FATAWA GENERAL 2006

Kick backs, Bribes, Commissions, etc.

Subject: Customers Giving Money to Keep Their Business
From: Mohammed through Islam on line
Sent: Tuesday, November 21, 2006 3:42 AM
Question
Dear Dr. Monzer, As-Salamu `Alakum
I have an economical question that I am working in a Sino-Saudi Joint-Venture in China, here I am in charge of purchasing of raw materials, I am encountering this kinds of cases as below 1)some of my customers mention by themselves that they are ready to give me some money to keep the business, even if they did not give me any benefits I would continue with them; 2)and some companies came to me and says they will give me cheaper price and same quality of goods as I bought now and they will give me some money; 3) some companies bring their products as a gift or coffee and so on. Now I am excepting their some gifts like coffee or tea that is some thing for public usage in company, but not excepting some thing for personal usage like shirts and so on, this is right in Islam? And I did not except any of their money. So I want to know that can I except any of their money or any benefits in the base of not harming company benefits and give my company cheaper price and good quality of goods according to the market situation. What I can do that some my customers put their gifts in my office as I was out? Can we except gifts between business friends since it is so common in China (I am a Chinese Muslim)? Can I take the money and use it on other Muslim? And my company did not give me good salary and bonus even I work from my heart, so can I take some money to fulfill some part of my income? Many thanks on your detailed answer, May Allah reward all of your works. Jazakum Allahu Khairan for your constant help

My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Mohammed
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
The answer to all your questions is a BIG NO. You can't take the money from the companies that you deal with or any personal gift without clear and open information to employer. You are a Wakil (agent) and a wakil must only act for the best interest of the owner. Gifts for use in the company's offices like coffee can be accepted, they also require informing employer. Negotiation of reduced prices must be done to the benefit of the employer. If you have any complaint about your salary, it must be addressed to the employer and renegotiated with it, you can't take a two party agreement and redress it on your own without knowledge and free choice of the other party.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam

Sincerely,
Dr. Monzer Kahf

Parents' Rights to child income and property

Subject: Rights of a Mother over her Son's Salary
From: A Mother through Islam online
Sent: Thursday, April 13, 2006 8:46 AM
Question
Dear Dr. Monzer, Assalamu Alaykum wa Rahmatullahi wa Barakatuh,
Could you please answer the following questions in the light of the quran and sunnah.
1. What right does a mother have over her sons salary. Does the son have to take his mothers' permission to spend his salary. Can a mother prevent her son from spending on his own family that is his wife and children?
2. What rights do parents have after marriage. Does the daughter in law have to take her husbands permission or her mother in laws permission if she has to spend from her husband's salary or even if she wants to give away some clothes which she bought from her husband's salary. Here I would like to state that my mother in law has told me that it is her right that I should ask her before I give away anything from her sons salary because she has a right on her sons salary.
Jazakum Allahu Khairan for your constant help

My Answer
Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Sr. Muslim Indian Mother,
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I like to be straightforward with you and very frank because I think that unless we are very clear on these issues, we will not solve many of the social problems in our society and communities and that will give room for the secularists and other people who do not carry the Islamic values to take the driver's seat in attempting to bring in solutions that contradicts our culture and values. Here are the principles that govern these matters in our Shari'ah:

1. A husband is required to spend on his wife in accordance with his level on income and wealth. This is confirmed in the Qur'an and the Sunnah. This obligation is by virtue of the marriage contract and is required whether the wife is rich or poor, has income of her own or not. A married woman is not required to spend on herself from her own money.
2. A wife may take from her husband's properties (wealth, income, salary and other resources) even without his permission what is needed for normal personal and family expenses. This includes giving to normal charity (Sadaqat that persons give to the poor and needy when an occasion arises). This is confirmed by at least two Sayings by the Prophet, pbuh, that a wife is a manager in the house and property of

her husband and she is responsible for her actions and the Hadith of Hind the wife of Abu Sufian.

3. Parents have a right of service and spending on their children, married or single, if they need. Kindness to parents is always required whether parents are in need or not. This means that a child is required to spend on his/her mother and/or father only if they are in need but if they are not in need children are also required to be kind and courteous to their parents financially and socially. But parent can't, legally from Shari'ah point of view, dispose of the property of their adult children including salaries without permission. Here again a parent who lives with her/his child, and spent on by the child may give to charity whatever is usual and customary according to circumstances.
4. The properties of husband and wife are not mingles, legally, together. This means that each spouse is financially independent form the other. A husband has no right to dispose of the property of his wife and she can do whatever she likes with her own property (including gifts given by the husband) on her own with no need to any permission or even knowledge of her husband, let alone his mother or father and the husband has no right to interfere at all.
5. While a married man or a married woman is required to help and serve his/her parents, the relationship between a woman and her in-laws and a man and his in-laws is based on mutuality and general rules of kindness [Husn al Mu'asharah]. A wife is not required to obey her mother in law nor serve her and a man is not required to obey or serve his mother in law. There is nothing in our Shari'ah that puts an obligation on a married woman toward her in-laws except the general rules of mutuality, kindness, courtesy and respecting the elder.

Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

Assigning contracts in Real Estates

Subject: Assigning a purchased Real Estate to another buyer
From: Zaid
Sent: Saturday, December 31, 2005 12:44 PM
Question
Assalamu alaikum warahmatullah Dr. Monzer,
This is zaid from hawthorne masjid. I attended your 2-week class on Islamic financial issues. I am learning about real estate investing and I came across a method called "Wholesaling". I wanted to know if this type of transaction of allowed in Islam.
Here is a basic example.
1. You find a seller who will sell his house to you for $100,000. Full market value is $150,000 but he is in distress or has a dire need to get rid of it.

2. You put the house under a sales contract and give him $2000 earnest money deposit. You must close in 30 days or he keeps your $2000 and you get nothing
3. You call up your list of buyers and find someone who will buy it from you for $110,000 4. you do a double closing at escrow with buyer and seller and collect the $10,000 difference
question #1: is this allowed?
question #2: what aspects of it make it not allowed?
question #3: if this is not allowed, do you know of any real estate investment methods that are?
If you need more details let me know. I can send you the forms and contracts involved
jazakAllahu khair
zaid

My Answer
Bismi Allah al Rahman al Rahim Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. Zaid
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
This method is permissible in Shari'ah. It is a full sale and buy, a trade in the full sense. The first contract is called 'Urbun sale (it features the condition: if you don't come up with the rest of the money you loose the down payment as a penalty for wasting my time and holding the house for you during this period). Merging the two sales together is also permissible.
Besides, there are other forms of investments in real estates most of them are permissible, buy on description (maps and plans) and sale after delivery, land developing with sleeping partners, etc.
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin
Wassalam
Sincerely,
Dr. Monzer Kahf

From: Zaid
Sent: Tuesday, January 17, 2006 6:22 PM
Question
Assalamu alaikum whats your address?
This is zaid from …….. masjid again. Thank you for replying to my question. I forgot that there is another option in wholesaling. You can "assign" the actual contract to another buyer for a fee, handing over your right to buy at the contract price to that person. There are no two closings at escrow. Basically selling your right to buy to someone else is it's own contract that stipulates how much the new buyer is paying you. You are out of the transaction after that. There's only one closing between seller and "new" buyer. Is this allowed? jazakAllahu khair
zaid

My Answer

Bismi Allah al Rahman al Rahim
Al Hamdu li Allah Rabb al 'Alamin
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in
Dear Br. zaid
Al Salamu Alaykum Wa Rahmatullahi Wa Barakatuh
I got the point now. You can sell a real estate before actual possession provided you have a purchase contract (that makes you the owner) and delivery is actually possible because in this sale the Gharar (great uncertainty with un-knowability) about the existence of the property and ability to deliver This means that a sale contract can be assigned before closing (possession).
Wa Allahu A'lam
Wa Alhamdu li Allah Rabb al 'Alamin Wassalam Sincerely, Dr.
Monzer Kahf