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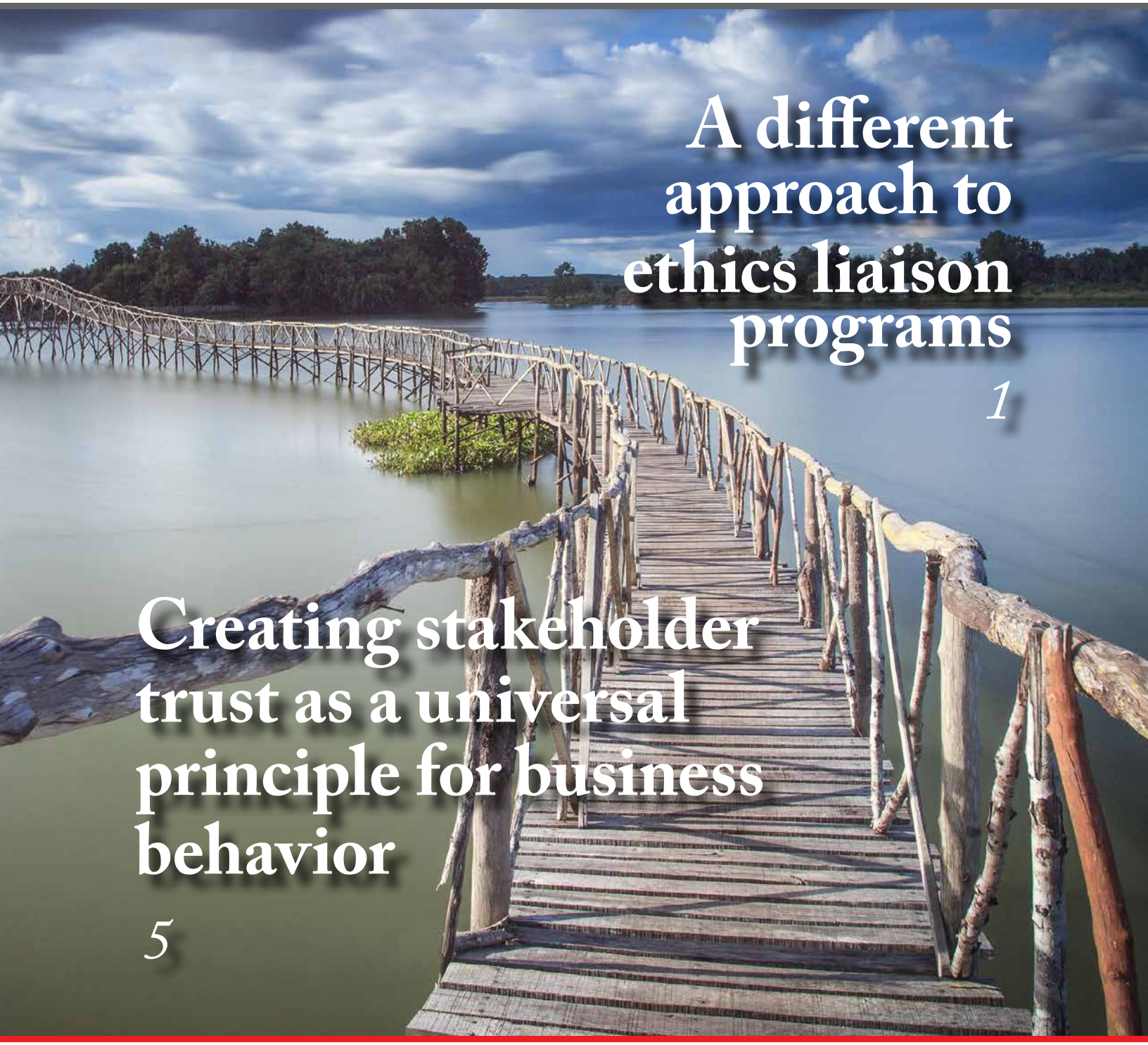

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A different approach to ethics liaison programs

BY ZACHARIAH LINTON

Ethics ambassadors, compliance liaisons, values champions—there are already a variety of names given to programs designed to enhance Compliance and Ethics (C&E) representation throughout organizations. To say that these programs are in vogue is putting it lightly. Chances are, if you don't have one yet, you're planning to start one (or you feel pressured to start one because everyone else is doing it). Nearly every recent compliance conference includes a seminar on liaisons, and a quick search through recent C&E publications will turn up a number of articles on how to build an effective program.

The variety of roles these liaisons serve in their respective companies is nearly as diverse as what they're called. In 2014, CEB's Compliance & Ethics Leadership Council benchmarked ethics liaison programs and determined that most programs "focus on risk detection, compliance communications, and improving employees' comfort speaking up."[1] Common activities for liaisons include relaying or reinforcing compliance messages, acting as a local resource for employees with ethical questions, and helping to facilitate compliance training. Some liaisons assist with tracking and reporting local compliance metrics and contribute to compliance risk assessments. A small percentage even assist with investigations.

These are all important objectives—no question. But, in evaluating these questions for our organization, my colleague and I realized that there were already a number of activities taking place that achieved many of these goals. Compliance program leaders regularly facilitate risk detection through audits and assessments. Email blasts, presentations, and intranet pages communicate compliance updates and reminders to employees. And policies, manager-led discussions, and retaliation monitoring processes encourage comfort speaking up.

EVEN AFTER THE 2015 PROGRAM ENDED, SEVERAL LIAISONS CONTINUED TO EXCHANGE TIPS AND INFORMATION WITH EACH OTHER WITHOUT ANY PROMPTING.

In light of these other activities, we chose to focus our program on a goal that we could not have easily achieved through other means—to understand the various sub-cultures within the company and learn how to better reach employees.

Our liaison program began in late 2014. We had read the articles and attended some of the conference sessions, and we, too, thought it sounded like a pretty good idea. We began planning for a small-scale pilot in 2015. We developed our proposal and shared it with senior leaders. To our surprise, our company's leadership directed us to skip the pilot and go "all in" the first year. So, in turn, we asked them to nominate employees from their organizations who modeled ethics and compliance and were respected by their colleagues.

In June, the program kicked off and we began hosting monthly focus group sessions where we asked liaisons to share candid feedback on everything from the quality of C&E intranet resources to company culture and how employees felt about reporting misconduct. We intentionally asked open-ended questions and, although half of our liaisons were managers, we received very open responses from managers and employees alike. During these sessions, the liaisons provided more than 180 actionable recommendations.

The liaisons pointed out areas of strength and weakness for my company's C&E program. On one hand, they shared positive reactions to a recent intranet page redesign and recognized efforts undertaken to publicize the ethics hotline. But they also highlighted a desire for greater transparency following sudden departures. They identified a number of C&E resources that were failing to connect with employees and offered suggestions for how to tailor real-world examples to their specific work groups. They also pointed out that many of our employees do not understand what happens during an investigation into alleged misconduct.

In a number of instances, they suggested initiatives already under consideration, which helped build better business cases for those projects. Even after the 2015 program ended, several liaisons continued to exchange tips and information with each other without any prompting. In 2016, liaisons will review many of C&E's campaigns and initiatives to help us hit the right notes with employees.

So, what was different about this approach? First, while we were tempted to ask liaisons to push out more compliance and ethics messaging, my colleague and I stopped and listened long enough to realize that this wasn't the best model for many of their organizations. Even the best employees aren't always trained communicators and many departments already had existing infrastructure that they could tap into for information sharing.

Next, while liaisons received some training on various C&E topics (e.g. conflicts of interest, privacy, and policy management), this remained a secondary focus. We decided early in the planning process that liaisons would not bear responsibility for providing advice or documenting reports of misconduct (except for managers who were already required by policy to do so). This saved the liaisons time and energy and allowed them to focus on collecting candid feedback from their peers without co-workers fearing that "Big Brother" was watching.

Finally, we worked to build strong relationships and learn from liaisons' diverse perspectives instead of trying to force them into a C&E mold. Compliance risk and employee misconduct are naturally two of the main focus areas in Compliance and Ethics. But obviously that's not true of most business-side counterparts. Our goal was not to create compliance clones throughout our business, but to gather intelligence that would help improve resources, training, and outreach.

Centered on open discussions and actively listening to liaisons, the program accomplished three more elusive objectives:

For one, this approach enabled my company's C&E management and staff to take a good look in the mirror. It dramatically increased our awareness of perceptions of the C&E program throughout the business. Prior to launching the liaison program, we knew in general terms that we lacked visibility within certain OUs and that our reputation was not universally positive. But the liaisons helped to pinpoint specific areas where a greater focus may significantly improve perceptions and cooperation. We've been able to translate our liaisons' feedback into action plans to improve our C&E program as a whole.

This approach has also enabled us to "win friends and influence people" better than we ever could by presenting at department meetings or facilitating training sessions. We developed excellent connections with engaged and influential employees all around the company. By connecting them with resources and sharing a compelling vision for a compliant culture, we have simply helped them with what they already do well.

Lastly, the approach helped us become more relevant. Through the liaisons, we have better isolated which messages truly resonate with various sub-cultures in the company and which are likely to fall flat. We have discovered new ways to connect with our audiences where they're at—using their language and sharing examples with which they can actually relate. The liaisons have helped tailor C&E messages to better reach those in the trenches.

While it has, at times, been a humbling experience to sit and hear what we could be doing better from "non-practitioners," my experience with this approach been incredibly positive overall. If you choose to make your liaison program about listening to employees and understanding what they need from your program, I'm willing to bet that you, too, will be surprised by the quality of the business relationships you develop and the insights you glean. ■

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ENDNOTES

1 Kann, Ronnie, et al. Compliance and Ethics Liaison Program Benchmarking Report 2014 Survey Findings. Rep. CEB Compliance and Ethics Leadership Council, n.d. Web. 12 Feb. 2016.

Creating stakeholder trust as a universal principle for business behavior

BY PATRICIA E. DOWDEN & PHILIP M. NICHOLS

Society increasingly demands that business firms act in ethical ways. Business firms, however, are offered few if any workable principles to guide their behavior. In order to actually be useful for a firm, a principle must lead a firm toward normatively desirable behavior, which is also measurable and testable.

Current principles fail to satisfy these requirements. A principle based on respecting the rights of others might—to the extent that the rights of others can be discerned in a manner clear enough to provide guidance—satisfy the objective of leading a firm to socially desirable behavior, but presents real difficulties in measurement. Similarly, the shibboleth of maximizing shareholder wealth might—to the extent that the appropriate shareholders can be identified and proxies for value be found—be measurable but it patently leads firms to engage in conduct not considered socially desirable.

In response to the need for real guidance, we propose a simple ethical principle: ***a basic duty of every business firm is to earn stakeholder trust.***

Stakeholder trust

Every business firm has stakeholders. A stakeholder is a party with a material interest in a business firm, or that may be materially

affected by the actions of a firm. Those stakeholders will vary from firm to firm, and identifying stakeholders is instructive in understanding the societal context of a particular firm. In business firms that take a corporate form, shareholders will be one group of stakeholders, but not the only group.

Trust takes many forms, but in general consists of an expectation that a business will behave as expected/desired under conditions of risk. As a common example, we "trust" a business firm to keep personal data confidential, knowing that entrusting another with personal data does bear risk. If that firm acts in ways other than what we expect/desire, then the misuse of our personal data can inflict great damage. Trust is closely related to reputation—a good reputation is often the product of trustworthy behavior. People trust people or organizations that evidence good character as well as strong competency.

Trust as a proxy for normatively desirable behavior

The specific actions that will create trust among stakeholders of a specific firm in a specific culture or region will of course differ. The general actions and factors that create trust can, however, be identified. Research on both employee and customer trust suggests some common factors, including:

- Integrity, honesty
- Reliability, dependability, consistency, promise keeping
- Fairness, justice, accountability
- Competence, capability: availability of required skills, resources, authority
- Benevolence, shared values, empathy: a genuine interest in partner's welfare and finding mutual benefit
- Respectfulness, civility
- Communication, transparency: timely, comprehensive, comprehensible information; listening as well as speaking
- Responsiveness: timely, constructive reactions to issues

These behaviors align closely with the normative expectations of society. Society thinks that business firms *should* be honest, that business firms *should* be fair, that business firms *should* be respectful. In other words, firms earn

trust by behaving in ways that society expects and desires. Trust, therefore, can be seen as a proxy for ethical behavior.

Trust can be measured

Measuring ethical behavior presents real challenges for business firms. No real scale exists for measuring the honesty of a firm, or the extent to which it is fair or respectful. If a business firm is told only to be honest, fair and respectful it has no means of ascertaining its success at doing so. Most ethical principles, therefore fail to guide business firms toward behavior that is testable and measurable.

Trust, on the other hand, can be and is measured. Indeed, entire industries are dedicated to measuring trust and its close correlate: reputation. Surveys, questionnaires, focus groups, and online fora are only some of the ways in which this is done. Large firms often have offices dedicated to understanding stakeholders; these offices could adapt to the measurement of stakeholder trust. Consulting firms and survey firms, such as Gallup or Nielsen or Anderson Analytics, find and measure the attitudes of stakeholders. Small firms also have means to measure stakeholder trust; dozens of online survey firms, such as SurveyMonkey or Qualtronics or QuestionPro, offer free or low cost templates for surveying stakeholders.

Stakeholder trust benefits a firm

Business firms should act in ethically accepted ways regardless of whether or not there is a financial reward for doing so. It is no secret that reputation affects the market value of publicly traded corporations. Reputation Dividend, a consulting firm that helps traded firms quantify the value of their reputation, releases annual reports on the overall value of reputation. In 2015, reputation created 36 percent of the value of firms included in the London Stock Exchange's FTSE and 33 percent of the value of firms included in the Sao Paulo Exchange's Bovespa Index.[1] In the United States, during the same period, reputational problems had destroyed US$ 325 billion of value in the New York Stock Exchange's S&P 500.[2]

All business firms, whether publicly traded or otherwise, benefit from the creation of trust. A study by the World Economic Forum found five general benefits engendered through trust creation:

1. Better business terms, processes and conditions

2. Enhanced innovation and entrepreneurship, which contributes to competiveness

3. More loyal, productive and engaged employee relationships

4. Stronger external relationships up and down the value chain

5. Greater resilience to withstand shocks and crises more effectively.[3]

Trust contributes to the bottom line.

Trust benefits society

Trust not only contributes to the profitability of a business firm, it also enhances the economic viability of society in general. Countries in which people have higher levels of trust in other people and in institutions and in government tend to have greater economic prosperity than those with lower rates of trust. This sort of trust, called generalized trust, decreases costs, increases the number and types of relationships people will enter into, and contributes to cooperation, collaboration, and innovation. Indeed, Nobel Laureate Kenneth Arrow suggested that "It can be plausibly argued that much of the economic backwardness in the world can be explained by the lack of mutual confidence."[4]

Conclusion

We suggest all business firms have a duty to create stakeholder trust. This is neither an empty duty nor a thankless duty. Business firms and society in general will benefit from satisfaction of this duty. ■

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Philip M. Nichols is an Associate Professor of Legal Studies and Business Ethics at The Wharton School of the University of Pennsylvania.

ENDNOTES

1 The 2016 UK Reputation Dividend Report: http://www.reputationdividend.com/files/7814/5441/0391/UK_2016_Reputation_Dividend_report.pdf, and
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3 The Evolution of Trust in Business: From Delivery to Values, 2015: http://www3.weforum.org/docs/WEF_EvolutionTrustBusinessDeliveryValues_report_2015.pdf

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Is law and compliance a bad marriage?

BY PAUL P. JESEP, JD, MPS, MA

It's an area getting more attention, especially in smaller organizations with limited resources needing to leverage staff skills and resources. Is it ever acceptable for counsel and the compliance officer to serve in a dual role?[1] There's sometimes a knee-jerk reaction not to do it.

Does a legal-compliance hybrid role contribute to ethical lapses? Are compliance officers expected to be ethical while lawyers are given certain allowances as zealous advocates so long as they are bending the law, but not breaking it?

In addition, too little attention is given when someone may stop being a compliance officer and crosses the boundary into being an attorney, without a license to do it. It's for this reason, along with law and compliance not being mutually exclusive, that a dual role sometimes should be considered for an attorney.

Generally and despite public perception, an ethical lawyer is not a contradiction. Meeting legal and regulatory expectations can be functions of separate legal and compliance departments. Although there are good reasons to make a distinction between law and compliance, there remains a great deal of ambiguity about ethical behavior which directly impacts lawyers and compliance officers. Rarely, if ever, are there legal consequences for being unethical. Unethical doesn't equate with illegal.

In addressing ethical concerns, compliance has taken on an understandably heightened importance. In doing so, however, it's also created some confusion about the legal and compliance relationship and whether they can ever be compatible within the same office.

In 2015, the Office of Inspector General, US Department of Health and Human Services, Association of Healthcare Internal Auditors, American Health Lawyers Association, and Health Care Compliance Association, released *Practical Guidance for Health Care Governing Boards on Compliance Oversight*, suggesting a model that makes a careful distinction among legal, auditing, and compliance functions. The article also included a brief discussion of human resource and quality improvement roles.

The authors observed, "not all entities may possess sufficient resources to support this structure."[2] "Ultimately," the *Practical Guidance* highlights, "compliance efforts are necessary to protect patients and public funds, but the form and manner of such efforts will always be dependent on the organization's individual situation."[3]

Combining the role of legal and compliance is possible, so long as there is caution and appropriate safeguards in place that respect the distinction between the two. Policies also must address the inevitable conflicts.

This doesn't mean the expectations for an ethical culture is lessened or smaller organizations get a free pass for occasional ethical lapses. Nor does it mean in a small operation compliance reports to counsel instead of the board. Compliance must always report to the board without any manipulation or influence from counsel, if the roles are filled by different people in separate departments.

In addition, the *United States Sentencing Commission Guidelines Manual*, applicable for persons and organizations convicted in federal court of felonies and serious misdemeanors, provides that an effective compliance and ethics program shall "promote an

organizational culture that encourages ethical conduct and a commitment to compliance with the law."[4] The program must be "reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting criminal conduct."

In-house counsel who is also the compliance officer can weed out criminal conduct. But the board should be particularly sensitive to monitor the joint roles.

In the final analysis, an individual who serves in a dual role as counsel and compliance officer may have the credentials on paper, but does he or she possess the temperament and the ability to compartmentalize the two functions? He or she must have the integrity and common sense to recuse him- or herself when a potential or actual conflict arises from a particular issue and recognize there isn't one standard of ethics for lawyers and another for compliance officers. Hence, a combined role can sometimes work and shouldn't be rejected outright. ■

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1 Ben W. Heineman, Jr., "Don't Divorce the GC and Compliance Officer," *Corporate Counsel*, January 2011.

2 http://oig.hhs.gov/compliance/compliance-guidance/docs/Practical-Guidance-for-Health-Care-Boards-on-Compliance-Oversight.pdf. See also Paul P. Jesep, "OIG offers new guidance for healthcare governing boards," *Compliance Today*, October 2015.

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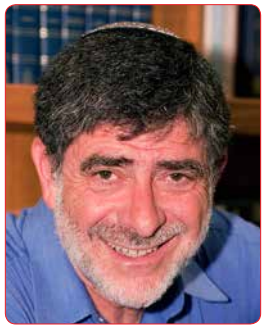
Ethics: It's academic!

An interview with Arthur Gross-Schaefer

BY ROZ BLISS

As ethics professionals, we are often asked about our career path and what led us to the positions we are in now. For most of us, the journey is circuitous and often influenced by people and experiences that have touched our lives. In my case, my passion for the field of ethics began in graduate school fueled by a Business Law Professor at Loyola Marymount University, by the name of Arthur Gross-Schaefer. I vividly remember the first day when Professor Gross-Schaefer walked into the classroom and wrote his name on the board followed by Rabbi, JD, CPA, MAHL, and DD (Doctor of Divinity). He then slowly erased the alphabet montage after his name and said "Call me Arthur."



Not only is Arthur unique as an ordained Rabbi tenured at a Jesuit University, but truly one of the thought leaders in integrating ethics into the academic curriculum. Years have gone by and I have been fortunate to maintain a long and lasting friendship with Arthur who continues to inspire and teach me in the work that I do.

Recently, I heard Arthur address an audience at a Distinguished Speaker Series and I would like to share some of his teachings with my professional colleagues in the world of business ethics.

RB Arthur, your journey as an ethicist has been interesting to say the least. How did your academic training prepare you for the role you are in today?

AG My goal has always been to make this world a better place. As a society, we learn and grow with each other. I began my career as a youth group supervisor, a social worker. I then moved to the business arena and needed to understand what drives the financial and budget choices that motivate corporate decisions. My CPA degree helped define the underlying considerations for profit generation and the profound affect these actions have on employees.

My legal degree trained me in politics, the creation of laws and protection of people's rights. The practical applications allowed me to manage campaigns and work for justice via the judicial system; however, I came to realize that I was losing myself along the way.

Rabbinical school grounded me to the ethical concepts that defined who I was. Philosophically you can justify virtually anything. Ethics takes you back to your core values, defines relevancy and is a practical application to guide you through life's challenges and opportunities.

RB I had the privilege of taking your class as a graduate student but I know you teach in other places and to a variety of professionals. Can you share your insights as a Rabbi at a Jesuit University and your other areas of academia?

AG My commute from Santa Barbara to Los Angeles takes me past eight other institutes of higher learning. I have been at Loyola Marymount University for 34 years, because I want to be there. The LMU mission statement encourages learning, education for the whole person and promotes service of faith and the promotion of justice. The university is a foundation for inquiry and learning and strives to create an intercultural community to encourage ecumenical and inter-religious dialogue. My Rabbinical perspective, as a Catholic outsider, provides diversity of thought.

Recently, I served in an advisory role for LMUs Bioethics Institute, that seeks to promote an awareness of social justice in the delivery of healthcare. Values drive this interdisciplinary perspective with input from the Catholic, Jewish, Muslim and Buddhist traditions.

Additionally, I continue to teach ethics to diverse audiences including groups of doctors, Rabbi's, CPA's, hospitals, doctors/nurses, non-profits and Boards of Directors. Tools for ethical decision making are tools for life.

RB Ethics professionals are often asked what defines an ethical person and an ethical corporation. How would you answer this?

AG The common answers for an individual is whether they are a good person, if they have a set of values—often religious, if they are consistent in their actions and do they consider other people when making decisions. To clearly understand ethical behavior, we need to look at what motivates people. Are they acting ethically to avoid punishment or is it as a quid pro quo meaning they expect something in return. Are they truly a good person, just following law, a social contract or acting on their core values?

Ethical corporations are part of the ownership theory of American culture. It used to be that the largest building in a community was the church. As history progressed, the government building began to dominate the landscape and now it is public and private corporations who often generate more capital than that of small nations. Corporate responsibility is more than just to the shareholders. It includes bettering the surrounding communities, environmental and safety concerns, academic and financial responsibilities to their employees, suppliers and their families.

RB Ethical dilemmas in the world of business are complex and frequently do not have obvious answers. How do you teach people to making good decisions?

AG An ethical decision making model is a tool for helping individuals and teams make good decisions. Specifics of the models can vary based on organizations but the framework is the same. The steps are:

1. What is your motive/intent: Clearly and succinctly define your goal and what it is that you need to accomplish.

2. List the Stakeholders: Who will be impacted by this decision: shareholders, company, employees, families, recipients, institutions, etc….. Pick the most important.

3. List the appropriate core values: Pick the highest.

4. List all options (don't critique): Select the one that will cause the greatest good/least harm and support your highest value to your most important stakeholder.

RB Employees generally have good intentions but conflict in the workplace is inevitable. Disharmony among workers can create a toxic environment and impede work productivity and destroy teamwork. Any tips on how to deal with people you just can't get along with?

AG We often cannot prevent what comes our way but we can choose how we deal with it. Look at your adversary as someone who can teach you something. Move to a place of curiosity to lower tension and become more relaxed.

If you have wronged an individual, begin with a sincere apology—taking responsibility and accountability for your actions. Listen to understand the extent of the harm as perceived by this person and ask what this person needs from you that is within reason (restitution). Learn from this process, so that given the same situation you would now act differently.

RB We've talked about ethics in the world of business but what about in your role as a parent. Do you have any advice on raising ethical children?

AG Learning ethics is a process and children learn from their parents. Consider the impact of the behaviors you model. What does a child learn when a parent lies about their age to get a cheaper ticket or tells them to inform the caller on the phone that they are not home? Does the way you treat a waiter/waitress in a restaurant or a service provider model the right behavior to your children? What about taking supplies from your place of work? One of my favorite quotes is "teaching by example is not a method of teaching, it is the only way that we teach."

One of my most asked for publications is an article I wrote giving short scenarios for dinner topic conversations. Take time for these discussions. Kids learn from you—be careful!

RB Speaking of kids, have you noticed changes in the ethical behaviors of Gen X, Gen Y and Millennium students graduating into the workforce?

AG Yes, I believe that the media has had a profound effect on these new generations of students. As a whole, I find them to be less critical, more passive; they have a wider base of knowledge, but not as deep and in general read less than previous generations.

Ethical behavior can be viewed from different perspectives. For example, technology has enabled immediate responses via email, text messages and Facebook. Quick isn't always good. An ethical perspective helps people reflect and think before posting. Privacy and sensitivity are considerations that need to be looked at. Can the picture or post you are making public create reputational damage or hurt people? How would you feel if someone shared this information about you?

RB Arthur, given the many hats that your wear and roles that you fill, do you have any time for fun things?

AG Funny you should ask! I have just published my first book in a series of three murder mystery books. *The Rabbi Wore Moccasins* is a murder mystery that weaves itself into the life of a California rabbi and lawyer, who is at the same time questioning his own life story. When the spiritual leader of a Native American community confesses to killing his wife, the rabbi is not convinced, and the mystery begins... In addition to being a suspenseful adventure, readers will gain insights into Native American culture. I plan to follow up with *The Rabbi Wore a Fedora*, exploring Jewish, Evangelical, and Islamic culture, and *The Rabbit Wore a Collar* based on Catholicism. ■

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Arthur Gross-Schaefer is Chairman of the Department of Marketing and Business Law at Loyola Marymount University, Los Angeles, where he has taught for the past 34 years. He has JD, CPA, MAHL and DD (Doctor of Divinity) and is an ordained Rabbi with a congregation in Santa Barbara. In addition to teaching and writing about constitutional, employment and general business law, he has done substantial instruction and publishing in the area of ethics for lawyers, accountants, business and religious professionals. Professor Gross-Schaefer lecturers for various state bars, accounting societies, law firms, legal administrators, businesses and religious organizations.

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SOCIETY OF CORPORATE COMPLIANCE AND ETHICS

Compliance is the right arm of business: Ethics is the heart!

BY BRENO RODRIGUES

It is well known that to do business globally is imperative for firms to have robust compliance programs, structured on best practices existing in the market. It is also undeniable that implementation of internal policies, continuous adherence to the internal standards and external regulations, staff training, process improvement, risk mapping, creation of strong internal controls, fight against corruption and absolute transparency are practices and indispensable tools for doing business nowadays.

However, these tools and practices create a "legal culture" in the corporate environment, which means, in general, complying with rules to avoid sanctions from the authorities and regulatory bodies. Nevertheless, here a question comes up: Is compliance with the law enough? Does only legal culture ensure stability, competitiveness and prosperity of a company in the global market?

The answer would be no! To create a "moral culture" which does not have its foundations in Law but in Ethics is just as important, if not more. Remember, what is legal is not necessarily ethical and what is unethical is not necessarily illegal. Ethics is associated with universal moral principles of honesty, integrity, loyalty, justice, and of course, the pursuit of excellence and responsibility with the market, partners, customers and community.

It is sad to say, but these values are being pushed aside, and behaviors seen nowadays in the companies' culture such as the maximization of short-term profits, the business culture at any cost and hefty bonus theory are key points for that. Additionally, a National Business Ethics Survey found that the most common cause for employees to compromise their ethical standards is the pressure to meet unrealistic business objectives; furthermore, it identified that senior or middle management are the primary source of this pressure.[1] Conversely, what leaders and companies have forgotten is that the lack of ethics can be much more devastating than the lack of compliance with the law.

The most emblematic case, which elucidates what was mentioned above, is Arthur Andersen,[2] in which the company chose to increase profits at the expense of their duty and responsibility to act ethically with the market and its clients,[3] fact that resulted in the death sentence of one of the world's largest auditing firms in the past decades.

More recently, Volkswagen has assumed that installed a software on more than 11 million of its cars around the world to defraud greenhouse gas emissions rates during the regulatory authorities' tests.[4] After the announcement, although the case has not ended, fingers are being pointed at the unethical attitude of the organization, which has resulted in record fall of its shares.[5] However, it did not happen only because of the fear of billions of dollars penalty but along with great concern for the company's ability to regain the confidence of consumers and market, as well as to rebuild its reputation in the automotive sector.

In this context, it is important to note that companies are not people, but they are made by them and at the end of the day, these individuals define company's culture. So, companies do not act unethically, people who are at your command or represent them do, and if they behave out of ethical standards, the result may be catastrophic such in the examples cited above and many others well known worldwide (Enron, WorldCom, Hollinger International, etc.).

In all of them, private and particular interests overrode the public interest, and its reversal is fatal. We must remember that the market not only looks at numbers but they also evaluate the credibility of the brand, how their owners, investors, managers, executives and suppliers do business, how much they are honest and reliable, and if they really care about the society and its customers.[6]

On the other hand, misconducts are inevitable because they are inherent to human beings. Remember, different interests,

motivations and how they differ in character, culture and goals drive humans. However, the companies through their leaders, managers, and employees have the responsibility to minimize such misconduct whether it is for the sake of business, society, or for themselves.

The topic may sound utopian because there is no path or a pre-established theory, but a positive point is that, as human beings, we have the need to be ethical, to do right instead of wrong, and we like to be at the side of persons acting in this way. Therefore, the tone from the top is the first step to spread the ethical commitment within an organization. Corporate leaders must internally disseminate that ethical principles are untouchable in the company culture and that any violation will be punished regardless of the position. They should also set an example through their conduct, support actions and decisions based on such principles, and encourage reports that threaten them.

A quick Q&A game can help demystify the subject: Would you do business with Warren Buffett? Why?—Because few would have this chance, let me ask a second more tangible question: Would you trade a tenant who paid religiously on time for the other you hardly know? Why?—Stop and think! Probably the two questions had different answers, but the reasons were the same, and the words that came up to your mind were reputation, honesty, trust, and integrity, which mean Ethics.

Thus, there is no other conclusion than to infer that compliance and ethics are complementary. The first is the right arm of the

companies leading their processes and operations while, thinking objectively, has the scope to comply with legal requirements that must be followed by business and its employees. The latter, Ethics, is the heart, guiding how this will be done and the correct way to do it, because it adds disconnected standards of legality, which are essential to the foundation and sustainable growth of organizations and the professionals who represent them. In short, compliance is critical, but ethics is essential! ■

ENDNOTES

1 http://fortune.com/2015/10/13/biggest-culprit-in-volkswagen-emissions-scandal/

2 https://www.sec.gov/litigation/litreleases/lr17039.htm

3 http://www.bloomberg.com/bw/stories/2003-03-16/how-andersen-turned-to-the-dark-side

4 http://www.nytimes.com/2015/09/25/business/international/volkswagen-emissions-pollution-regulations.html

5 http://www.cnbc.com/2015/09/21/volkswagen-stock-drops-20-on-us-diesel-recall-probe.html

6 http://www.ft.com/intl/cms/s/2/d54c45ec-c086-11db-995a-000b5df10621.html#axzz3p6wN7nHS

What we measure may deserve a shift in focus…

BY JYOTI PANDEY

Opened my mail this morning and peered through an email from a recruiter that approached with an interesting job requisition. The company, area of responsibility, and the sphere of influence seemed appealing. I was just stuck at one point—**strong focus on bottom line**.

Bottom line describes how efficient a company is with its spending and operating costs and how effectively it has been controlling total costs. While it is true that the whole purpose of being in business and the only way to sustain it is to create a strong bottom line and that is also required from the standpoint of fulfilling the stakeholder responsibility. But isn't this overemphasis on the bottom line *very narrowly focused* so far assessing the overall health of the company? Should corporate reporting not focus toward how a company is making its money, not just how much it is making? Accounting has the potential to see things differently; unfortunately, the single-point focus on the bottom line that does not take in to account the non-financial measures does not allow accountants an opportunity to stretch the boundaries, and that ultimately keeps them narrowly focused. The metrics that we arrive at as a result of the calculations is not unworthy, that however, does not give us the perspective to measure things in a meaningful light. Chances are, unless the companies shift their focus and generate

numbers not merely for the Wall Street, we will not see much of a change.

Gene Rogers, the founder and CEO of the Sustainability Accounting Standards Board gives an in-depth analysis here of international efforts for this disclosure. In Europe, sustainability reporting—the disclosure of non-financial information into financial reports—has gained strong momentum and is becoming routine. In 2014, the E.U. adopted an amendment to its general accounting directives, requiring that certain large companies (estimated 6000) include reporting of "sustainability" factors—such as environmental aspects, social and employee-related matters, and respect for human rights, anti-corruption and bribery issues, and diversity on boards of directors— in their management reports.

The United States passed a similar regulation more than eight decades ago. Internationally, where other countries are moving ahead with mandatory ESG disclosure at a more rapid pace, it has not been strictly enforced in the U.S. According to an annual publication covering the social and environmental shareholder resolutions filed each proxy season, 63% of all shareholder proposals filed relate to social and environmental issues, which suggests that companies are not disclosing sustainability information that investors deem material. The corporate performance could take a significant leap in a positive direction if the U.S. were to enforce its own disclosure regulation.

Peter Bakker (president of the World Business Council for Sustainable Development and former CEO of TNT N.V., now Post NL and TNT Express) recollects that during his time as CEO of TNT N.V. the company created a partnership with the UN World Food Program (WFP)—at that time, the world's first between a for-profit and the UN agency. "A transport company like TNT is a typical beneficiary of globalization. At the same time we live in a world where every six seconds a child dies from hunger

despite there being enough food in the world to prevent it." He says. So TNT brought its logistics skills and committed its people's time to help the WFP reach the victims of droughts, famine, and natural disaster. Their professional support made the WFP function better. The company also got returns on its investment as well as the employees of the company were proud of the company and eager to participate; the disaster areas provided some of the best training on how to solve complex dilemmas; and of course the reputation of the company improved tremendously. "But we weren't capturing any of it in our financial reports. We were building social capital, but we didn't have a way to tell our shareholders—or be held accountable to keep doing it. Similarly, you don't have to be an energy company or pulp and paper producer to focus on those resources; all companies use water, energy, and paper. But few are held accountable." Peter Bakker laments, sadly. When the SEC was formed in the 1930s, Congress empowered it to require the disclosure of material information. The definition of "material" remained limited to reporting only financial information, however.

The story reminded me of another one with slightly different twist but centered around the same theme "measurement" that I had read a book called *How Will You Measure Your Life*, by Clayton M. Christensen (professor at Harvard Business School). The narrative takes us through the success story of Dell that was mostly dependent on a Taiwanese component supplier called Asus. Dell had hit its stride in 1990s—using several key strategic initiatives.

- Making simple entry level computers at very low costs, moved up market later on.
- It made modular products, allowing its consumers to customize. Dell would then assemble and ship.
- It tried to use its capital efficiently wringing more and more sales and profits per dollar of its assets—something Wall Street applauded.

Interestingly, Dell was able to pull this off with the help of Asus. Later on Asus came up with more propositions for Dell to start outsourcing more and more of its key capabilities. In an effort to appease the Wall Street analysts on the company's efficiency ratios, a common one being RONA, Return On Net Assets, (in manufacturing parlance calculated by income/net assets), Dell started outsourcing. Since it is harder to drive the numerator up, to maintain robust ratios driving the denominator down is easier. To cut the long story short, the process continued as Dell outsourced the management

of its supply chain, and the design of its computers themselves. Dell essentially outsourced everything inside its personal computer business—everything except its brand. With high RONA and few assets left, Dell simply allows companies in Taiwan to put the name "Dell" on the machines. Merely focusing on the final outcome without closely monitoring the input that goes into the metric can create a potential competitor that can not only challenge the existence but may even throw the company out of the business.

Natura, a Brazilian cosmetics and fragrances company was among the first companies in the world to see integrated reporting (capturing financial as well as social and environmental information) as the best way to signal its management's focus on environmental and social stewardship. Since 2002, Natura has significantly reduced its greenhouse gas emissions and water consumption, developed more environmentally friendly packaging, and provided training and education opportunities to about 560,000 consultants. Such initiatives have helped the company earn one of the top slots in 2011 by Forbes, as one of the top innovative companies in the world. From 2002 to 2011 the firm's revenues grew by 463% and its net income by 3,722%, and the company had an average gross margin of 68%, compared with the industry average of 40%. In 2010, the company's return on assets (24.7%) and return on equity (62.1%) also far surpassed industry averages. (Source: Report Natura goes a step further in publishing a comprehensive report of its socio-environmental targets not met.)

We manage what we measure, and right now the tools we use to measure the worth of a company are outdated. Real estate and equipment making up the big chunk of a company's assets, maybe capitalized R&D or IP, but how much of a company's true value, its ability to deliver value to customers and ability to make a profit doing so, is represented by the bottom line? What about the social responsibility of the companies? When the world is moving toward greater transparency and stakeholders are becoming conscious towards the efforts the companies are making for a positive social impact, companies need to shift their focus and assume greater accountability. In a world where businesses spend millions sponsoring a game for marketing efforts, a little thought on some social issues such as droughts, famine, and natural disasters would also add significant value to the reputation of the companies impacting their bottom line.

We need businesses to exhibit such consciences. And we sure do need ways to measure them in the corporate reporting, and that can only come with a shift in focus… ■

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How to make the employee all-star team

BY KWAME S. SALTER

"If we must be a slave to habit, let us be a slave to good habits."
—Og Mandino, Author

We all want to do well, get noticed, be appreciated and get rewarded for our efforts at work. Yet, too often, we see our peers getting promoted before us. They, in my words, have been selected to the employee All-Star Team. In some cases, we ask ourselves "what do they have going for them that we lack?" Is it that they're smarter? Or, perhaps, are they better connected? Do they work harder? Is there some sort of nefarious conspiracy to keep you down? What the heck is their secret? These questions flash across our mind every time we read the Organizational Bulletin announcing the promotion of a peer. Well, after years of being in the corporate work arena, I think, just maybe, I have cracked the code. The Organizational Bulletin says nice things about the person, but rarely speaks to what they have actually *done* to earn the promotion. So, allow me to pierce the veil of secrecy surrounding what it takes to become an All-Star employee.

First, understand that the process an organization uses to identify an All-Star employee is not an exact science. In fact, the process is equal parts science and equal art. The art of identifying potential stars is based on a number of factors including personality, poise and

presence. A person can be the undisputed subject matter expert in his or her field, yet exhibit a quirky personality. Similarly, the person might appear to be easily rattled under pressure. Personality characteristics that make colleagues and peers uncomfortable will always be a barrier to upward mobility. During my years of observing the potential All-Stars, I noticed that there was a quasi-science applied to making the determination of who should be in the pipeline for promotional opportunities. This quasi-science is based on *observable and consistent behaviors* demonstrated, over time, by the employee.

For purposes of discussion, I have reduced these *observable and consistent behaviors* to a list of 7 good habits one must develop and practice consistently. So, here are the **7 good habits** to cultivate.

HABIT #1 DEVELOP YOUR COMPETENCE. Work on becoming really good at what you do—technically strong. Every day learn from your boss (read what he/she is reading), your peers, and outside experts about what *"good looks like"* in your profession or job. Read professional or technical journals, join professional organizations and remember that you must always strive to do your job right. Why is it that we *"don't have time to do it right, but we always have time to do it over?"* Your next job depends on how well you do in your current job. As they say in professional football, "if, on every play called, each player dominates at their respective position, the team will flawlessly execute and win the game." Being competent is foundational to success.

HABIT #2 SPEAK TRUTH. Growing up Catholic, I learned a lot about discipline and how to comport myself in various situations. One lesson the nuns drilled into us was that a lie was a lie. In our little world, there were two types of lies—*lies of commission and lies of omission.* Either you admitted you did something (commission) or you conveniently forgot or chose to remain silent (omission) about some transgression. Forgetting or remaining silent would fall into the category of lies of omission. The dynamics of the workplace give us ample opportunities to commit either lies of commission or omission. Spin control is just another way of lying. Always speak the truth as you know it—based on the facts before you. The beauty in telling the truth is simple—you don't have to keep track of truth. However, if you lie, you must remember who you lied to as well as when and where. Fudging or

not disclosing key facts about a sales report or progress against goals is a form of lying. Truthfulness is a core competence.

HABIT #3 BUILD TRUST. Trust is the characteristic that allows people to believe in you, to rely on you and to have confidence that your word is, truly, your bond. While there are many behaviors that might annoy or irritate your coworkers, they don't rupture a relationship. You can be habitually late or an occasional jerk and people will make accommodations for these shortcomings. These traits will surely slow down your ascent to the next level. However, the quickest and surest way to *derail* your career is *to be deemed untrustworthy.* Once you are labeled as untrustworthy, people might still interact with you (because they have to), but never invest confidence in anything you say or do. You become an organizational leper—isolated and avoided. My mother had a saying about how she dealt with an untrustworthy individual. She would say, *"I wouldn't feed him with a long-handled spoon."* Being trustworthy is an asset when being considered for a promotion.

HABIT #4 BE HELPFUL. The workplace is made up of jobs, tasks and assignments. Each employee hunkers down and attempts to do the best job possible. Yet, if you are to be good to great at your job, you're going to need help from someone else in the organization. At any given point in time during the day, we are either a supplier or a customer. In other words, we or someone either up or down the organizational structure needs something from us or we need

something from them to complete a task or an assignment—or, put simply, to do our job. Real work is actually done in the white space between jobs. The potential All-Star employee is boundary spanning. He or she is willing to help and assist fellow employees to look good and do a better job. Helpfulness deepens the relationship bond between employees. It creates what I call *relationship equity.* While relationship equity is not transferrable to another company, it is real currency at your current company. When senior management in a company is considering who is ready to move up, your fellow employees view of you is a major consideration. Being helpful may not be a guarantee for promotion. Yet, not being helpful can be viewed a major negative. To be an effective team member, you must be helpful to others.

HABIT #5 NETWORK FOR KNOWLEDGE. Networking is more than seeking face time with senior management or kibitzing with peers and other co-workers. Networking is a conscious effort to seek organization knowledge. Effective networking skills will garner not only knowledge but, also, mentors and advocates. Mentors can be very helpful, if you come prepared with specific questions. Based on either their position and/or their seniority, they can serve as a sort of 'sherpa' guide to help you negotiate potentially treacherous passages while climbing the organizational mountain. An organizational advocate is someone who has either influence or power. Specifically, an advocate is someone who speaks up for you when you're not in the room. Advocates may or may not be mentors. Often times, the advocate has observed you from a distance. Perhaps, one of your mentors is a respected member of his/her team and shares with the advocate your potential. Whatever the case both mentors and advocates are shrewd investors with the time. If you stagnate or fail to grow, they typically will withdraw their support. It comes down to return on investment (ROI). In speaking to the concept of networking, Linda A. Hall, co-author along with Kent Lineback of *Being the Boss*, says it best: *"Who you know determines what you know and what you know determines how far you go."*

HABIT #6 ACT WITH INTEGRITY. Years ago, the New York Times newspaper published a full page insert that stated, *"If you're good when nobody is watching, that's integrity."* Integrity, according to the dictionary, is adherence to moral and ethical principles; soundness of moral character. Peter Drucker, the wise business sage declared, *"There is no such thing as business ethics—either you are ethical or you're not."*

Every day, our integrity is challenged. These challenges never cease. We can act with integrity 99 out of 100 times. Yet, one moral lapse can destroy an impeccable reputation that took years to build. To paraphrase the great football coach, Vince Lombardi, integrity is not a sometime thing, it's an everyday thing. Some people put six figure jobs and promising careers at risk to cheat on their expense reports or as my father would say they are, *"Stepping over dollars to pick up pennies."* Others manipulate data to hide embezzlement, steal from customers or take credit for another employee's work product. Integrity is non-negotiable. If you want to be considered a safe bet, always operate with integrity.

HABIT #7 FOLLOW YOUR PERSONAL VISION. A vision should be aspirational. It is a strong desire for something. Your vision should be clear, compelling and achievable given a consistent investment of time and energy. As they say, *"if you can conceive it, believe it, you can achieve it."* So, before you get to your desired destination position you must mentally project yourself into that future state. Daily manifest your intentions. Expect delays, disappointments and detours. Your personal vision must have a stretch component built into it. You will have naysayers, doubters and detractors along the way. Although these types first appear as obstacles, they are really the incentive you need to persist in your journey. Nothing is more satisfying then proving doubters wrong. Remember, *"obstacles are what you see when you take your eyes off your goals."* Each day, meditate on and affirm your vision. Affirmations are belief statements about the future stated in the present tense. In other words, don't say "I **want** to be a Director, VP or CEO—rather say, **I am** a Director, VP or CEO." You must first ***unequivocally*** state your intent to bring about the desired event. There is something electric and energizing about an individual with a personal vision. She/he is driven and focused. If you are willing to work hard, others take notice and want to help you reach your stated goal. Treat failure like a temporary glitch on your screen of life. An old African proverb states, *"To stumble is to move forward faster."* ■

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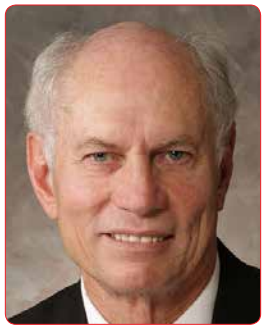
Note: Talent Trumps is a trademarked entity of The Salter Group LLC.

Two key measures for improving government contractors' compliance with ethics rules

BY WILLIAM SIMS CURRY

Government contractors face one set of ethical policy decisions when dealing with their customers and entirely different challenges when engaging with members of their supply chain. Marketing and sales can normally offer tokens of their appreciation to private sector customers with minimal restrictions as long as their actions do not constitute fraud. When dealing with government customers, however, strictly enforced policies and laws apply. The limit on the value of individual gifts that federal government employees may accept is $20 or less, so long as the gift is not cash, and the employee accepts no more than $50 in gifts from the same source in one calendar year. State and local government agencies establish their own limits on gratuities and the monetary limits vary greatly between jurisdictions. Corporate employees giving gratuities exceeding the established thresholds to government representatives are equally as guilty as the government employees who accept such gifts. Certain actions classified as ethical breaches are also unlawful. The Federal Bureau of Investigation (FBI) normally has jurisdiction for procurement fraud cases involving federal, state, and local government agencies.



When dealing with members of their supply chain government contractor employees are in a position similar to government employees. Suppliers may be tempted of offer extravagant gifts to prime contractor management, technical, contracting, or purchasing personnel to grow their subcontracting business. Corporations selling products or services to government agencies are responsible for establishing and enforcing policies regarding the acceptance of gratuities that are consistent with their government customer's ethics laws and policies.

CORPORATIONS ARE SUBJECT TO MILLIONS OF DOLLARS IN FINES AND BEING SUSPENDED OR DEBARRED FROM CONTRACTING WITH THE GOVERNMENT FOR VIOLATING GIFT-GIVING RULES.

The consequences for failing to conform to their government customers' restrictions on gift giving and receiving can be severe. Corporations are subject to millions of dollars in fines and being suspended or debarred from contracting with the government for violating gift-giving rules. Just as with federal employees, the impact on corporate officials and employees involved in illicit gift giving have experienced fines, imprisonment, have had their careers destroyed, family relationships shattered, and a number of individuals facing procurement fraud penalties have committed suicide.

Government contractors may have rogue employees who feel invincible with respect to laws and policies regarding the giving or taking of gratuities. Intensive ethics training and policy enforcement programs are recommended to ensure that employees do not jeopardize the corporation's reputation, profitability, and market share. One element of a corporate ethics-training program that should be included in such training programs is detailed information on *qui tam* lawsuits. Stemming ethics violations through *qui tam* training may seem counterintuitive since *qui tam* lawsuits by employees or former employees could result in fines levied against the corporation. The rationale for providing corporate officials and employees with training on *qui tam* lawsuits is that such training will likely reduce or eliminate the incidence of violations involving rogue employees tempted to violate procurement corruption laws. Once employees tempted to violate ethics policies learn that whistle-blowing employees or former employees can share in a significant percentage of the fines recovered by the government in procurement fraud cases, they realize that co-workers or subordinates have a mighty incentive to report their illegal activities. Employee and former employee shares in fines levied against government contractors through *qui tam* lawsuits have amounted to millions of dollars.

Addressing how corporate officials and employees deal with conformance to ethical behavior policy presents an avenue to effective treatment of this topic. In addition to addressing the points made above, corporate ethics professionals are urged to encourage

company officials and employees to adopt personal ethics standards. The rationale for establishing personal standards with respect to ethical behavior is that governments establish monetary limits that employees can accept solely because it is impractical to enforce zero tolerance gratuities policies. Disciplining an employee for accepting low value gifts would appear petty. It is necessary, therefore, to establish a maximum value for acceptable gifts. Corporate training programs, however, should stress that that government establishes monetary limits solely due to the impracticability of disciplining officials or employees for accepting inexpensive favors. No responsible CEO, director, manager, or supervisor should relish her or his subordinates accepting gifts of any value from company suppliers. Corporate leadership should also discourage the offering of gifts to government representatives.

The enormity of procurement fraud has such a devastating, all encompassing impact on relations between private sector corporations and government that the Justice Department established the National Procurement Fraud Task Force (NPFTF) to address this problem. Membership of the NPFTF consists of 58 prosecutorial and investigative agencies. Various offices of inspectors general (OIGs) comprise 35 of the 58 member agencies. While the NPFTF effectively deals with procurement fraud after crimes have been committed, it is in the best interests of both the public and private sectors to implement measures preventing ethical lapses and crimes and the devastating impact conferred on government agencies, corporations that conduct business with government, as well as public and private sector officials and employees. As mentioned earlier in this article, government contractors have been assessed millions of dollars in fines while individual officials and employees have been fined, imprisoned, had the careers destroyed,

family relationships shattered, and a number of individuals facing procurement fraud penalties have committed suicide.

The first of two recommendations offered here to dissuade procurement corruption is in two parts. The first part is to establish a zero tolerance policy toward the offering or giving of gratuities to government representatives. Receiving the offer of supplier gifts is embarrassing to honest government employees. This is especially true when he or she determines the intent of the offer of a gratuity is to make the government official more amenable to awarding contracts to a favored contractor. Companies that implement a zero tolerance policy toward giving gratuities to government officials should describe their policy in their advertising literature and in written responses to government solicitations.

The second part of this first recommendation is to encourage company employees to establish a personal zero tolerance policy regarding the acceptance of gratuities from suppliers. Corporations should advise employees that acceptable gift limits are in effect merely due to the impracticability of enforcing zero tolerance policies and that the company discourages acceptance of gifts from suppliers regardless of value.

The second recommendation is implementation of a contractor selection process that clearly identifies the subcontractor offering the best value to the prime contractor. Proposals submitted in response to requests for proposals (RFPs) released by government or prime contractors are oftentimes evaluated in a haphazard manner that provide one individual with flexibility to award contracts to either of two or more competing contractors. When the individual with authority to award contracts is corrupt and has flexibility to award contracts to either two or more of the competing contractors, he or she is likely to award the contract to a favored contractor in return for personal enrichment.

Flawed contractor or subcontractor selection processes, resulting from cryptic results emanating from subject matter experts who evaluate proposals, expose government contractors to fraud. Cryptic proposal evaluation results also lead to award of contracts to other than the best-qualified subcontractors. The Department of Defense (DOD) established a proposal evaluation process that prohibits weighting of contractor selection criteria (known as "factors" within the DOD) numerically and prohibits scoring the proposals numerically. These restrictions result

in weighting factors in relative terms, such as indicated in the following extract from a GAO decision (File Nos. B-412097 and B-412097.2, December 23, 2015) indicating the relative importance of evaluation factors in an RFP released by the Defense Information Systems Agency:

> The information assurance factor was to be evaluated on a pass/fail basis, and the three remaining factors were listed in descending order of importance.… The non-price evaluation factors, considered together, were considerably more important than price.... The technical/management factor consisted of three subfactors in decreasing order of importance: (1) space segment requirements, (2) end-to-end design solution, and (3) terrestrial services requirements.

DOD's supplement to the Federal Acquisition Regulations (FAR) also requires the scoring of proposals during the contractor selection process to assignment of colors or adjectives. DOD prohibits the numerical scoring of proposals. A review of the decision matrices reflecting such color coded and adjectival scoring of proposals resulted in cryptic contractor selection models. Excessive cases of tied scores and difficulty in determining if high technical ratings are sufficient to justify paying a higher price cloud the contractor selection process. Despite the vagaries of DOD's assignment of relative factor significance and adjectival or colorized proposal scoring, numerous other federal government agencies emulate these DOD practices.

Leading state and local government contracting offices implemented proposal evaluation processes clearly superior to DOD because they readily identify the contractors' offering best value proposals. These agencies assign numerical weights to describe the importance of the proposal evaluation criteria and score proposals numerically. Scores assigned by the proposal evaluation teams for subjectively rated criteria are weighed using mathematical formulas. The formula applied to weigh objectively weighed criteria where low values are favorable to the contracting activity (such as price) simultaneously weigh the proposed value and convert low values to high scores. The best value proposal is determined by adding the weighed scores for all the proposal evaluation criteria. Implementing this approach to identifying the contractor offering the best value proposal eliminates the vagaries of DOD's approach to the source selection process and, therefore, eliminates one pernicious opportunity for procurement fraud. ■

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Big Data and the public good

BY CHRIS PAHL

"The world is one big data problem."
— Andrew McAfee

In my last article, "Ethical Collection and Use of Big Data," I discussed the issue of big data and anonymization challenges. Numerous case studies have shown despite the ability to remove identifiers from large data sets, information has been combined with publicly available data to re-identity individuals. While the issue of re-identification must be solved, big data analytics may be used for the public good, such as energy efficiency and advancing medical cures when done ethically.

Computer Science Zone predicts the Internet of Things (IoT) is expected to grow to 25 billion devices in the next five years.[1] Today five billion are in use. Devices such as wearables, car safety systems, and smart parking meters and cities will become a routine part of a connected society, collecting 400 zettabytes of data annually.[2] Smart Cities are addressing ecological issues through monitoring car pollution or water leaks. Stockholm, Sweden cut emissions by 15 percent and Miami, Florida used smart technology to identify water leaks, saving $1 million annually.[3]

These savings, promoting public good, does not come without infringing on citizens' privacy rights. This type of information will be stored by various entities, and where allowed, shared with third parties to improve customer experience, reduce waste of natural

resources, and enhance a user's profile for target marketing. However, a connected society may help prolong and save lives but society must become comfortable with the trade-off between privacy and the public good.

Prior to analyzing 400 zettabytes of data, technologists and regulators must be able to secure big data from unauthorized use and develop an iron-clad methodology to prohibit any possibility of re-identification. Companies must take appropriate precautions, such as data segregation, aggregation, encryption, and data retention, to reduce incidences of sensitive medical information from falling in the wrong hands. Sensitive data includes, but not limited to, health, medical, financial, driving, political, and locational information.

Within the United States, the Health Information Portability and Accountability Act (HIPAA) allows medical information to be provided to a patient's provider but restricts the sharing with other third parties without explicit, written consent. In Europe, restrictions regarding sensitive information are tightly controlled where citizens have a fundamental right to privacy. While privacy rights in the United States are sectoral and citizens do not enjoy the same human rights their European counterparts have, companies have the responsibility to protect the most sensitive information from unauthorized third party disclosure.

Improper disclosure may lead to industries creating a risk model affecting medical rates or denying insurance coverage. Sensitive information could also be used by an employer to engage in unethical hiring practices or used by governmental agencies for unwarranted surveillance. One may argue to keep society safe the government should have the right to risk profile individuals and place those deemed a threat under surveillance, assuming there is an objective methodology. In the right context sensitive information may benefit the public good.

Governments have been using big data to keep their citizens safe, which is a form of public good, albeit controversial. However, the public battle between the technology industry and government will continue to

force lawmakers to examine the need to place privacy or the public good before the other. In the end, big data can be helpful when all stakeholders agree on a reasonable approach. In February 2016, Terrell McSweeney, commissioner at the Federal Trade Commission, encouraged companies for the need to implement "data ethics by design" by planning to protect consumer privacy before data is collected and analytics are considered, as "data is the lifeblood of a lot of innovation now".[4]

Big data may help save lives through the sharing of medical procedures or solve ecological problems. For example, patients suffering from debilitating diseases such as cancer, dementia, or HIV may be able to live longer as medical breakthroughs may occur when professionals have unfettered access to all treatments. Atual Butte, from Stanford School of Medicine said "hiding within those mounds of data is knowledge that could change the life of a patient, or change the world."[5]

Changing the world of a mother who is carrying a newborn with a potentially life debilitating disease could have their lives changed forever thanks to medical breakthroughs uncovered through big data analytics. Newborns may be able to have lifesaving, pre-birth procedures, when decades of medical procedures are available for interrogation. Prevention may reduce incidences of newborns with a birth defect limiting life-long suffering. Ecological advancement, in the form of big data analytics, may help industrialized countries slow global warming as transportation and community organizations would have access to individual or neighborhood driving habits. Responses to keep cars off the street by improving mass transit or developing ecological friendly appliances may advance quicker with more data.

While big data does have the ability to improve society, current issues, such as legality of information sharing without an individual's explicit consent must be resolved by state and federal lawmakers. Regulatory bodies with the United States and other international jurisdictions must reconcile the need to protect individual information while using it for public good, including removing the "creepy factor" from public opinion.

Technologist must prove individual privacy will be maintained due to a mechanism blocking re-identification of information. Big data consumers must be held to a high level of ethical standards, punishable by criminal statutes if misused. Big data analytics are more reliable when all data sets are available. An opt-in to information sharing will not produce a full data set and potentially lead to ineffective results.

Before "public good" supporters undermine the need to protect sensitive information technologist and regulators must resolve the following:

- Identifying a proven methodology for anonymizing sensitive information. This is the first hurdle, which must be reconciled before any big data sharing can be considered.

- Establish comprehensive, but fluid, secured methodology for sharing sensitive information. As technology changes, the information gathering, sharing and protection should also follow.

- Individual data rights to data sharing and permissible circumstances where sharing be withheld.

- Ethical framework and criminal penalties for improper uses or neglectful handling practices.

- Regulatory framework for global collection and sharing of anonymized data.

- Data protection and retention guidelines.

Big data analytics for the public good happens in different forms today, where individuals are "willingly forced" to provide sensitive data to the government. This occurs every 10 years by the United States Census Bureau. Information is used to develop budgets, realign political boundaries, and ensure government support services are available. The Census Bureau's responsible collection and use of all legal and non-legal residents within the United States is supported by their mission statement, "honor[ing] privacy, protect[ing] confidentiality, shar[ing] expertise globally, and conduct[ing] work openly."[6]

There is no doubt big data, when used ethically, will help protect individual rights as well as help society but the larger conversation regarding how this would occur needs to be established and proven. The IoT will hold sensitive information about most global citizens, which is a valuable tool for governments, scientists and technologists but only when it is balanced with by privacy rights. Big data may improve lives, discover medical advanced for incurable diseases, and offer ways to stop ecological damage but the need for anonymity must first be solved. ■

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ENDNOTES

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