability occurrence or other situation which mandates that action commence immediately. Accepting an assignment when appropriate turnaround cannot be reasonably attained is unethical on the recruiter's part.

The third situation occurs when the recruiter is concerned that the credentials and experience being demanded by the client are not achievable in the marketplace or are not achievable at the intended compensation level. The ethical time to address that problem is at the time of sale. To accept the assignment and "educate the client later" is unfair to the client, who will endure a process which will be unduly long and frustrating -- and certainly unfair to the candidates who will invest time in a process which will be equally frustrating and without reward for them.

**Fees-** Finally, a word about fees and ethics. A debate is currently raging in the marketplace concerning "appropriate" fees for executive search services. This is partially caused by the realization that the fee structure does not necessarily parallel the difficulty level of an assignment. Since so many subjective variables are embedded in the process, there is no way to adequately reduce the fee calculation to a formula related to assignment difficulty. While a number of fee structures exist, most will continue to be pegged to the candidate's income as a percentage of first year cash compensation.



A second element in the current fee debate is the desire for administrative cost control on the part of client organizations. The third is, no doubt, significantly more emotional in content and attempts to rationalize the perceived pay equity of third party recruiters and corporate employees.

In a free market economy, it is a vendor decision to determine what prices to charge and a buyer decision to determine what they are willing to pay. Ethics only come into play in the arena of fee discounting, where clients may be charged different rates for similar work. For example, to do a single assignment for one client at 33 1/3 percent and an identical assignment for another client for 25 percent seems clearly inequitable to the first client.

An exception frequently made is the conduct of work for charitable organizations that cannot afford to buy recruiting services because of limited budgets. Performing this work at a deep discount or on a *pro bono* basis is perceived to be acceptable as long as it does not detract from the level of service being provided to retained clients.

A more important distinction is the use of contingent fees. Contingent fees are a legitimate form of compensation for recruiting services that collect and disseminate resumes concerning interested job applicants. However, without professionally conducted interviews and references, the representation of any qualitative data about those candidates may be highly suspect and, if so, considered unethical. Because the economics of the contingent fee business tend to minimize those very things, careful research, interviewing and referencing -- which build quality into the process, running a business which charges contingent fees to some clients and non-contingent, retainer fees to others could reduce quality levels and be a disservice to the retainer clients.

### Ethical Behavior in On-Going Relationships

Living up to the agreement achieved prior to the onset of an assignment is a moral obligation for both parties. For the recruiter, this means generating candidates of stated credentials and experience levels on a timely basis and within the limits of a recruiter's ability, producing the most qualified candidates obtainable within the target income parameters. It also means giving the client high quality service until the position is filled -- not just a solid effort at the onset. In return, a client has an obligation to handle the financial aspects of the assignment in accordance with the agreement and to provide suitable, timely performance feedback to the recruiter concerning the assignment's progress.

**Candidate Relations-** Both the recruiter and the client bear a moral responsibility to the individuals presented as candidates, most of whom will be gainfully employed and inactive in the job market at the time they become candidates. They deserve courteous, respectful treatment and fully protected confidential participation in the process until an employment offer is structured. This makes it a breach of ethical behavior for clients to check informal



references without prior approval because it jeopardizes the confidentiality of the candidate's involvement.

It is clearly unfair -- and somewhat devious in any event -- to use "stalking horse" candidates, "comparison" candidates, or to otherwise mislead people into thinking they are serious contenders for a position in which they will never be employed. This is akin to the practice of "floating resumes," (introducing candidates when another firm has been retained) an unethical practice sometimes observed in the recruiting industry.

Presenting the same individual simultaneously to more than one client is another practice that creates an ethical dilemma. When two clients decide to employ the same candidate, it guarantees that one client will be disappointed and the recruiter becomes the culprit of the disappointment. Recruiters who use candidates in a "bait and switch" scenario are equally culpable.

**Sourcing Issues-** Two aspects of the sourcing process deserve mention. First, there appears to be nothing unethical about conducting sourcing calls at client organizations. This is true as long as it is made abundantly clear to those being sourced that they are not being solicited personally as candidates and are being asked only for their advice about others in their function or industry.

Another current ethical issue in the recruiting industry is who "owns" the research documentation developed during sourcing. Most recruiters and some clients contend that the recruiters who gather the data "own" it, while some company executives (who pay the recruiter to do the research) feel they should "own" the information accumulated during the search process.

The critical ethical dimension is the implicit trust granted to a third party recruiter that allows the source to share more information than they would with a direct competitor. Detailed information about the industry, the people for whom they work and the people who work for them is volunteered under the belief that information is going to be held as confidential from everyone save the recruiter. To share this information is a breach of the trust established between the recruiter and his or her contact. Therefore, while there seems to be no other overwhelming reason not to pass detailed research information to the client, this ethical consideration mandates that the recruiter maintain control of the research documentation, sharing only those portions not granted in confidence.

## SUMMARY

Honesty makes relationships strong. Most potential breaches of ethics are essentially shortcuts to bad decisions -- decisions which can be ill afforded when analyzing the impact a senior executive has within an organization. Dealing ethically with candidates and clients at each step of the recruiting process focuses the recruiter on highly professional conduct,



which in turn, enhances the client's selection decision as well as the future contributions of the person selected.

The relation of ethics and recruiting performance has been recognized by each of the professional recruiting organizations that have set forth codes of ethics. These include the Association of Executive Search Consultants and the International Association of Corporate and Professional Recruiters.

Our firm's code of ethics, which follows, encompasses all of these ethical positions and extends beyond the organizations' codes in many qualitative areas. We do this in the belief that our clients will be best served by our pursuit of the most stringent and professional ethical standards.

### **CODE OF PROFESSIONAL AND ETHICAL CONDUCT**

- We will present our individual and firm qualifications openly, clearly and without embellishment, to all those with whom we intend to do business.
- We will communicate to every client all recruiting blockages that bear any relevance to the work they intend to have us perform.
- We will accept only work that can be undertaken immediately, or explain clearly when such new work can be moved into active fulfillment.
- We will set clear definitions of exactly how our off-limits policy applies to the client organization, its affiliates, subsidiaries and parent structure.
- We will clearly designate which consultant will have primary responsibility for the conduct of the assignment. That person will be present at the meeting where the assignment is defined and commissioned and will attend every client meeting throughout the course of the assignment.
- We will undertake only assignments where, in our professional judgment, the recruitment can be concluded within the definitions and compensation range originally proposed by the client.
- We will undertake an assignment only after holding a personal meeting with the client and documenting in writing the engagement strategy and objectives for the client's review and modification.
- We will accept only retainer fee engagements and will charge all of our clients standard fees. An exception may be made for *pro bono* work conducted for a charitable cause and would be undertaken only in those circumstances where performing such services would not jeopardize the fulfillment of our retained work.



- We will research the client organization and the specific situation thoroughly and communicate the facts of the client situation accurately to the candidates.
- We will conduct thorough and vigorous telephone research campaigns and will never misrepresent ourselves in devious ways to obtain information, nor will we misrepresent a client situation or betray any trust or confidence granted during the research process.
- We will recommend any qualified individual as an active candidate regardless of their gender, age, ethnic heritage, religious or racial background.
- We will disclose any business or personal relationship with a candidate prior to their presentation so the client can review the objectivity of the referral.
- We will conduct thorough, face-to-face interviews with every candidate presented to a client in a carefully planned meeting where all relevant content and process variables known to be important to the client will be explored in detail.
- We will prepare a dossier for each candidate that outlines the stated achievements of the candidate; details his or her personal background; and assesses the candidacy by highlighting strengths and shortcomings. In no case will there be known overstatements or omissions, which might mislead the client in their subsequent employment decision.
- We will not allow a candidate to be presented if, in our professional view, that individual cannot be successful in the intended role.
- We will present a candidate to only one client for consideration and not refer that candidate's credentials to another client unless and until the first client removes the candidate from consideration.
- We will conduct thorough reference evaluations on every candidate who is to receive an offer of employment. They will be analyzed and presented to the client, focusing on all relevant aspects of the individual and his or her past performance as an indication of ability to succeed in the new role. All relevant data will be discussed with the client and if the data so suggests, a recommendation to withdraw the candidate from consideration will be made.
- We will resign from any account where we believe a breach of ethics has precipitated by the client in terms of their obligations to deal fairly with candidates and with us in both interactive and financial roles.