



***Ethical Lapses of Executives and Other Notable Public Figures: Lessons Learned, and Lessons Never Learned***

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## **What are Business Ethics?**

**Tim Cook – CEO, APPLE**

- **<https://www.youtube.com/watch?v=3ygNKNAMv4c>**

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## **TIM COOK'S TAKE ON BUSINESS ETHICS**

1. **WHERE ETHICS COMES FROM:** Values imparted from parents and other influential people in our lives.
2. **PURPOSE FOR INCORPORATING BUSINESS ETHICS INTO OUR DECISIONS:** “To leave the world a ‘better place’ than we found it.” This operating assumption informs how we interact with employees, vendors/suppliers, customers, the carbon footprint we leave, among others.

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### **Question #1**

**WHAT DO YOU THINK OF MR. COOK'S VIEWS ON WHERE OUR CORE NOTIONS OF ETHICS COMES FROM?**

- A) I STRONGLY AGREE
- B) I SOMEWHAT AGREE
- C) I STRONGLY DISAGREE
- D) I SOMEWHAT DISAGREE
- E) I HAVE NO OPINION ON IT ONE WAY OR THE OTHER

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## **Question #1-A**

**WHAT FOLLOWING FACTOR HAS THE MOST IMPACT ON PEOPLE'S DECISION-MAKING PROCESS WHEN FACED WITH ETHICAL QUESTIONS/ISSUES IN BUSINESS?**

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## **Question #1-A (CON'D)**

- a) OUR PERSONAL VALUE SYSTEM (I.E., PHILOSOPHICAL BELIEFS LIKE "VIRTUE ETHICS", RELIGIOUS PRECEPTS, BELIEF IN GOD, ETC.)
- b) LEGAL/REGULATORY REQUIREMENTS
- c) SOCIETAL NORMS AND VALUES
- d) COST-BENEFIT ANALYSIS (I.E., "BENEFIT" DERIVED FROM ETHICALLY QUESTIONABLE CONDUCT VS. "COST" OF GETTING CAUGHT
- e) RAW EMOTIONS (I.E., REVENGE, FEAR, GREED, LUST, ETC.)
- f) THE CULTURE/ACCEPTABLE NORMS OF YOUR COMPANY
- g) THE VALUES IMPARTED TO YOU BY YOUR PARENTS OR OTHERS WHO RAISED YOU
- h) LAPSES/IMPAIRMENTS IN JUDGMENT DUE TO HEALTH OR FATIGUE ISSUES

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## **Question #2**

**WHY IS IT IMPORTANT TO INCORPORATE ETHICAL CONSIDERATIONS INTO YOUR DECISION-MAKING PROCESSES IN BUSINESS? (SELECT ONLY ONE).**

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## **Question #2 (CON'D)**

- a) **ETHICALLY-DRIVEN DECISIONS TEND TO LESSEN THE LIKELIHOOD OF LEGAL OR REGULATORY VIOLATIONS/CLAIMS**
- b) **FEAR OF CONSEQUENCES OF GETTING CAUGHT (I.E., MONETARY FINES, INCARCERATION, "FRONT PAGE TEST", ETC.)**
- c) **AN OPPORTUNITY TO HAVE A POSITIVE IMPACT/ "MAKE THE WORLD A BETTER PLACE".**
- d) **ALIGNS WITH, AND HELPS GROW, YOUR COMPANY SHAREHOLDER VALUE (OBJECTIVISM; MILTON FRIEDMAN).**
- e) **ALIGNS WITH PERSONAL VALUES/UNIVERSAL TRUTHS (PHILOSOPHICAL, RELIGIOUS, ETC.)**

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## Agenda

- Famous fraud examples
- Costs of compliance
- Return on investment (or lack thereof)
- Adam Smith's *Moral Sentiments*
- The Job Characteristics Model
- Levels of Decision Making
- Steps and Suggestions

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## Question #3 – Predicting Unethical Behavior

THINK OF A COLLEAGUE YOU HAVE WORKED SOMEWHAT CLOSELY WITH AT YOUR FIRM OR INSTITUTION. YOU HAVE KNOWN THEM NOT MUCH MORE THAN THREE OR FOUR YEARS. NOW, RESPOND TO THE FOLLOWING QUESTION:

DO YOU THINK YOU ARE ABLE TO ACCURATELY PREDICT WHETHER THIS PERSON IS DISPOSED TO ENGAGING IN UNETHICAL CONDUCT?

- A) YES
- B) NO
- C) NOT SURE

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## **The Story of Steve Carroll**

- Senior executive at AC Nielsen
- SVP Client Services and Senior Partner at J.D. Power
- Left in 2009, downward spiral from there
- Gambling and other vices
- Resorted to odd jobs and bank robbery
- Jeff Gottlieb: Pulitzer Prize winning reporter who broke story on City of Bell, advised me of Steve's bank robberies and the sordid conclusion
- In 2018, Steve was pulled over for speeding by a police officer outside of the gambling resort of Tunica, Mississippi. Steve committed suicide.

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# Famous Fraudsters



Bernie Madoff: multi-billion dollar Ponzi scheme

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# Famous Fraudsters



Bernie Madoff: multi-billion dollar Ponzi scheme



Raj Rajaratnam: Galleon Group and insider trading

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## Famous Fraudsters



Bernie Madoff: multi-billion dollar Ponzi scheme



Raj Rajaratnam: Galleon Group and insider trading



Bill McFarland: Fyre Festival Organizer

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## Famous Fraudsters



Bernie Madoff: multi-billion dollar Ponzi scheme



Raj Rajaratnam: Galleon Group and insider trading



Bill McFarland: Fyre Festival Organizer



Lou Pearlman: manager of N'Sync and Backstreet Boys, multi-billion dollar Ponzi scheme

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## Famous Fraudsters



Bernie Madoff: multi-billion dollar Ponzi scheme



Raj Rajaratnam: Galleon Group and insider trading



Elizabeth Holmes: Theranos Founder



Bill McFarland: Fyre Festival Organizer



Lou Pearlman: manager of N'Sync and Backstreet Boys, multi-billion dollar Ponzi scheme

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**“When you hear  
hoofbeats, think of  
horses not zebras.”**

**Dr. Theodore Woodward**

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## Costs of Compliance

- Small Business Administration estimated total costs of federal costs of compliance in 2008 was **\$1.75 trillion dollars**.
- OMB report pegged the annual costs of 137 selected “major” regulations from 2006 to 2016 at between \$78 billion and \$115 billion
- Global spending among banks on compliance reached almost \$100 billion in 2016. Increase of 15% to 25% annually over the previous four years.

Source: Research and consultancy firm Opimas

<https://www.thetradenews.com/banks-spent-close-to-100-billion-on-compliance-last-year/>

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## Costs of Compliance

### 2018 Accenture Study

- Compliance can no longer rely upon adding headcount to increase its effectiveness.
- Only 22% of respondents said they now have 500+ people in their compliance function, representing a 9% drop from previous year.
- Despite reductions in headcount, Compliance spending is increasing.
- In line with findings over the previous four years, 89% of respondents indicated compliance spending would increase over the following two years.

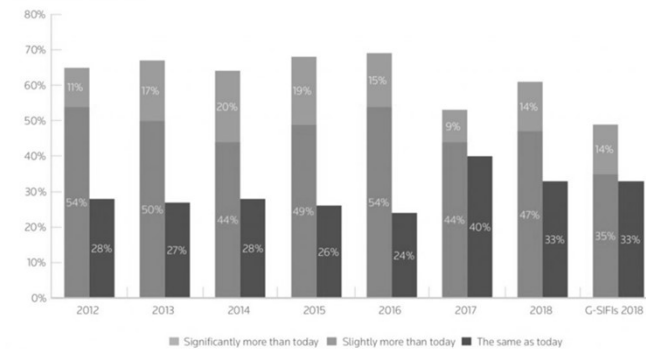
Source: [https://www.accenture.com/\\_acnmedia/pdf-74/accenture-2018-compliance-risk-study.pdf#zoom=50](https://www.accenture.com/_acnmedia/pdf-74/accenture-2018-compliance-risk-study.pdf#zoom=50)

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## Compliance Spending (Last 8 Years)

**Every year since 2012, companies have reported plans to increase compliance spending.**

Figure 1: Firms who expect the total compliance team budget to be the same or more over the next 12 months



Source: Thomson Reuters Regulatory Intelligence - Cost of Compliance 2018

Source: <http://www.radicalcompliance.com/2018/06/27/compliance-teams-money/>

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***Despite the amount invested in compliance, is there any sense things are getting better?***

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***And how about in the political world ... ?***

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***And how about in the political world ... ?***



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***And how about in the political world ... ?***



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***And how about in the political world ... ?***



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***How do you figure out who is really guilty and innocent? What is true and false?***



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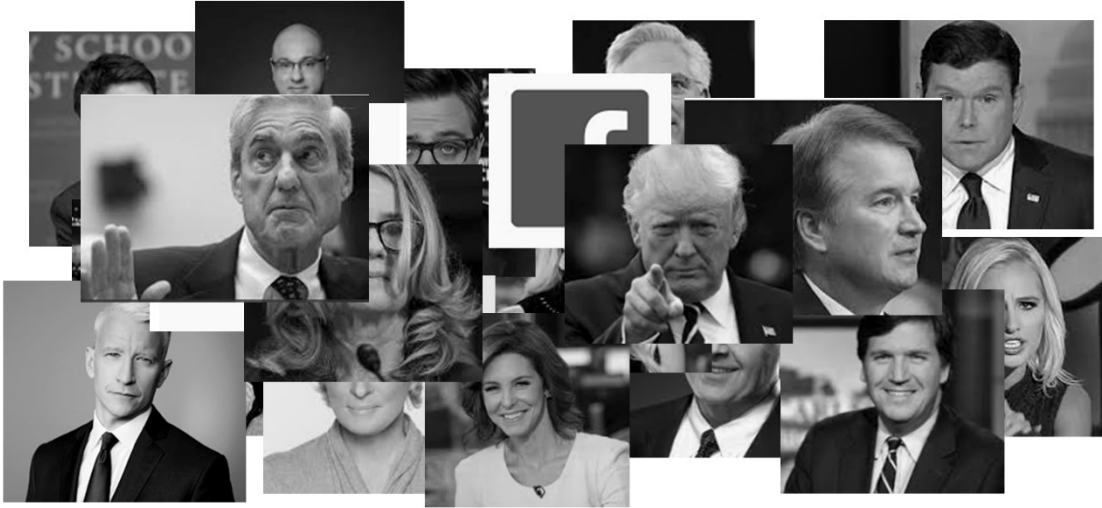
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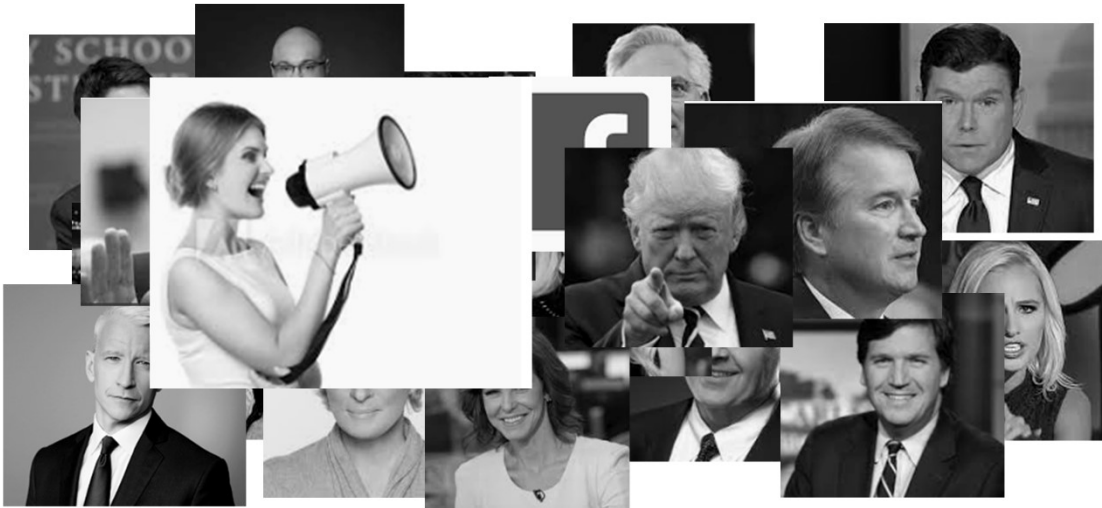
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## **What's the problem?**

- Hard (and seemingly getting harder) to get to the truth.
- We can deal with “alternative opinions.”
  - Indeed it's necessary in a free society.
- But we can't deal with “alternative facts.”
- Pamela Meyer — How to Spot a Liar  
[https://youtu.be/P\\_6vDLq64gE](https://youtu.be/P_6vDLq64gE)
- Rand Corporation — “Truth Decay” Project

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## **Adam Smith — *The Moral Sentiments***

- Impartial spectator
- The necessity of empathy/sympathy
- According to Smith, morality is not something we have to calculate; it's natural, and built into us as social beings.

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## **The Job Characteristics Model**

- Hackman & Oldham
- Their model proposes that there are certain intrinsically motivating features of a job that lead to job satisfaction as well as other positive work outcomes. [Therefore, less risk of bad things happening.]

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## The Job Characteristics Model

The theory focuses on five work characteristics...

1. **Task Identity**: degree to which one can see one's work from beginning to end
2. **Task Significance**: degree to which one's work is seen as important and significant

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## The Job Characteristics Model

3. **Skill Variety**: degree to which job allows employees to do different tasks
4. **Autonomy**: degree to which employees have control and discretion for how to conduct their job
5. **Feedback**: degree to which the work itself provides feedback for how the employee is performing the job

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## **Job Dissatisfaction and Burn-Out**

- Counterproductive acts — dissatisfied workers more likely to engage in theft, aggression, sabotage, etc., particularly if they believe they have low control at work.
- Withdrawal — dissatisfied workers more likely to display job avoidance behaviors like quitting, coming in late, or being absent.
- If individuals can't escape a dissatisfying job permanently, they will escape temporarily by being late or being absent.
- The evidence is particularly strong that dissatisfied individuals are more likely to leave their job altogether, especially if there are alternatives.

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## **Levels of Decision-Making**

- Personal Level
- Company Level
- Societal Level

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## **Personal Level Decision-Making**

- Three lenses for personal decision-making:
  - Values-Based
  - Cost-Benefit
  - Behavioral Psychology

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## **Personal Level Decision-Making**

- Virtue based ethics (Socrates, Plato, Aristotle)
- Objectivism – Ayn Rand
- Religious based values/Divine Command
- Ancient Talmud: Compendium of Rabbinic rulings and Biblical commentaries
- At the gates of heaven, the first question God asks is: “Were you honest in business?”

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## Personal Level Decision-Making

- All major religions have similar wisdom and perspectives (e.g., different versions of Golden Rule)

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## Personal Level Decision-Making

- Other religious tenets that speak to the Golden Rule:

Religion	Expression of the Golden Rule	Citation
Christianity	All things whatsoever ye would that men should do to you, Do ye so to them; for this is the law and the prophets.	Matthew 7:1
Confucianism	Do not do to others what you would not like yourself. Then there will be no resentment against you, either in the family or in the state.	Analects 12:2
Buddhism	Hurt not others in ways that you yourself would find hurtful.	Udana-Varga 5,1
Hinduism	This is the sum of duty, do naught onto others what you would not have not have them do unto you.	Mahabharata 5, 1517
Islam	No one of you is a believer until he desires for his brother that which he desires for himself.	Sunnah
Judaism	What is hateful to you, do not do to your fellowman. This is the entire Law; all the rest is commentary.	Talmud, Shabbat 31d
Taoism	Regard your neighbor's gain as your gain, and your neighbor's loss as your own loss.	Tai Shang Kan Yin P'ien
Zoroastrianism	That nature alone is good which refrains from doing another whatsoever is not good for itself.	Dadisten-I-dinik, 94, 5

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## **Personal Level Decision-Making**

### **PHILOSOPHERS/RELIGION**

- The role of philosophers is to accurately try to define and promote ethical concepts based upon logic and reason. A religious person on the other hand, follows his or her code of conduct because he believes that it is proper behavior and reaction to the varying challenges and circumstances which arise during the course of life.

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## **Personal Level Decision-Making**

- **Cost Benefit/Maximization of Utility Function**
- **Weighing cost of cheating (e.g., “getting caught”) vs. benefit derived from the cheating.**

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## Personal Level Decision-Making

### *Behavioral Economics*



#### **Dan Ariely - Predictably Irrational**

- We all cheat a little
- Decisions are more than cost-benefit

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## Personal Level Decision-Making

### *Behavioral Economics*



#### **Daniel Kahneman**

- Nobel Prize in Economics
- Prospect Theory

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## Personal Decision-Making

- “Boundedly ethical” decision-making – research shows that individuals do not always recognize the ethical dimensions of their decisions. “Ethical Blind Spots”. (Bazerman, et al.)
- Implicit Biases – “illusion of objectivity”
- “Temporal lens” – “should” vs “want” self. Closer we get to decision, we tend to opt for self-interested, shorter-term position.
- Another blind spot -- failure to notice others’ unethical behavior

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## Personal Level Decision-Making



**Scott London, KPMG**

- Head of audit practice in Western United States
- Went to prison for insider trading
- According to Scott, if he’d thought of the impact on his family, he wouldn’t have done it.

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## Company Level Decision-Making

- Dan Ariely — group cheating
- Toxic Cultural Environments (Enron)



- Moving too fast, sloppiness (Dennis Kozlowski, Tyco)

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## Company Level Decision-making

### ENRON CODE OF ETHICS (2000)

*"We are dedicated to conducting business according to all applicable local and international laws and regulations, including, but not limited to, the US Foreign Corrupt Practices Act, and with the highest professional and ethical standards."*

*"Relations with the Company's many publics — customers, stockholders, governments, employees, suppliers, press and bankers — will be conducted in honesty, candor, and fairness."*

*"Illegal behavior on the part of any employee in the performance of Company duties will neither be condoned nor tolerated."*

EXTENSIVE CONFLICTS OF INTEREST AND INSIDER TRADING PROVISIONS.

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## Company Level Decision-Making

WISDOM/INSIGHT FROM JOHN ADAMS (letter to  
Massachusetts Militia in October 1798)



*“Avarice, ambition, revenge, and licentiousness would break the strongest cords of our Constitution, as a whale goes through a net. Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”*

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## Company Level Decision-Making

### OTHER CONSIDERATIONS

- Industry considerations
- Geographic location

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## Society Level Decision-Making



- This area is the most difficult to change
- As individuals, we have little or no control
- How does it affect our behavior?
- How should we interact with it?

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## What steps can we take?

- Communicating corporate purpose
  - Understanding Both the “What” and the “Why”
- Ethics are more than company policies and codes
  - Remember ENRON example. Think in terms of “poetry or music of ethics”
  - Appeal to “System 2” thinking (slow, deliberate, reason-based over “System 1” (fast, automatic, emotional thinking). (Kern and Chugh)

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## What steps can we take?

- Compliance By Design
  - Privacy By Design (Dr. Anne Cavoukian, former Privacy Commissioner for Province of Ontario)
  - Integrative approach
  - Imbed compliance in the business

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## What steps can we take?

- Training and regular communication (beyond content –specific training like say FCPA or HIPAA which remains critical as well!)
- Effective story-telling, showing consequences
  - E.g., Surgeon General Warnings as tobacco education;
  - The “Front Page Test”
  - Case studies on prominent falls from grace

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## What steps can we take?

- Federal Sentencing Guidelines
  - 1. Standards and Procedures
  - 2. Leadership and Oversight
  - 3. Individuals with Substantial Authority in the Company Cannot Have a Propensity to Act Unethically or Criminally.
  - 4. Communication and effective training
  - 5. Monitoring, auditing and disclosure
  - 6. Discipline and incentives
  - 7. Corrective Actions

Proof of effective Compliance Programs limit exposure!!!

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## What steps can we take?

### ADDITIONAL FINAL TAKE-AWAYS

- Watch out for Over Complexity
- Beware of the “Slippery Slope”
- Setting good examples from the top
  - Like kids, employees will watch what parents do, as opposed to what parents say
- Health and lifestyle
  - Impact of lack of sleep
  - Watch out for moving too quickly
- Taking breaks and vacations
  - Not just a check on fraud, but a reduction of burn-out risks ...

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# What steps can we take?

## ADDITIONAL FINAL TAKE-AWAYS – CON'D

### THE R\*IGHT WAY MODEL

Reason (Purpose)

Reason (Logic)

Reasonable (Be fair; Don't be a jerk)

Independence

Gratitude

Hard Work

Tenacity

\*= Rx3

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## The End

- Questions? Comments?
- Thank you for your time!



**SCCE**<sup>TM</sup>  
Society of Corporate  
Compliance and Ethics

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