Ethical Theory, Philosophical Foundations, Our Reasoning Flaws, and Types of Ethical Dilemmas

UNIT ONE

Before we begin the study of business ethics, we should do some introspection: what does ethics mean to me personally? The purpose of this unit is to provide you with an introspective look at you and your views on ethics before we bring the business component to you and ethics.

This unit explains three things: what ethics are, why we should care about ethics, and how to resolve ethical dilemmas. The materials in this unit serve as the foundation for the study of issues in business ethics. We begin with a personal look at ethics, discuss why it matters, and then decide how to resolve ethical dilemmas.

“In the 21st century will occur something worse than the great wars, namely, the total eclipse of all values. The pain the human beast will feel when he realizes he can believe in . . . nothing . . . will be worse than any he has felt before.”

—Nietzsche

“I was very upset that there’s that many dishonest people.”

—Andrea Reuland, the owner of Trigs Shell Station in Minocqua, Wisconsin, who lost $3.00 per gallon on 586 gallons of gas sold during a 45-minute period when local residents phoned others to come and get gas because an employee had made a mistake and entered the price at 32.9 cents vs. $3.299 per gallon. 87 percent of people who responded to a survey about the incident said they would have done the same thing as the Minocqua residents.
Defining Ethics

SECTION 1A

Reading 1.1
You, Your Values, and a Credo

We have a tendency to look at folks who get into ethical and legal trouble and say, “I know I would never behave like that.” You probably would not, but you are only seeing them at their last step. You did not see the tiny steps that led to their eventual downfall. Study how and why they made the decisions they made. The idea is to try to avoid feeling superior to those who have made mistakes; real learning comes with understanding the flaws in their analyses and reasoning processes as well as the types of pressures that caused them to do what they did. Your goal is to develop a process for analysis and reasoning, one that finds you looking at ethical issues more deeply, instead of through the prism of emotions, desires, and pressures. You are not just studying ethics, you are studying business history. But, you are also studying you. Try to relate your vulnerabilities to theirs. Remember as you read these cases that you are reading about bright, capable, and educated individuals who made mistakes. The mistakes often seem clear when you study them in hindsight. But their ethical analyses at the time they were making these decisions was flawed, whether through poor perspective, pressure, or sometimes, the stuff of Greek tragedies: hubris.

One of the goals of this text is to help you avoid the traps and pitfalls that consume some people in business. As you study the cases in this unit and the others that follow try not to be too hard on the human subjects. Learn from them and try to discover the flaws in their ethical analyses.

One step that can give us greater clarity when we face ethical dilemmas is a credo. A credo is different from a code of ethics and does not consist of the virtues that companies usually list in a code of ethics, such as: we are always honest; we follow the laws. The credo demands more because it sets the parameters for those virtues. A credo is virtue in action. A credo defines you and your ethical boundaries.

You get your personal credo with introspection on two areas of questions:

1. Who are you? Many people define themselves by the trappings of success, such as how much money they have or make, the type of cars they drive, their clothes, and all things tangible and material. A credo grounds you and means that you need to find a way to describe yourself in terms or qualities that are part of you no matter what happens to you financially, professionally, or in your career. For example, one good answer to “Who are you?” might be that you have a talent and ability for art or writing. Another may be that you are kind, showing those Solomon-like virtues in Reading 1.1 to others around you. List those qualities you could have and keep regardless of all the outer trappings.

2. The second part of your credo consists of answering this question: What are the things that you would never do to get a job? To keep a job? To earn a bonus? The answer to this question results in a list, one that you should be keeping as you read the cases and study the individual businesspeople who made mistakes. Perhaps the title of your list could be “Things I Would Never Do to Be Successful,” “Things I Would Never Do to Be Promoted,” or even “Things
I Would Never Do to Make Money.” One scientist reflected on the most important line that he would never cross, and after you have studied a few of the product liability cases you will come to understand why this boundary was important to him, “I would never change the results of a study to get funding or promise anyone favorable results in exchange for funding.” A worker at a refinery wrote this as his credo, “I would never compromise safety to stay on schedule or get my bonus.” An auditor in a state auditor general’s office wrote, “I would never sign a document that I know contains false information.” The credo is a detailed list, gleaned from reading about the experiences of others, that puts the meat on Polonius’s immortal advice to his son, Laertes, in Shakespeare’s Hamlet, “To thine own self be true” (Hamlet, Act I, Scene III). We quote Polonius without really asking, “What does that mean?” The credo takes us from eloquent advice to daily action. The credo is a personal application of the lessons in the cases. You will spot the lack of definitive lines in these case studies and begin to understand how their decision processes were so shortsighted. The goal is to help you think more carefully, more deeply, and more fully about ethical issues.

As you think about your credo, especially who you are, keep the following thought from Jimmy Dunne III in mind. Mr. Dunne was the only partner who survived the near destruction of his financial firm, Sandler O’Neill, when the World Trade Center collapsed on September 11, 2001. Only 17 of Sandler O’Neill’s 83 employees survived the tower’s collapse. Mr. Dunne has been tireless in raising money for the families of the employees who lost their lives that day. When asked by Forbes magazine why he works so hard, Mr. Dunne responded, “Fifteen years from now, my son will meet the son or daughter of one of our people who died that day, and I will be judged on what that kid tells my son about what Sandler O’Neill did for his family.” His personal credo focuses on both the long-term reputation of his firm and the impact his choices can have on his children’s reputations.

Discussion Question

Explain the role “How do I want to be remembered?” plays in your credo?

Reading 1.2 The Parable of the Sadhu

Pressure, Small Windows of Opportunity, and Temptation

Bowen H. McCoy

[In 1982], as the first participant in the new six-month sabbatical program that Morgan Stanley has adopted, I enjoyed a rare opportunity to collect my thoughts as well as do some traveling. I spent the first three months in Nepal, walking 600 miles through 200 villages in the Himalayas and climbing some 120,000 vertical feet. On the trip my sole Western companion was an anthropologist who shed light on the cultural patterns of the villages we passed through.

During the Nepal hike, something occurred that has had a powerful impact on my thinking about corporate ethics. Although some might argue that the experience has no relevance to business, it was a situation in which a basic ethical dilemma suddenly intruded into the lives of a group of individuals. How the group responded I think holds a lesson for all organizations no matter how defined.

The Sadhu

The Nepal experience was more rugged and adventuresome than I had anticipated. Most commercial treks last two or three weeks and cover a quarter of the distance we traveled.

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My friend Stephen, the anthropologist, and I were halfway through the 60-day Himalayan part of the trip when we reached the high point, an 18,000-foot pass over a crest that we’d have to traverse to reach the village of Muklinath [sic], an ancient holy place for pilgrims.

Six years earlier I had suffered pulmonary edema, an acute form of altitude sickness, at 16,500 feet in the vicinity of Everest base camp, so we were understandably concerned about what would happen at 18,000 feet. Moreover, the Himalayas were having their wettest spring in 20 years; hip-deep powder and ice had already driven us off one ridge. If we failed to cross the pass, I feared that the last half of our “once in a lifetime” trip would be ruined.

The night before we would try the pass, we camped at a hut at 14,500 feet. In the photos taken at that camp, my face appears wan. The last village we’d passed through was a sturdy two-day walk below us, and I was tired.

During the late afternoon, four backpackers from New Zealand joined us, and we spent most of the night awake, anticipating the climb. Below we could see the fires of two other parties, which turned out to be two Swiss couples and a Japanese hiking club.

To get over the steep part of the climb before the sun melted the steps cut in the ice, we departed at 3:30 A.M. The New Zealanders left first, followed by Stephen and myself, our porters and Sherpas, and then the Swiss. The Japanese lingered in their camp. The sky was clear, and we were confident that no spring storm would erupt that day to close the pass.

At 15,500 feet, it looked to me as if Stephen were shuffling and staggering a bit, which are symptoms of altitude sickness. (The initial stage of altitude sickness brings a headache and nausea. As the condition worsens, a climber may encounter difficult breathing, disorientation, aphasia, and paralysis.) I felt strong, my adrenaline was flowing, but I was very concerned about my ultimate ability to get across. A couple of our porters were also suffering from the height, and Pasang, our Sherpa sirdar (leader), was worried.

Just after daybreak, while we rested at 15,500 feet, one of the New Zealanders, who had gone ahead, came staggering down toward us with a body slung across his shoulders. He dumped the almost naked, barefoot body of an Indian holy man—a sadhu—at my feet. He had found the pilgrim lying on the ice, shivering and suffering from hypothermia. I cradled the sadhu’s head and laid him out on the rocks. The New Zealander was angry. He wanted to get across the pass before the bright sun melted the snow. He said, “Look, I’ve done what I can. You have porters and Sherpa guides. You care for him. We’re going on!” He turned and went back up the mountain to join his friends.

I took a carotid pulse and found that the sadhu was still alive. We figured he had probably visited the holy shrines at Muklinath [sic] and was on his way home. It was fruitless to question why he had chosen this desperately high route instead of the safe, heavily traveled caravan route through the Kali Gandaki Gorge. Or why he was almost naked and with no shoes, or how long he had been lying in the pass. The answers weren’t going to solve our problem.

Stephen and the four Swiss began stripping off outer clothing and opening their packs. The sadhu was soon clothed from head to foot. He was not able to walk, but he was very much alive. I looked down the mountain and spotted below the Japanese climbers marching up with a horse.

Without a great deal of thought, I told Stephen and Pasang that I was concerned about withstanding the heights to come and wanted to get over the pass. I took off after several of our porters who had gone ahead.

On the steep part of the ascent where, if the ice steps had given way, I would have slid down about 3,000 feet, I felt vertigo. I stopped for a breather, allowing the Swiss to catch up with me. I inquired about the sadhu and Stephen. They said that the sadhu was fine and that Stephen was just behind. I set off again for the summit.
Stephen arrived at the summit an hour after I did. Still exhilarated by victory, I ran down the snow slope to congratulate him. He was suffering from altitude sickness, walking fifteen steps, then stopping, walking fifteen steps, then stopping, walking fifteen steps, then stopping. When I reached them, Stephen glared at me and said: “How do you feel about contributing to the death of a fellow man?”

I did not fully comprehend what he meant.

“Is the sadhu dead?” I inquired.

“No,” replied Stephen, “but he surely will be!”

After I had gone, and the Swiss had departed not long after, Stephen had remained with the sadhu. When the Japanese had arrived, Stephen had asked to use their horse to transport the sadhu down to the hut. They had refused. He had then asked Pasang to have a group of our porters carry the sadhu. Pasang had resisted the idea, saying that the porters would have to exert all their energy to get themselves over the pass. He had thought they could not carry a man down 1,000 feet to the hut, reclimb the slope, and get across safely before the snow melted. Pasang had pressed Stephen not to delay any longer.

The Sherpas had carried the sadhu down to a rock in the sun at about 15,000 feet and had pointed out the hut another 500 feet below. The Japanese had given him food and drink. When they had last seen him he was listlessly throwing rocks at the Japanese party’s dog, which had frightened him.

We do not know if the sadhu lived or died.

For many of the following days and evenings Stephen and I discussed and debated our behavior toward the sadhu. Stephen is a committed Quaker with deep moral vision. He said, “I feel that what happened with the sadhu is a good example of the breakdown between the individual ethic and the corporate ethic. No one person was willing to assume ultimate responsibility for the sadhu. Each was willing to do his bit just so long as it was not too inconvenient. When it got to be a bother, everyone just passed the buck to someone else and took off. Jesus was relevant to a more individualist stage of society, and how do we interpret his teaching today in a world filled with large, impersonal organizations and groups?”

I defended the larger group, saying, “Look, we all cared. We all stopped and gave aid and comfort. Everyone did his bit. The New Zealander carried him down below the snow line. I took his pulse and suggested we treat him for hypothermia. You and the Swiss gave him clothing and got him warmed up. The Japanese gave him food and water. The Sherpas carried him down to the sun and pointed out the easy trail toward the hut. He was well enough to throw rocks at a dog. What more could we do?”

“You have just described the typical affluent Westerner’s response to a problem. Throwing money—in this case food and sweaters—at it, but not solving the fundamentals!” Stephen retorted.

“What would satisfy you?” I said. “Here we are, a group of New Zealanders, Swiss, Americans, and Japanese who have never met before and who are at the apex of one of the most powerful experiences of our lives. Some years the pass is so bad no one gets over it. What right does an almost naked pilgrim who chooses the wrong trail have to disrupt our lives? Even the Sherpas had no interest in risking the trip to help him beyond a certain point.”

Stephen calmly rebutted, “I wonder what the Sherpas would have done if the sadhu had been a well-dressed Nepali, or what the Japanese would have done if the sadhu had been a well-dressed Asian, or what you would have done, Buzz, if the sadhu had been a well-dressed Western woman?”

“Where, in your opinion,” I asked instead, “is the limit of our responsibility in a situation like this? We had our own well-being to worry about. Our Sherpa guides were
unwilling to jeopardize us or the porters for the sadhu. No one else on the mountain was willing to commit himself beyond certain self-imposed limits.”

Stephen said, “As individual Christians or people with a Western ethical tradition, we can fulfill our obligations in such a situation only if (1) the sadhu dies in our care, (2) the sadhu demonstrates to us that he could undertake the two-day walk down to the village, or (3) we carry the sadhu for two days down to the village and convince someone there to take care of him.”

“Leaving the sadhu in the sun with food and clothing, while he demonstrated hand-eye coordination by throwing a rock at a dog, comes close to fulfilling items one and two,” I answered. “And it wouldn’t have made sense to take him to the village where the people appeared to be far less caring than the Sherpas, so the third condition is impractical. Are you really saying that, no matter what the implications, we should, at the drop of a hat, have changed our entire plan?”

The Individual vs. the Group Ethic

Despite my arguments, I felt and continue to feel guilt about the sadhu. I had literally walked through a classic moral dilemma without fully thinking through the consequences. My excuses for my actions include a high adrenaline flow, a superordinate goal, and a once-in-a-lifetime opportunity—factors in the usual corporate situation, especially when one is under stress.

Real moral dilemmas are ambiguous, and many of us hike right through them, unaware that they exist. When, usually after the fact, someone makes an issue of them, we tend to resent his or her bringing it up. Often, when the full import of what we have done (or not done) falls on us, we dig into a defensive position from which it is very difficult to emerge. In rare circumstances we may contemplate what we have done from inside a prison.

Had we mountaineers been free of physical and mental stress caused by the effort and the high altitude, we might have treated the sadhu differently. Yet isn’t stress the real test of personal and corporate values? The instant decisions executives make under pressure reveal the most about personal and corporate character.

Among the many questions that occur to me when pondering my experience are: What are the practical limits of moral imagination and vision? Is there a collective or institutional ethic beyond the ethics of the individual? At what level of effort or commitment can one discharge one’s ethical responsibilities?

Not every ethical dilemma has a right solution. Reasonable people often disagree; otherwise there would be no dilemma. In a business context, however, it is essential that managers agree on a process for dealing with dilemmas.

The sadhu experience offers an interesting parallel to business situations. An immediate response was mandatory. Failure to act was a decision in itself. Up on the mountain we could not resign and submit our résumé to a headhunter. In contrast to philosophy, business involves action and implementation—getting things done. Managers must come up with answers to problems based on what they see and what they allow to influence their decision-making processes. On the mountain, none of us but Stephen realized the true dimensions of the situation we were facing.

One of our problems was that as a group we had no process for developing a consensus. We had no sense of purpose or plan. The difficulties of dealing with the sadhu were so complex that no one person could handle it. Because it did not have a set of preconditions that could guide its action to an acceptable resolution, the group reacted instinctively as individuals. The cross-cultural nature of the group added a further layer of complexity. We had no leader with whom we could all identify and in whose purpose
we believed. Only Stephen was willing to take charge, but he could not gain adequate support to care for the sadhu.

Some organizations do have a value system that transcends the personal values of the managers. Such values, which go beyond profitability, are usually revealed when the organization is under stress. People throughout the organization generally accept its values, which, because they are not presented as a rigid list of commandments, may be somewhat ambiguous. The stories people tell, rather than printed materials, transmit these conceptions of what is proper behavior.

For twenty years I have been exposed at senior levels to a variety of corporations and organizations. It is amazing how quickly an outsider can sense the tone and style of an organization and the degree of tolerated openness and freedom to challenge management. Organizations that do not have a heritage of mutually accepted, shared values tend to become unhinged during stress, with each individual bailing out for himself. In the great takeover battles we have witnessed during past years, companies that had strong cultures drew the wagons around them and fought it out, while other companies saw executives, supported by their golden parachutes, bail out of the struggles.

Because corporations and their members are interdependent, for the corporation to be strong the members need to share a preconceived notion of what is correct behavior, a “business ethic,” and think of it as a positive force, not a constraint.

As an investment banker I am continually warned by well-meaning lawyers, clients, and associates to be wary of conflicts of interest. Yet if I were to run away from every difficult situation, I wouldn’t be an effective investment banker. I have to feel my way through conflicts. An effective manager can’t run from risk either; he or she has to confront and deal with risk. To feel “safe” in doing this, managers need the guidelines of an agreed-on process and set of values within the organization.

After my three months in Nepal, I spent three months as an executive-in-residence at both Stanford Business School and the Center for Ethics and Social Policy at the Graduate Theological Union at Berkeley. These six months away from my job gave me time to assimilate twenty years of business experience. My thoughts turned often to the meaning of the leadership role in any large organization. Students at the seminary thought of themselves as antibusiness. But when I questioned them they agreed that they distrusted all large organizations, including the church. They perceived all large organizations as impersonal and opposed to individual values and needs. Yet we all know of organizations where people’s values and beliefs are respected and their expressions encouraged. What makes the difference? Can we identify the difference and, as a result, manage more effectively?

The word “ethics” turns off many and confuses more. Yet the notions of shared values and an agreed-on process for dealing with adversity and change—what many people mean when they talk about corporate culture—seem to be at the heart of the ethical issue. People who are in touch with their own core beliefs and the beliefs of others and are sustained by them can be more comfortable living on the cutting edge. At times, taking a tough line or a decisive stand in a muddle of ambiguity is the only ethical thing to do. If a manager is indecisive and spends time trying to figure out the “good” thing to do, the enterprise may be lost.

Business ethics, then, has to do with the authenticity and integrity of the enterprise. To be ethical is to follow the business as well as the cultural goals of the corporation, its owners, its employees, and its customers. Those who cannot serve the corporate vision are not authentic business people and, therefore, are not ethical in the business sense.

At this stage of my own business experience I have a strong interest in organizational behavior. Sociologists are keenly studying what they call corporate stories, legends, and heroes as a way organizations have of transmitting the value system. Corporations such as Arco have even hired consultants to perform an audit of their corporate culture. In a company, the leader is the person who understands, interprets, and manages the
corporate value system. Effective managers are then action-oriented people who resolve conflict, are tolerant of ambiguity, stress, and change, and have a strong sense of purpose for themselves and their organizations.

If all this is true, I wonder about the role of the professional manager who moves from company to company. How can he or she quickly absorb the values and culture of different organizations? Or is there, indeed, an art of management that is totally portable? Assuming such fungible managers do exist, is it proper for them to manipulate the values of others?

What would have happened had Stephen and I carried the sadhu for two days back to the village and become involved with the villagers in his care? In four trips to Nepal my most interesting experiences occurred in 1975 when I lived in a Sherpa home in the Khumbu for five days recovering from altitude sickness. The high point of Stephen’s trip was an invitation to participate in a family funeral ceremony in Manang. Neither experience had to do with climbing the high passes of the Himalayas. Why were we so reluctant to try the lower path, the ambiguous trail? Perhaps because we did not have a leader who could reveal the greater purpose of the trip to us.

Why didn’t Stephen with his moral vision opt to take the sadhu under his personal care? The answer is because, in part, Stephen was hard-stressed physically himself, and because, in part, without some support system that involved our involuntary and episodic community on the mountain, it was beyond his individual capacity to do so.

I see the current interest in corporate culture and corporate value systems as a positive response to Stephen’s pessimism about the decline of the role of the individual in large organizations. Individuals who operate from a thoughtful set of personal values provide the foundation of a corporate culture. A corporate tradition that encourages freedom of inquiry, supports personal values, and reinforces a focused sense of direction can fulfill the need for individuality along with the prosperity and success of the group. Without such corporate support, the individual is lost.

That is the lesson of the sadhu. In a complex corporate situation, the individual requires or deserves the support of the group. If people cannot find such support from their organization, they don’t know how to act. If such support is forthcoming, a person has a stake in the success of the group, and can add much to the process of establishing and maintaining a corporate culture. It is management’s challenge to be sensitive to individual needs, to shape them, and to direct and focus them for the benefit of the group as a whole.

For each of us the sadhu lives. Should we stop what we are doing and comfort him; or should we keep trudging up toward the high pass? Should I pause to help the derelict I pass on the street each night as I walk by the Yale Club en route to Grand Central Station? Am I his brother? What is the nature of our responsibility if we consider ourselves to be ethical persons? Perhaps it is to change the values of the group so that it can, with all its resources, take the other road.

Discussion Questions

1. In 2006, the Bowen McCoy phenomenon repeated itself. Forty climbers passed by Briton David Sharp as he lay by the side of the path on an Everest trek. David Sharp died on the mountain. However, the following week, American guide Dan Mazur stayed with Australian Lincoln Hall until help could arrive. Mr. Hall survived, but Mr. Mazur had to forgo his climb and the resulting financial losses from not being able to lead his group to the summit. What questions and analysis might affect the decision processes in these two situations? Some gripping information to think about as you consider the issues: since Sir Edmund Hillary’s initial conquest of Everest in 1953, some 3,000 climbers have made it to the top and 200 have died trying; and the cost of a climb is $60,000. Do you have some thoughts on your
Reading 1.3

What Are Ethics? From Line-Cutting to Kant

The temptation is remarkable. The run is long. The body screams, “No more!” So, when some runners in the New York City Marathon hit the Queensboro Bridge temptation sets in and, rather than finishing the last 10 miles through Harlem and the Bronx, they hop a ride on the subway and head toward the finish line at Central Park. A total of 46 runners used the subway solution to finish the race in the 2008 New York City Marathon. We look at this conduct and react, “That is REALLY unfair.” Others, particularly the 46, respond, “So I skipped a few boroughs. I didn’t do anything illegal.” That’s where ethics come in; ethics apply where there are no laws but our universal reaction is, “It just doesn’t seem right.”

We all don’t run marathons (or run partial marathons), but we do see ethical issues and lapses each day. When the revelations about golf superstar Tiger Woods’s marital infidelity slowly and painfully dribbled out in the media, the result was not an arrest but our reaction of dismay for the unfairness of his conduct and the false impression his public/endorsement persona left that was inconsistent with his private behavior. We feel something’s not right, but there is not always a criminal wrong or even a punishment. Phoebe Prince, an Irish immigrant attending South Hadley High School in Massachusetts, committed suicide on January 14, 2010, after a lengthy period of bullying by a clique of five popular students. The district attorney has cobbled together some criminal charges against the five taunters but the criminal case is much more difficult to make than the ethical case against the five for interpersonal abuse. We look at the tragedy and wonder why the five did not curb their own conduct? That idea of self-policing, of stopping ourselves when we are hurting others, even though our conduct does not violate a law, is the self-restraint that ethics brings.

We are probably unanimous in our conclusion that those in the examples cited all behaved unethically. We may not be able to zero in on what bothers us about their conduct, but we know an ethics violation, or an ethical breach, when we see one.

But what is ethics? What do we mean when we say that someone has acted unethically? Ethical standards are not the standards of the law. In fact, they are a higher standard. A great many philosophers have gone round and round trying to define ethics and debated the great ethical dilemmas of their time and ours. They have debated everything from the sources of authority on what is right and what is wrong to finding the answers to ethical dilemmas. An understanding of their language and views might help you to explain what exactly you are studying and can also provide you with insights as you study the cases about personal and business ethics. Ethical theories have been described and evolved as a means for applying logic and analysis to ethical dilemmas. The theories provide us with ways of looking at issues so that we are not limited to concluding, “I think. . . .” The theories provide the means for you to approach a dilemma to determine why you think as you do, whether you have missed some issues and facts in reaching your conclusion, and if there are others with different views who have points that require further analysis.
Normative Standards as Ethics

Sometimes referred to as normative standards in philosophy, ethical standards are the generally accepted rules of conduct that govern society. Ethical rules are both standards and expectations for behavior, and we have developed them for nearly all aspects of life. For example, no statute in any state makes it a crime for someone to cut in line in order to save the waiting time involved by going to the end of the line. But we all view those who “take cuts in line” with disdain. We sneer at those cars that sneak along the side of the road to get around a line of traffic as we sit and wait our turn. We resent those who trample up to the cash register in front of us, ignoring the fact that we were there first and that our time is valuable too.

If you have ever resented a line-cutter, then you understand ethics and have applied ethical standards in life. Waiting your turn in line is an expectation society has. “Waiting your turn” is not an ordinance, a statute, or even a federal regulation. “Waiting your turn” is an age-old principle developed because it was fair to proceed with the first person in line being the first to be served. “Waiting your turn” exists because when there are large groups waiting for the same road, theater tickets, or fast food at noon in a busy downtown area, we found that lines ensured order and that waiting your turn was a just way of allocating the limited space and time allotted for the movie tickets, the traffic, or the food. “Waiting your turn” is an expected but unwritten behavior that plays a critical role in an orderly society.

So it is with ethics. Ethics consists of those unwritten rules we have developed for our interactions with each other. These unwritten rules govern us when we are sharing resources or honoring contracts. “Waiting your turn” is a higher standard than the laws that are passed to maintain order. Those laws apply when physical force or threats are used to push to the front of the line. Assault, battery, and threats are forms of criminal conduct for which the offender can be prosecuted. But these laws do not address the high school taunters who make life miserable for the less popular. In fact, trying to make a crime out of these too-cruel interactions in the teen years often finds the courts ruling that the statute is too vague. But ethical standards do come in to fill that gap. The stealthy line-cutter who simply sneaks to the front, perhaps using a friend and a conversation as a decoy for edging into the front, breaks no laws but does offend our notions of fairness and justice. One individual put him or herself above others and took advantage of their time and too-good natures.

Because line-cutters violate the basic procedures and unwritten rules for line formation and order, they have committed an ethical breach. Ethics consists of standards and norms for behavior that are beyond laws and legal rights. We don’t put line-cutters in jail, but we do refer to them as unethical. There are other examples of unethical behavior that carry no legal penalty. If a married person commits adultery, no one has committed a crime, but the adulterer has broken a trust with his or her spouse. We do not put adulterers in jail, but we do label their conduct with adjectives such as unfaithful and even use a lay term to describe adultery: cheating.

Speaking of cheating, looking at someone else’s paper during an exam is not a criminal violation. You may be sanctioned by your professor and there may be penalties imposed by your college, but you will not be prosecuted by the county attorney for cheating. Your conduct was unethical because you did not earn your standing and grade under the same set of rules applied to the other students. Just like the line-cutter, your conduct is not fair to those who spent their time studying. Your cheating is unjust because you are getting ahead using someone else’s work.

In these examples of line-cutters, adulterers, and exam cheaters, there are certain common adjectives that come to our minds: “That’s unfair!” “That was dishonest!” and “That was unjust!” You have just defined ethics for yourself. Ethics is more than just common,
or normative, standards of behavior. Ethics is honesty, fairness, and justice. The principles of ethics, when honored, ensure that the playing field is level, that we win by using our own work and ideas, and that we are honest and fair in our interactions with each other, whether personally or in business. However, there are other ways of defining ethical standards beyond just the normative tests of what most people “feel” is the right thing to do.

**Divine Command Theory**

The Divine Command Theory is one in which the resolution of dilemmas is based upon religious beliefs. Ethical dilemmas are resolved according to tenets of a faith, such as the Ten Commandments for the Jewish and Christian faiths. Central to this theory is that decisions in ethical dilemmas are made on the basis of guidance from a divine being. In some countries the Divine Command Theory has influenced the law, as in some Muslim nations in which adultery is not only unethical but also illegal and sometimes punishable by death. In other countries, the concept of natural law runs in parallel with the Divine Command Theory. Natural law proposes that there are certain rights and conduct controlled by God, and that no matter what a society does, it should not drift from those tenets. For example, in the United States, the Declaration of Independence relied on the notion of natural law, stating that we had rights because they were given to us by our Creator.

**Ethical Egoism Theory: Ayn Rand and Atlas**

Ethical Egoism holds that we all act in our own self-interest and that all of us should limit our judgment to our own ethical egos and not interfere with the exercise of ethical egoism by others. This view holds that everything is determined by self-interest. We act as we do and decide to behave as we do because we have determined that it is in our own self-interest.

One philosopher who believed in ethical egoism was the novelist Ayn Rand, who wrote books about business and business leaders’ decisions in ethical dilemmas, such as *The Fountainhead* and *Atlas Shrugged*. These two famous books made Ms. Rand’s point about ethical dilemmas: the world would be better if we did not feel so guilty about the choices we make in ethical dilemmas and just acknowledged that it is all self-interest. Ms. Rand, as an ethical egoist, would maintain order by putting in place the necessary legal protections so that we did not harm each other.

**“Hobbesian” Self-Interest and Government**

Ms. Rand subscribed to the school of thought of philosopher Thomas Hobbes, who also believed that ethical egoism was the central factor in human decisions. Hobbes also warned that there would be chaos because of ethical egoism if we did not have laws in place to control that terrible drive of self-interest. Hobbes felt we needed great power in government to control ethical egoism.

**Adam Smith, Self-Interest, and Moral Sentiments**

Although he too believed that humans act in their own self-interest, and so was a bit of an ethical egoist, Adam Smith, a philosopher and an economist, also maintained that humans define self-interest differently from the selfishness theory that Hobbes and Rand feared would consume the world if not checked by legal safeguards. Adam Smith wrote, in *The Theory of the Moral Sentiments*, that humans are rational and understand that, for example, fraud is in no one’s self-interest—not even that of the perpetrator, who does benefit temporarily until, as in the case of so many executives today, federal and
state officials come calling with subpoenas and indictments. (For an excerpt from Adam Smith’s *Moral Sentiments*, see Reading 8.4.) That is, many believe that they can lie in business transactions and get ahead. Adam Smith argues that although many can and do lie to close a deal or get ahead, they cannot continue that pattern of selfish behavior because just one or two times of treating others this way results in a business community spreading the word: don’t do business with them because they cannot be trusted. The result is that they are shunned from doing business at least for a time, if not forever. In other words, Smith believed that there was some force of long-term self-interest that keeps businesses running ethically and that chaos only results in limited markets for limited periods as one or two rotten apples use their Ethical Egoism in a selfish, rather than self-interest, sense to their own temporary advantage.

**The Utilitarian Theory: Bentham and Mill**

Philosophers Jeremy Bentham and John Stuart Mill moved to the opposite end of ethical egoism and argued that resolution of ethical dilemmas requires a balancing effort in which we minimize the harms that result from a decision even as we maximize the benefits. Mill is known for his *greatest happiness principle*, which provides that we should resolve ethical dilemmas by bringing the greatest good to the greatest number of people. There will always be a few disgruntled souls in every ethical dilemma solution, so we just do the most good that we can.

Some of the issues to which we have applied utilitarianism include those that involve some form of rationing of resources in order to provide for all, such as with providing universal health care even though some individuals may not be able to obtain advanced treatments in the interest of providing some health care for all. There is a constant balancing of the interests of the most good for the greatest number when the interests of protecting the environment are weighed against the need for electricity, cars, and factories. Utilitarianism is a theory of balancing that requires us to look at the impact of our proposed solutions to ethical dilemmas from the viewpoints of all those who are affected and try to do the greatest good for the greatest number.

**The Categorical Imperative and Immanuel Kant**

Philosopher Immanuel Kant’s theories are complex, but he is a respecter of persons. That is, Kant does not allow any resolution of an ethical dilemma in which human beings are used as a means by which others obtain benefits. That might sound confusing, so Kant’s theory reduced to simplest terms is that you cannot use others in a way that gives you a one-sided benefit. Everyone must operate under the same usage rules. In Kant’s words, “One ought only to act such that the principle of one’s act could become a universal law of human action in a world in which one would hope to live.” Ask yourself this question: If you hit a car in a parking lot and damaged it but you could be guaranteed that no one saw you do it, would you leave a note on the other car with contact information? If you answered, “No, because that’s happened to me 12 times before and no one left me a note,” then you are unhappy with universal behaviors but are unwilling to commit to universal standards of honesty and disclosure to remedy those behaviors.

Philosophers are not the easiest folks to reason along with, so an illustration will help us grasp their deep thoughts. For example, there are those who find it unethical to have workers in developing nations labor in garment sweatshops for pennies per hour. The pennies-per-hour wage seems unjust to them. However, suppose the company was operating under one of its universal principles: Always pay a fair wage to those who work for it. A “fair wage” in that country might be pennies, and the company owner could argue, “I would work for that wage if I lived in that country.” The company owner could also
argue, “But, if I lived in the United States, I would not work for that wage, would require a much higher wage, and would want benefits, and we do provide that to all of our U.S. workers.” The employer applies the same standard, but the wages are different.

The company has developed its own ethical standard that is universally applicable, and those who own the company could live with it if it were applied to them, but context is everything under the categorical imperative. The basic question is, are you comfortable living in a world operating under the standards you have established, or would you deem them unfair or unjust?

There is one more part to Kant’s theory: you not only have to be fair but also have to want to do it for all the right reasons. Self-interest was not a big seller with Kant, and he wants universal principles adopted with all goodwill and pureness of heart. So, to not engage in fraud in business because you don’t want to get caught is not a sufficient basis for a rule against fraud. Kant wants you to adopt and accept these ethical standards because you don’t want to use other people as a means to your enrichment at their expense.

The Contractarians and Justice

Blame philosophers John Locke and John Rawls for this theory, sometimes called the theory of justice and sometimes referred to as the social contract. Kant’s flaw, according to this one modern and one not-so-modern philosopher (Rawls is from the twentieth century, and Locke from the seventeenth), is that he assumed we could all have a meeting of the minds on what were the good rules for society. Locke and Rawls preferred just putting the rules into place via a social contract that is created under circumstances in which we reflect and imagine what it would be like if we had no rules or law at all. If we started with a blank slate, or tabula rasa as these philosophers would say, rational people would agree—perhaps in their own self-interest, or perhaps to be fair—that certain universal rules must apply. Rational people, thinking through the results and consequences if there were not rules, would develop rules such as “Don’t take my property without my permission” and “I would like the same type of court proceeding that rich people have even if I am not so rich.”

Locke and Rawls have their grounding in other schools of thought, such as natural law and utilitarianism, but their solution is provided by having those in the midst of a dilemma work to imagine not only that there are no existing rules but also that they don’t know how they will be affected by the outcome of the decision, that is, which side they are on in the dilemma. With those constraints, Locke and Rawls argue, we would always choose the fairest and most equitable resolution of the dilemma. The idea of Locke and Rawls is to have us step back from the emotion of the moment and make universal principles that will survive the test of time.

Rights Theory

The Rights Theory is also known as an Entitlement Theory and is one of the more modern theories of ethics, as philosophical theories go. Robert Nozick is the key modern-day philosopher on this theory, which has two big elements: (1) everyone has a set of rights, and (2) it’s up to the governments to protect those rights. Under this big umbrella of ethical theory, we have the protection of human rights that covers issues such as sweatshops, abortion, slavery, property ownership and use, justice (as in court processes), animal rights, privacy, and euthanasia. Nozick’s school of thought faces head-on all the controversial and emotional issues of ethics including everything from human dignity in suffering to third-trimester abortions. Nozick hits the issues head-on, but not always with resolutions because governments protecting those rights are put into place by Egoists, Kantians, and Divine Command Theory followers.
A utilitarian would resolve an ethical dilemma differently from a Nozick follower. Think about the following example. The FBI has just arrested a terrorist who is clearly a leader in a movement that plans to plant bombs in the nation’s trains, subways, and airports. This individual has significant information about upcoming planned attacks but refuses to speak. A utilitarian would want the greatest good for the greatest number and would feel that harsh interrogation methods would be justified to save thousands of lives. However, Nozick might balk at such a proposal because the captured terrorist’s human rights are violated. These ideological differences enhance our ability to see issues from a 360-degree perspective as we analyze them.

Moral Relativists

Moral relativists believe in time-and-place ethics. Arson is not always wrong in their book. If you live in a neighborhood in which drug dealers are operating a crystal meth lab or crack house, committing arson to drive away the drug dealers is ethically justified. If you are a parent and your child is starving, stealing a loaf of bread is ethically correct. The proper resolution to ethical dilemmas is based upon weighing the competing factors at the moment and then making a determination to take the lesser of the evils as the resolution. Moral Relativists do not believe in absolute rules, virtue ethics, or even the social contract. Their beliefs center on the pressure of the moment and whether the pressure justifies the action taken. Former Enron Chief Financial Officer Andrew Fastow, in his testimony against his former bosses at their criminal trial for fraud, said, “I thought I was being a hero for Enron. At the time, I thought I was helping myself and helping Enron to make its numbers” (Andrew Fastow, trial testimony, March 7, 2006). In classic moral relativist mode, a little fraud to help the company survive was not ethically problematic at the time for Mr. Fastow. In hindsight, Mr. Fastow would also comment, “I lost my moral compass.”

Back to Plato and Aristotle: Virtue Ethics

Although it seems odd that Aristotle and Plato are last in the list of theorists, there is reason to this ethical madness. Aristotle and Plato taught that solving ethical dilemmas requires training, that individuals solve ethical dilemmas when they develop and nurture a set of virtues. Aristotle cultivated virtue in his students and encouraged them to solve ethical dilemmas using those virtues that he had integrated into their thoughts. One of the purposes of this book is to help you develop a set of virtues that can serve as a guide in making both personal and business decisions. Think of your credo as the foundation for those virtues.

Solomon’s Virtues

Some modern philosophers have embraced this notion of virtue ethics and have developed lists of what constitutes a virtuous businessperson. The following list of virtue ethics was developed by the late Professor Robert Solomon:

<table>
<thead>
<tr>
<th>Virtue Standard</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ability</td>
<td>Being dependable and competent</td>
</tr>
<tr>
<td>Acceptance</td>
<td>Making the best of a bad situation</td>
</tr>
<tr>
<td>Amiability</td>
<td>Fostering agreeable social contexts</td>
</tr>
<tr>
<td>Virtue Standard</td>
<td>Definition</td>
</tr>
<tr>
<td>--------------------------</td>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td>Articulateness</td>
<td>Ability to make and defend one’s case</td>
</tr>
<tr>
<td>Attentiveness</td>
<td>Listening and understanding</td>
</tr>
<tr>
<td>Autonomy</td>
<td>Having a personal identity</td>
</tr>
<tr>
<td>Caring</td>
<td>Worrying about the well-being of others despite power</td>
</tr>
<tr>
<td>Charisma</td>
<td>Inspiring others</td>
</tr>
<tr>
<td>Compassion</td>
<td>Sympathetic</td>
</tr>
<tr>
<td>Coolheadedness</td>
<td>Retaining control and reasonableness in heated situations</td>
</tr>
<tr>
<td>Courage</td>
<td>Doing the right thing despite the cost</td>
</tr>
<tr>
<td>Determination</td>
<td>Seeing a task through to completion</td>
</tr>
<tr>
<td>Fairness</td>
<td>Giving others their due; creating harmony</td>
</tr>
<tr>
<td>Generosity</td>
<td>Sharing; enhancing others’ well-being</td>
</tr>
<tr>
<td>Graciousness</td>
<td>Establishing a congenial environment</td>
</tr>
<tr>
<td>Gratitude</td>
<td>Giving proper credit</td>
</tr>
<tr>
<td>Heroism</td>
<td>Doing the right thing despite the consequences</td>
</tr>
<tr>
<td>Honesty</td>
<td>Telling the truth; not lying</td>
</tr>
<tr>
<td>Humility</td>
<td>Giving proper credit</td>
</tr>
<tr>
<td>Humor</td>
<td>Bringing relief; making the world better</td>
</tr>
<tr>
<td>Independence</td>
<td>Getting things done despite bureaucracy</td>
</tr>
<tr>
<td>Integrity</td>
<td>Being a model of trustworthiness</td>
</tr>
<tr>
<td>Justice</td>
<td>Treating others fairly</td>
</tr>
<tr>
<td>Loyalty</td>
<td>Working for the well-being of an organization</td>
</tr>
<tr>
<td>Pride</td>
<td>Being admired by others</td>
</tr>
<tr>
<td>Prudence</td>
<td>Minimizing company and personal losses</td>
</tr>
<tr>
<td>Responsibility</td>
<td>Doing what it takes to do the right thing</td>
</tr>
<tr>
<td>Saintliness</td>
<td>Approaching the ideal in behavior</td>
</tr>
<tr>
<td>Shame (capable of)</td>
<td>Regaining acceptance after wrong behavior</td>
</tr>
<tr>
<td>Spirit</td>
<td>Appreciating a larger picture in situations</td>
</tr>
<tr>
<td>Toughness</td>
<td>Maintaining one’s position</td>
</tr>
<tr>
<td>Trust</td>
<td>Dependable</td>
</tr>
<tr>
<td>Trustworthiness</td>
<td>Fulfilling one’s responsibilities</td>
</tr>
<tr>
<td>Wittiness</td>
<td>Lightening the conversation when warranted</td>
</tr>
<tr>
<td>Zeal</td>
<td>Getting the job done right; enthusiasm¹</td>
</tr>
</tbody>
</table>

The list offers a tall order because these are difficult traits to develop and keep. But, as you study the companies, issues, and cases, you will begin to understand the mighty role that these virtues play in seeing the ethical issues, discussing them from all viewpoints, and finding a resolution that enable businesses to survive over the long term.

**Discussion Questions**

1. Your friend, spouse, child, or parent needs a specialized medical treatment. Without the specialized treatment, they cannot survive. You are able to get that treatment for them, but the cost is $6,800. You don’t have $6,800, but you hold a job in the Department of Motor Vehicles. As part of your duties there, you process the checks, money orders, and other forms of payment sent in for vehicle registration. You could endorse these items, cash them, and have those funds. You feel that because you open the mail with the checks and money orders, no one will be able to discover the true amounts of funds coming in, and you can credit the vehicle owners’ accounts so that their registrations are renewed. Under the various schools of thought on ethics, evaluate whether the embezzlement would be justified.

2. What is the difference between virtue ethics and utilitarianism?

3. In the movie Changing Lanes, Ben Affleck plays a young lawyer who is anxious to become a senior partner in a law firm in which one of the senior partners is his father-in-law, played by the late Sidney Pollack. Affleck discovers that his father-in-law has embezzled from clients, forged documents, and committed perjury, all felonies and all certainly grounds for disbarment. Affleck finally confronts Pollack and asks, “How do you live with yourself?” Pollack responds that he did indeed forge, embezzle, and perjure himself, but with the money that he made he is one of the city’s greatest philanthropists. “At the end of the day, if I’ve done more good over here than bad in making the money, I’m happy.” Under which ethical theories would you place Affleck and Pollack’s ethical posture?

4. Could businesses use moral relativism to justify false financial reports? For example, suppose that the CFO says, “I did fudge on some of the numbers in our financial reports, but that kept 6,000 employees from losing their jobs.” What problems do you see with moral relativism in this situation?

**Reading 1.4**

*The Types of Ethical Dilemmas: From Truth to Honesty to Conflicts*

The following twelve categories were developed and listed in *Exchange*, the magazine of the Brigham Young University School of Business.

**Taking Things That Don’t Belong to You**

Everything from the unauthorized use of the Pitney Bowes postage meter at your office for mailing personal letters to exaggerations on travel expenses belongs in this category of ethical violations. Using the copy machine at work for your personal copies is another simple example of the type of conduct that fits into this category. Regardless of size or motivation, unauthorized use of someone else’s property or taking property under false pretenses still means taking something that does not belong to you. A chief financial officer of a large electric utility reported that after taking a cab from LaGuardia International Airport to his midtown Manhattan hotel, he asked for a receipt. The cab driver handed him a full book of blank receipts and drove away. Apparently the problem of accurately reporting travel expenses involves more than just employees.
Saying Things You Know Are Not True
This category deals with the virtue of honesty. Assume you are trying to sell your car, one in which you had an accident, but which you have repaired. If the potential buyer asks if the car has been in an accident and you reply, “No,” then you have given false information. If you take credit for someone else’s idea or work, then you have, by your conduct, said something that is not true. If you do not give credit to others who have given you ideas or helped with a project, then you have not been forthright. If, in evaluating your team members on a school project, you certify that all carried their workload when, in fact, one of your team members was a real slacker, you have said something that was not true. If you do not disclose an accident that you had in the last year on an insurance application, you have not told the truth. If you state that you have a college degree on your résumé, but have not yet graduated, you have committed an ethical breach. If, in filling out a credit application, you put the salary you have when your employer announced a 25% pay cut beginning next quarter, you have not told the truth.

Giving or Allowing False Impressions
This category of ethical breach is the legal technicality category. What you have said is technically the truth, but it does mislead the other side. For example, if your professor asks you, “Did you have a chance to read the assigned ethics cases?” Even if you had not read the cases, you could answer a “Yes!” and be technically correct. You had “a chance” to read the cases; but you did not read them. The answer is not a falsehood, because you may have had plenty of chances to read the cases, but you didn’t read the cases.

If you were to stand by silently while a coworker was blamed for something you did, you would leave a false impression. You haven’t lied, but you allowed an impression of false blame to continue. Many offers that you receive in the mail have envelopes that make them seem as if they came from the Social Security Administration or another federal agency. The desired effect is to mislead those who receive the envelopes into trusting the company or providing information. That effect works, as attorneys general verify through their cases of fraud brought on behalf of senior citizens who have been misled by this false impression method.

A landscaping company that places decorative rocks in a drawing and bid for a customer contract proposal has created the impression that the rocks are included in the bid. If, after the customer signs the contract the landscaper reveals that the rocks require additional payment, the customer has been misled with a false impression that came from the drawing including the rocks.

Buying Influence or Engaging in Conflict of Interest
This category finds someone in the position of conflicting loyalties. An officer of a corporation should not be entering into contracts between his company and a company that he has created as part of a sideline of work. The officer is conflicted between his duty to negotiate the best contract and price for his corporation and his interest as a business owner in maximizing his profits. In his role as an officer, he wants the most he can get at the lowest price. In his role as a business owner, he wants the highest price he can get with the fewest demands. The interests are in conflict, and this category of ethical breach dictates that those conflicts be resolved or avoided.

Conflicts of interest need not be as direct as self-dealing by an officer of the company. For example, there would be a conflict of interest if a company awarded a construction contract to a firm owned by the father of the state attorney general while the state attorney general’s office is investigating that company. A county administrator has a conflict
of interest by accepting paid travel from contractors who are interested in bidding on the stadium project. Certainly, it is a good idea for the administrator to see the stadiums around the country and get an idea of the contractors’ quality of work. But, the county should pay for those site visits, not the contractors. The administrator’s job as a county employee is to hire the most qualified contractor at the best price. However, the benefits of paid travel would and could vary and contractors could use those site visits and travel perks to influence the decision on the award of the county contract for the stadium. Their interests in obtaining the contract are at odds with the county’s interest in seeking the best stadium, not the best travel perks for the administrator. The administrator’s loyalties to the county and the accommodating contractors are in conflict.

Those who are involved in this conflict-of-interest situations often protest, “But I would never allow that to influence me.” The ethical violation is the conflict. Whether the conflict can or will influence those it touches is not the issue, for neither party can prove conclusively that a quid pro quo was not intended. The possibility exists, and it creates suspicion. Conflicts of interest are not difficult. They are managed in one of two ways: don’t do it, or disclose it.

**Hiding or Divulging Information**

Taking your firm’s product development or trade secrets to a new place of employment is the ethical breach of divulging proprietary information. Failing to disclose the results of medical studies that indicate your firm’s new drug has significant side effects is the ethical breach of hiding information that the product could be harmful to purchasers. A bank that sells financial and marketing information about its customers without their knowledge or permission has divulged information that should be kept confidential.

**Taking Unfair Advantage**

Many consumer protection laws exist because so many businesses took unfair advantage of those who were not educated or were unable to discern the nuances of complex contracts. Credit disclosure requirements, truth-in-lending provisions, and new regulations on auto leasing all resulted because businesses misled consumers who could not easily follow the jargon of long and complex agreements. *USA Today* illustrated the fairness issues with a riddle. Suppose you have no cash and need to buy $100 worth of groceries. Which would cost you more?

- a. Taking out a payday loan with a 450 percent APR
- b. Overdrawing your debit card and paying the $27 fee

The answer is b because the $27 fee on your debit card would be equal to a 704 percent interest rate. (Assuming a 14-day repayment period and an average $17.25 fee per $100 for a payday loan).\(^2\) Disclosures of the real costs of debt have been on a steady increase since 1970 as lenders and credit card companies found ways to charge fees that were not always clear from the lending and card agreements. Late fees often exceeded the unpaid card balance. While these fees were increasing, companies were also shortening the billing cycle so that customers had less time to pay. Cutoff times for payment at 9:00 AM were not disclosed as 9 AM, which meant that the customer had to pay a day earlier because mail does not arrive by 9 AM. These fees and practices were, for nearly a decade, an ethical issue of taking unfair advantage. Because credit card companies did not take care of the issues of unfairness, these practices are now prohibited or regulated. Under the Credit Card Accountability and Disclosure Act of 2010 (CARD), all of these practices are now regulated by law.

\(^2\)Kathy Chu, “Anger at Overdraft Fees Gets Hotter, Bigger and Louder,” USA Today, September 29, 2009, p. 1B.
Committing Acts of Personal Decadence

Although many argue about the ethical notion of an employee’s right to privacy, it has become increasingly clear that personal conduct outside the job can influence performance and company reputation. Personal indiscretions by Tiger Woods affected the brand and reputation of his sponsors, from Accenture to Gatorade. Conduct in our personal lives does have an impact on how well we perform our jobs, including whether we can perform our jobs safely. For example, a company driver must abstain from substance abuse because with alcohol or drugs in his blood, he creates both safety and liability issues for his employer. Even the traditional company Christmas party and picnic have come under scrutiny, as the behavior of employees at, and following, these events has brought harm to others in the form of alcohol-related accidents.

Perpetrating Interpersonal Abuse

A manager who keeps asking an employee for a date not only violates the laws against sexual harassment but also has committed the ethical breach of interpersonal abuse. Interpersonal abuse consists of conduct that is demeaning, unfair, or hostile or involves others so that privacy issues arise. A manager who is verbally abusive to an employee falls into this category. The former CEO of HealthSouth, Richard Scrushy, held what his employees called the “Monday morning beatings.” These were meetings during which managers who had not met their numbers goals were upbraided in front of others and subjected to humiliating criticism. A Merrill Lynch executive who dreaded the chastisement when Merrill did not match Goldman Sachs’ earnings complained, “It got to the point where you didn’t want to be in the office on Goldman earnings days.” A manager correcting an employee’s conduct in front of a customer has not violated any laws, but has humiliated the employee and involved outsiders who have no reason to know of any employee issues. In some cases in this category, there are laws to protect employees from this type of conduct, but we are able to look at this conduct and see the ethical issue as we sum up with, “It’s not fair,” or, “It’s not right.”

Permitting Organizational Abuse

This category covers the way companies treat employees. Many U.S. firms with operations overseas, such as Nike, Levi Strauss, The Gap, and Esprit, have faced questions related to organizational abuse, including the treatment of workers in these companies’ international operations and plants. Child labor, low wages, and overly long work hours all present ethical issues even though the laws of other countries are not violated by these practices. Although a business cannot change the culture of another country, it can perpetuate—or alleviate—organizational abuse through its respect of human rights in its international operations (see Case 5.6).

Violating Rules

Many rules, particularly when the size of an organization leads to bureaucracy and lines of authority, seem burdensome to employees trying to do their jobs. Stanford University experienced difficulties in this area of ethics when it used funds from federal grants for miscellaneous university purposes (see Case 9.10). Questions arose about the propriety of the expenditures, which quite possibly could have been legal under federal regulations in place at the time, but were not within the standards, policies, and guidelines on what were considered appropriate research expenditures. The results were some rather extravagant expenses billed to the federal government as research expenditures. Claiming

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expenses beyond the rules and policies, although not a violation of the law at the time, was an ethical violation that damaged Stanford’s reputation. Although rules can be revised and studied because of problems they create, they should be honored by employees until those changes are made.

Condoning Unethical Actions

In this category, the wrong is actually a failure to report an ethical breach in any of the other categories. What if you witnessed a fellow employee embezzling company funds by forging her signature on a check that was to be voided? Would you report that violation? What if you knew that an officer of your company was giving false testimony in a deposition? Would you speak up and let the court or lawyers know that the testimony is false? Recent studies indicate that over 80 percent of students who see a fellow student cheating would not report the cheating. A winking tolerance of others’ unethical behavior is an ethical breach. Suppose that as a product designer you were aware of a fundamental flaw in your company’s new product—a product predicted to catapult your firm to record earnings. Would you pursue the problem to the point of halting the distribution of the product? Would you disclose what you know to the public if you could not get your company to act?

Balancing Ethical Dilemmas

In these types of situations, there are no right or wrong answers; rather, there are dilemmas to be resolved. For example, Google continues to struggle with its decision to do business in the People’s Republic of China because of known human rights violations by the government there and the government’s censorship of its search engine. Decades earlier, other companies debated doing business in South Africa when that country’s government followed a policy of apartheid. In some respects, the presence of these companies would help by advancing human rights by just affording those who had previously been unable the chance to work or attend school and, certainly, by improving the standard of living for at least some international operations workers. On the other hand, their ability to recruit businesses could help such governments sustain themselves by enabling them to point to economic successes despite human rights violations.

These twelve categories are resources for you to use as you analyze the cases in this book. As you read, think through the twelve categories and determine what ethical breaches have occurred. These categories help you in spotting the ethical issues in each of the cases.

Discussion Questions

1. Why do we have these categories of ethical dilemmas? How is it helpful to have this list?
2. Consider the following situations and determine which of the twelve categories each issue fits into.
   a. PGA golfer Phil Mickelson was scheduled to play in the 2009 Masters Tournament when he learned that his wife Amy had cancer. Mr. Mickelson had sponsors for his participation but felt that he needed to be with his wife and children. He withdrew from the tournament. As you categorize this dilemma be sure to think about the aftermath. Mr. Mickelson did play the 2010 Masters, where his wife Amy made her first public appearance on the 13th hole of the last round. Mr. Mickelson described his win that followed that year as being “for Amy.” Discuss any lessons you can glean about balancing from this experience.
   b. A manager at a bank branch requires those employees who arrive late for work to clean the restrooms at the bank. The branch does have a janitorial service, but the manager’s motto is “If you’re late, the
bathrooms must look great." An employee finds the work of cleaning the bathrooms in her professional clothes demeaning. Which category applies?

c. Jack Walls is the purchasing manager for a small manufacturer. He has decided to award a contract for office supplies to Office Mart. No one knows of Jack's decision yet, but Office Mart is anxious for the business and offers Jack a three-day ski vacation in Telluride, Colorado. Jack would love to take the trip but can't decide if there is an ethics question. Help Jack decide if there is.

3. In November 2008, golfer J. P. Hayes was participating in the PGA Tour's Qualifying Tournament, often called Q-School. Mr. Hayes, then 42, discovered after the second round of play that he had used a Titleist prototype ball for play that day, a ball not approved for PGA play. After his discovery, Mr. Hayes called a PGA official to let him know what had happened. As he suspected, Mr. Hayes was disqualified from Q-School. Achievement at this tournament means a type of automatic right to participate in the PGA's tournaments for the year. Without Q-school status, golfers do not qualify automatically for tournament play and have to hope for getting into tournaments by other means. The difference in earnings for the year for the golfer who does not qualify at Q-School versus the golfer who does is millions. Mr. Hayes said, "I'm kind of at a point in my career where if I have a light year, it might be a good thing. I'm looking forward to playing less and spending more time with my family. It's not the end of the world. It will be fine. It is fine." Classify Mr. Hayes under the ethical schools of thought. Describe his credo.

Reading 1.5

On Rationalizing and Labeling: The Things We Do That Make Us Uncomfortable, but We Do Them Anyway

We often see ethical issues around us, and we understand ethics are important. But we are often reluctant to raise ethical issues, or, sometimes, we use strategies to avoid facing ethical issues. These strategies help salve our consciences. This section covers the strategies: rationalizations and avoidance techniques we use to avoid facing ethical issues.

Call It by a Different Name: "Way Harsh" Labels vs. Warm Language

If we can attach a lovely label to what we are doing, we won't have to face the ethical issue. For example, some people, including U.S. Justice Department lawyers, refer to the downloading of music from the Internet as copyright infringement. However, many who download music assure us that it is really just the lovely practice of peer-to-peer file sharing. How can something that sounds so generous be an ethical issue? Yet there is an ethical issue because copying copyrighted music without permission is taking something that does not belong to you or taking unfair advantage.

When baseball star Roger Clemens was confronted with lying about steroid use, he denied it and said that he did not lie but rather, "I misremembered." When Connecticut Attorney General Richard Blumenthal was confronted with the fact that he had overstated his military service as being in Vietnam when he served in the Marine Reserves only in the United States, he said, "I misspoke."

The financial practice of juggling numbers in financial statements, sometimes referred to as smoothing earnings, financing engineering, or sometimes just aggressive accounting, is less eloquently known as cooking the books. The latter description helps us to see that we have an ethical issue in the category of telling the truth or not leaving a false impression. But if we call what we are doing earnings management, then we never have to face...
the ethical issue because we are doing something that is finance strategy, not an ethics issue. One investor, when asked what he thought about earnings management, said, “I don’t call it earnings management. I call it lying.” Referring back to the categories helps us to be sure we are facing the issue and not skirting it with a different name.

**Rationalizing Dilemmas Away: “Everybody Else Does It”**

We can feel very comfortable and not have to face an ethical issue if we simply assure ourselves, “Everybody else does it.” We use majority vote as our standard for ethics. A good day-to-day example is “Everybody speeds, and so I speed.” There remains the problem that speeding is still a breach of one of the ethical categories: following the rules. Although you may feel the speed limit is too low or unnecessary, your ethical obligation is to follow those speed limits unless and until you successfully persuade others to change the laws because of your valid points about speed limits. One tool that helps us to overcome the easy slip into this rationalization is to define the set of everybody. Sometimes if we just ask for a list of “everybody,” our reasoning flaw becomes obvious. “There’s no list,” we might hear as a response; “We just know everyone does it.” With the speeding example, defining the set finds you in a group with some of the FBI’s most wanted criminals, such as Timothy McVeigh, the executed Oklahoma City bomber; Ted Bundy, the executed serial murderer; and Warren Jeffs, the polygamist convicted of being an accessory to rape, all of whom ran afoul of traffic laws while they were at large and were caught because they were stopped for what we do as well: minor traffic offenses.

**Rationalizing Dilemmas Away: “If We Don’t Do It, Someone Else Will”**

This rationalization is one businesspeople use as they face tough competition. They are saying, “Someone will do it anyway and make money, so why shouldn’t it be us?” For Halloween 1994, there were O. J. Simpson masks and plastic knives and Nicole Brown Simpson masks and costumes complete with slashes and bloodstains. When Nicole Simpson’s family objected to this violation of the basic standard of decency, a costume shop owner commented that if he didn’t sell the items, someone down the street would. Nothing about the marketing of the costumes was illegal, but the ethical issues surrounding profiting from the brutal murder of a young mother abound.

**Rationalizing Dilemmas Away: “That’s the Way It Has Always Been Done”**

When we hear, “That’s the way it’s always been done,” our innovation feels as well as our ethical radar should be up. We should be asking, “Is there a better way to do this?” Just as “Everybody does it” is not ethical analysis, neither is relying on the past and its standards a process of ethical reasoning. Business practices are not always sound. For example, the field of corporate governance within business ethics has taught for years that a good board for a company has independent directors, that is, directors who are not employed by the company, under consulting contracts with the company, or related to officers of the company. Independent boards were good ethical practice, but many companies resisted because their boards had always been structured a certain way and they would stick to that, saying, “This is the way our board has always looked.” With the collapses of Enron, Adelphia, WorldCom, and HealthSouth and the scandal of substantial officer loans at Tyco, both Congress through the Sarbanes-Oxley (SOX) Act of 2002 and the Securities and Exchange Commission (SEC) through follow-up regulations now mandate an independent corporate board (see Reading 4.11 for a summary of the SOX changes). When board members performed consulting services for their companies, there was a conflict of interest. But everybody was doing it, and it was the way corporations had always been governed. This typical and prevailing practice resulted in lax
corporate boards and company collapses. Unquestioning adherence to a pattern or practice of behavior often indicates an underlying ethical dilemma.

**Rationalizing Dilemmas Away: “We’ll Wait until the Lawyers Tell Us It’s Wrong”**

Many people rely only on the law as their ethical standard, but that reliance means that they have resolved only the legal issue, not the ethical one. Lawyers are trained to provide only the parameters of the law. In many situations, they offer an opinion that is correct in that a company’s conduct does not violate the law. Whether the conduct they have passed judgment on as legal is ethical is a different question. For example, a team of White House lawyers concluded in a memo in March 2003 that international law did not ban torture of prisoners in Iraq because they were technically not prisoners of war. However, when pictures of prisoner abuse at the Abu Ghraib prison in Iraq emerged, the reaction of the public and the world was very different. The ethical analysis, which went beyond interpretation of the law, was that the torture and abuse were wrong, regardless of its compliance with treaty standards. Following the abuse scandal, the U.S. government adopted new standards for interrogation of prisoners. Although the lawyers were perfectly correct in their legal analysis, that legal analysis did not cover the ethical breaches of interpersonal and organizational abuse.

**Rationalizing Dilemmas Away: “It Doesn’t Really Hurt Anyone”**

We often think that our ethical missteps are just small ones that don’t really affect anyone else. We are not thinking through the consequences of our actions when we rationalize rather than analyze ethical issues in this manner. For example, it is probably true that one person who misrepresents her income on a mortgage application is not going to undermine the real estate market. However, if everyone who believes his or her misrepresentation on a mortgage application is singular and isolated, we end up with a great many mortgages in default, a glut of foreclosures, and a collapsed housing market. We lived through these systemic effects beginning in 2007 as the mortgage market collapsed. In analyzing ethical issues, we turn to Kant and other schools of thought and ask, “What if everyone behaved this way? What would the world be like?” Good ethical analysis requires a look at the impact of collective individual behaviors on the system.

When we are the sole rubberneckers on the freeway, traffic remains unaffected. But if everyone rubbernecks, we have a traffic jam. All of us making poor ethical choices would cause significant harm. A man interviewed after he was arrested for defrauding insurance companies through staged auto accidents remarked, “It didn’t really hurt anyone. Insurance companies can afford it.” The second part of his statement is accurate. The insurance companies can afford it—but not without cost to someone else. Such fraud harms all of us because we must pay higher premiums to allow insurers to absorb the costs of investigating and paying for fraudulent claims.

**Rationalizing Dilemmas Away: “The System Is Unfair”**

Somehow an ethical breach doesn’t seem as bad if we feel we are doing it because we have been given an unfair hand. The professor is unreasonable and demanding, so why not buy a term paper from the Internet? Often touted by students as a justification for cheating on exams, this rationalization eases our consciences by telling us we are cheating only to make up for deficiencies in the system. Yet just one person cheating can send ripples through an entire system. The credibility of grades and the institution come into question as students obtain grades through means beyond the system’s standards. If all students cheat, then the grading system is meaningless. We have no way to determine
which students truly have the knowledge base and skills and which ones simply cheated to attain their standing.

**Rationalizing Dilemmas Away: “It’s a Gray Area”**

One of the most popular rationalizations of recent years has been to claim, “Well, business doesn’t have black and white. There’s a great deal of gray.” Sometimes the extent of ethical analysis in a business situation is to merely state, “It’s a gray area,” and the response from the group holding the discussion is “Fine! So long as we’re in the gray area, we’re moving on.” In an interview with *Sports Illustrated*, racecar driver Danica Patrick was asked, “If you could take a performance-enhancing drug and not get caught, would you do it if it allowed you to win Indy?” She responded, “Yeah, it would be like finding a gray area. In motorsports we work in the gray areas a lot. You’re trying to find where the holes are in the rule book.”

However, would those involved in their gray areas change their actions and decisions with the benefit of hindsight or even just more analysis of the issue? There will always be a gray area, but it may be a short-lived strategy. The sophisticated securities that were based on pools of mortgages were easily created, sold, and resold in an unregulated area of the market. But when the mortgages went south, so also did these investments and the companies that had based their strategies for growth on these gray areas (Lehman Brothers and Bear Stearns), and some are struggling to recover (Citigroup). Ethical analysis demands more than being satisfied with, “It’s a gray area.” Does everyone believe it is gray? Why do I want it to be gray? What if the gray area ends?

**Rationalizing Dilemmas Away: “I Was Just Following Orders”**

In many criminal trials and disputes over responsibility and liability, many managers will disclaim their responsibility by stating, “I was just following orders.” In fact, when Lehman Brothers collapsed in 2008 because of its substantial holdings in high-risk mortgage pool instruments, many of its fund managers, who were aware of the risks, said, “I have blood on my hands.” But then they explained the reason they kept selling the toxic securities even though they were aware of the problems—“They made me do it; I don’t have to examine what I did.” Following orders does not excuse us from responsibility, both legally and ethically, for the financial harm to those who purchased those toxic securities.

Judges who preside over the criminal trials of war criminals often remind defendants that an order is not necessarily legal or moral. Good ethical analysis requires us to question or depart from orders when others will be harmed or wronged.

**Rationalizing Dilemmas Away: “We All Don’t Share the Same Ethics”**

This rationalization is used quite frequently in companies with international operations. We often hear, “Well, this is culturally acceptable in other countries.” We need a bit more depth and a great deal more analysis if this rationalization creeps into our discussions. Name one culture where individuals are known to claim, “There is nothing I like better than having a good old-fashioned fraud perpetrated against me,” or, “I really enjoy being physically abused at work.” This rationalization is a failure to acknowledge that there are some common values that demand universal application and consideration as we grapple with our decisions and behaviors around the world. You will never hear anyone, regardless of cultural differences, who says, “Well, we here in _______ readily accept...”

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being swindled.” This rationalization does not take a hard look at the conduct and whether there are indeed some universal values.

Discussion Questions

1. A recent USA Today survey found that 64 percent of patients in hospitals took towels, linens, and other items home with them. Give a list of rationalizations these patients and their families might use that give them comfort in taking the items.

2. One former Lehman Brothers employee whose sales efforts and structuring of securities investments helped lead to the demise of the bank he loved and to an economic unraveling worldwide confessed, “I have blood on my hands.” Many individuals lost their life savings and others lost their retirement funds, but the employee explained that he did what he did because he was ordered to do so. Give some examples from history of how the rationalization of following orders resulted in horrific harm to many.

3. A man has developed a license plate that cannot be photographed by the red light and speeding cameras. When asked how he felt about facilitating drivers in breaking the law, he replied, “I am not the one with my foot to the gas pedal. They are. I make a product they can use.” What rationalization(s) is he using?

4. A parent has instructed his young son not to mention his Uncle Ted’s odd shoes and clothing: “If Uncle Ted asks you how you like his clothes or shoes, just tell him they are very nice.” His son said, “But that’s not the truth, Dad.” The father’s response was, “It’s a white lie and it doesn’t really hurt anyone.” Evaluate the father’s ethical posture.

Reading 1.6

The Slippery Slope, the Blurred Lines, and How We Never Do Just One Thing

In Scott Smith’s book, A Simple Plan, the lead character Hank, his brother Jacob, and a friend Lou come upon a small plane buried in the rural snowdrifts of Ohio. Upon opening the plane’s door they find the decomposing body of the pilot and a duffel bag full of $100 bills in ten-thousand-dollar packets—$3 million total. Initially, Hank tells his brother and Lou not to touch the money so that the police can conduct a proper investigation, but then a plan is hatched. Lou and Jacob want to keep one packet of the money and ask Hank what’s wrong with doing that. Hank scolds them and says, “For starters, it’s stealing.” Hank reminds them that with that much money someone would be looking for it and would know that they had taken a packet. Hank also reminds them that even if he didn’t take a packet he would be an accomplice if Jacob and Lou did.

Lou then proposes a solution: take it all. Hank wisely warns the two they could not spend it because everyone in their small town would know. So, Lou proposes a “simple plan.” They will sit on the money for awhile and when the investigation is over and things have cooled down, they can move away and live on their shares of the money. Again, Hank reminds them that it is stealing. But Jacob calls it by a different name: lost treasure. Hank succumbs. Such an easy thing, simple plan.

But the initial decision was flawed. Whatever its soft label, their decision to walk away with the duffel bag was indeed taking something that did not belong to them. From there, the characters begin a game of whack-a-mole. With each twist and turn they

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7 "Theft a Problem at Hospitals,” USA Today, March 5, 2010, p. 1A.
have to cross another line to cover up their seizure of the duffel bag. There is a lie to the sheriff and the problem of a neighbor seeing them near the plane, and more problems come at them each day. Each new problem requires a resolution that involves more despicably choices. The characters keep slipping, eventually committing murder.

Once you step outside those ethical norms, you do keep going. The proverbial slope becomes more slippery. Professor Dan Ariely of Duke University found that folks who knowingly wore fake designer sunglasses were more than twice as likely to cheat on an unrelated task given to them than those who were not wearing the fake sunglasses.9 Once we have made peace with trademark infringement, we are willing to cross other lines. We just get comfortable with each step.

Discussion Questions

1. Marilee Jones, the former dean of admissions of the Massachusetts Institute of Technology (MIT), resigned after twenty-eight years as an administrator in the admissions office. The dean for undergraduate education received information questioning Ms. Jones’s academic credentials. Her résumé, used when she was hired by MIT, indicated that she had degrees from Albany Medical College, Union College, and Rensselaer Polytechnic Institute. In fact, she had no degrees from any of these schools or from anywhere else. She had attended Rensselaer Polytechnic as a part-time nonmatriculated student during the 1974–75 school year, but the other institutions had no record of any attendance at their schools.

When Ms. Jones arrived at MIT for her entry-level position in 1979, a degree was probably not required. However, she did progress through the ranks of the admissions office, and, in 1997, she was appointed dean of admissions. She explained that she wanted to disclose her lack of degrees at that point but that she had gone on for so long that she did not know how to come clean with the truth. Point to the initial decision, why it was flawed, why Ms. Jones made that decision, and what had to be done after that as a result of that choice.

2. Can you list some lines for your credo that you can glean from A Simple Plan and Ms. Jones’s experience?

Case 1.7

Hank Greenberg and AIG

Hank Greenberg was the formidable CEO of AIG, the largest insurer in the United States. Mr. Greenberg was removed from his position when the SEC raised issues regarding the company’s accounting practices and the accuracy of its financial statements. AIG eventually released financial statements that reduced its profits by $4.4 billion and, by 2008, had to be bailed out by the federal government in order to preserve the financial markets. Mr. Greenberg maintained then and maintains now that he did nothing wrong.

A story from his youth offers some insight into his ethical philosophy. When he was stationed in London during World War II, the United States and its military command were concerned about the conduct of U.S. soldiers and the impressions they left. They also recognized the need for the soldiers to have some recreation. The commanding officers gave the soldiers extra leave days if they used them for cultural events. The commanding officers had the theater, the symphony, and the ballet in mind as culture, not the usual activities for leave, such as drinking and chasing women (and, all too often, catching the women). The only requirement for the extra leave day was that the soldiers had to bring back a playbill or program from whatever cultural event they had attended.

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Mr. Greenberg would buy a ticket to the theater, go in, collect the playbill, and then head out the side exit to spend the time on other activities, the types of activities the commanders were trying to have the soldiers avoid, to wit, carousing. Mr. Greenberg had his proof of cultural activities, but he also had his usual fun.

**Discussion Questions**

1. Did Mr. Greenberg violate any rules as a soldier? Isn’t the lack of clarity on the part of the commanding officers what caused the problem? What’s wrong with using a loophole in the system?
2. Apply the various schools of thought, and see if you can fit Mr. Greenberg into one or more. As you do, think about the following excerpt from an editorial Mr. Greenberg wrote for the *Wall Street Journal*: “So, in order to stay out of the crosshairs of government regulators, companies are avoiding risks they might otherwise take to innovate or grow their businesses: ‘Keep your head down.’”
3. Do you believe that a pattern established in youth surfaced as he was running AIG?
4. In a 2006 AP survey of adults, 33 percent said it is “okay” to lie about your age, although only to make yourself younger, not for purposes of underage drinking. What rationalization(s) are the 33 percent using?

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Resolving Ethical Dilemmas

SECTION 1B

Reading 1.8

Some Simple Tests for Resolving Ethical Dilemmas

Nearly every business professor and philosopher has weighed in with models and tests that can be used for resolving ethical issues. The following sections offer summaries of the thoughts and models of others in the field of ethics.

Management Guru: Dr. Peter Drucker

An internationally known management expert, Dr. Peter Drucker offers the following as an overview for all ethical dilemmas: primum non nocere, which in translation means, “Above all do no harm.” Adapted from the motto of the medical profession, Dr. Drucker’s simple ethical test in a short phrase encourages us to make decisions that do not harm others. This test would keep us from releasing a product that had a defect that could cause injury. This test would have us be fair and decent in the working conditions we provide for workers in other countries. This test would also prevent us from not disclosing relevant information during contract negotiations. Johnson & Johnson has used Dr. Drucker’s simple approach as the core of its business credo. (see Case 7.9)

Laura Nash: Harvard Divinity School Meets Business

Ethicist Laura Nash, of the Harvard Divinity School, has one of the more detailed decision-making models, with twelve questions to be asked in evaluating an ethical dilemma:

1. Have you defined the problem accurately? For example, often philosophical questions are phrased as follows: would you steal a loaf of bread if you were starving? The problem might be better defined by asking, “Is there a way other than stealing to take care of my hunger?” The rephrasing of the question helps us think in terms of honoring our values rather than rationalizing to justify taking property from another.

2. How would you define the problem if you stood on the other side of the fence? This question asks us to live by the same rules that we apply to others. For example, Donald Trump recently explained that when his employees develop a construction proposal for a customer for a price of $75 million, he simply adds on $50 to $60 million to the price and tells the customer the price is $125 million. Trump’s firm then builds it for $100 million and is praised by the client for bringing the project in under price. Mr. Trump explains that the customer thinks he did a great job when he really did not. If Trump were on the other side, would he feel the same way about this method he uses for “managing customer expectations”? And note the use of the soft label here. This question forces us to look at our standards in a more universal way.

3. How did this situation occur in the first place? This question helps us in the future. We use it to avoid being placed in the same predicament again. For example, suppose that an employee has asked his supervisor for a letter of recommendation for a new job the employee may get if the references are good. The supervisor has always had difficulty with the employee, but found him to be
tolerable, kept him on at the company, and never really discussed any of his performance issues with him or even put those concerns in his annual evaluation. Does he make things up for the letter? Does he refuse to write the letter? Does he say innocuous things in the letter such as ‘He was always on time for work.’ This reluctant supervisor is in this situation because he has never been honest and candid with the employee. The employee is not aware that the supervisor had any problems or issues with him because the fact that he has asked for the reference shows that there has not been forthright communication.

4. To whom and what do you give your loyalties as a person and as a member of the corporation? Suppose that you know that your manager has submitted false travel invoices to the company. The expenses are false, padded, and unnecessary. No one in the accounting or audit department has caught his scheme. Saying something means you are loyal to your company (the corporation), but you have sacrificed your loyalty to your manager.

5. What is your intention in making this decision? Often we offer a different public reason for what we are doing as a means of avoiding examination of the real issue. An officer of a company may say that liberal accounting interpretations help the company, smooth out earnings, and keep the share price stable. But her real intention may be to reach the financial and numbers goals that allow her to earn her bonus.

6. How does this intention compare with the likely results? Continuing with the previous example, the stated intention of increasing or maintaining shareholder value may work for a time, but, eventually, the officer and the company will need to face the truth about the company’s real financial picture. And the officer’s real intention will be foiled as well because under Sarbanes-Oxley, officers who earn bonuses based on false financial statements must repay those bonuses and face criminal penalties as well.

7. Whom could your decision or action injure? Under this question, think of not only the direct harm that can result from a poor ethical choice but all the ripple effects as well. For example, in the case of the marathoners who took the subway during the New York City race, the real winners in three age categories were affected because they were not given their trophies or the rankings they deserved for nearly one year. Those who sponsor marathons now have to implement physical and electronic monitors to police runners. Those who enter the race must pay additional costs to cover this monitoring. And, of course, there is the cost of the post-race investigations. Not only do we never do just one thing; there is never just one person affected when we choose to bend the rules just a bit.

8. Can you engage the affected parties in a discussion of the problem before you make your decision? If you are considering ‘cheating’ on a spouse or significant other, you face an ethical dilemma. The fact that you could not discuss what you are about to do with a person who has been very close to you and who you would betray indicates that your secret decision and action cross an ethical line.

9. Are you confident that your position will be as valid over a long period of time as it seems now? Sometimes cheating on an exam or purchasing a paper on the Internet seems to be an expedient way of solving time pressures, financial worries about going to school, and even just the concerns about finishing a semester or a degree. However, this question asks you to think about this small decision over the time frame of your life. When you look back, how will you feel about this decision? Or, what if your friend, roommate, or even someone who happens to see you cheat carries that knowledge of your ethical indiscretion with him or her? You always have the worry that he or she will know of your misstep and perhaps would be involved in your future in such a way that this knowledge could affect your potential. For example, what if someone who knows that you cheated works for a company you very much want to work for? Suppose further that the person interviewing you sees that you went to the same school as their employee. One question to that employee might be ‘Say, I see you went to school at Western U. I interviewed a Josh Blake from Western U. He wants to work with us. Do you know him? And what do you think of him?’ Think ahead to their response: ‘Yes, I knew him at school. He cheated.’ Interestingly, this feedback is what happened to Joseph Jett, a Wall Street investment banker who was at the heart of a trading scandal at Kidder Peabody (see Case 4.7 for more details). When his credentials of a Harvard MBA were reported, someone from the school emerged to let the world know that although he had finished his course work at Harvard, he did not have his degree because he had not paid some fees. The fees might have been unpaid parking tickets. The fees may
have been library fines. What seemed like expedient budget decisions at the time he was a graduate student turned out to be something that harmed Mr. Jett’s credibility when he was most in need of a good reputation. Over the long term your decision might not seem as expedient as it did during the pressure crunch of college.

10. Could you disclose without qualms your decision or action to your boss, your CEO, the board of directors, your family, or society as a whole? This question asks you to evaluate your conduct as if it were being reviewed by those who run your company. If you are thinking of padding your expense account, realize that you could not talk about your actions with these people because you are betraying their trust. This question also has a second part to it: could you tell your family? Sometimes we rationalize our way through business conduct or personal conduct, but know that if we had to face our families, we would realize we landed on the wrong side of the ethical decision. In the movie While You Were Sleeping, Peter is a wealthy lawyer who has fallen away from his parents’ simple values. When his mother learns that Peter is engaged to marry an already married woman, she exclaims, “You proposed to a married woman?” Peter looks very sheepish. What seemed to be a fine decision in the confines of his social life suddenly looked different when his family was told.

11. What is the symbolic potential of your action if understood? If misunderstood? A good illustration for application of this question is in conflict-of-interest questions. For example, Barbara Walters, prior to her retirement from regular network news reporter for ABC News, was a cohost of the ABC prime-time news show 20/20. In December 1996, Ms. Walters interviewed British composer Andrew Lloyd Webber (now Sir Andrew Lloyd Webber), and the flattering interview aired the same month as a segment on 20/20, just prior to the opening of Sir Webber’s Broadway production of Sunset Boulevard.

Two months after the interview aired, a report in the New York Post revealed that Ms. Walters had invested $100,000 in Sir Webber’s just-premiered Sunset Boulevard. ABC News responded that had it known of the investment, it would have disclosed it before the interview aired. ABC does have a policy on conflicts that permits correspondents to cover “businesses in which they have a minority interest.”

Sir Webber’s Sunset cost $10 million to produce and investors received back 85 percent of their initial investment. Ms. Walters’ interest in Sunset was 1 percent.

Applying this question, even if everyone understands Ms. Walters’ good intentions, the appearance is that of a conflict between her role as an investor in Webber’s production and that of her role as an objective reporter, and regardless of its size the public is likely to perceive that the favorable journalism piece was done to pump up the production and, hence, ensure a return on her investment.

12. Under what conditions would you allow exceptions to your stand? You may have a strong value of always being on time for class, events, meetings, and appointments. You have adopted an absolute value on not being tardy. However, sometimes other values conflict. For example, suppose that your friend became ill and needed someone to drive her to the hospital, making you late for a meeting. You would be comfortable with that variance because your exceptions relate to the well-being of others. Likewise, you would drive more slowly and carefully in a storm to get to your meeting, something that will make you late. But, again, your exception is the safety and well-being of others. You won’t be late because you stopped to talk or you didn’t leave your apartment on time, but you are comfortable being late, an exception to your rule on punctuality, when safety and well-being are at stake.

These questions help us gain perspective and various views on the issue before us, and at least two of the questions focus on the past—what brought us to the dilemma and how we might avoid such dilemmas when we have caused them to arise.

A Minister and a One-Minute Manager Do Ethics: Blanchard and Peale

The late Dr. Norman Vincent Peale, an internationally known minister, and management expert Kenneth Blanchard, author of The One Minute Manager, offer three
questions that managers should ponder in resolving ethical dilemmas: Is it legal? Is it balanced? How does it make me feel?

If the answer to the first question, “Is it legal?” is no, you might want to stop there. Although conscientious objectors are certainly needed in the world, trying out those philosophical battles with the SEC and Internal Revenue Service (IRS) might not be as effective as the results achieved by Dr. Martin Luther King Jr. or Mahatma Gandhi. There is a place for these moral battles, but your role as an agent of a business might not be an optimum place to exercise the Divine Command Theory. In early 2010, four individuals from the company Wise Guys, Inc., were indicted for wire fraud as well as gaining unauthorized access to computers for their cornering of the ticket markets for the 2006 Rose Bowl, the 2007 MLB playoffs, the play *Wicked*, and concerts for Bruce Springsteen and Hannah Montana.11 The four had hired Bulgarian programmers to circumvent the controls placed on ticket sites to require entry of data prior to being able to purchase tickets. The result was that the four cornered the primary and, consequently, secondary ticket markets and prices, for the events noted. Regardless of how strongly we may feel about having access to tickets, the four are accused of violating the laws by circumventing computer access controls.

Answering the second Blanchard and Peale question, “Is it balanced?” requires a manager to step back and view a problem from other perspectives—those of other parties, owners, shareholders, or the community. For example, an M&M/Mars cacao buyer was able to secure a very low price on cacao for his company because of pending government takeovers and political disruption. M&M/Mars officers decided to pay more for the cacao than the negotiated figure. Their reason was that some day their company would not have the upper hand, and then they would want to be treated fairly when the price became the seller’s choice.

Answering “How does it make me feel?” requires a manager to do a self-examination of his or her comfort level with a decision. Some decisions, though they may be legal and may appear balanced, can still make a manager uncomfortable. For example, many managers feel uncomfortable about the “management” of earnings when inventory and shipments are controlled to maximize bonuses or to produce a particularly good result for a quarter. Although they’ve done nothing illegal, managers who engage in such practices often suffer such physical effects as insomnia and appetite problems.

**The Oracle of Omaha: Warren Buffett’s Front-Page-of-the-Newspaper Test**

This very simple ethical model requires only that a decision maker envision how a reporter would describe a decision or action on the front page of a local or national newspaper. For example, with regard to the NBC News report on the sidesaddle gas tanks in GM pickup trucks, the USA Today headline read, “GM Suit Attacks NBC Report: Says Show Faked Fiery Truck Crash.” Would NBC have made the same decisions about its staging of the truck crash if that headline had been foreseen?

When Salomon Brothers’ illegal cornering of the U.S. government’s bond market was revealed, the BusinessWeek headline read, “How Bad Will It Get?”; nearly two years later, a follow-up story on Salomon’s crisis strategy was headlined, “The Bomb Shelter That Salomon Built.” During the aftermath of the bond market scandal, the interim chairman of Salomon, Warren Buffett, told employees, “Contemplating any business act, an employee should ask himself whether he would be willing to see it immediately described by an informed and critical reporter on the front page of his local paper, there to be read by his spouse, children, and friends. At Salomon we simply want no part of any activities that pass legal tests but that we, as citizens, would find offensive.”

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The Jennings National Enquirer Test
The purpose of this test is to have you step back from the business setting in which decisions are made and view the issue and choices from the perspective of an objective outsider. A modification of this test, named for its author, is the National Enquirer test: “Make up the worst possible headline you can think of and then re-evaluate your decision. In late 2007, when several large investment banking firms had to take multibillion-dollar losses for their excesses in the subprime lending market, the cover of Fortune magazine read, “What Were They Smoking?” Such a candid headline turns our heads a bit and forces us to see issues differently because of its metaphorical punch to the gut. Their views and perceptions can be quite different because they are not subject to the same pressures and biases. The purpose of this test is to help managers envision how their actions and decisions look to the outside world.

The Wall Street Journal Model
The Wall Street Journal model for resolution of ethical dilemmas consists of three components: (1) Am I in compliance with the law? (2) What contribution does this choice of action make to the company, the shareholders, the community, and others? And (3) what are the short- and long-term consequences of this decision? Like the Blanchard–Peale model, any proposed conduct must first be in compliance with the law. The next step requires an evaluation of a decision’s contributions to the shareholders, the employees, the community, and the customers. For example, furniture manufacturer Herman Miller decided both to invest in equipment that would exceed the requirements for compliance with the 1990 Clean Air Act and to refrain from using rain forest woods in producing its signature Eames chair. The decision was costly to the shareholders at first, but ultimately they, the community, and customers enjoyed the benefits of a reputation for environmental responsibility as well as good working relationships with regulators, who found the company to be forthright and credible in its management of environmental regulatory compliance.

Finally, managers are asked to envision the consequences of a decision, such as whether headlines that are unfavorable to the firm may result. Sometimes the opposite is true. A decision that seems costly actually provides long-term benefit for the company. The initial consequences for Herman Miller’s decisions were a reduction in profits because of the costs of the sustainability changes it made in its products and operations. However, the long-term consequences were the respect of environmental regulators, a responsive public committed to rain forest preservation, and Miller’s recognition by BusinessWeek as an outstanding firm for 1992. The impact of Delta CEO Gerald Grinstein’s decision to not accept his bonus for bringing the airline through a massive and successful Chapter 11 restructuring had profound effects on both the stock price and the morale of company employees. A decision to accept the perfectly legal bonus could have had adverse consequences that he avoided with his thoughtful decision to forgo a $10 million payment.

Other Models
Of course, there are much simpler models for making ethical business decisions. One stems from Immanuel Kant’s categorical imperative (see pp. 13–14), loosely similar to the Golden Rule of the Bible: “Do unto others as you would have them do unto you.” Treating others or others’ money as we would want to be treated is a powerful evaluation technique in ethical dilemmas. Another way of looking at issues is to apply your standards in all situations and think about whether you would be comfortable. In other words, if the world lived by your personal ethical standards, would you be comfortable or would you be nervous?
Discussion Questions

1. Take the various models and offer a chart or diagram to show the common elements in each.
2. After viewing the chart, make a list of the kinds of things all those who have developed the models want us to think about as we resolve ethical dilemmas. Remember, you are working to develop a 360-degree perspective on issues. Stopping at legality is not enough if you are going to think through all the consequences of decisions. Just because something is legal does not mean it is ethical.

Reading 1.9

Some Steps for Analyzing Ethical Dilemmas

Although you now have a list of the categories of ethical breaches and many different models for resolution, you may still be apprehensive about bringing it all together in an analysis. Here are some steps to help you get at the cases, issues, and dilemmas from all perspectives.

Steps for Analyzing Ethical Dilemmas and Case Studies in Business

1. Make sure you have a grasp of all of the facts available. Be sure you are familiar with all the facts.
2. List any information you would like to have but don't and what assumptions you would have to make, if any, in resolving the dilemma.
3. Take each person involved in the dilemma and list the concerns they face or might have. Be sure to consider the impact on those not specifically mentioned in the case. For example, product safety issues don't involve just engineers' careers and company profits; shareholders, customers, customers' families, and even communities supported by the business are affected by a business decision on what to do about a product and its safety issue.
4. Develop a list of resolutions for the problem. Apply the various models for reaching this resolution. You may also find that as you apply the various models to the dilemma, you find additional insights for questions 1, 2, and 3. If the breach has already occurred, consider the possible remedies and develop systemic changes so that such breaches do not occur in the future.
5. Evaluate the resolutions for costs, legalities, and impact. Try to determine how each of the parties will react to and will be affected by each of the resolutions you have proposed.
6. Make a recommendation on the actions that should be taken.

In some of the cases you will be evaluating the ethics of conduct after the fact. In those situations, your recommendations and resolutions will center on reforms and perhaps recompense for the parties affected.

Each case in this book requires you to examine different perspectives and analyze the impact that the resolution of a dilemma has on the parties involved. Return to these models to question the propriety of the actions taken in each case. Examine the origins of the ethical dilemmas and explore possible solutions. As you work through the cases, you will find yourself developing a new awareness of values and their importance in making business decisions. Try your hand at a few before proceeding to the following sections. The following diverse cases offer an opportunity for application of the materials from this section and give you the chance to hone your skills for ethical resolutions.

Case 1.10

The Little Teacher Who Could: Piper, Kansas, and Term Papers

Piper High School is in Piper, Kansas, a town located about twenty miles west of Kansas City, Missouri. Christine Pelton was a high school science teacher there. Ms. Pelton, twenty-six, had a degree in education from the University of Kansas and had been at
Piper for two years. She was teaching a botany class for sophomores, a course that included an extensive project as part of the course requirements. The project, which included a lengthy paper and creative exhibits and illustrations, had been part of the curriculum and Piper High School tradition for ten years. Students were required to collect twenty different leaves, write one or two paragraphs about the leaves, and then do an oral presentation on their projects.

When Ms. Pelton was describing the writing portion of the project and its requirements to her students, she warned them not to use papers posted on the Internet for their projects. She had her students sign contracts that indicated they would receive a “0” grade if they turned in others’ work as their own. The paper counted for 50 percent of their grade in the course. When the projects were turned in, Ms. Pelton noticed that some of the students’ writing in portions of their papers was well above their usual quality and ability. Using an online service called Turn It In (http://www.turnitin.com), she found that 28 of her 118 students had taken substantial portions of their papers from the Internet. She gave the students a “0” grade on their term paper projects. The result was that many of the students would fail the semester in the course.

The students’ parents protested, and both her principal, Michael Adams, and the school district superintendent, Michael Rooney, backed her decision. However, the parents appealed to the school board, and the board ordered Ms. Pelton to raise the grades. Mr. Rooney, acting at the board’s direction, told Ms. Pelton that the decision of the board was that the leaf project’s weight should be changed from 50 percent to 30 percent of the course’s total semester grade, and that the 28 students should have only 600 points deducted from their grade rather than the full 1,800 points the project was originally worth.

Ms. Pelton said, “I was really shocked at what their decision was. They didn’t even talk to me or ask my side.” The result was that 27 of the 28 students avoided receiving an “F” grade in the course, but the changed weight also meant that 20 of the students who had not plagiarized their papers got a lower grade as a result. She resigned in protest on the day following the board’s decision. She received twenty-four job offers from around the country following her resignation. Mr. Adams, the principal, and one teacher resigned at the end of the year to protest the lack of support for Ms. Pelton. Mr. Adams cited personal reasons for his resignation, but he added, “You can read between the lines.” At the time of Ms. Pelton’s experience, 50 percent of the teachers had indicated they would resign. The superintendent, Michael Rooney, remained and said he stood by the teacher, but did not think that the school board was wrong: “I take orders as does everyone else, and the Board of Education is empowered with making the final decisions in the school district.”

The board debated the case in executive session and refused to release information, citing the privacy rights of the students. The local district attorney for Wyandotte County, Nick A. Tomasik, filed suit against the board for violating open meetings laws. The board members were deposed as part of his civil action. Citizens of Piper began a recall action against several of the school board members. The local chapter of the National Education Association, representing the eighty-five teachers in the district, was brought into settlement negotiations on the suit because of its concerns that action that affects teachers can be taken without input and without understanding the nature of the issues and concerns.

12Another program that can be used is http://www.mydropbox.com.
15Ibid.
The fallout for Piper has been national. *Education Week* reported the following as results of the actions of the students and the school board:

All twelve deans of Kansas State University signed a letter to the Piper school board that included the statement “We will expect Piper students . . . to buy into [the university’s honor code] as a part of our culture.”

Angered, Piper school board member James Swanson—who is one of the targets of the recall drive—wrote the university to note that the implication that Piper students might be subject to greater scrutiny because of one controversial incident involving only 28 students was unfair. He received an apology from university officials.

More troubling to the community, Piper students have also been mocked. At an interscholastic sporting event involving Piper, signs appeared among the spectators that read “Plagiarists.”

Students have reported that their academic awards, such as scholarships, have been derided by others. And one girl, wearing a Piper High sweatshirt while taking a college entrance exam, was told pointedly by the proctor, “There will be no cheating.”

Several of the parents pointed to the fact that there was no explanation in the Piper High School handbook on plagiarism. They also said that the students were unclear on what could be used, when they had to reword, and when quotations marks are necessary. Other parents complained about Ms. Pelton’s inexperience. One teacher said, “I would have given them a chance to rewrite the paper.”

Both the school board and the principal asked Ms. Pelton to stay, but she explained, “I just couldn’t. I went to my class and tried to teach the kids, but they were whooping and hollering and saying, ‘We don’t have to listen to you any more.’” Ms. Pelton began operating a day care center out of her home.

The annual Rutgers University survey on academic cheating reveals that 15 percent of college papers turned in for grades are completely copied from the Internet. In a look at Internet papers, the New Jersey Bar Foundation found the following:

A Rutgers University survey of nearly 4,500 high school students revealed that only 46 percent of the students surveyed thought that cutting and pasting text directly from a Web site without attributing the information was cheating, while only 74 percent of those surveyed thought that copying an entire paper was cheating. Donald McCabe, the Rutgers University researcher that conducted the survey told USA Today, “In the students’ minds what is on the Internet is public knowledge.”

A senior from the Piper, Kansas, school told CBS News, “It probably sounds twisted, but I would say that in this day and age, cheating is almost not wrong.”

Almost one year later the school board adopted guidelines on plagiarism for use in the district’s school as policy. The Center for Academic Integrity gave its Champion of Integrity Award for 2002 to Ms. Pelton and Mr. Adams.

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17Id.


The center’s criteria for this award are that the teacher or administrator took:
1. an action, speech, or demonstration that draws attention to a violation of academic integrity
2. an action that, in an attempt to promote or uphold academic integrity, may subject the nominee to reprisal or ridicule
3. an action motivated by commitment to and conviction about the importance of academic integrity and not by public acclaim or monetary gains.20

Discussion Questions
1. Do you believe the students understood that what they did was wrong? Why is this information important in your analysis?
2. Was the penalty appropriate?
3. What do you think of the grading modifications the board required? Be sure to list who was affected when you answer this question.
4. What did the parents miss in their decisions to intervene?
5. Evaluate the statement of the senior that cheating is no longer wrong.
6. What were the consequences for Piper and the students?

For More Information

Case 1.11
The Movie Ticket
You and your friend have purchased movie tickets to see Avatar. After seeing the movie, you realize as you are walking down the multiplex hallway that no theater employees are there and that you could slip into The Hurt Locker and see that at absolutely no cost. Your friend says, “Why not? Who’s to know? Besides, it doesn’t hurt anyone. Look at the price of a movie these days. These people are making money!”

You find that you hesitate just a bit. Should you take in the extra movie for free?

Discussion Questions
1. Be sure to apply the questions from the model. Consider systemic effects.
2. Offer your final decision on the second free movie and your explanation for your decision.

Case 1.12
Puffing Your Résumé
The résumé is a door opener for a job seeker. What’s on it can get you in the door or cause the door to be slammed in your face. With that type of pressure, it is not surprising to learn that one 2006 study by a group of executive search firms showed that 43 percent of all résumés contain material misstatements.21 A 2008 CareerBuilder.com survey of HR managers found that 49 percent of résumés had materially false information.22 A Wall Street Journal analysis of the credentials of 358 executive and board members at

fifty-three publicly traded companies found discrepancies in seven of the executives’/board members’ claims about their background and experience and reality, most dealing with them claiming to hold MBAs when they did not.\(^{23}\)

Ed Andler, an expert in credential verification, says that one-third of all résumés contain some level of “creative writing.” Mr. Andler notes that assembly-line workers don’t mention misdemeanor convictions and middle managers embellish their educational background. One reference-checking firm looked into the background of a security guard applicant and found he was wanted for manslaughter in another state.

Vericon Resources, Inc., a background check firm, has found that 2 percent of the applicants they investigate are hiding a criminal past. Vericon also notes, however, that potential employers can easily discover whether job candidates are lying about previous employment by requesting W-2s from previous employers.

In one résumé-“puffing” case, according to Michael Oliver, a former executive recruiter who is presently director of staffing for Dial Corporation, a strong candidate for a senior marketing management position said he had an MBA from Harvard and four years’ experience at a previous company, where he had been a vice president of marketing. Actually, Harvard had never heard of him, he had worked for the firm for only two years, and he had been a senior product manager, not a vice president.

In 1997, Dianna Green, a senior vice president at Duquesne Light, left her position at that utility. The memo from the CEO described her departure as one that would allow Ms. Green to pursue “other career interests she has had for many years.” Despite the memo’s expression of sadness at her departure, Ms. Green was fired for lying on her résumé by stating that she had an administration MBA when, in fact, she did not.\(^{24}\)

Ms. Green had worked her way up through the company and had been responsible for handling the human resources issues in Duquesne’s nine years of downsizing. At the time of her termination, she was a director at Pennsylvania’s largest bank and known widely for her community service.

On the day following her termination, Ms. Green was found dead of a self-inflicted gunshot wound.\(^{25}\)

**Discussion Questions**

1. What do you learn from the tragedy of Ms. Green? Peter Crist, a background check expert, said, “You can’t live in my world and cover stuff up. At some point in time, you will be found out if you don’t come clean. It doesn’t matter if it was 2 days ago or 20 years ago.” As you think through these examples, can you develop some important principles that could be important for your credo?\(^{26}\)

   Was the tragedy of Ms. Green avoidable? Was Duquesne Light justified in terminating her?

2. George O’Leary was hired by Notre Dame University as its head football coach in December 2001. However, just five days after Notre Dame announced Mr. O’Leary’s appointment, Mr. O’Leary resigned. Mr. O’Leary’s résumé indicated that he had a master’s degree in education from New York University (NYU) and that he played college football for three years. O’Leary had been a student at NYU, but he never received a degree from the institution. O’Leary went to college in New Hampshire, but never played in a

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\(^{24}\) The information was revealed after Ms. Green was deposed in a suit by a former subordinate for termination. Because Ms. Green hesitated in giving a year for her degree, the plaintiff’s lawyer checked and found no degree and notified Duquesne officials. Duquesne officials then negotiated a severance package.

\(^{25}\) It should be noted that Ms. Green was suffering from diabetes to such an extent that she could no longer see well enough to drive. Also, during the year before her termination, her mother had died of a stroke and her youngest brother also had died. Carol Hymowitz and Raju Narisetti, “A Promising Career Comes to a Tragic End, and a City Asks Why,” *Wall Street Journal*, May 9, 1997, pp. A1, A8.

football game at his college and never received a letter as he claimed. When Notre Dame announced the resignation, Mr. O’Leary issued the following statement, "Due to a selfish and thoughtless act many years ago, I have personally embarrassed Notre Dame, its alumni and fans." Why did the misrepresentations, which had been part of his résumé for many years, go undetected? Evaluate the risk associated with the passage of time and a résumé inaccuracy. Would it be wrong to engage in résumé puffing and then disclose the actual facts in an interview? Be sure to apply the models.

3. Suppose that you had earned but, due to a hold on your academic record because of unpaid debts, had never been formally awarded a college degree. Would you state on your résumé that you had a college degree?

4. Suppose that, in an otherwise good career track, you were laid off because of an economic downturn and remained unemployed for thirteen months. Would you attempt to conceal the thirteen-month lapse in your résumé?

5. Is puffing a short-term solution in a tight job market?

6. James Joseph Minder was appointed to the board of gun manufacturer Smith & Wesson, headquartered in Scottsdale, Arizona, in 2001. In early 2004, he assumed the position of chairman of the board. One month later, he resigned as chair of the board because the local newspaper, the Arizona Republic, reported that Mr. Minder had completed a 3.5- to 10-year prison sentence for a series of armed robberies and an escape from prison. He had carried a sawed-off shotgun during the string of robberies, committed while he was a student at the University of Michigan. Mr. Minder indicated that he had never tried to hide his past. In 1969, when he was released from prison, he finished his degree and earned a master’s degree from the University of Michigan. He spent twenty years running a successful nonprofit center for inner-city youth until his retirement in 1997, when he moved to Arizona. Mr. Minder’s position is that the subject of his troubled youth and criminal past never came up, so he never disclosed it. Evaluate Mr. Minder’s position and silence. What do you think of Smith & Wesson’s press release indicating that Mr. Minder “had led an exemplary life for 35 years”? Mr. Minder remains on the board. Why did the public react so negatively to his past and position?

7. Is there something for your credo that you learn from all of these résumé experiences?

Case 1.13

Dad, the Actuary, and the Stats Class

Joe, a student taking a statistics course, was injured by a hit-and-run driver. The injuries were serious, and Joe was on a ventilator. Although Joe did recover, he required therapy for restoring his cognitive skills. He asked for more time to complete his course work, but the professor denied the request. Joe would have to reimburse his employer for the tuition if he did not complete the course with a passing grade. Joe’s father works with stats a great deal. Joe’s father went and took the course final for Joe, and Joe earned an “A” in the course.

Discussion Questions

1. What school of ethical thought does Joe’s father follow?
2. Was Joe’s father justified in helping Joe, an innocent victim in an accident? Does your answer change if you learn that Joe’s father is an actuary?

3. List those who are affected by Joe’s father’s actions.
4. Can you think of alternatives to Joe’s father’s solution?
5. Evaluate the systemic effects if everyone behaved as Joe’s father did.
Reading 1.14

On Plagiarism

Clarify the distinctions between plagiarism, paraphrasing, and direct citation.

Consider the following source and three ways that a student might be tempted to make use of it:

**Source:** The joker in the European pack was Italy. For a time hopes were entertained of her as a force against Germany, but these disappeared under Mussolini. In 1935 Italy made a belated attempt to participate in the scramble for Africa by invading Ethiopia. It was clearly a breach of the covenant of the League of Nations for one of its members to attack another. France and Great Britain, as great powers, Mediterranean powers, and African colonial powers, were bound to take the lead against Italy at the league. But they did so feebly and halfheartedly because they did not want to alienate a possible ally against Germany. The result was the worst possible: the league failed to check aggression, Ethiopia lost her independence, and Italy was alienated after all.

**Version A:** Italy, one might say, was the joker in the European deck. When she invaded Ethiopia, it was clearly a breach of the covenant of the League of Nations; yet the efforts of England and France to take the lead against her were feeble and halfhearted. It appears that those great powers had no wish to alienate a possible ally against Hitler’s rearmored Germany.

**Comment:** Clearly plagiarism. Though the facts cited are public knowledge, the stolen phrases aren’t. Note that the writer’s interweaving of his own words with the source’s does not render him innocent of plagiarism.

**Version B:** Italy was the joker in the European deck. Under Mussolini in 1935, she made a belated attempt to participate in the scramble for Africa by invading Ethiopia. As J. M. Roberts points out, this violated the covenant of the League of Nations (J. M. Roberts, *History of the World* [New York: Knopf, 1976], p. 845). But France and Britain, not wanting to alienate a possible ally against Germany, put up only feeble and halfhearted opposition to the Ethiopian adventure. The outcome, as Roberts observes, was “the worst possible: the league failed to check aggression, Ethiopia lost her independence, and Italy was alienated after all” (Roberts, p. 845).

**Comment:** Still plagiarism. The two correct citations of Roberts serve as a kind of alibi for the appropriating of other, unacknowledged phrases. But the alibi has no force: some of Roberts’s words are again being presented as the writer’s.

**Version C:** Much has been written about German rearmament and militarism in the period 1933–1939. But Germany’s dominance in Europe was by no means a foregone conclusion. The fact is that the balance of power might have been tipped against Hitler if one or two things had turned out differently. Take Italy’s gravitation toward an alliance with Germany, for example. That alliance seemed so very far from inevitable that Britain and France actually muted their criticism of the Ethiopian invasion in the hope of remaining friends with Italy. They opposed the Italians in the League of Nations, as J. M. Roberts observes, “feebly and halfheartedly because they did not want to alienate a possible ally against Germany” (J. M. Roberts, *History of the World* [New York: Knopf, 1976], p. 845). Suppose Italy, France, and Britain had retained a certain common interest. Would Hitler have been able to get away with his remarkable bluffing and bullying in the later 1930s?

**Comment:** No plagiarism. The writer has been influenced by the public facts mentioned by Roberts, but he hasn’t tried to pass off Roberts’s conclusions as his own. The one clear borrowing is properly acknowledged.


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Discussion Questions

1. List the important tools you have learned from this reading that will help you during your education.
2. Are there some additions you could make to your credo based on this instruction?
3. Make a list of what students gain through plagiarism. Make a list of the risks. Make a list of what students forgo when they engage in plagiarism.

Case 1.15

**Wi-Fi Piggybacking**

A new issue, which involves technology, is developing and might require legal steps. Internet users are piggybacking onto their neighbors’ wireless service providers. The original subscriber pays a monthly fee for the service, but, without security, those located in the area are able to tap into the wireless network. They bog down the speed of the service. **Piggybacking** is the term applied to the unauthorized tapping into someone else’s wireless Internet connection. Once limited to geeks and hackers, the practice is now common among the ordinary folk who just want free Internet service.

One college student said, “I don’t think it’s stealing. I always find people out there who aren’t protecting their connection, so I just feel free to go ahead and use it.” According to a recent survey, only about 30 percent of the 4,500 wireless networks onto which the surveyors logged were encrypted.

Another apartment dweller said she leaves her connection wide open because “I’m sticking it to the man. I open up my network, leave it wide open for anyone to jump on.” One of the users of another’s wireless network said, “I feel sort of bad about it, but I do it anyway. It just seems harmless.” She said that if she gets caught, “I’m a grandmother. They’re not going to yell at an old lady. I’ll just play the dumb card.”

Some neighbors ask those with wireless service if they could pay them in exchange for their occasional use rather than paying a wireless company for full-blown service. But the original subscribers do not really want to run their own Internet service.

Discussion Questions

1. What do you think of the statements of the users?
2. Apply Kant’s theory to this situation and determine what his rule would be.
3. What will happen if enough neighbors piggyback on their neighbors’ wireless access?

Compare & Contrast

Compare this conduct to cuts in line. What’s different about piggybacking from cutting in line? What similarities are there between the explanations the piggybackers give and those offered by the employees who pad their expense accounts? What role does “sticking it to the man” play in ethical analysis? What does that phrase do for piggybackers and expense account padders?

Case 1.16

**The Ethics Officer and First Class for TSA**

Joan Drake is an ethics officer with a major U.S. corporation. At the airport, as she is trying to leave on a business trip, she is faced with very long lines at the security
checkpoint. In an effort to maximize use of personnel and equipment, a TSA official asks Joan to go over to the first-class line where no one is waiting and go through that security line. Joan heeds the TSA official’s instruction and sails through security.

Following this first-class upgrade experience via TSA, Joan noticed that the TSA officials really did not look closely at the boarding passes of passengers to determine whether they were first class. As a result, Joan, a dyed-in-the-wool coach flyer, began using the first-class line all the time with her coach boarding passes. “It saves everyone time and helps TSA look more efficient. I don’t think there is anything wrong with using your brain to figure out a loophole like this.”

**Discussion Questions**

1. Is Joan just getting ahead by using her head?
2. Evaluate Joan’s statement that she is really helping everyone by her conduct.
3. Do you see any category of ethical breach here?
4. What would happen if everyone behaved as Joan does?

**Compare & Contrast**

Decide whether the following situation is different from Joan’s. At some airports, there are several security checkpoints located at different gate wings. For example, there are checkpoints at the A gates, the B gates, the C gates, and so on. Once you are through the security checkpoint, you can access any of the A, B, or C gates, but if you go through the A checkpoint, you will have a hefty hike to the C gates if that’s where your plane departs. Would there be any problem with going through Gate A when the lines are shorter there than they are at Gate C and then walking from the Gate A checkpoint to the Gate C checkpoint? Is this situation different from or the same as Joan’s?

**Case 1.17**

**Speeding on the Job: Obeying the Rules: Why We Do and Don’t**

Two police officers were caught on photo radar traveling (in their police cars, but not with sirens on) at 72 and 76 mph. The two officers were issued tickets. The policy of the police department was to require the officers to pay their own tickets when caught speeding on the job (when the sirens are not on, obviously) and to disclose the citations and officers’ names to the public. When the media confronted the officers about speeding on the job, one responded, “We thought the speed limit was 65 mph.” The speed limit was 65 mph normally in the photo-radar segment of the freeway, but construction work had it reduced to a 55 mph rate.

**Discussion Questions**

1. Why is compliance with employer rules important?
2. Why did the officers believe they were not speeding at 72 and 76 mph? A motto of the North Carolina State Troopers is, “Nine you’re fine. Ten you’re mine.” What do the troopers mean? Relate their conduct to normative standards and discuss its effect on our conduct.
3. As you think about this simple example of speeding, ask yourself whether in your business or personal life there might be other areas where you are speeding but the normative standards have shifted.
4. Consider these thoughts from a former student:

You briefly cited an example of following the traffic laws, and the members of the class took it quite out of proportion, and indeed the general reaction turned out to be one of rationalizing. But something about what you said really caused me to
consider that subject and within those five minutes of discussion form a resolve. You see, I had always been an exceedingly excessive speeder, to the point where, if caught, I could get in BIG trouble. This always surprised people to find out about me, but I think it developed in my first year at ASU when I had an hour commute to campus. Regardless, I terrified everyone but myself. But when you said of speeding, "Is it ethical?" it really took me aback. I looked at the fact of it itself: it is a law to follow the speed regulations, which are in place for safety and order. I looked at myself: someone who wants to be able to be ethical in all things and for all of her life. I realized that if I give room for allowances on what I know is wrong, then how can I know that those allowances won’t grow? I could not allow it. And in those five minutes, when the class was going on about photo radar, I grasped an understanding of my speeding that had previously escaped me: it’s just not ethical.

It has now been five months from that day, and I can report that for five months I have not exceeded the posted speed limit. It is something of which I am constantly aware, and though I often rely on my cruise control, I have seen that choosing to be ethical, has given me strength to overcome other questions and situations. There have also been moments, as simple as that of peacefully coming to a stop at a red light, where I have been impressed with the thoughts, "That could have been a dangerous situation, but because you chose to follow the standards you are safe." I also notice that, though I may be running late or excited to get somewhere, I just have no desire to speed, and things, occurrences on the road, or actions by other drivers that may have previously upset me have no effect on me, maybe aside from chuckling at a reaction I may have seen myself having before. So I say thank you for your words and lessons, for I have seen a change in myself and a change in my life.

What message does this student have for you?

Case 1.18
The Pack of Gum

You have just purchased $130 of groceries. Upon returning home you discover that you did not pay for a pack of gum you picked up from the assortment of gums and mints at the checkout belt at the grocery store. You have the gum, but it is not on your receipt.

Discussion Questions

1. Would you take the gum back?
2. Should you take the gum back?