Beware firing worker who sleeps with the enemy

Here's a situation that should send you straight to your attorney's office. If you fire an employee because you discovered her spouse works for the competition, you may be violating the marital status discrimination clause in the Minnesota Human Rights Act (MHRA).

Recent case: April worked for Wapiti Meadows Community Technologies and Services (CTS), which provides mental health services to poor clients. Its competitor for federal funds is Workforce Development Inc. (WDI). When her husband was offered a spot on a board that allocated funds to WDI but had never supported CTS, April learned that CTS considered his work—for what amounted to its competitor's funding source—a conflict of interest.

CTS management gave April an ultimatum: Either her husband had to turn down the offer or she would lose her job. He took the appointment; April was fired.

Then she sued, alleging marital status discrimination under the MHRA. CTS argued that this was a case of "permissible" discrimination.

The Court of Appeals of Minnesota disagreed. It interpreted a termination based on a spouse's work for a competitor as marital status discrimination and sent the case back to the trial court. If April can prove that she was fired because her husband wouldn't resign, she'll win her case. (*Aase v. Wapiti Meadows Community Technologies and Services,* No. A12-1671, Court of Appeals of Minnesota, 2013)

Final note: If an employee's spouse works for the competition, trust your attorney to come up with a plan to protect trade secrets. Violating a rule that prohibits divulging company secrets is still grounds for termination, so "pillow talk" with the competition may justify discharge.

The problem in this case was that CTS presumed a conflict of interest, just by virtue of the two being married to each other.

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