Law Business and Society 12th edition McAdams Solutions Manual

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Chapter 2
Business Ethics

Chapter Goals

The primary objective of Chapter Two is to introduce ethics to students and help them distinguish between ethical and unethical business practices. One finds that the students often do not recognize the relationship between the free market, ethics, and the law. Therefore, the instructor could remind the students that the law is probably a last resort after the free market and self-regulation (ethics) have demonstrably failed. Therefore, ethics is not to be addressed in the abstract or as an afterthought. Rather, it should be at the heart of the students' inquiries.

The chapter begins with an introduction of the ethical issues in America's banking and financial crisis. Then, it describes America's modern moral climate, including the moral values among American college students and changing American values. Next, it discusses existentialism, the three universal truths (i.e., religion, libertarianism, and virtue ethics), and the differences between teleology and deontology. Then, it exemplifies the importance of having an ethical system using two cases. This is followed by a discussion of managerial misconduct in America. The chapter then moves on to discuss the trustworthiness of corporate America and explains why some managers cheat using Kohlberg's theory of moral development. Next, it explains some factors that contribute to unethical behavior in the workplace. Then, it describes General Motors' faulty ignition switch and its impact on the organization and the American society. The chapter also examines the general requirements of the Foreign Corrupt Practices Act (FCPA) with respect to bribery. The chapter concludes with a discussion of whistle-blowing and the importance of ethics codes in the workplace.

Chapter Learning Objectives

After completing this chapter, students will be able to fulfill the following learning objectives:

1. Describe some of the ethics issues associated with America's recent banking and finance crisis.
2. Discuss America's current moral climate.
3. Discuss the leading ethical decision-making theories.
4. Distinguish between teleological and deontological ethical systems.
5. Distinguish utilitarianism and formalism.
6. Describe some of the forces that encourage unethical behavior in the workplace.
7. Describe Kohlberg's theory of moral development.
8. Explain the general requirements of the Foreign Corrupt Practices Act.
9. Discuss some of the risks and rewards of whistle-blowing.
10. Explain the general purpose of ethics codes in the workplace.

Chapter Outline

Part One—Introduction to Ethics

This chapter will examine the ethical climate of business and the role of ethics in business decision making. The goal here is not to teach morality but to sensitize the reader to the vital role honor plays in building a sound career and a responsible life.

Practicing Ethics: Addicted to Money

Sam Polk, a 30-year-old hedge fund trader, recently walked away from his $3.6 million Wall Street bonus convinced that he was addicted to wealth and was pursuing a meaningless life. He had been angry that his bonus wasn't big enough, he described himself as a "giant fireball of greed," and he ruminated on how his colleagues could "buy Micronesia" if they wanted. He did, however, begin to see "the limitations of unlimited wealth" when he asked in a staff meeting if new, hated government regulations were not "better for the system as a whole," a remark that drew scorn from his boss, who said he was concerned only about the effect of the rules on his company. Polk compared himself to a drug addict and felt what he labeled "withdrawal" when he left Wall Street, but thereafter he married, devoted himself to public service, and says that he is now "much happier."

Sources: Sam Polk, "For the Love of Money," *The New York Times,* January 18, 2014 [**www.nytimes.com**]; and Lauren Carroll, "Hillary Clinton: Top Hedge Fund Managers Make More Than All Kindergarten Teachers Combined," *PolitiFact,* June 15, 2015 [**www.politifact.com**].

A. The Financial Crisis: Blame Big Banks

Corporate misconduct has been a staple of the news in this 21st century, but can one legitimately blame banking industry wrongs for the Great Recession (2007–2009; followed by years of slow recovery)? Trillions of dollars were lost when America's subprime mortgage market collapsed, some big financial institutions failed, and the global economy spiraled downward. Mortgage fraud, such as extending loans to clearly unqualified buyers, falsifying documents, and misleading investors, clearly played an important role in the financial meltdown. Other forces, such as inadequate government regulation, government-encouraged easy credit, overextended borrowers, greed, and real estate speculation, also played their part. Of course, no law is broken when lenders merely show poor judgment or borrowers default, but the big banks have paid some $110 billion in mortgage-related government fines (mostly civil, rather than criminal) as penalties for their role in the subprime collapse.

B. Too Big To Jail?

Wall Street, while struggling at times, seems to be largely recovered from the crisis it helped to generate. Critics remain frustrated, nonetheless, because criminal prosecutions of banks have been infrequent and only one banking executive has gone to jail as a result of the housing loan crisis. Proving *criminal* wrongdoing "beyond a reasonable doubt"—and particularly proving the required intent at the highest levels to commit a crime—are daunting burdens. Thus, the government often turns to *civil* causes of action where proof requirements ("a preponderance of the evidence") are less stringent.

Some Do Go to Jail

Of course, the government sometimes does pursue individuals engaging in Wall Street fraud. Nearly 70 percent of Americans say "most" of those on Wall Street would be willing to break the law to make "a lot of money" if they felt they could get away with it. Additionally, 22 percent of 1,200 U.S. and U.K. finance professionals surveyed in 2015 said they had either directly observed or had firsthand knowledge of wrongdoing in the workplace.

A Conscience at Goldman Sachs?

"It makes me ill how callously people still talk about ripping off clients," midlevel Goldman Sachs executive Greg Smith wrote in *The New York Times* as he was resigning from the firm in 2012. Smith, 33, a Stanford graduate and finalist for a Rhodes scholarship, wrote that he was once proud of Goldman Sachs's culture of teamwork, integrity, humility, and concern for clients, but that spirit, he said, had been lost.

Goldman Sachs says that regular employee feedback contradicts Smith's characterizations. Critics say Smith was angry because he had been denied a promotion and raise prior to his departure. Others simply saw Smith as naive. One Goldman client told *The New York Times* that the company had traded against its clients for years. "Come on, that is what they do and they are good traders, so I do business with them."

Sources: Susanne Craig and Landon Thomas Jr., "Public Rebuke of Culture at Goldman Opens Debate," *The New York Times,* March 14, 2012 [**http://dealbook.nytimes.com**]; Editorial, "Yes, Mr. Smith, Goldman Sachs Is All about Making Money: View," *Bloomberg,* March 14, 2012 [**www.bloomberg.com**]; and Greg Smith, "Why I Am Leaving Goldman Sachs," *The New York Times,* March 14, 2012 [**www.nytimes.com**].

C. A Pattern of Abuse

Of course, the subprime mortgage crisis was not the first instance of morally unhinged corporate conduct. The subprime scandal is reminiscent of the savings and loan crisis of the 1980s when $150 billion evaporated, in part because of criminal behavior. The corporate greed of the Enron era (early 2000s) played out on worldwide televisions as some of the great titans of American commerce shuffled off to prison. Of course, one should not condemn the entire American business community based on the misconduct of some. The problems are serious, but former General Electric CEO Jack Welch and his wife, Suzy, is a reminder that the business community is the source of much of America's greatness.

Ethics Survey

One can see that executive wrongdoing has been a significant problem in recent years, but what about questionable employee behavior? Should some commonplace worker practices be considered unethical? The Ethics Officer Association and the Ethical Leadership Group sampled a cross section of workers at large companies nationwide. How would one respond?
1. "Is it wrong to use company e-mail for personal reasons?"
2. "Is it wrong to play computer games on office equipment during the workday?"
3. "Is it OK to take a $100 holiday food basket?"
4. "Due to on-the-job pressure, have you ever abused or lied about sick days?"

Source: "The Wall Street Journal Workplace-Ethics Quiz," *The Wall Street Journal,* October 21, 1999, p. B1.

I. America's Moral Climate

Perhaps more than ever, Americans are questioning the nation's moral health. Gallup's 2015 poll of American values and beliefs found 72 percent of respondents saying that American moral values are deteriorating, and a 2015 *Wall Street Journal*/NBC News poll showed that 34 percent of Americans believe "a decline in moral values" is the first or second "most alarming" problem the nation faces (next, at 28 percent, was "terrorist attacks," with the "shrinking middle class" third at 27 percent).

Sociologist David Callahan's book *The Cheating Culture: Why More Americans Are Doing Wrong to Get Ahead* argues that America is a society in moral decline. The result of Americans' winner-take-all ethos, Callahan thinks, is a nation increasingly falling into two groups: a "winning class" who cheated their way to the top and an "anxious class" who fear falling behind if they too do not cheat. Cheating, in one form or another, does seem to be routine in American life.

Sex or Cell Phone?

Cell phone practices may offer some insights into American values landscape:

- Ten percent of college students in a 2016 study admitted to having used their cell phones while they were also engaged in sex.
- A large 2015 survey found a third of Americans, if forced to choose, would prefer one year without sex rather than one year without their cell phones. Similar results were found in Germany and South Korea, but in Brazil only 25 percent of those surveyed would choose their phone over sex.

A. College Students

Cheating in college is commonplace, but business students seem to be particularly suspect. A large 2006 survey found 56 percent of graduate students in business admitted to cheating at least once in the previous year, the largest percentage of any discipline surveyed. The cheating evidence is discouraging, but some signs of change should also be noted. Harvard MBA students received a great deal of attention for their voluntary campaign to sign "The MBA Oath," a pledge that Harvard MBAs will act ethically, "serve the greater good," and avoid advancing their own "narrow ambitions" at the expense of others. Now an international oath project pledges higher standards of integrity and service by business leaders.

B. Changing Values

UCLA's annual survey of college first-year students provides evidence of changing values among young people. Responding to the 2015 survey, 81.9 percent of first-year students valued wealth as a goal, but only 46.5 percent sought a "meaningful philosophy of life." That result is a reversal of the 1971 survey when 37 percent of freshmen identified being "very well off financially" as an essential or very important objective, and 73 percent felt the same about "developing a meaningful philosophy of life." Using the Narcissistic Personality Inventory, one study of college students nationwide, responding to such statements as "I think I am a special person," concluded that the average college student today is about 30 percent more self-absorbed than the average student in 1982.

Too Little Studying = Cheating?

According to the 2011 National Survey of Student Engagement (NSSE), business majors reported spending less time studying than students in any other broad field. Nearly half of senior business majors said they studied fewer than 11 hours per week outside of class. According to the Collegiate Learning Assessment national essay test, business majors in their first two years of college improve their writing and reasoning skills less than any other major.

Sources: David Glenn, "Business Educators Struggle to Put Students to Work," *The Chronicle of Higher Education,* April 14, 2011 [**http://chronicle.com/**]; and National Survey of Student Engagement, *Annual Results 2015* [**www.nsse.indiana.edu/html/annual_results.cfm**].

Part Two—Analyzing Ethical Dilemmas

I. Ethics Theories

Business ethics refers to the measurement of business behavior based on standards of right and wrong, rather than relying entirely on principles of accounting and management. The pressure to produce is intense, and the temptation to cheat may be great. The businessperson facing a difficult decision may, therefore, simply do what he or she takes to be correct at any given moment: do "what my judgment and feelings tell me is right"; "follow my gut."

Existentialism

Existentialism is a highly individualized philosophy that explicitly shuns rules and, indeed, all external norms. The individual is free to find his or her own moral course. Existentialists, including Nobel Prize winner Jean-Paul Sartre, believe standards of conduct cannot be objectively discovered or rationally justified via ethical theory and reasoning. No actions are inherently right or wrong. In Sartre's famous interpretation, existence precedes essence. First humans exist; then they individually define what they are—their essence. Therefore, each individual is free, with no rules to turn to for guidance.

Responsibility

Indian spiritual, political, and civil rights leader Mahatma Gandhi viewed moral responsibility quite differently from Sartre. Gandhi's view: "All humanity is one undivided and indivisible family, and each one of us is responsible for the misdeeds of all the others."

A. Universal Truths?

Philosophers seek to provide guidance beyond the uncertainties of ethical relativism.

- **Religion:** Judeo–Christian beliefs, Islam, Confucianism, Buddhism, and other faiths are powerful ethical voices in contemporary life. They often feature efforts such as the Golden Rule to build absolute and universal standards. Scholarly studies indicate that most American managers believe in the Golden Rule and take it to be their most meaningful moral guidepost. Faith, rather than reason, intuition, or secular knowledge, provides the foundation for a moral life built on religion.

Spirituality at Work

Many businesses directly practice Christian principles in the workplace. Hobby Lobby, for example, closes its hundreds of stores on Sunday, donates Christian counseling services, and buys holiday ads promoting the Christian faith. One should note, however, that the growing spirituality movement in business often does not explicitly involve religion at all. Rather, managers may see spirituality as an expression of the whole person and a part of the broader search for meaning in life. Business, they think, must acknowledge the soul to maximize performance.

Sources: Cathy Lynn Grossman, "Survey: Number of Religious 'Nones' Hits Nearly 20 Percent," *The Des Moines Register,* July 23, 2012, p. 6A; and Bill Keller, "The Conscience of a Corporation," *The New York Times,* February 10, 2013 [**www.nytimes.com**].

- **Libertarianism:** Contemporary philosopher Robert Nozick (1938–2002) built an ethical theory rooted in personal liberty. For him, morality coincided with the maximization of personal freedom. Justice and fairness, right and wrong are measured not by equality of results (such as wealth) for all, but from ensuring equal opportunity for all to engage in informed choices about their own welfare.

- **Virtue Ethics:** In recent years, an increasing number of philosophers have argued that the key to good ethics lies not in rules, rights, and responsibilities but in the classic notion of character. As Plato and Aristotle argued, attention should be given to strategies for encouraging desirable character traits such as honesty, fairness, compassion, and generosity. [For an overview of virtue ethics, see **http://plato.stanford.edu/entries/ethics-virtue**].

B. Teleology or Deontology—An Overview

Teleological ethical systems (often referred to as *consequentialist ethical systems*) are concerned with the consequences—the results—of an act rather than the act itself. A teleological view of life involves ends, goals, and the ultimate good. Duty and obligation are subordinated to the production of results that are good or desirable. To the deontologist, on the other hand, principle is primary and consequence is secondary or even irrelevant. Deontology, derived from the Greek word meaning *duty,* is directed toward what ought to be, toward what is right. Similarly, deontology considers motives.

C. Teleology

Utilitarianism

A decision that maximizes the ratio of good over evil for all those concerned is the ethical course. Jeremy Bentham (1748–1832) and John Stuart Mill (1806–1873) were the chief intellectual forces in the development of utilitarianism. Their views and those of other utilitarian philosophers were not entirely consistent. As a result, at least two branches of utilitarianism have developed. According to *act-utilitarianism,* one's moral judgment is to be guided by evaluation of individual acts. The moral path is achieved by performing those acts that generate the greatest good; that is, the greatest overall utility in each particular situation. *Rule-utilitarianism,* on the other hand, involves following those *rules* that generate the greatest good; that is, the greatest utility. In sum, the principle to be followed for the utilitarian, whether examining acts or rules, is the greatest good for the greatest number.

D. Deontology

Formalism

The German philosopher Immanuel Kant (1724–1804) developed perhaps the most persuasive and fully articulated vision of ethics as measured not by consequences (teleology) but by the rightness of rules. Thus, in this formalistic view of ethics, the rightness of an act depends little (or, in Kant's view, not at all) on the results of the act. Rather, Kant advocated ethical decision making based on what is right within the act itself, regardless of the consequences of the act.

Kant propounded the *categorical imperative,* the notion that every person should act on only those principles that he or she, as a rational person, would prescribe as universal laws to be applied to the whole of humankind. A moral rule is "categorical" rather than "hypothetical" in that its prescriptive force is independent of its consequences. Kant believed that every rational creature can act according to his or her categorical imperative because all such persons have "autonomous, self-legislating wills" that permit them to formulate and act on their own systems of rules.

II. Using Ethical Reasoning: Two Cases

A. Case One: Boss as "Jerk"

Business journalist Jerry Useem recently summarized some of the scholarly evidence about tyrannical bosses in a 2015 *Atlantic* article, "Why It Pays to Be a Jerk." The data are mixed, as would be expected. And research at the University of Amsterdam finds that overconfidence and some degree of obnoxiousness can make one seem more powerful and, in fact, can make one more powerful. But other research by Yale professor David Rand shows that being accommodating—being nice—pays off at least in environments where one interacts with the same people on a regular basis.

Wharton professor Adam Grant has received a great deal of attention recently for his research on whether being nice pays off at work. He divides people into three categories: Takers (who look out for themselves), Givers (who are generous and expect nothing in return), and Matchers (who help others but with the expectation of reciprocal favors). Grant thinks the most effective people are those whom he labels "disagreeable givers." They are demanding and direct and they push others, but they do so, Grant says, with the interests of others and the organization in mind.

B. Case Two (Part 1): Are Layoffs Unethical? Aaron Feuerstein and Malden Mills

Fabric manufacturer Malden Mills of Lowell, Massachusetts, provided 3,100 high-paid manufacturing jobs in the Boston area when a 1995 fire destroyed most of the plant. The next morning Aaron Feuerstein, CEO of the family-controlled mill, announced that the business would be rebuilt and all employees would retain their jobs. Following the fire, makeshift production lines were developed in warehouses and about 85 percent of the employees returned to work with the remaining 400 workers or so remaining idle but paid. The new plant, machinery, and business losses cost Feuerstein some $300 million, much of which was covered by insurance.

C. Case Two (Part 2): Are Layoffs Unethical? Aaron Feuerstein, Malden Mills, and Bankruptcy

In November 2001, Malden Mills was forced to enter Chapter 11 bankruptcy proceedings for the purpose of reorganizing its finances under court protection. At the time, Malden Mills was bearing a $140 million debt load. In late 2003, Malden Mills emerged from bankruptcy. Then in 2007, Malden Mills was once again forced into bankruptcy and was purchased by Chrysalis Capital partners, a private-equity firm that renamed the company Polartec LLC. Aaron Feuerstein's association with the company ended with the sale.

Part Three—Managerial Misconduct?

I. Can We Trust Corporate America?

Given the subprime mortgage crisis, a strong sense of wrongdoing on Wall Street, and America's ongoing economic problems, one should not be surprised that public attitudes toward big business are not enthusiastic. In Gallup's 2016 poll of confidence in major institutions, only 18 percent of Americans expressed a "great deal" or "quite a lot" of confidence in big business. There is considerable evidence about unethical behavior in the business community. Drawing on 6,400 responses nationwide, the 2013 National Business Ethics Survey found that 41 percent of workers reported seeing misconduct on the job, most commonly by managers. Misconduct remains a major problem, nonetheless. A 2015 survey of 1,200 financial professionals in the United States and the United Kingdom found 47 percent of respondents thought it likely that their competitors cheat (up from 39 percent in 2012) and 23 percent thought it likely that their fellow employees cheat (up from 12 percent in 2012).

II. Why Do Some Managers Cheat?

A. Moral Development

Psychologist Lawrence Kohlberg built and empirically tested a comprehensive theory of moral development in which he claimed that moral judgment, at least as applied to judgments of justice, evolves and improves primarily as a function of age and education.

Kohlberg, via interviews with children as they aged, was able to identify moral development as movement through distinct stages, with the later stages being improvements on the earlier ones. Kohlberg identified six universal stages grouped into three levels:

- **Preconventional level:**
  - Stage 1: Obey rules to avoid punishment.
  - Stage 2: Follow rules only if it is in own interest, but let others do the same. Conform to secure rewards.
- **Conventional level:**
  - Stage 3: Conform to meet the expectations of others. Please others. Adhere to stereotypical images.
  - Stage 4: Doing right is one's duty. Obey the law. Uphold the social order.
- **Post-conventional or principled level:**
  - Stage 5: Current laws and values are relative. Laws and duty are obeyed on rational calculations to serve the greatest number.
  - Stage 6: Follow self-chosen universal ethical principles. In the event of conflicts, principles override laws.

Kohlberg found that many adults never pass beyond Level 2. Consequently, if Kohlberg was correct, many managers may behave unethically simply because they have not reached the upper stages of moral maturity. Although many critics remain, the evidence, in sum, supports Kohlberg's general proposition. [For a link to an overview of moral development and moral education, see **www.davidsongifted.org/db/Resources_id_11335.aspx**].

Feminine Voice

Kohlberg colleague Carol Gilligan contends that people's conceptions of morality are, in substantial part, gender-based. She claims that men typically approach morality as a function of justice, impartiality, and rights (the ethic of justice), whereas women are more likely to build a morality based on care, support, and responsiveness (the ethic of care). Men, she says, tend to take an impersonal, universal view of morality as contrasted with the feminine "voice" that rises more commonly from relationships and concern for the specific needs of others. Gilligan criticizes Kohlberg because his highest stages, 5 and 6, are structured in terms of the male approach to morality while the feminine voice falls at stage 3.

B. Reason or Emotion?

Kohlberg and Gilligan (and most moral philosophers) take the position that moral decision making is the controlled product of analysis, deliberation, and experience. In recent years, however, new psychological and neuroscience evidence has supported an alternative theory of morality that involves decision making by emotion or intuition. The emotion/intuition approach claims that moral decision making is an automatic, nonreflective process in which people's minds, when confronted with a moral question, instantaneously generate feelings of approval or disapproval. Brain-scanning experiments have provided support for the automatic emotion/intuition hypothesis.

The emotion/intuition/biological theory provides a stern challenge to Kohlberg and to one's faith in moral reasoning generally. Psychologist Jonathan Haidt compares the intuitive, moral machinery of the brain with an elephant and conscious moral reasoning with a small rider on the elephant's back. Overall, moral decision making may be the product of a dual process system employing both automatic emotions (produced deep in the brain in its older structures) and controlled reasoning (produced in the newer, frontal lobes of the brain).

C. Moral Identity?

Early evidence suggests that a critical feature in total moral development, including the will to act, involves what is labeled *moral identity*. In general, moral identity involves the degree to which moral concerns are central to one's sense of self. As Professor Sam Hardy explains it, a person might have a stronger sense of moral identity if that identity is centered more on moral virtue than on amoral virtues such as creativity.

D. Organizational Forces

Ethisphere Institute, in its 2016 ranking of the world's most ethical companies, identified 131 (99 of which were American) that met its standards. Ethisphere bases it rankings on what it calls an Ethics Quotient derived from nominees' codes of ethics, regulatory and legal infractions, sustainable investment policies, corporate citizenship, and more. [For the Business Roundtable Institute for Corporate Ethics, see **www.corporate-ethics.org**/].

Pressure to cheat is often cited as a measure of an organization's ethical culture, but according to the 2013 National Business Ethics Survey, only 9 percent of American for-profit workers "perceived pressure to compromise standards in order to do their jobs." Organizational pressure to cheat appears to be declining, but when that pressure emerges, it can disrupt or destroy managers' lives.

E. The Boss

Top corporate bosses have hit a particularly rough patch in American life. Many have been disgraced by scandals, and some are in jail. Wall Street executives are accused of bringing the economy to near collapse. Although blame is often attributed to a "few bad apples," the 2013 Edelman Trust Barometer found that only 18 percent of respondents worldwide "would trust a business leader to tell the truth in a complex situation." [For a film treatment of ethical issues in the business community, see the trailer *Wall Street: Money Never Sleeps,* at **http://www.youtube.com/watch?v=HcMFA2SHES4**].

Bill Hawkins: A Tough Decision

Bill Hawkins, CEO at Medtronic (Minneapolis-based medical device maker with over 85,000 employees worldwide), faced a critical ethical decision-making moment in 2007 when he learned that Medtronic's Sprint Fidelis leads might have been malfunctioning at an unacceptably high rate.

The leads had been on the market for about 38 months and 268,000 had been implanted. The day the recall was announced, Medtronic had its worst day on the stock market in 23 years with a 12 percent decline and its market share in the category fell from 51 to 47 percent. By March 2009, Medtronic's physician panel had identified 13 deaths that might have been associated with the lead fractures. Within two years, however, Medtronic had largely recovered from the episode, a software package had been developed that would alert patients that a lead might be fracturing, and a favorable U.S. Supreme Court decision was offering Medtronic substantial shelter from lawsuits.

Sources: Bill Hawkins, as told to Cait Murphy, "Bill Hawkins: How I Made the Toughest Call of My Career," *CBS MoneyWatch,* October 5, 2009 [**www.cbsnews.com**]; Cait Murphy, "The Price Medtronic Paid," *BNET,* October 5, 2009 [**www.bnet.com**]; and Chris MacDonald, "Can Life-Saving Decisions Really Be 'Tough Calls'?" *The Business Ethics Blog,* October 15, 2009 [**www.businessethics.ca/blog**].

Part Four—Business Ethics in Practice

I. Introduction: Corporate/White-Collar Crime

A. General Motors

Ignition Switch

The deaths of at least 124 people in recent years have been linked to a faulty ignition switch in some General Motors small cars. The switch, if jarred in particular ways, could shut off the engine with the vehicle in motion, resulting in a loss of power steering, airbags, and other systems. GM has acknowledged it was aware of the problem by at least 2005, although some reports had emerged as early as 2001. Various adjustments were made over the years, but the problem persisted and some potential solutions reportedly were rejected on cost grounds. In 2009 GM, struggling with the Great Recession, filed for Chapter 11 bankruptcy and was "bailed out" with a $49.5 billion federal investment that made the government GM's primary owner. In 2014 GM, much improved financially and having paid back the bailout, officially notified the National Highway Traffic Safety Administration of the switch defect and ultimately recalled millions of cars.

Corporate Crime

In 2015 GM agreed to pay $900 million to settle a U.S. Justice Department criminal probe involving fraud and concealing a deadly safety defect. The federal government and General Motors also entered a *deferred prosecution agreement* under which the Justice Department, after three years, will dismiss its criminal charges without additional penalties if GM continues to satisfactorily cooperate with the government.

Bosses?

To date, General Motors officers and managers have escaped prosecution by the federal government. The government takes the position that the law, as currently written, simply does not permit criminal charges against the individuals involved. While penalties certainly are possible under present law, the auto industry and its lobbyists have successfully blunted congressional efforts to enact firmer legislation. Furthermore, criminal convictions ordinarily require proof of some degree of evil intent (*mens rea*). In the case of the auto industry, establishing that intent, that guilty mind, is a very challenging standard for prosecutors, who must sift through the complex decision-making processes in giant bureaucracies like General Motors.

B. Jail for Some Bosses

Nine people died and over 700 reportedly were ill from salmonella poisoning that was linked to a Peanut Corporation of America processing plant in Georgia. Prosecutors showed that the plant did not meet federal health standards and that bosses knowingly shipped contaminated peanut butter. The plant was shut down, the company was liquidated, and three defendants received prison terms. The CEO, Stewart Parnell, was sentenced to 28 years in prison for his crimes, including conspiracy, obstruction of justice, and introduction of adulterated food.

C. Corporations as Crime Victims

Thirty-six percent of global respondents and 38 percent of U.S. respondents to PricewaterhouseCoopers' (PwC) 2016 economic crime survey reported that their organizations had suffered economic crime in the previous 24 months. While people might be inclined to call for more rules and closer government oversight to address criminal problems in big business, they must also remember that the cost of complying with those rules and government expectations diverts money from the investments that lead to economic growth.

Is Theft Sometimes OK?

A shopper wrote a letter to the editor explaining how he felt after observing what appeared to be a theft:

[A]t Wal-Mart I saw a person try to put an item in their jacket. At first I thought this person was a jerk. . . . But after I returned home, I became convinced that it was OK to steal. . . . When I compare the theft of a $15 item to the grand larceny by corporate America, which ran Enron into the ground, which reaps record oil profits, . . . which occupies the seats of government and takes bribes, I now see the act of stealing a small gift . . . as heroic.

Source: Greg Wilcox, "It's All Relative," *The Des Moines Register,* December 12, 2005, p. 6A.

D. Prevention or Enhanced Punishment

Responding to public outrage over Enron, WorldCom, and other stunning and destructive corporate scandals, Congress and the president approved the 2002 Sarbanes–Oxley Act (SOX) to attack corporate crime by publicly traded companies. Among its provisions, the bill does the following:

- Establishes an independent board to oversee the accounting profession.
- Requires corporate executives to personally certify the accuracy of their financial reports.
- Creates new crimes and raises penalties.
- Requires publicly traded companies to establish internal control systems designed to assure the accuracy of financial information.
- Requires publicly traded companies to disclose whether they have adopted an ethics code for senior financial management, and if not, why not.

SOX is often criticized as a drain on company resources and an impediment to economic growth, but the evidence to date is mixed. A 2014 review of 120 studies of the SOX impact likewise found improved financial reporting quality, but fears that SOX discourages risk taking and thus potential economic growth could neither be confirmed nor denied. A 2009 Securities and Exchange Commission study concluded, however, that the benefits of SOX exceed its costs. Worrisome, perhaps, is the arguable underutilization of SOX as reported by *The Wall Street Journal* in 2012.

E. Sentencing

Federal sentencing guidelines, issued by the U.S. Sentencing Commission, provide ranges (e.g., 10–12 months' imprisonment) within which judges are advised to impose sentences. The guidelines are designed to provide greater predictability and consistency in punishment. Organizational sentencing guidelines are applied to corporate crime. Companies involved in crimes may receive reduced penalties if they have effective compliance programs in place. Companies must develop programs to prevent and detect crime, provide ethics training, and monitor the success of compliance efforts. Responsibility for compliance rests explicitly with the board of directors and top-level executives. Recent Supreme Court decisions have diminished the power of the guidelines by significantly restoring federal judges' authority to deviate from them. Judges who follow the guidelines are presumed to have acted reasonably, but departures from the guidelines are now permissible on a case-by-case basis.

Too Lenient?

Federal judge Sandra Beckwith in Ohio stretched judicial latitude to the maximum in her 2011 sentencing of Michael E. Peppel, former chair and CEO of technology firm MCSi. Peppel pleaded guilty to fraud, resulting in estimated damages of $18 million. The federal sentencing guidelines called for 8 to 10 years of incarceration, but the judge handed down a sentence of seven days in jail and three years of supervised release. The judge had responded to evidence of Peppel's 100 letters of support, strong role in the community, business expertise, five children, and other family needs. On appeal, however, the Sixth Circuit ruled that Judge Beckwith had abused her discretion. The appeals court specifically rejected the reasoning that Peppel's professional skills and capacity to contribute to society justified a lighter sentence. Following the appellate decision, Judge Beckwith sentenced Peppel to two years in prison, three years of court supervision, and a $5 million fine.

Sources: United *States v. Peppel,* 707 F.3d 627 (6th Cir. 2013); and Walter Pavlo, "6th Circuit to

Michael Peppel 'You Need More Prison Time,'" *Forbes*, February 18, 2013 [**www.forbes.com**].

II. Global Bribery

In many cultures, the payment of bribes—*baksheesh* (Middle East), *huilu* (China), *vzyatku* (Russia), *mordida* (Latin America), or *dash* (Africa)—is accepted as a necessary and, in some cases, a lawful way of doing business. The Foreign Corrupt Practices Act (FCPA), the chief federal weapon against bribery abroad, was enacted in 1977 in response to disclosure of widespread bribery by American firms. In brief, the FCPA provides that U.S. nationals and businesses acting anywhere in the world, foreign nationals and companies acting in U.S. territory, and foreign companies listed on a U.S. stock exchange are engaging in criminal conduct if they offer or provide money or anything of value to foreign government officials to obtain or retain business or otherwise secure "any improper advantage."

Grease

The act does not forbid "grease" payments to foreign officials or political parties where the purpose of the payments is "to expedite or to secure the performance of a routine governmental action," such as processing papers (like visas), providing police protection, and securing phone service. Likewise a "small gift or token of esteem or gratitude" ordinarily is permissible. And those accused may offer the affirmative defense that the alleged payoff was lawful in the host country or was a normal, reasonable business expenditure directed to specific marketing and contract performance activities. [For the FCPA Blog, see **www.fcpablog.com**].

FCPA Controversy

The FCPA has been controversial from the outset. Some businesspeople see it as a blessing both because it is an honorable attempt at a firm moral stance and because it is often useful for an American businessperson abroad to say, "No, our laws forbid me from doing that." On the other hand, some consider the act damaging to American competitiveness. Recognizing that corruption is a great risk to the global economy. most industrial countries are now moving toward the zero tolerance view held by the United States. In 2015, China, Mexico, and South Korea adopted new anticorruption reforms. In addition to the FCPA, the United States participates in several other global anticorruption initiatives.

U.S. Corruption

The United States ranked 16th in Transparency International's 2015 Corruption Perceptions Index, which aggregates data provided by experts and business leaders to assess the perceived level of *public sector* corruption around the globe. The countries perceived to be least corrupt were Denmark, Finland, and Sweden. Most of northern and western Europe as well as Canada, the United Kingdom, and Australia were perceived to be less corrupt than the United States. France (23), China (83), and Russia (119) were among the nations ranking lower than the United States.

A. Bribery Touches Daily Life

Soccer, the "Beautiful Game," is a barely controlled passion for hundreds of millions around the globe. The U.S. Justice Department in 2015 initiated a criminal action against a number of officials in FIFA, soccer's governing body, and several corporate executives. The charges included racketeering, fraud, and money laundering involving $150 million. The FCPA applies only to bribes directed to foreign officials and only to those who pay bribes, not recipients, as in the case of the FIFA officials. So the FCPA may not play a role in the FIFA case, but the Justice Department charges refer to a U.S. sportswear company that allegedly secured a late 1990s sportswear contract with the Brazilian Soccer Federation in part by paying millions to a middleman who in turn allegedly paid bribes.

Beyond the FIFA scandal, bribery in many countries touches daily life in much more direct and frustrating ways.

Practicing Ethics: Bribe the Terrorists?

Banadex, a subsidiary of Cincinnati-based Chiquita Brands International, paid bribes to Colombian rebels over a period of years, including $1.7 million from 1997 to 2004 to the AUC (Autodefensas Unidas de Colombia—now disbanded), a right-wing Colombian terrorist group. Chiquita, one of the world's leading banana producers with operations in 70 nations, learned of the payments in 2000 but allowed them to continue. During the period of Chiquita payments to AUC, some 4,000 Colombians were killed in the banana-growing region of Colombia.

In 2007, Chiquita pleaded guilty to U.S. charges of engaging in transactions with terrorists and paid a $25 million fine. Families of Colombians killed or tortured by the terrorists along with human rights groups have filed several civil lawsuits against Chiquita. In 2014, the U.S. 11th Circuit Court of Appeals ruled that those claims could not be litigated in the United States, and the U.S. Supreme Court declined to review that decision. However, in 2016, a federal district court in Florida did rule that the Colombian victims' lawsuits against specific Chiquita executives could go forward.

Sources: Sibylla Brodzinsky, "Chiquita Case Puts Big Firms on Notice," *The Christian Science Monitor,* April 11, 2007 [**www.csmonitor.com/2007/0411/p01s03-woam.html**]; Business & Human Rights Resource Center, "Chiquita Lawsuits (re Colombia)," 2016 [**https://business-humanrights.org/en/chiquita-lawsuits-recolombia**]; David J. Lynch, "Murder and Payoffs Taint Business in Colombia," *USA TODAY,* October 30, 2007, p. 1B; *Cardona v. Chiquita Brands Int'l,* 760 F.3d 1185 (11th Cir. 2014); and *In re Chiquita Brands International Inc. Alien Tort Statute and Shareholder Derivative Litigation,* 08-MD-01916-KAM, U.S. District Court, Southern District of Florida (2016).

III. Whistle Blowing

Many federal and state statutes include whistle-blower provisions, and the federal False Claims Act rewards those who help stop fraud against the government. Whistle-blowers typically are entitled to 10 to 30 percent of the recovery from the wrongdoer. [For an overview of whistle-blower activity and protections, see **www.whistleblowers.org**; for a law firm representing whistle-blowers as well as some whistle-blower stories, see **www.phillipsandcohen.com**].

A. Retaliation

Employers sometimes discourage whistle-blowing by requiring employees to sign confidentiality/nondisclosure agreements. Employers have a right to protect confidential information such as trade secrets, but in general, they cannot legally require employees to desist from legitimate whistle-blowing to the government. On the other hand, some critics believe the very high recoveries available to whistle-blowers may turn employees into "entrepreneurs" searching for possible wrongdoing in their companies in order to secure a financial payoff.

IV. Ethics Codes

Most big companies have voluntarily developed ethics codes. Section 406 of Sarbanes–Oxley specifically requires publicly traded companies to adopt a code of ethics for senior financial officers or to explain why they have not done so. Responding to SOX and other pressures, an increasing number of companies have prepared more detailed codes, displayed them more prominently, required employees to read and sign the codes, and created training methods to more firmly integrate ethical expectations into company decision making. [For the Ethics & Compliance Initiative, see **www.ethics.org/**].

Companies that maintained high-quality codes of conduct were found to rank highly in corporate citizenship, sustainability, ethical behavior, and public perception of the firm. [For information on global corporate governance and citizenship, see **www.conference-board.org**].

Internet Exercise and Supplements

Answers to Internet Exercise (p. 82)

1.
    a. Students' answers will vary. A sample answer could be as follows: Like Socrates, most psychologists would agree that ethics can be taught. Research has found that "dramatic changes occur in young adults in their 20s and 30s" with regard to the problem-solving strategies they use to deal with ethical issues. The extent of the change correlates with the number of years of formal education. The deliberate educational curricula can also influence the awareness of moral issues and the judgment process. See http://www.scu.edu/ethics/practicing/decision/canethicsbetaught.html.

    b. The students could have a discussion based on this question.

Student Project

1. Locate a website that in some fashion discusses business ethics or raises an ethical issue in a business context. For example, the students could find a news article about a particular business or industry that is facing some ethical challenge. Alternatively, they could find some article that discusses business ethics or some aspect of business or corporate ethics or responsibilities; or they might find the home page of some business that they think illustrates some ethical value (either positively or negatively). Explain the ethical issue raised. Provide ethical arguments for resolving it in at least two different ways.

Supplemental Web Addresses

http://www.scu.edu/Ethics (Markkula Center for Applied Ethics, Santa Clara University)
http://www.singerpubs.com/ethikos (ethikos and Corporate Conduct Quarterly)
http://onlineethics.org (Online Ethics Center for Engineering and Science)

Answers

Answer to 'Practicing Ethics: Addicted to Money (p. 51)

1-3. Students' answers will vary.

Answers to 'A Conscience at Goldman Sachs?' Questions (p. 53)

1. He meant that he wanted Goldman Sachs to do things the right way. Making his criticism of the firm public was the only way he thought he could bring about a change in the company's culture.

   Source: Susanne Craig and Landon Thomas Jr., "Public Rebuke of Culture at Goldman Opens Debate," *The New York Times*, March 14, 2012 [https://dealbook.nytimes.com/2012/03/14/public-rebuke-of-culture-at-goldman-opens-debate/].

2.
   a. Smith was once proud of Goldman Sachs's culture of teamwork, integrity, humility, and concern for clients, but that spirit, he said, had been lost.

   b. and c. Students' answers will vary.

3.
   a. Students' answers will vary.

   b. Students' answers will vary. One Goldman client told *The New York Times* that the company had traded against its clients for years. "Come on, that is what they do and they are good traders, so I do business with them." And a *Bloomberg* editorial satirized Smith's view that the firm was too concerned about making money:
   "If you want to dedicate your life to serving humanity, do not go to work for Goldman Sachs. That's not its function, and it never will be. Go to work for Goldman Sachs if you wish to work hard and get paid more than you deserve. . . ."

Answers to 'Ethics Survey' Questions (p. 54)

1, 2, 3, and 4. Students' answers will vary.

Answers to 'College Students' Questions (p. 56)

1. Students' answers will vary.
2. One small study of undergraduates found that those who majored in economics or took multiple economics classes "kept more money in a money allocation task." That research also found that economics education was "associated with more positive attitudes toward greed and toward one's own greedy behavior." Finally, the study found that exposure to a "short statement on the societal benefits of self-interest" rendered greed more morally acceptable, even for those not studying economics.

See Long Wang, Deepak Malhotra and J. Keith Murnighan, "Economics Education and Greed," Academy of Management Learning & Education 10, no.4 (December 1, 2011), p. 643.

3. Among other things, Brooks calls for revealing moral options for students by examining our many moral traditions, and he advocates applying the humanities to the "concrete challenges" of daily life.

Answers to 'Changing Values?' Questions (p. 57)

1. Students' opinions will vary.

2. Sara Konrath and Edward O'Brien, primary authors of the empathy study, speculated that the reasons for declining college student empathy might include the following:
    - Increased exposure to media and violent video games tends to numb oneself with respect to the pain of others.
    - Social media may allow students to connect easily with friends and tune out when they do not feel like responding to others' needs.
    - The hypercompetitive atmosphere and celebrity reality shows may increase attention to the self and decrease attention to the needs of others.

Answers to 'Too Little Studying = Cheating?' Questions (p. 57)

1. Students' answers will vary. "Business education has come to be defined in the minds of students as a place for developing elite social networks and getting access to corporate recruiters," says Rakesh Khurana, a professor at Harvard Business School. This could be a reason why business majors apparently study less, on average, than students in other majors. Also, there is no consensus about what has to be learnt and how students should learn it, especially in marketing and management.

    Source: [http://chronicle.com/article/Business-Education-Not-Always/127108/]

2. Students' answers will vary.

3. Students' answers will vary. Some may say that cheating in business schools would reduce if they studied more. That is, they suggest that the students would not cheat if they did not just look at the course as instrumental in getting a job. Jerry M. Kopf, a management professor at Radford says "There are too many other things competing for their time. The frequency and quantity of drinking keeps getting higher. We have issues with depression. Getting students alert and motivated—even getting them to class, to be honest with you—it's a challenge."

    Source: [http://chronicle.com/article/Business-Education-Not-Always/127108/]

4. Students' answers will vary.

Answers to 'Spirituality at Work' Questions (p. 60)

1. *The Wall Street Journal* reports that an increasing number of schools are offering courses

addressing spirituality and self-fulfillment in the workplace. Scholars claim people are yearning to lead more “integrated” lives and that they want to pursue jobs that express their personal values and make contributions to society. Columbia and Stanford are among the schools giving attention to workplace spirituality. See Ronald Alsop, M.B.A. Track/Focus on Academics, Careers and other B-School Trends, *The Wall Street Journal*, January 11, 2005, p. B6.

2.
   a. According to a 2013 survey of Muslims, 94 percent of respondents in Southeast Asia said, “yes.” By contrast, only 61 percent of Muslims in Southern and Eastern Europe held that view. In only two of the 38 nations surveyed (Albania and Kazakhstan) do fewer than half of Muslims believe that morality is necessarily linked to God. See “The World’s Muslims: Religion, Politics and Society,” *Pew Research: Religion and Public Life Project*, April 30, 2013 [**www.pewforum.org/2013/04/30/the-worlds-muslims-religion-politics-society-overview/**].
   b. According to a recent study involving 88 Muslim students, academic cheating was less frequent among those experimentally exposed to the Islamic call to prayer. On the other hand, some studies find that religious “priming” tends to elicit aggressive and prejudicial behaviors such as covert racial prejudice and, in another study, physical aggression toward a moral “out-group” member (a gay person). See Ryan McKay, “Is Religion a Force for Good?” *The Conversation*, December 24, 2014 [**theconversation.com**].

3. Students’ answers will vary.

Answers to ‘Deontology’ Questions (p. 62)

1. Autry employed the deontological form of ethical reasoning in making his courageous decision because he did what he felt was right, suggesting that he was moved by principle.

2.
   a. Jones was arguing from a teleological point of view. Jones asked that the theft be directed to large, national businesses in the knowledge that the costs would be passed on to all other shoppers in the form of higher prices.

   b. Students’ answers will vary. Rushworth Kidder decreed what he described as the outcome-based, consequentialist nature of Jones’ advice. Clearly, poor families’ lives would have immensely improved if they did as Jones suggested. Kidder says Jones’ advice “. . . skates perilously close to the moral bankruptcy of ‘the end justifies the means . . . .’” Thus, if outcomes alone determine ethical propriety, “. . . any bad policy is acceptable if only it can be seen to benefit the poor.”

      Kidder went on to say that most people, however, approach cases like this one from a Kantian/deontological perspective; trying to obey a principle “. . . we’d like *everyone in the world to obey*.”

      Beyond the consequentialist and deontological perspectives, Kidder went on to raise a third ethic—the care-based principle of the Golden Rule. Kidder asked about the harm of shoplifting to the thieves themselves: “. . . How does it degrade their self-respect, harden their sentiments, and increase their distrust of others? . . .”

Source: Rushworth Kidder, "Go Forth and…Shoplift? *VillageSoup*, January 5, 2010 [http://knox.villagesoup.com/p/go-forth-and-shoplift/298332]

3.
a., b., and c. Students' answers will vary.

Answers to "Case One: Boss as 'Jerk'" (p. 63)

1. When does a decision include an ethical dimension? Certainly harm and fairness are two crucial ingredients in an ethics inquiry. Professor Porath points to some evidence of immune system damage as a result of repeated incivility. A 2012 study of women found that stressful jobs increased cardiac risk by 38 percent. And Porath cites a study concluding that incivility impairs workplace concentration. See Christine Porath, "No Time to Be Nice at Work," *New York Times*, June 19, 2015 [**www.nytimes.com**].

   In some sense, perhaps every decision has ethical implications, but the literature does not provide a tidy answer for this important question. The point is to ask students to think about whether their future managerial behavior toward subordinates will or should raise ethical issues in their own minds.

2. a. Student answers will vary.

   b. Virtue ethics might be cited in this instance. This stance might also be an expression of deontological, Kantian principle.

   c. Egoism might be cited in this instance. From a deontological perspective, the unkind manager may say that a principle, such as personal authenticity, justifies her harsh style. Of course, if actual harm does not occur, we might argue that a managerial style simply does not raise an ethical issue.

   d. Student answers will vary.

3. Certainly from a consequentialist perspective, the disagreeable giver may achieve the greatest good for the greatest number. From a deontological perspective, the disagreeable giver might point to a principle such as practicing the unalloyed truth as an explanation for harsh behavior.

4. The bottom line can be a defensible measure of ethics, especially from an egoist or consequentialist perspective.

Answers to 'Case Two (Part I): Are Layoffs Unethical? Aaron Feuerstein and Malden Mills' Questions (p. 64)

1.
   a. Feuerstein was employing formalist reasoning because he was acting on a value (rule) that he felt was imperative, regardless of the consequences.

   b. The students could have a discussion based on this question.

2.
   a. Clearly, Useem was expressing utilitarian reasoning based on the consequences of the decision.

b. The students could have a discussion based on this question. This statement of the bishops could be viewed as a fast rule (support the dignity of each human person) and, therefore, a formalistic statement. It could also be viewed as a statement that is focused on the results of an action (supporting the dignity of each human person) and, therefore, a utilitarian statement. Then, the issue is whether Useem's rationale violates both of these concepts.

3. The students could have a discussion based on this question.

Answers to 'Case Two (Part 2): Are Layoffs Unethical? Aaron Feuerstein, Malden Mills, and Bankruptcy' Questions (p. 65)

1.
   a. Certainly, some layoffs may be defended on free-market grounds. That is, greater efficiency means, among other things, that some jobs will be saved (that might otherwise be lost) and more jobs might be added. Over the long term, greater efficiency will mean benefits for all in the form of better products and/or services and lower prices. Therefore, it is hard to see how a universal, formalistic rule could be applied without considerable government oversight and regulation. On the other hand, perhaps, the decision should not always be left to business decision-makers.

   b. The students could have a discussion based on this question.

2. The reading points out that poor business decisions may have also played a role, e.g., the arguable overbuilding after the fire. Certainly, protecting his employees had a financial cost and, as such, it contributed to later financial difficulties. Moreover, such "either-or framing also limits our ability to effectively address deeper issues. . . . How do we best serve our customers? How, long term, do we maintain a viable business that contributes to the community?"

   Source: Barbara Ley Toffler, "Malden Mills' Owner Lacked the Vision Thing," *Newsday*, December 16, 2001, p. A24 [http://www.newsday.com/malden-mills-owner-lacked-the-vision-thing-1.747805]

3. It is perhaps worth pointing out to students that Feuerstein did not in fact protect his workers "at all costs." Following the fire in 1995, about 400 workers had not returned to work although they were paid. Prior to the bankruptcy in 2007, the business was down to 1,200 employees. Thus, it might be questioned whether Feuerstein was really applying a deontological approach or not.

4. The students could have a discussion based on this question. Feuerstein's workers may have benefited by moving onto other opportunities, instead of remaining with the mill. The economy was more robust in December 1995 at the time of the fire than in November 2001 when the bankruptcy was filed.

5. The students could have a discussion based on this question. One might profitably turn the question around for the students' consideration: Do the students feel obliged to boycott a business for its decisions because they find them ethically unsupportable?

Answers to 'Bill Hawkins: A Tough Decision' Questions (p. 71)

1. Many considerations influenced Hawkins's decision. Some of them that influenced Hawkins are as follows: the company culture; the balancing of the various costs and benefits, including the risk of removing already implanted devices; the fact that all medical devices carry risks; the ambiguous data; the fact that the product was extending people's lives; the fact that the FDA had never told Medtronic to remove the product (which is not included in the textbook account of the story); the company's assessment of its own responsibilities; the fact that some of his own family members had benefited from Medtronic products (which is not included in the textbook account of the Sprint Fidelis decision); and, presumably, his own career considerations (which is not mentioned in Hawkins' account).

2. Ethicist Chris MacDonald said that the decision was clearly not easy. MacDonald pointed to the ambiguous failure data that made the Sprint Fidelis situation one of uncertainty; that is, not a clear case of a product that was killing people. The uncertain statistical findings meant that Sprint Fidelis might have been just as safe as the older leads. Taking the leads off the market prematurely might have encouraged physicians to remove defibrillators, which is a very risky procedure. In any case, MacDonald noted that no health product is 100 percent safe and effective.

   Source: Chris MacDonald, "Can Life-Saving Decisions Really Be 'Tough Calls'?" *The Business Ethics Blog,"* October 15, 2009 [http://businessethicsblog.com/2009/10/15/can-life-saving-decisions-really-be-tough-calls/]

Answers to Questions—Part Three (p. 72)

1.
   a. According to one survey, 46% of those polled said it was very important to have heroes in our lives, whereas 40% said it was somewhat important to have heroes in our lives. Karlyn Bowman, "Vanishing Heroes?" *The American Enterprise*, September 2000, p. 60.

   b. In the same survey, 64% said there are fewer heroes today than in the past.

   c. The students could have a discussion based on this question.

2.
   a. Hanson's comment: "Sometimes worthwhile work can be found in working in a corporate culture that respects its workers and their personal lives. You may work where management is supportive and workers thrive and advance, but you can also find yourself working in a toxic environment where human dignity is torn down every day and responding to one's family commitments is regarded as weaknesses."(sic)

   b. Among all college graduates surveyed, those strongly agreeing with the statement, "I am deeply interested in the work that I do" was: Social science/Education – 47%, Sciences/Engineering – 43%, Arts and Humanities – 43%, and Business – 37%.

3. The lead investigator, Rich Weissbourd, says the survey results reveal a "rhetoric-reality gap" on the part of parents. According to other research, parents claim to value caring most, but apparently kids are not internalizing that message. Weissbourd also said that he thinks parents don't realize that their achievement/happiness messages are drowning out lessons about caring, equality and

fairness.

4. Students' answers will vary

5.
   a, b, and c. Students' answers will vary.

   d. Meche's reasoning appears to be largely formalist. "I wasn't earning my money." "It just wasn't the right thing to do." He seems to be relying on principled reasoning rather than assessing the greatest good for the greatest number. At the same time, Meche said that he wants to spend more time in his boyhood home and with his friends and family. He also mentioned the struggle of playing while hurt, of trying to summon enthusiasm, and of struggling through his throwing program.

6.
   a, b, and c. Students' answers will vary.

Answers to 'Is Theft Sometimes OK?' Questions (p. 75)

1. Perhaps, the letter writer meant that the thief was taking a small measure of retribution against the corporate giants that, according to the letter writer, abuse Americans.

2. The students could have a discussion based on this question. Justice seems to require going after the corporate fraud in America, but the hurdles are quite substantial. Corporate fraud is difficult to discover and to prove. Investigations and prosecutions are extremely expensive. Very aggressive pursuit of white-collar crime may cause major economic bumps, including job losses.

Answer to 'Too Lenient' Question (p. 76)

1. Students' answers will vary. Beckwith said the following about her decision:
   "I see it to be wasteful for the government to spend taxpayers' money to incarcerate someone that has the ability to create so much for this country and economy."

Answers to 'Practicing Ethics: Bribe the Terrorists?' Questions (p. 80)

1. Chiquita's general counsel claimed that the bribes were morally required to save its workers' lives. Originally, the payments had been lawful, and Chiquita argued that they were not voluntary and were a response to extortion. Prosecutors said that Chiquita could have promptly left Colombia, but made a business decision to stay. Colombian officials point to Chiquita's alleged role in arms smuggling and said that the company was not facing extortion at all. Rather, they said that the company knew that AUC was directing its violence at its various rivals, including union workers. Businesses wanted low-wage labor in Colombia, and AUC regarded union organizers as left-wing guerillas hoping to overthrow the government.

   Law.com asked experts about how the episode should have been handled:
   As for handling the payments to the AUC, Robert Litt says his client (former Chiquita general counsel Robert Olson) acted appropriately. "If your child is kidnapped by terrorists who demand money to return your child, will you pay it? I think yes, you would. I would . . . there was no other

way to protect (Chiquita's) people."

Professor Deborah Rhode, head of Stanford Law School's Keck Center on Legal Ethics and the Legal Profession and founding director of Stanford's Center on Ethics, doesn't condone what Chiquita did, but she acknowledges that Olson was faced with a difficult decision. "This is a really hard place for a general counsel who wants to do the right thing," Rhode says. Yet Rhode believes that Chiquita's actions, which were well intentioned, were wrong because the AUC used the money to buy weapons that killed innocent people.

She sees the Chiquita tale as an important lesson for other companies struggling with moral dilemmas. People of integrity often feel entitled to respond in kind when they think someone else is doing wrong to their company or their employees," Rhode observes. "But in the end," Rhode says, "there is only one answer: Follow the law. You simply cannot establish a rule of law if multinational companies feel free to violate it when their own employees and interests are at stake, she concludes."

Source: Sue Reisinger, "Blood Money Paid by Chiquita Shows Company's Hard Choices," *Corporate Counsel*, November 26, 2007.

2. The prosecutors' particular concern was whether Chiquita's executives had ignored the law in continuing to make payments for nearly a year after they had first reported the bribes. Prosecutors were lenient apparently, in part, because Chiquita volunteered critical information subsequent to its guilty plea. Apparently, national security considerations played a role in the deliberations wherein some concerns were expressed about instability in the region when Chiquita withdrew. Further, the Bush Administration may have been conflicted since it had condemned all terrorist activities, but it did not want to undermine a newly-elected, friendly Colombian government. Not all of the facts about government deliberations over the Chiquita case are publicly available at this writing.

Answers to 'Retaliation' Questions (p. 81)

1. The students could have a discussion based on this question.

2. The students could have a discussion based on this question.

Answers to Chapter Questions (p. 82)

1. Mary could find other ways to help the high school find necessary funds. Are there other corporate sponsors or community funds available? Could she plan a school fund-raiser or help the school apply for a government grant? Alternatively, Mary could seek out other sales prospects or ask other customers to increase their orders. The donation scheme is difficult as the cash gift would likely be used for basic necessities such as textbooks. The school likely has an internal purchase approval system to detect kickbacks as well. What would Mary's colleagues think? What if everyone did this? Will Lincoln and other similarly treated customers expect this—and what will the impact of that expectation be? Further, Mary is under a moral obligation to act in the interests of those who depend on her. Mary had once decided not to offer Lincoln High School a donation. She knew that her manager and other supervisors would object her decision. She did not get her bonus. However, her reputation as a hard worker with integrity under pressure led to a promotion and higher pay.

Source: Shel Horowitz, “Should Mary Buy Her Own Bonus?” *Business Ethics,* January 23, 2008.

2.

a. The students could have a discussion based on this question.

b. Students’ answers will vary. Some of them may agree with Jean Twenge and W. Keith Campbell’s conclusion that we are in the midst of a “narcissism epidemic.” Twenge says that the blame should be placed on American parents who say that every child is “special” and that self-worth is considered to be a prerequisite for success rather than result from it.

Source: Douglas Quenqua, “Seeing Narcissists Everywhere,” *The New York Times*, August 5, 2013. [http://www.nytimes.com/2013/08/06/science/seeing-narcissists-everywhere.html?pagewanted=all]

Social class affects narcissism, according to a 2013 study. In particular, the study found that “higher social class is associated with increased entitlement and narcissism.” Paul K. Piff, “Wealth and the Inflated Self: Class, Entitlement, and Narcissism,” *Personality and Social Psychology Bulletin* 40, no. 1 (2014), p. 34.

3.

a. A survey of nearly 3,000 undergraduate business students from 58 universities and colleges in 32 states was conducted. It was regarding the students’ general attitudes toward ethics and their degree of ethics. The following conclusions are reported in the literature: Female survey participants are slightly but significantly more ethically inclined than male survey participants.

Source: “Ethical Attitudes of Future Business Leaders: Do They Vary by Gender and Religiosity?” *Business & Society*, Vol. 45, No. 3 September 2006 (Sage Publications) pp. 300-321.

b. In the same survey, participants who reported being very religious are slightly but significantly more ethically inclined than survey participants who are religion averse.

4.

a. The students could have a discussion based on this question.

b. The students could have a discussion based on this question. Bok argues that unmarked patrol cars fall into the only category of moral lies, that is, those approved in advance by the public.

c. The students could have a discussion based on this question.

5. The students could have a discussion based on this question.

6. a. The authors mention the following reasons for lesser female involvement in corporate crime: i. The “old boys network” affects crime. Men tend to pass over women when entering in criminal conspiracies. ii. Studies show that women are less likely to take risks.

iii. Men, to a greater extent than women, receive social approval for defying convention. iv. Men find it easier than women to justify wrongdoing.

b. The authors are uncertain about the criminal effect of women moving up to leadership roles in greater numbers. Perhaps they will simply become socialized to the same values that drive many men in those roles.

7. The students could have a discussion based on this question.

8. The students could discuss the ethical responsibilities of the pharmacist, some of which are as follows:
   - To protect customers
   - To allow customers freedom of choice
   - To enhance the return on owners' investments

9. The executive response was as follows:
   - Yes—17 (33%)
   - No—34 (67%)

10.
   a. In one survey, about 60% of employees and executives said they believe taking office supplies home for personal use is unethical; less than half of them considered sending personal e-mails from their desk to be unethical.

      Source: Walker Information, Inc., "Ethical Issues in the Employer-Employee Relationship," March 2000.

   b. In the same survey, 40% of employees believed their employers are committing a serious ethics breach when they monitor their e-mails; only 33% of their employers agreed.

11. a. Here students might be reminded of the destruction of Arthur Andersen following the Enron case.

    b. See, e.g., "Fine and Punishment," *The Economist*, July 21, 2012 for a brief overview of studies and current thought about appropriate penalties for corporate crime.

    c. Do we want to impose a lifetime professional penalty for a criminal act? Generally, we do not do so elsewhere in life. The students might relate this issue to the debate over excluding from the 2016 Summer Olympic games those athletes who had at some time in the past been found to have used performance enhancing drugs. Likewise, as to the debate about exclusion of baseball players from the Hall of Fame if they were found to have used performance enhancing drugs or, in the case of Pete Rose, to have gambled on baseball, including bets involving his own team.

12. The students could have a discussion based on this question.

13. According to one survey, honesty and integrity ranked as the most critical quality in a job candidate.

    Source: Stephanie Armour, "Companies rate honesty as best worker policy," *The Register*, May 4, 1997, p. 1G.

14.

a. Students' answers will vary. Cakic rejects the idea that drugs would give users an unfair advantage. He makes the point that unfair advantages come in many ways, including superior financial resources for some students.

b. Students' answers will vary. Cakic says that the drugs are very attractive to students and virtually impossible to ban. He recommends studies to enhance the safety of drug use.

15. See Lydia Saad, "Americans' Faith in Honesty, Ethics of Police Rebounds," *Gallup Poll*, December 21, 2015. Respondents were asked to rate "the honesty and ethical standards" of people in various fields, including the following. Ratings of high/very high, by rank, included:
1. Nurses: 85%
2. Pharmacists 68%
3. Medical Doctors 67%
4. High School Teachers 60%
5. Police Officers 56%
6. Clergy 45%
8. Accountants 39%
10. Bankers 25%
12. Lawyers 21%
15. Business executives 17%
18. Car Salespeople 8%
18. Members of Congress 8%

16. The students could have a discussion based on this question.

17. The students could have a discussion based on this question.

18. Several studies conclude that lying is commonplace in sales practice. A 1997 survey of sales managers found 49 percent of those managers reported that their salespeople had lied on a sales call, 34 percent said that their salespeople made unrealistic promises, and 22 percent sold products that the customers did not need. Approximately 50 percent of the sales and marketing executives surveyed in a 2002 study believed that their salespeople had lied on sales calls.

Source: John D. Hansen and Robert J. Riggle, "Ethical Salesperson Behavior in Sales Relationships," *Journal of Personal Selling & Sales Management* 24, no. 2 (Spring 2009), p. 151.

An SMM/Equation Research survey of 316 sales and marketing executives found that 47 percent of managers suspected that their salespeople lie on sales calls and only 16.5 percent have never heard one of their sales representatives make an unrealistic promise to a customer.

Source: Erin Strout, "To Tell the Truth," *Sales & Marketing Management* 154, no. 7 (2002), p. 1.

19. The students could have a discussion based on this question.

20.

a. Philosopher James S. Fishkin, *The Limits of Obligation* (New Haven: Yale University Press, 1982), discusses the famine relief problem and explains the need for a "cutoff for heroism" such that we do not, for example, starve ourselves into the same condition as those we are trying to save. However, Fishkin notes philosopher Peter Singer's denial of that conclusion:

"[Singer] argues that people are obligated to give until they reach the 'level of marginal utility,' i.e., the level at which a dollar sacrificed does as much harm to the individual as it does good for a starving Bengali refugee. On Singer's view, such sacrifices would not only be admirable, they are also morally *required* of us all." (p. 70)

b. Students' answers will vary.

Supplementary Materials

I. Practicing Ethics: Deans' Quiz

The Wall Street Journal reported the results of a scholarly survey of 291 deans of business schools.

Here's a pop quiz for business school deans: Would you admit a clearly unqualified student to your school just because the candidate's family donated $1 million? Forty-eight percent of the 291 deans answered yes.

How would you respond to some of the other questions asked in the survey: (1) What if the potential student's father was just a friend and not a donor? (2) Would it be ethical for a dean to remove an honor code violation from a student's record in exchange for a $1 million donation to the school? (3) Would it be ethical for a dean to personally accept a $500,000 bequest that was meant for the school but was mistakenly willed to the dean?

Answer: Only 25.6% of the deans said that they would enroll the student if the father was just a friend and not a donor. Ninety percent of the deans said that they would refuse to remove an honor code violation from the student's record. Twenty percent of the deans said that it would be ethical for them to accept the $500,000 bequest.

Source: Gordon Fairclough, "For Business-School Deans, Ethics Appear to Come in Shades of Green," *The Wall Street Journal*, August 10, 1998, p. A8.

II. Practicing Ethics: Clean Up Accounting

A Crusade to Clean Up Accounting

According to *The Chronicle of Higher Education*: "Lawrence A. Ponemon quit his first accounting job after just one year. A manager asked him to underreport his hours, he says, and when he wavered, his time sheet was fudged anyway."

Ponemon, now an accounting professor at the State University of New York at Binghamton, says that in his first auditing job with Deloitte Haskins & Sells (now Deloitte & Touche LLP), his total work hours for a week amounted to 88, but he reported only 41 hours for that week in his time sheet. "I was pressured to do that," he says, "to the point where my senior auditor erased my time sheet hours." Ponemon says that underreporting is rampant because it makes accounting managers look efficient and it keeps clients happy by avoiding overtime charges. A spokesperson for Deloitte & Touche said that underreporting "wasn't the norm then, and it isn't the norm now."

Assume that you are in Ponemon's position as a beginning auditor. Your boss instructs you to underreport your hours, and he or she says, "This makes us all look better. Nobody gets hurt." What would you do?

Answer: This episode is drawn from Ben Gose, "A Crusade to Clean Up Accounting," *The Chronicle of Higher Education*, Nov. 30, 1994, p. A8. Clearly, an employee should not violate his or her company's policies. However, Professor Lynn Sharp Paine of the Harvard Business School reminds us: "Students aren't prepared for the difficulties with what appear to be simple ethics issues. It seems an easy matter to tell the truth, but sometimes actually doing it requires great capabilities. The stakes are so much higher than they've ever had to deal with." (Lori Tansey, "Right vs. Wrong," *National Business Employment Weekly*, Spring/Summer 1994, p. 11, 12.)

Presumably, it would be useful to discuss those stakes with students and help them identify the competing considerations. Remind them that the pressure to cheat is not unusual. Tansey refers to an Ethics Resource Center survey of 4,000 employees, where 30% reported feeling "pressure to cheat" on the job and 30% reported that they had personally observed conduct on the job in the past year that violated the law or company policy.

The reported incident occurred in one of the Big Four accounting firms, all of which have been sued in recent years for professional malfeasance. In retrospect, it might seem that falsifying hours was just the tip of the iceberg and that it is now threatening the whole accounting profession. This incident may also be useful to bring to students' attention in conjunction with "Case One: Boss as 'Jerk'" (p. 63).

III. Practicing Ethics: Destroy All Girls

Galyan's Trading Co. is a Plainfield, Indiana subsidiary of The Limited, Inc. A Galyan's customer from Minnesota complained to the company when she saw a slogan on a Galyan's shirt that read, "Destroy all girls." How would you respond if you were the Galyan's CEO? The Associated Press details the company's decision.

A maker of in-line skating equipment thought it could attract aggressive young male buyers with a simple slogan: "Destroy all girls." An offended retailer came up with an equally forceful response—ending all sales.

Galyan's Trading Co. announced on Monday that it sent back the fall line of T-shirts, sweatshirts, pants, and boxer shorts made by Senate, a private company established in Huntington Beach, California. The slogan was printed on the apparel's laundry-instruction tags. Galyan's said that it is also returning Senate's wheels, bearings, and other skating gear that are carried at its nine sporting goods stores in Indiana, Ohio, Minnesota, and Kansas. Senate said that the slogan was not meant to offend anyone. "The tag was supposed to say, 'Kill your parents,' but some people thought that was too extreme. Go figure," said Arlo Eisenberg, one of the five partners who founded Senate three years ago.

In your opinion, was Galyan's making a principled decision, a practical decision, or both? If the product was a video, book, or compact disc with the same "destroy all girls" message, then should the retailer remove it from its shelves?

Answer: An argument for Galyan's decision being a principled decision is that individuals and businesses should not sell items likely to be offensive or incite violence against segments of the population. An argument for Galyan's decision being a practical decision is that Galyan's did not take any action until a customer complained about its products. It may also be of significance that Galyan's received considerable positive and free publicity for its actions.

Source: Does the product bearing the message matter? Associated Press, "Clothing Line wit 'Destroy All Girls,' Slogan on Tags Is Pulled by Retailer," *Waterloo-Cedar Falls Courier*, May 20, 1997, p. B6.

IV. Practicing Ethics: Public Policy Issues

Banker's Fetal Position

Tim Williams is using his skills and connections as a businessperson to fight against abortion as he considers it a sin against God. The assistant vice president and trust investment officer at First National Bank of Dayton (Ohio) belongs to Financial Professionals for Life. The group of about fifty bankers, stockbrokers, and insurance agents shares information about abortion and supports boycotts against companies that give to Planned Parenthood. "Basically, we want to carry the life ethic into our professional lives," said Williams. "The object of corporate charity is to create good will. Why make such a controversial gift? It's not doing the company or the shareholders any good."

Financial Professionals for Life has joined a long list of other groups that oppose abortion, including Life Decisions International, which has spearheaded boycotts against corporate donors to Planned Parenthood. A number of corporations, including AT&T, had cutoff their support to Planned Parenthood when the boycotts threatened them. "My wife is reminding me all the time about the products we shouldn't buy or the restaurants we shouldn't go to," said Williams, a father of four children with a fifth child on the way.

Financial Professionals is now looking to target insurance companies that pay for abortions. "Do you want to make a premium payment to an insurance agency that pays for—and thereby encourages—abortion?" Williams asked. He added that insurance companies might have an economic reason to cover abortions because the medical costs are less expensive than carrying a baby to complete term. "They lose in the long run. The baby that gets aborted doesn't get to buy insurance." Williams said that the Dayton bank, where he works, does not contribute to Planned Parenthood, though some of his coworkers are pro-choice. "We agree to disagree," he says.

Source: Jeffrey Zack, "Ethics in the News," *Business and Society* Review, No. 83 (Fall 1992), p. 4. Reprinted with permission of the copyright holder, *Business and Society Review.*

Questions that can be explored with students include the following: In dealing with ethics and public policy questions such as abortion, should managers keep their private lives and professional lives strictly separate? Do you have an ethics and public policy cause that you practice as an active part of your private life and professional life? Should Williams be terminated from his job if his anti-abortion activism hurts his employer? Should the Dayton bank deal with Williams differently if he was, for example, a white supremacist or the leader of an anti-gay organization? Should Williams decline to do work for his employer if it assists a company that is a contributor to Planned Parenthood?

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