**ASSIGNMENT:**– **Complete ALL THREE Manager Dilemma Scenarios**

**Write a one page response for each question (single spaced). Provide proper attribution if citing sources**

**Your grade will reflect your substantive analysis as well as your effective communication as a manager.**

1. **A Manager’s Dilemma: Putting It into Practice: The Multimillion-Dollar Typo**

**As lawyers assembled closing documents for a refinancing of part of the outstanding debt of United States Lines (USL), a secretary working on “Amendment No. 1 to the First Preferred Ship Mortgage” omitted three zeros from the number representing USL’s outstanding indebtedness to Prudential Insurance. As a result, the document showed the amount of Prudential’s first mortgage as “$92,885.00” instead of “$92,885,000.00.” No one noticed the error until eight months later, when USL defaulted on the notes secured by the amended mortgage and went bankrupt.**

**General Electric Capital Corporation (GECC) had lent money to USL secured by a second mortgage, which was subordinate to Prudential’s first mortgage. GECC had been intimately involved in USL’s financing for some years and knew that Prudential had a $92,885,000 first mortgage. Indeed, neither GECC nor any other creditor of USL asserted that it had relied on erroneous information about the amount of USL’s outstanding debt. Because GECC had lent money to USL secured by a mortgage junior to that to Prudential, however, GECC stood to gain by reducing the value of Prudential’s first mortgage.**

**When Prudential tried to foreclose its $92,885,000 first mortgage, USL’s bankruptcy trustee objected, arguing that the mortgage should be limited to $92,885. If you had been the GECC manager in charge of the USL account, what would you have done once the typo was discovered? Is Prudential legally entitled to a $92,885,000 first mortgage? What would be the ethical thing to do? [See Andrew Kull, Zero-Based Morality: The Case of the $31 Million Typo, 1 Bus. L. Today 11 (July–Aug. 1992).]**

**2- A Manager’s Dilemma: Putting It into Practice**

**Do Nondisparagement Clauses Give Retailers a Bad Rep?**

**In 2008, John Palmer ordered a $20 gift for his wife from KlearGear.com, but it never arrived. After John canceled the order, his wife, Jen Palmer, wrote a negative review on RipoffReport.com. Five years later, KlearGear.com sent John an email “demanding $3,500 pursuant to a non-disparagement clause” that KlearGear claimed was in the “Terms of Use” section of its website. (Note that the clause was reportedly not added to the website until 2012.) The clause stated:**

**“In an effort to ensure fair and honest public feedback, and to prevent the publishing of libelous content in any form, your acceptance of this sales contract prohibits you from taking any action that negatively impacts KlearGear.com, its reputation, products, services, management or employees. Should you violate this clause, as determined by KlearGear.com in its sole discretion, you will be provided a seventy-two (72) hour opportunity to retract the content in question. If the content remains, in whole or in part, you will immediately be billed $3,500.00 USD for legal fees and court costs until such complete costs are determined in litigation.**

**Should these charges remain unpaid for 30 calendar days from the billing date, your unpaid invoice will be forwarded to our third-party collection firm and will be reported to consumer credit-reporting agencies until paid.”**

**The Palmers asked RipoffReport to remove the review, but their policy prevented removal unless KlearGear was involved. The Palmers informed KlearGear of this policy, but no resolution ensued. KlearGear reported the Palmers to collection agencies, and their credit rating was negatively impacted. In November 2013, a public service lawyer representing the Palmers sent a letter to KlearGear indicating that a lawsuit would be filed unless the situation was resolved by mid-December 2013. The letter asked KlearGear to notify the credit agencies that the Palmers’ “debt” was an error; to pay the Palmers $75,000 in compensation; and to remove the nondisparagement clause from the website.Footnote**

**What legal theory should the Palmers assert in litigation? Does a clause that is added to a website after a customer has transacted its business bind that customer? Did KlearGear act ethically? If you were the new head of marketing for KlearGear, would you support retaining or deleting the nondisparagement clause? Why?**

**3- A Manager’s Dilemma: Putting It into Practice**

**Balancing National Security and Customers’ Right to Be Free from “Big Brother”**

**In early 2016, Apple, Inc. refused to comply with a Federal Bureau of Investigation (FBI) order to develop software specifically designed to open the “passcode-locked Apple iPhone of a terrorist” involved in killing 14 people in San Bernardino, California. Apple CEO Tim Cook issued a public letter in which he explained that although the company has provided information to the FBI when that information was in the company’s possession, the FBI was now asking Apple to, among other things, remove security features and make it easier to unlock the phone by “‘brute force’”—“trying thousands or millions of combinations with the speed of a modern computer.”Footnote Such a “backdoor” could arguably allow any iPhone to be unlocked. Even though the FBI said that it would use this software in only this one instance, Cook warned that the implications are “chilling” and would allow the government, under the All Writs Act of 1789, to “reach into anyone’s device” to access data. It could also mean the government could “demand” that Apple incorporate surveillance software in its phones that would allow access to health and financial data, location tracking, and microphones or cameras—all without the consumer’s knowledge.Footnote**

**Facebook and certain other tech companies have supported Apple’s position, agreeing that creating “backdoors” could lead to global abuses by governments. Microsoft’s Bill Gates took a different stance and “suggested Apple and the U.S. government could strike a balance ‘between government being able to know things in some cases and having safeguards to make sure those powers are confined to appropriate cases.’”Footnote**

**The FBI and others involved in law enforcement argue that national security should trump consumer privacy in this case, noting that the owner of the phone is now deceased and was undeniably involved in a multiple homicide linked to a terrorist organization. The San Bernardino county district attorney asserted, “What are we really doing here? We’re protecting a terrorist.”Footnote**

**In addition to the legal issues, this cases raises ethical issues: “[D]oes Apple have a moral obligation to help the government … [o]r does it have a moral obligation to protect its customers’ privacy?”Footnote New York Times reporter Andrew Ross Sorkin wrote that some business economists might find that Apple has “no moral obligation to the government that isn’t in the interest of maximizing its profits.”Footnote**

**How should a legally astute manager decide what position to take in a situation such as this? What ethical and financial considerations and public interest factors are involved?**