Business Ethics

Case Studies and Selected Readings

Third Edition

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PREFACE

"What is right is right even if no one is doing it. What is wrong is wrong even if everyone is doing it."

Source Unknown

"Goodness is the only investment that never fails."

Henry D. Thoreau
Walden; *Higher Laws*

"Always tell the truth. That way you don't have to remember anything."

Mark Twain

In a 1997 survey conducted for the Ethics Officers Association and the American Society of Chartered Life Underwriters, half of the 1,300 workers from all types of businesses admitted to an unethical or illegal behavior in the past year.[1] Their top two breaches were cutting corners on quality control and covering up incidents.

In December 1997, Marissa Baridis, the compliance officer for Morgan Stanley, Dean Witter, Discover and Co., entered a guilty plea to charges of insider trading. Ms. Baridis was selling sensitive information about pending mergers and other inside business information to friends and former classmates in exchange for cash sums ranging from $2,000 to $10,000.[2]

During 1997 the following events offered some insight into the current issues in business ethics: Tyson Foods entered a guilty plea to charges of making illegal gifts to former agriculture secretary, Mike Espy[3]; Sears, Roebuck and Company[4] agreed to repay funds it had collected from customers while they were in bankruptcy

1. Henry Fountain, "Of White Lies and Yellow Pads," *New York Times*, July 6, 1997, p. 7.
2. Dean Starkman, "Five Brokers Indicted for Insider Trades Linked to Ex-Morgan Stanley Officer," *Wall Street Journal*, Dec. 23, 1997, B9.
3. "There's the Outrage," *Wall Street Journal*, Dec. 30, 1997, A10.
4. Chris Woodyard, "Sears to Refund Millions to Bankrupt Customers," *USA Today*, Apr. 11-13, 1997, 1A.

proceedings; Microsoft was ordered to pay $1,000,000 per day for a violation of the conditions established in a consent decree in an earlier antitrust case[5]; Texaco settled a discrimination suit by agreeing to pay $176 million[6]; documents released during litigation with R.J. Reynolds Tobacco Co. revealed that the company's Joe Camel ad campaign was targeted to attract smokers as young as 13[7]; and three executives of the nation's largest for-profit hospital chain, Columbia/HCA Healthcare Corp. were indicted for fraud for overbilling Medicare.[8]

An affidavit from an FBI agent in the Columbia/HCA fraud case included the following description:

> [The investigation] has uncovered a systematic corporate scheme perpetrated by corporate officers and managers of Columbia's hospitals, home health agencies and other facilities in the states of Tennessee, Florida, Georgia, Texas and elsewhere to defraud.[9]

Profits. High returns on investments. Minimizing costs. Fraud. Businesses do exist to make a profit, but business ethics exists to set parameters for earning that profit. This book of readings and cases explores those parameters and their importance.

In 1986, before Ivan Boesky was a household name and Michael Douglas was Gordon Gekko in *Wall Street*, I began teaching a business ethics course in the MBA program in the College of Business at Arizona State University. The course was an elective. I had trouble making the minimum enrollments. However, two things changed my enrollments and my fate. First, the American Association of Collegiate Schools of Business (AACSB) changed the curriculum for graduate and undergraduate business degree programs and required the coverage of ethics. The other event was actually a series of happenings. Indictments, convictions, and guilty pleas by major companies and their officers—from E. F. Hutton to Union Carbide to Beech-Nut to Exxon—brought national attention to the need to incorporate values in American businesses and business leaders.

Whether out of fear, curiosity, or the need for reaccreditation, business schools and students embraced the concept of studying business ethics. My course went from a little-known elective to the final required course in the MBA program.

Application of ethical principles in a business setting is a critical skill. Real-life examples are necessary. Over the past ten years, I have collected examples of ethical dilemmas, poor ethical choices, and wise ethical decisions from the newspapers, the business journals, and my experiences as a consultant and board member. Knowing that other instructors and students were in need of examples, I have taken my experiences and readings and turned them into the cases in this book.

The cases come not only from a dozen years of teaching business ethics, but also from my conviction that a strong sense of values is an essential management skill that can be taught. The cases apply theory to reality; hopefully, they will nurture or reinforce a needed sense of values in future business leaders.

The third edition continues the features students and instructors embraced in the first and the second, including both short and long cases, discussion questions,

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5. Paul Davidson, "U.S.: Hold Microsoft in Contempt," *USA Today*, Dec. 18, 1997, 1A.

6. "Texaco to Pay $176 Million to End Bias Suit," *Arizona Republic*, Nov. 16, 1996, A1.

7. Milo Geyelin, "Reynolds Aimed Specifically to Lure Young Smokers Years Ago, Data Suggest," *Wall Street Journal*, Jan. 15, 1998, A4.

8. Steven Findlay, "3 Executives From Hospital Chain Indicted," *USA Today*, July 31, 1997, 1A.

9. Id.

hypothetical situations and up-to-the-moment current, ongoing, and real ethical dilemmas. The third edition adds the classic readings in business ethics that provide insight into the importance of ethics in business and how to resolve ethical dilemmas. The organizational structure and indexes, also retained from the first edition, make material easy to locate. A case can be located using the table of contents, the topical index, or the product index, which lists both products and companies by name. An index for business disciplines groups the cases by accounting, management, and the other disciplines in colleges of business. The instructor's manual is updated with more sample test objective- and essay-answer questions of varying lengths and structures. The transparency package, which includes illustrative charts to assist instructors in walking classes through the more complex cases, has been updated and expanded.

This book is not mine. It is the result of the efforts and sacrifices of many. I am grateful to the reviewers for their reviews, comments, and insights. Their patience, expertise, and service are remarkable.

My thanks to Mrs. Kris Tabor for her years of work with me and for her ability to turn notes, inserts, deletions, illegible scratchings, and minute printing into a readable manuscript. Her masterful eye for detail has seen me through three editions of the book and its instructor's manual.

I am fortunate to have a colleague in law, Mignon Worman, as the editor for this edition. Her appreciation for business and morality have been inspirational. I am grateful to Rob Dewey for his continuing support of all my work. All of us are grateful to Sharon Smith for her patient production work and Kristin Meere for her assistance. I am grateful for their tolerance when the phone is answered at my home by toddlers who have little respect for editors. I continue to love editors. Where I see only deadlines, they see both the big picture of the book and its details: they have vision.

I also love my family. They also love editors—they know them by name and by phone calls. I am grateful for their understanding, support, and trips to Kinko's. I am most grateful for their values and the reminder their very presence gives me of what is truly important.

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INTRODUCTION

"The reputation of a thousand years is determined by the conduct of one hour."

Japanese Proverb

"A quiet conscience makes one so serene."

Byron

"There is no pillow as soft as a clear conscience."

Kenneth Blanchard and Norman Vincent Peale
The Power of Ethical Management

"When in doubt, tell the truth. It will confound your enemies and astound your friends."

Mark Twain

WHY BUSINESS ETHICS?

A cover story in *Fortune* magazine, entitled "The Payoff from a Good Reputation" (*Fortune*, 10 February 1992), quotes a vice chairman of an advertising agency as saying, "The only sustainable competitive advantage any business has is its reputation." The same could be said about individual business persons. Reputation cannot be found in the annual 10K filing the Securities Exchange Commission requires of a firm and won't be reflected in the net worth recorded on the firm's balance sheet. But its loss can be so devastating that if it were quantifiable, the failure of a firm to disclose that its ethical values were waning would constitute fraud under the federal securities laws. A business lacking an ethical commitment will, eventually, bring about its own demise.

Examining the fates of companies such as Union Carbide, Beech-Nut, E. F. Hutton, Salomon Brothers, Johns-Manville, Exxon, Phar-Mor, Kidder Peabody, Bausch

& Lomb and others whose ethical mishaps resulted in public exposure supports the notion that a lack of commitment to ethical behavior is a lack of commitment to a firm's success.

Many people consider the term "business ethics" an oxymoron. Nonetheless, in keeping with the observation in *Fortune,* compelling reasons support choosing ethical behavior in a business setting. Courses in finance and accounting teach us that the primary purpose and obligation of a business is to earn a profit. The immediate pursuit of the bottom line occasionally can distort even the most conscientious perspective. The fear of losing business and consequently losing profits can lead individuals and companies to make decisions that, while not illegal, raise concerns about fairness, equity, justice, and honesty.

In their 1994 book *Built to Last,* James C. Collins and Jerry I. Porras noted that the common thread among companies with long-term growth and profits was a strong commitment to values. These successful companies had high standards for product quality, concern for employees and employee safety, and reputations for fairness and good service. In short, the ethical components of business were found to be the common thread of success.

A firm must pursue the positive figure for its bottom line with a long-term perspective in mind. Running a successful and ethical business is like running a marathon, not a sprint. Studies show that firms that perform better financially over time are those with a commitment to ethical behavior. For example, in a 1989 study examining twenty-one companies with written codes of ethics and few federal legal and regulatory violations, the Ethics Resource Center found that $30,000 invested in a Dow Jones composite thirty years ago would have been worth $134,000 at the time of the study. If invested in the twenty-one companies, that same $30,000 would have been worth $1,021,861. A study by the Lincoln Center for Ethics at Arizona State University demonstrated that a list of the U.S. corporations that have paid dividends for the past one hundred years coincides with the center's list of companies that make ethics a high priority.

A 1997 study in the *Academy of Management Journal* concludes that firms involved in ethical difficulties (including criminal violations, regulatory citations, and product liability suits) experience earnings declines for at least five years following the public announcement of their problems.[1]

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1. Melissa S. Baucus and David A. Baucus, *Academy of Management Journal* (1997).

Contents

UNIT ONE
FOUNDATIONS OF BUSINESS ETHICS

What Is Business Ethics?

Society recognizes the value of ethics even as it realizes that companies and their employees may not perceive or properly resolve the ethical dilemmas that confront them. Many firms simply adopt a standard of complying with positive law, or any law enacted at any level of government that carries some sanction or punishment for noncompliance. While such compliance promotes many ethical values and moral principles, many actions that comply with positive law raise ethical issues. For example, several border guards formerly stationed at the East German border have been tried for manslaughter for killing East Germans as they attempted to escape into West Germany. In their defense, the former guards argued that they had been ordered to "shoot to kill." However, the judge, in sentencing the men, noted that not all activity that is legal is right. Still, the former guards had faced the dilemma of obeying orders under similar threats to their lives or following their moral standards with respect to the value of human life.

The study of business ethics is thus not the study of what is legal but of the application of moral standards to business decisions. Moral standards are canons of personal behavior that are neither legislated nor changed by legislation. For example, regardless of legislative and regulatory requirements, we all are committed to safety and fairness for employees in the workplace. But what happens when several moral standards conflict? A company that manufactures athletic shoes finds cheap labor in developing nations. The company pays minimum wage for that country, but those wages wouldn't bring enough in one month to allow the workers to buy a pair of the company's shoes. Factory conditions meet that nation's standards but violate nearly all U.S. minimum standards. Without the cheap labor, the shoe manufacturer can't compete. Without the jobs, the nation can't develop, but children are working 50-hour weeks in these third world countries. Fair and just treatment in the workplace is an issue the company must face.