Official Bribery and Commercial Bribery: Should They be Distinguished?

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Fraud vs. sharp dealing

Tax evasion vs. tax avoidance

Perjury vs. wiliness on the witness stand

Insider Trading vs. savvy Investing

Bribery vs. horse trading
Bribery
● varying thing of value taken by bribee
● official act vs. unofficial act performed by bribee
● quid pro quo bribe vs. gratuity accepted by bribee
● taking/soliciting vs. giving/offering bribe
● official bribery vs. commercial bribery
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Varying the “thing of value” accepted by office-holder
bribee accepts . . .

- $20,000 in cash
- $20,000 worth of renovations to house
- $20,000 contribution to next campaign
- endorsement by prominent business person
Albert Smith is a member of the upper house of the State Legislature. A bill has recently come before the legislature that affects a leading company located in Smith’s home district. The company’s CEO, Richard Reeves, is a well-known and respected figure in that district.

Reeves’ company wants to see the measure defeated. Reeves requests a meeting with Smith to discuss the bill. At the meeting, Reeves explains why he thinks the bill should be defeated.
Endings for Official Act

- At the end of the conversation, Reeves offers to publicly endorse Legislator Smith in the next campaign in exchange for Smith’s voting against the bill. Smith accepts the offer.
- At the end of the conversation, Reeves offers to give Smith’s reelection campaign $20,000 in exchange for Smith’s voting against the bill. The election laws of this state permit political donations up to this amount. Smith accepts the offer.
- At the end of the conversation, Reeves offers to have his company do some renovations on Smith’s house in exchange for Smith’s voting against the bill. The renovations are worth approximately $20,000. Smith accepts the offer.
- At the end of the conversation, Reeves offers to give Smith an envelope containing $20,000 in cash in exchange for Smith’s voting against the bill. Smith accepts the offer.
Accepting different “things of value”

- Offering Money
  - Asking for Vote on Bill: 96%
  - Asking For Endorsement: 90%

- Offering Home Renovations
  - Asking for Vote on Bill: 92%
  - Asking For Endorsement: 78%

- Offering Campaign Contribution
  - Asking for Vote on Bill: 73%
  - Asking For Endorsement: 43%

- Offering Endorsement
  - Asking for Vote on Bill: 37%
  - Asking For Endorsement: 8%
Varying the kind of act the bribee agrees to perform in return for payment
Bribee performs “official act”

Bribee performs “unofficial act” (gives political endorsement)
Official Act

- Albert Smith is a member of the upper house of the State Legislature. A bill has recently come before the legislature that affects a leading company located in Smith’s home district. The company’s CEO, Richard Reeves, is a well-known and respected figure in that district.

Reeves’ company wants to see the measure defeated. Reeves requests a meeting with Smith to discuss the bill. At the meeting, Reeves explains why he thinks the bill should be defeated.
Albert Smith is a member of the upper house of the State Legislature. In that position, he is regarded as a respected voice on public issues and often obtains coverage in the media.

Jim Johnson is the CEO of a leading company located in Smith’s district. Johnson intends to run for mayor in the largest city in Smith’s district. Johnson meets with Smith and tells him he would like to have his endorsement.
Performing Official Act (Vote on Bill) vs. Performing Unofficial Act (Endorsement)

- **Offering Money**
  - Asking for Vote on Bill: 96%
  - Asking For Endorsement: 90%

- **Offering Home Renovations**
  - Asking for Vote on Bill: 92%
  - Asking For Endorsement: 78%

- **Offering Campaign Contribution**
  - Asking for Vote on Bill: 73%
  - Asking For Endorsement: 43%

- **Offering Endorsement**
  - Asking for Vote on Bill: 37%
  - Asking For Endorsement: 8%
Varying purpose of payment
(bribes vs. gratuities)
$20,000 accepted in exchange for vote

accepting $20,000 “thank you” gift – no contact prior to vote (recipient leaving office)

accepting $20,000 “thank you” gift – no contact prior to vote (recipient not leaving office)
Gratuity Scenarios

Michael Jones is a member of the upper house of the State Legislature, where he serves on an important legislative committee that is choosing the site of a major new state office building. Larry Larson is CEO of a company that owns property adjacent to one of the sites that Jones’ committee is considering. Larson wants to see the Legislature approve construction at that site.

- Legislator Jones votes for the site that Larson favors. It is Jones’s last term in office and it has been announced that he will be retiring in 3 months’ time. The two men have had no contact with each other prior to the vote, but Larson is so pleased with the outcome that he sends Jones a “thank you” gift of $20,000 in cash shortly before Jones leaves office. Jones accepts the money.

- Legislator Jones votes for the site that Larson favors. The two men have had no contact with each other prior to the vote, but Larson is so pleased with the outcome that he sends Jones a “thank you” gift of $20,000 in cash. Jones has no plans to retire and Larson hopes that the gift will help his company maintain good relations with Jones in the future. Jones accepts the money.

- Larson offers Legislator Jones $20,000 in cash if Jones votes for the site Larson favors. Jones accepts the money.
Bribes and Gratuities for Government and Commercial Actors

- Rceiving Bribe: 96% Government, 80% Corporate
- Receiving Gratuity Staying: 63% Government, 37% Corporate
- Receiving Gratuity Retire: 51% Government, 22% Corporate
Taking vs. Giving Bribe
Office-holder accepts $20,000 in exchange for vote

Private citizen gives office-holder $20,000 in exchange for vote
Taking vs. Giving Bribe

- Giving Bribe to Government: 94%
- Giving Bribe to Cooperate: 80%
- Receiving Bribe from Government: 96%
- Receiving Gratuity from Cooperate: 80%
Bribery of Public Official vs. Commercial Bribery
Bribery of Government Official

Commercial Bribery
U.K. Bribery Act 2010, s. 3(2)

Texas Penal Code § 32.43
Commercial bribery story

• Harry Heller is a board-member of a large private corporation. He is currently serving on an important committee within the company that will choose the site of a major new office building that the company plans to build. Larry Larson is CEO of a company that owns property adjacent to one of the sites that Heller’s committee is considering. Larson wants to see Heller’s committee approve construction at that site.
Bribes and Gratuities for Government and Commercial Actors

- Receiving Bribe: 96% (Government) vs. 80% (Corporate)
- Receiving Gratuities Staying: 63% (Government) vs. 37% (Corporate)
- Receiving Gratuities Retire: 51% (Government) vs. 22% (Corporate)