

# A BACK AND FORTH DISCUSSION OF ETHICS FOR CPAs

**A CPE Ethics Course for Texas CPAs**  
Allison M. McLeod, LL.M., CPA, A PLLC



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Professor McLeod is currently a full-time Senior Lecturer at the University of North Texas in Denton, Texas. Her courses include Ethics, Financial Accounting and a variety of tax classes. She received Bachelor of Business Administration and Juris Doctor degrees from Baylor University, and a Master of Legal Letters (LL.M.) degree specializing in Taxation from the Southern Methodist University School of Law.

Prior to joining the UNT faculty in 2010, Professor McLeod held the position of Director of Tax Planning and IRS Audits for Lehigh Hanson North America, a major manufacturer of cement, aggregates and other building materials. Her practice included both federal and international tax planning as well as tax controversy. Professor McLeod also spent thirteen years specializing in Tax Planning with the JCPenney Corporation, Inc., and two years with Deloitte & Touche in Dallas. She has served as an expert witness in multi-million dollar cases involving tax litigation and accounting malpractice. Professor McLeod is a past member of the Professional Ethics Committee of the Texas Society of CPAs.

Professor McLeod is licensed to practice law by the State Bar of Texas since 1992 and has been a Certified Public Accountant since 1993. She has been privileged to present live ethics seminars across the nation for CPAs for the past several years as well as online through her website [cpaethicsonline.com](http://cpaethicsonline.com).



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## PART I: ETHICS, MORALS AND VALUES

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## ETHICS VS. MORALS

- Merriam-Webster dictionary states that ethics and morals are often regarded as synonyms, but they are actually two different ideas:
- **Morals** – a person's own values in determining what is right and what is wrong.
- **Ethics** – moral principles applied to questions of correct behavior within a relatively narrow area of activity.
- Morality is personal while ethics refer to the standards of a community.

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## IS IT MORE IMPORTANT TO BE MORAL OR ETHICAL?

- Ethics involves rules (both written and unwritten) and circumstance. What is considered ethical depends on the rules employed and the situation.
- Morals are values that are static irrespective of the rules or circumstances.
- In a perfect world, ethics and morals can work in harmony.

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## DEFINING ETHICS

- Ethics means establishing what is right or wrong in conjunction with parameters or guidelines – e.g., rules, duties, or obligations.
- Involves rules (both written and unwritten) and circumstance.
- Established by what is considered a norm or expectation of a group.

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### ETHICS - COMMON THEMES

- Rightness or wrongness of actions
- Conduct
- Duty
- Rules

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### FUNCTIONAL ETHICS VS. MORAL IMPERATIVES

- In a company's code of conduct there are rules which are merely administrative – e.g., requirement that employees turn in expense reports within a set period.
- No moral imperative involved, but is a function that is important to the organization.
- Other ethical rules, such as outlawing kickbacks, has a moral imperative of honesty.
- Issues arise when administrative rules are prioritized over morality.

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## Case Study: Student suspended after saving life

Source: <https://www.usatoday.com/story/news/nation-now/2016/01/21/student-suspended-after-carrying-classmate-asthma-attack-runes/79112718/>

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### CASE STUDY: SAVING A CLASSMATE

- In 2016, 15-year-old Anthony Ruelas was in class at a Killeen middle school when a female classmate had an asthma attack.
- Teacher followed protocol, which was to email the nurse and wait for a response.
- Several minutes passed with the girl having increasing trouble breathing and collapsing.
- Teacher told students to remain calm and remain in their seats while continuing to wait for the nurse's response.
- Anthony picked up classmate and carried her to the nurse's office.
- Anthony was later suspended for disobeying the teacher's orders and the medical protocol.

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### VALUES

- Personal values are the foundation of an individual person's ability to judge between right and wrong.
- Include a deep-rooted system of beliefs that guide a person's decisions.
- Values form a personal, individual foundation that influences a particular person's behavior.
- Since values are personal to that individual, there may be wildly divergent values of what is important within a group of people.

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### ETHICS, MORALS & VALUES: A CONUNDRUM?

- Ethics – You shouldn't make material misstatements on financial statements.
- Values - Honesty
- Morals – Protecting the public is good

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### CLEAN HANDS DILEMMA

- Definition - a person's focus is on the fear of harm or damage to themselves – e.g. getting one's hands dirty -- versus doing the right thing for the sake of others.
- The potential consequences of making a mistake and the associated "contamination" is what prevents individuals from acting in situations where some act is required.
- The focus is not doing what is good or right or add something positive – it is more centered on avoiding a negative. As a result, this could lead to big mistakes by not acting.

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## Case Study: Officer Robert Powell

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### CASE STUDY: OFFICER ROBERT POWELL

- In 2009, Officer Powell stopped NFL player Robert Moats for speeding while Moats was rushing his wife to the hospital to see her dying mother one last time.
- Moats was detained in the parking lot, harassed and issued a parking ticket even though hospital security and personnel pleaded for the Moats to be permitted to leave.
- Powell told his commanders he believed he was doing his job, and that he drew his gun but did not point it. Chief Kunkle said Powell was not necessarily acting improperly, but that once he realized what was happening should have put the gun back, apologized and offered to help the family in any way.

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"His behavior, in my opinion, did not exhibit the common sense, the discretion, the compassion that we expect our officers to exhibit."

-- Dallas Police Chief David Kunkle

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### COUNTERING THE CLEAN HANDS DILEMMA

- Being willing to make an immediate if only partially informed action.
- Knowing that acting without assurance that this is the best option is in many cases much better than not acting at all.
- Admitting that there are many situations that could have multiple possible right actions
- Being confident that very wrong actions are obvious, and that even partially right answers are better than no action.

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### MORAL ACTIONS: NO-BRAINERS VS. QUESTIONABLE SITUATIONS

- **Obvious "No-Brainers"** – situations that are wrong in all instances. Examples: child abuse or taking advantage of an unprotected elderly or frail individual. A.k.a. Sociopathy 101.
- **Questionable Situations** – the answer is not immediately clear-cut, but are solvable using objectivity, self-discipline, and reflection. Requires the individual to be free of selfish motives, and to look at the situation rationally.

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### BARRIERS TO MORAL BEHAVIOR

- **Bounded Ethicality** - [Blind spots] that lead good people to engage in ethically questionable behavior that contradicts their own preferred ethics.
- **Ethical Fading** – ethics are eliminated from a decision and replaced by avoiding bad publicity or making the deal at any costs.
- **Cognitive Dissonance** - adjusting our beliefs to fit our behavior.
- **Loss Aversion** - tendency to strongly prefer avoiding losses over acquiring gain, e.g., losing \$20 creates a higher feeling of loss than the satisfaction gained from being given \$20.

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### WHAT ARE WAYS TO CAN OVERCOME IMPEDIMENTS TO MORAL ACTIONS?

- Employing wisdom.
- Displaying impartiality.
- Developing moral maturity.
- Not being sidetracked with the “Clean Hands” syndrome.

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### ROLES OF WISDOM AND IMPARTIALITY

- **Wisdom** - a kind of knowledge governing what we believe and what is the right thing to do.
- **Impartiality** - choosing right from wrong without regard to one’s own self-interests or emotions. The individual is trying to do the right thing, not what is best for them.

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## MORAL MATURITY

*“Moral maturity entails making our own well-reasoned moral decisions rather than simply following the dictates of the crowd or going with our selfish desires.”*

-- Judith A. Boss, *Moral Philosopher*

Source: "Analyzing Moral Issues, 5/e". McGraw Hill Information Center, McGraw-Hill Higher Education, Retrieved May 27, 2018.  
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## Case Study: Sinking of the Royal Charter

Source: <https://www.anglo-egyptian-history.co.uk/photos/royal-charter/index.html>

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## CASE STUDY: THE ROYAL CHARTER

- In 1859, the steam clipper Royal Charter was sailing from Melbourne, Australia, to Liverpool, England, with around 375 passengers and 112 crew.
- Most of the passengers worked in the gold mines and were carrying their haul. Ship was also full of boxes of gold worth tens of millions of dollars.
- Captain Thomas Taylor pushed to complete the trip within 24 hours in order to uphold the ship's reputation as being the fastest around.

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### ROYAL CHARTER (CONT'D)

- Ship was caught in a hurricane and was driven on to the rocks.
- All but 40 passengers drowned, in large part because they refused to remove clothes in which they had stitched gold coins and jewelry.
- Moments after they had made the decision to cling to their wealth and pride, they would have given it all up to save their lives -- but it was too late.
- Short-sighted decisions that seem right at the time in order to protect certain values often pale to greater values in looking at the long run.

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### PART II: CPA CODES OF CONDUCT

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### TEXAS RULES OF PROFESSIONAL CONDUCT

- "TX RPC"
- Found in Texas Administrative Code
- Requires the Texas CPA to:
  - Maintain independence
  - Improve professional skills
  - Maintain client confidentiality
  - Establish high standards of personal and professional conduct

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### AICPA CODE OF PROFESSIONAL CONDUCT

- “ET” or “Code”
- Governs a CPA’s ethical and professional conduct.
- Should apply the most restrictive provision.

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### COMPONENTS OF THE CODE

- Principles
- Rules
- Interpretations and other guidance

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### ORGANIZATION OF CODE

- The Preface – applies to all members.
- Part I – applies to members in public practice.
- Part II – applies to members in business/industry.
- Part III – applies to members other than those in public practice or industry.
- Number format - “ET § 0.XXX.XX.X” for Preface. Part I, Part II and Part III have the number prefix 1, 2, and 3, respectively.

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***“[These] Principles call for an unswerving commitment to honorable behavior, even at the sacrifice of personal advantage.”***

***--ET § 0.300.020.2***

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### **CODES OF CONDUCT FOR CPAS**

- CPAs are subject to specific codes from state boards of public accountancy, the SEC, the GAO, the Treasury Department, the Internal Revenue Code, common law and other national or international rule-setting bodies.

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# Case Study: Auditors cheating on qualifying exam

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## CASE STUDY: CHEATING AUDITORS

- In June, 2022, the SEC found that Ernst & Young's auditors cheated on exams required to obtain and maintain CPA licenses
- It was also found that EY withheld evidence of this misconduct from the SEC's Enforcement Division during the Division's investigation of the matter.
- EY admits the facts underlying the SEC's charges and agreed to pay a \$100 million penalty and undertake extensive remedial measures.

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**“This action involves breaches of trust by gatekeepers within the gatekeeper entrusted to audit many of our Nation's public companies. It's simply outrageous that the very professionals responsible for catching cheating by clients cheated on ethics exams of all things.”**

**-- Gurbir S. Grewal, Director  
SEC Enforcement Division.**

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### AUDITORS CHEATING ON CPA EXAM



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### INTEGRITY

*“Integrity* requires a member to be, among other things, *honest* and *candid* within the constraints of client confidentiality. Service and public trust should not be subordinated to personal gain and advantage. Integrity can accommodate the inadvertent error and honest difference of opinion; it cannot accommodate deceit or subordination of principle.”

-- ET § 0.300.40.3

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### INTEGRITY AND OBJECTIVITY RULE – ET § 1.100.001.01/2.100.001.01

“In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.”

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**INTEGRITY AND OBJECTIVITY RULE – TX RPC § 501.73**

Texas CPAs shall maintain integrity and objectivity, shall be free of conflicts of interest and shall not knowingly misrepresent facts nor subordinate his or her judgment to others.

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**INDEPENDENCE – TX RPC § 501.70**

A CPA shall conform in fact and in appearance to the independence standards established by the AICPA, the SEC, the US GAO, the PCAOB and other national or international regulatory or professional standard setting bodies.

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**INDEPENDENCE - ET § 0.400.21**

Consists of two elements:

- 1. Independence of mind**
- 2. Independence in appearance**

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### THREATS TO INDEPENDENCE - ET § 1.210.010

“Many different relationships or circumstances . . . can create threats to compliance with the ‘Independence Rule’ [1.200.001]. . . Many threats fall into one or more of the following seven broad categories: adverse interest, advocacy, familiarity, management participation, self-interest, self-review, and undue influence.”

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### THREATS — ET § 1.000.10/2.000.10

CPAs are obligated to:

1. **Identify** threats.
2. **Evaluate** the significance of a threat.
3. Identify and **apply safeguards**.

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### OBJECTIVITY — E.T. § 0.300.50.2

“Objectivity is a state of mind, a quality that lends value to a member’s services. It is a distinguishing feature of the profession. The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest. Independence precludes relationships that may appear to impair a member’s objectivity in rendering attestation.”

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**CONFLICTS OF INTEREST - ET §§ 1.110.010/2.110.010**

“When a conflict of interest exists, the member should disclose the nature of the conflict to the relevant parties, including to the appropriate levels within the employing organization and obtain their consent to undertake the professional service. The member should disclose the conflict of interest and obtain consent even if the member concludes that threats are at an acceptable level.”

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**CONTINGENCY FEES -- TX RPC § 501.72**

- A CPA cannot receive a contingent fee for any services requiring independence.
- No contingent fees permitted original or amended tax returns.
- Fees are not considered contingent if fixed by judicial or regulatory bodies or if subject to a substantive review by a taxing authority.
- CPAs serving as expert witnesses cannot charge a contingent fee.

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**COMMISSIONS/REFERRAL FEES-- TX RPC § 501.71**

- CPAs requiring independence cannot receive commissions or referral fees for referring a client to a product or service.
- CPAs who are permitted to receive commissions or referral fees must disclose that fact in writing to any clients prior to the recommendation being made.

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# Case Study: \$40m Embezzlement at Yale Med School

Source: <https://www.justice.gov/aeo-07/yale-former-yale-med-school-employee-who-stole-40-million-electronics-sentenced-5-years-prison>  
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## CASE STUDY: YALE MED SCHOOL

- Jaime Petrone-Codrington was the Director of Finance and Administration and had the authority to make and authorize purchases up to \$10,000.
- Starting in 2013, she illegally purchased and resold \$40,504,200 of hardware using funds from the Yale School of Medicine.
- She falsified Yale internal forms and electronic communications.
- Yale received an anonymous tip that Petrone-Codrington was "ordering suspiciously high volumes of computer equipment, some of which was placed into her personal vehicle."

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## YALE (CONT'D)

- Petrone-Codrington used the proceeds for various personal expenses, including expensive cars, real estate and travel.
- She forfeited \$560,421.14 that was seized as well as a litany of expensive cars:
  - 2014 Mercedes-Benz G550
  - 2017 Land Rover Range Rover
  - 2015 Cadillac Escalade Premium
  - 2020 Mercedes Benz Model E450A
  - 2016 Cadillac Escalade
  - 2018 Dodge Charger.
- She also has agreed to hand over 4 properties located in CT and GA.

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**SUBORDINATION OF JUDGMENT - ET § 1.130.020**

“The ‘Integrity and Objectivity Rule’ [1.100.001] prohibits a member from knowingly misrepresenting facts or subordinating his or her judgment when performing professional services for a client, for an employer, or on a volunteer basis.”

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**KNOWING MISREPRESENTATIONS - ET § 1.130.010**

Examples:

- CPA makes or directs another to make, materially false and misleading entries in an entity's financial statements or records.
- CPA fails to correct an entity's financial statements or records that are materially false and misleading when he/she has the authority to record the entries.
- CPA signs, or directs another to sign, a document containing materially false and misleading information.

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**Case Study:  
Henry Camferdam**

Source: <https://www.wj.com/articles/231044683580559483>

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## RESPONSIBILITY TO THE PUBLIC

"A distinguishing mark of a profession is acceptance of its *responsibility to the public*. The accounting profession's public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of members to *maintain the orderly functioning of commerce*. This reliance imposes a public interest responsibility on members."

-- ET § 0.300.30.2

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## WHISTLEBLOWING PROVISIONS

- Dodd-Frank Wall Street Reform and Consumer Protection Act
- Provides whistleblower awards if certain criteria are met.
- Provides protection within CPA firms for whistleblowers serving public companies.

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## OTHER WHISTLEBLOWING PROVISIONS

- Seems to indicate that CPAs who are aware of material misstatements in a public company client are obligated to whistle blow.
- SEC Office of the Whistleblower - <https://www.sec.gov/whistleblower>

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### **BERNIE MADOFF**

- Well-known Wall Street Investor who created one of the largest Ponzi schemes in the US.
- Targeted “feeder funds” by offering fund managers exorbitant kickbacks.
- Also stole from individual investors through “affinity fraud,” many through religious connections.
- Made it appear that investing with Madoff was only for a chosen few.

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Source: <https://www.youtube.com/watch?v=Dw0jw028A8k>




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### **MADOFF (CONT'D)**

- Madoff gave the appearance of wealth and conspicuous philanthropy.
- Harry Markopolis reported Madoff several times to the SEC starting in 2000 but was ignored.
- Investors lost more than \$50 billion over the course of over 20 years, possibly since the 1960s.
- Convicted and sentenced to 150 in prison plus ordered to pay \$200 billion in restitution.

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### **MADOFF (CONT'D)**

- Brother Peter sentenced to 10 years.
- Madoff died in prison in 2021.
- One son committed suicide on the 2 year anniversary of Bernie’s arrest.
- Remaining son died on cancer in 2014.

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### HARRY MARKAPOLIS – WHISTLEBLOWER



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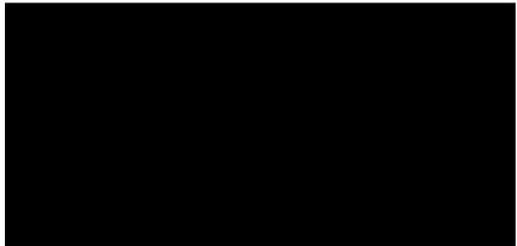
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### ROSE AND JACK LESS



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### RESPONSIBILITIES TO CLIENTS OR EMPLOYERS

“The quest for excellence is the essence of *due care*. Due care requires a member to discharge professional responsibilities with *competence* and *diligence*. It imposes the obligation to perform professional services to the best of the member’s ability, with concern for the best interest of those whom the services are performed, and consistent with the profession’s responsibility to the public.”  
-- ET § 0.300.060.2

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**COMPETENCE – TX RPC § 501.74**

- A CPA cannot accept an engagement if he/she is unable to complete it with due professional competence.
- Competence is determined in part by a person's technical qualifications and the ability to supervise and evaluate the quality of the work being performed.
- If the CPA cannot obtain the necessary competence prior to or during the course of the project, then he/she must decline the engagement and suggest another CPA who is competent.

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**COMPETENCE (CONT'D)**

- A CPA is charged with due care in rendering professional services.
- Appropriate documentation must be maintained showing reasonable basis for conclusions and recommendations.
- A CPA shall adequately plan and supervise engagements.

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**COMPETENCE - ET § 1.300.010**

“Competence . . . means that the member or member's staff possess the appropriate technical qualifications to perform professional services and that the member. . . supervises and evaluates the quality of work performed.”

“If a member is unable to gain sufficient competence, the member should suggest a competent person to perform the needed professional service.”

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**RECORDS AND WORK PAPERS – TX RPC § 501.76**

- A CPA must return original client records within 10 business days upon request even if the client’s account are not current.
- Original records include documents or information handed over by the client, documents obtained on behalf of the client, but generally do not include internal work papers.
- No fee can be charged for returning the records.

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**RECORDS AND WORK PAPERS (CONT'D)**

- Work papers do constitute part of the client’s books and records and must be provided upon request if information is not otherwise available to the client. A reasonable fee can be charged in this circumstance.
- If a CPA has already provided to the client their tax return or any other report or document, he/she may charge a reasonable fee to furnish a copy of such items.

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**RECORDS REQUESTS - ET §1.400.200**

“When a client makes a request for member-prepared records or a member’s work products that are in the member’s custody or control and that have not previously been provided to the client, the member should respond to the client’s request as follows:

- The member should provide member-prepared records relating to a completed and issued work product to the client, except that such records may be withheld if fees are due to the member for that specific work product.”

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### UNPAID FEES - ET § 1.230.010

“Threats to [Independence] would not be at an acceptable level . . . if a covered member has unpaid fees from an attest client for . . . service provided more than one year prior to the date of the current-year report. Accordingly, independence would be impaired. Unpaid fees include fees that are unbilled or a note receivable arising from such fees.”

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### DISCREDITABLE ACTS – TX RPC § 501.90

- A CPA may be subject to license suspension or revocation for committing an acts discreditable to the profession.
- Examples of discreditable acts include:
  - Fraud in obtaining a CPA license
  - Dishonesty, fraud or gross negligence in the practice of public accountancy.
  - Violation of the independence status.

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### EXAMPLES OF DISCREDITABLE ACTS (CONT'D)

- Fiscal dishonesty or breach of fiduciary responsibility.
- Final conviction of a felony, deferred adjudication in connection with a criminal prosecution of a felony, including crimes associated with alcohol abuse, controlled substances or physical harm.
- Knowingly participating in the preparation of a false or misleading financial statement or tax return.

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**EXAMPLES OF DISCREDITABLE ACTS (CONT'D)**

- Failure to comply with a final order of any court
- Repeated failure to respond to a client's inquiry within a reasonable time without good cause.
- Threats of bodily harm or retribution to a client.

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**DISCREDITABLE ACTS – ET § 1.400.001**

- A CPA may be subject to license suspension or revocation for committing an acts discreditable to the profession.
- Examples of discreditable acts include:
  - Fraud in obtaining a CPA license
  - Dishonesty, fraud or gross negligence in the practice of public accountancy.
  - Violation of the independence status.

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**DISCREDITABLE ACTS (CONT'D)**

- Fiscal dishonesty or breach of fiduciary responsibility.
- Final conviction of a felony, deferred adjudication in connection with a criminal prosecution of a felony, including crimes associated with alcohol abuse, controlled substances or physical harm.
- Knowingly participating in the preparation of a false or misleading financial statement or tax return.

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### DISCREDITABLE ACTS (CONT'D)

- Failure to comply with a final order of any court
- Repeated failure to respond to a client's inquiry within a reasonable time without good cause.
- Threats of bodily harm or retribution to a client.

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## Case Study: The Vengeful Tax Preparer

Source: <https://archive.fbi.gov/archives/landmarks/press-releases/2013/former-irs-agent-sentenced-to-24-years-in-federal-prison-for-murder-and-tax-charge>

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### STEVEN MARTINEZ

- Worked as and IRS agent until leaving and starting his own shop.
- Starting in 1994, Steven would send clients the “true” return for them to approve, but then file a return for much less AGI.
- Clients would have made tax payments to a “trust” account which was actually Martinez’s own account.
- Martinez would pocket the difference.
- Clients finally found out about it in 2009 and he was facing trial.
- In 2012, Martinez offers the gardener \$100,000 to kill the three witnesses.

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**DISCRIMINATION & HARASSMENT IN EMPLOYMENT PRACTICES - ET § 1.400.010/2.400.010**

“A member would be presumed to have committed an act discreditable to the profession. . . if a final determination, no longer subject to appeal, is made by a court or an administrative agency. . . that a member has violated any antidiscrimination laws . . . including those related to sexual and other forms of harassment.”

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**FAILURE TO FILE A TAX RETURN OR PAY A TAX LIABILITY – ET § 1.400.030/2.400.030**

“A member who fails to . . . (a) the timely filing of the member’s personal tax returns or tax returns of the member’s firm that the member has the authority to timely file or (b) the timely remittance of all payroll and other taxes collected on behalf of others may be considered to have committed an act discreditable to the profession”

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**NEGLIGENCE IN THE PREPARATION OF FINANCIAL STATEMENTS OR RECORDS - ET § 1.400.040/2.400.040**

“A member shall be considered in violation of the ‘Acts Discreditable Rule’ [1.400.001] if the member, by virtue of his or her negligence, does any of the following:

- Makes, or permits or directs another to make, materially false and misleading entries in the financial statements or records. . .
- Fails to correct an entity’s financial statements that are materially false and misleading when the member has the authority to record an entry.
- Signs, or permits or directs another to sign, a document containing materially false and misleading information.”

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**ETHICAL CONFLICTS - ET §§ 01.000.020/02.000.020**

An ethical conflict arises when a member encounters one or both of the following:

- a. Obstacles to following an appropriate course of action due to internal or external pressures
- b. Conflicts in applying relevant professional standards or legal standards

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**CLIENT CONFIDENTIALITY – TX RPC § 501.75**

- A CPA cannot disclose client information
- Disclosure is permitted if client gives permission or if the information is already made public to others not having a confidential communications relationship.

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**CLIENT CONFIDENTIALITY (CONT'D)**

Disclosure is also permitted if the CPA is subject to the following circumstances:

- Subpeonas
- Summonses
- Court Orders
- Peer Review
- Investigations by TSBPA
- Ethical investigations by CPA organizations

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**CONFIDENTIAL INFORMATION - ET § 1.400.070/2.400.070**

“A member should maintain the confidentiality of his or her employer’s or firm’s (employer) confidential information . . .”

“A CPA should not use confidential employer information acquired as a result of a prior employment relationship . . . However, the member is entitled to use experience and expertise gained through prior employment relationships.”

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**ACTS DISCREDITABLE RULE - ET § 1.400.001**

“A member shall not commit an act discreditable to the profession.”

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**GOVERNMENTAL BODIES, COMMISSIONS, OR OTHER REGULATORY AGENCIES - ET § 1.400.050**

“Many governmental bodies. . . have established requirements, such as audit standards, guides, rules, and regulations, that members are required to follow in the preparation of financial statements . . . in performing attest or similar services for entities subject to their jurisdiction. For example, the SEC; the Federal Communications Commission; state insurance commissions; and other regulatory agencies, such as the PCAOB, have established such requirements.”

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## PART III: DEALING WITH ETHICAL CONUNDRUMS

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### WHAT ARE ETHICAL CONUNDRUMS?

- Problems that cause one to make a decision based on their personal values of what is right and wrong.
- Ethical conundrums can range from simple everyday problems to serious illegal infractions.
- Instigators of bad acts vs. those who are pressured into bad acts.
- Conundrums only exist for those who want to do the right thing but are torn.

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### IMPORTANCE OF INTEGRITY AND HONESTY



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## FINDING YOUR NORTH STAR

- Always consider your actions in the context of your values.
- Never take a situation at face value.
- Don't make a decision that will fix a short-term problem at the expense of a long term value.
- You will never be sorry that you made an ethical decision. You will be sorry if you didn't.

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## ROLE OF DISCERNMENT

**Case Study:**  
**Operation Varsity Blues**

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## RICK SINGER – WAS HE REALLY TRYING TO “HELP?”

- Consultant Rick Singer promised parents that he could help them use a “side door” so that their children could be admitted in to prestigious universities.
- Parents paid in excess of \$25 million for Singer’s “consulting” services and as “charitable contributions” to certain university athletic programs.

Source: <https://www.chronicle.com/package/admission-through-the-side-door/>

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### SINGER (CONT'D)

- Students who were designated as an athletic recruit were more likely to be admitted.
- “Assisted” more than 750 families over several decades.
- Singer agreed to turn on his clients in order to receive a reduced sentence.
- FBI conducted a sting operation in 2019 and arrested over 50 individuals, including famous Hollywood actresses and coaches from Ivy League schools

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### DUPED OR COMPLICIT?

1. Were the parents at fault for not questioning Singer's methods?
2. Where did the “help” to find the “side door” to admission cross the line?
3. Do good intentions reduce or absolve the parents from culpability?
4. What was the difference in reputational damage comparing Huffman's quick claim of responsibility and Loughlin's guilty plea two years later?

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### COLLEGE ADMISSIONS SCANDAL



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# DISHONESTY ON THE JOB

Reaping What You Sow

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# GLOBAL ETHICS: COMMON MORAL VALUES AND CULTURAL PRINCIPLES

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## AVON: GIFTS OR BRIBERY?

- Avon was struggling to grow sales world-wide and saw China as a desirable market.
- After extensively working with Chinese officials, Avon became the first business to be granted a license for direct selling in China in 2006.
- After an investigation, the SEC said that Avon had made \$8m in payments to "gain access to Chinese officials implementing and overseeing direct selling regulations."
- It also made the payments to "avoid fines or negative news articles that could have impacted Avon's clean corporate image."

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### AVON (CONT'D)

- The gifts include paid travel for Chinese officials within China or to the US or Europe, Louis Vuitton merchandise, Gucci bags, Tiffany pens, and tickets to the China open tennis tournament.
- These payments were falsely recorded as business expenses, reimbursements to third-party vendors, or recorded with "almost no detail at all."
- A 2008 internal audit uncovered the illegal payments, but "ultimately, however, no . . . reforms were instituted at the Chinese subsidiary."

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### AVON (CONT'D)

- Avon only launched a full internal investigation in 2008 after its chief executive received a letter from a whistleblower.

Source: <https://www.justice.gov/opa/press-releases/guilty-relating-avon-concealing-more-8-million-gifts-chinese-officials>

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### AVON



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# Walmart - Mexico Operations

Source: <https://www.nytimes.com/2012/04/02/business/retail-walmart-in-mexico-a-bribe-inquiry-ethelwood.html>

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## WALMART



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# ETHICAL AWARENESS, REFLECTION & PRINCIPLES

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## ROLE OF ETHICAL VIGILANCE

- Ethically Vigilance - following your gut
- Not staying mute in the face of something ethically questionable.

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## RESPONDING TO CONUNDRUMS

- Pause – listen to your inner voice.
- Reflect – do an ethical reality check
- Make the best ethical decision you can – do the right thing irrespective of the outcome.

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## RESPONDING TO FAILURE

- Own it and take responsibility.
- Honor others and pay it forward.
- Power of Investing in others.
- Living with remorse and not letting it define you.
- Be positive and grateful.

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# Case Study: Stealing Lunch Money

Source: <https://www.dailyred.com/news/article/2451171/Judith-Oakes-School-accountant-embossed-3m-lunch-money-BSA.html>

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## FACTS OF RIALTO UNITED SCHOOL DISTRICT

- Judith Oakes was the sole accountant in Rialto USD's Nutrition Service Department in San Bernadino, CA. She had been in this role for 25 years.
- She was responsible for handling the lunch money for 49 schools.
- In August, 2013, Judith was caught on a recently-repaired camera stuffing \$2,000 into her brassiere while filling up a deposit bag with banded stacks of cash.

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## RIALTO (CONT'D)

- After repeating this same act the next day, she was confronted by her supervisor.
- It was estimated that she embezzled #3.1 million over the course of 14 years,
- Fraud was perpetuated by putting the cash in her bra outside of the camera's view. She also replaced the staff accountant's original deposit slip with her own less the cash taken.
- She would deliver the cash herself to the amored truck with no reconciliation of deposits with actual sales .

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### RED FLAGS AT RIALTO

- Oakes and her husband, Jack (a school principal), demonstrated an extravagant lifestyle, which included expensive luxury vehicles, dune buggies, and jet skis.
- Also spent lavishly on entertaining, expensive vacations, designer clothes, a second home, front row seats to the Final Four.
- \$10-12K charged monthly to credit card were paid in full.
- Had an unusually close relationship with Superintendent Harold Cebrun and was therefore perceived to be "untouchable."

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### CRITICAL QUALITIES OF A LEADER — 7 UNIVERSAL MORALS

- Be brave.
- Be fair.
- Defer to authority.
- Help your group.
- Love your family.
- Return favors.
- Respect others' property.

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### SUBSTANCE ABUSE/ MENTAL HEALTH ASSISTANCE

- There is help for CPAs who are experiencing significant stress or substance abuse issues!
- Accountants Confidential Assistance Network ("ACAN")
- All information kept confidential by law.
- Toll free: (866) 766-ACAN
- <https://www.tscpa.org/advocacy/acan>

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# Case Study: Rose Valland

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Source: [https://en.wikipedia.org/wiki/Rose\\_Valland](https://en.wikipedia.org/wiki/Rose_Valland)



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## AN ORDINARY PERSON WAS UNIQUELY PREPARED

- Born as a daughter of a blacksmith in a small French village in 1889.
- Worked as a high school art teacher, but later did graduate studies in art history.
- In 1932, became a **volunteer** assistant curator at the Jeu de Paume Museum.
- Later, appointed the paid overseer of the Jeu de Paume Museum during the German occupation of France in 1941.

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### HER PLACE IN HISTORY

- After occupying France, Germans began the systematic looting of artworks from museums and private art collections throughout France.
- The Jeu de Paume Museum was used as their central storage and sorting before shipping to various persons and places in Germany.
- Rose was ordered to stay at Jeu de Paume by the curator of the Louvre.
- While the Nazi plundering was being carried out, Rose Valland began secretly recording much of 20,000 pieces of art brought to the Jeu de Paume Museum.

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### BEING OVERLOOKED THE GREATEST ADVANTAGE

- Valland kept secret that she was fluent in German and would listen in on the guards' conversations.
- Valland kept track of where and to whom in Germany the artworks were shipped for four years. She was blessed with nearly perfect recall and wrote down 172 invaluable pages of information.
- Provided information to the French Resistance about railroad shipments of art so that they would not mistakenly blow up these trains.

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### HER GIFT TO THE WORLD

- When Nazi leadership decided in August, 1944 – mere weeks before the liberation of France – to make one last large shipment of art to Germany, Roses' warning to the French Resistance resulted in the train being stopped and the contents being reclaimed.
- It is estimated that due to the efforts of Valland, it had been possible for the Allies to locate approximately 60,000 works, with three-quarters of them returned to France before 1950.

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### HER GIFT TO THE WORLD (CONT'D)

- Artists represented: Braque, Cézanne, Degas, Dufy, Gauguin, Modigliani, Picasso, Toulouse-Lautrec and Utrillo.

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### ROSE'S SUPERPOWERS

- Rose was plain and unremarkable in appearance and so was ignored by the Nazis.
- She had nearly perfect recall.
- Rose could understand German.
- She was an art expert.
- Rose had the courage to stay in a perilous situation.

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### NO LONGER OVERLOOKED

- Commissioned a Captain in the French army following the war.
- Awards:
  - France - Légion d'honneur, Commandeur of the Order of Arts and Médaille de la Résistance
  - Federal Republic of Germany - Officer's Cross of the Order of Merit (1951)
  - U. S. - Medal of Freedom (1948)
- Published in 1961 a book about her experiences.
- Passed away in 1980.

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## MAKING THE RIGHT CHOICE

- Listen to your Inner Voice
- Own it and take responsibility
- Honor others and pay it forward
- Power of Investing in Others

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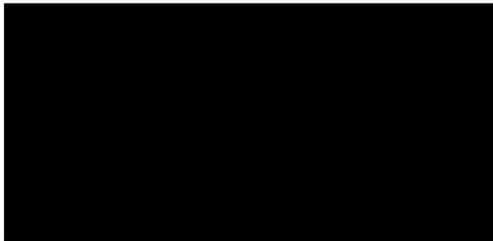
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## THE LONG LOOK



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*“Success is not final, failure is not fatal, it is the courage to continue that counts.”*

-- Sir Winston Churchill

Source: <https://www.goodreads.com/quotes/3270-success-is-not-final-failure-is-not-fatal-it-is>

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**Thank You!**

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**QUESTIONS?**

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**CONTACT US!**

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**ELECTRONIC QUIZ, EVALUATION & CERTIFICATE URL:**

**<https://tinyurl.com/bdx2vmej>**

You will need to get into your Google account before accessing the quiz. Type the above URL into your basket or use your cell phone to access the QR code below. Please take the 10 question quiz and click on submit for autograding. There will be a link to click on to access the evaluation. Once you have submitted the evaluation, there will be a link to access the certificate for those who have received a score of 70% or better.



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