

Capitalism and Morality

COMPANIES MUST DEVELOP CULTURE OF TRUTH

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If you are curious whether the post-Enron.World.com.Tyco.MarthaStewart.etc. scandals have had any effect on “Corporate America,” simply google “ethics and corporate accounting.” My googling produced an incredible 12,800,000 sites. Our nation is clearly buzzing about ethics and accounting, but is it worthwhile?

I studied merely a couple dozen sites because contrary to what my students sometimes charge, I do have a life outside of doing professional ethics, so the unread sites will remain unread. It was apparent that the main impetus for the voluminous attention to corporate accounting ethics comes from the triangulated thrust of the Sarbanes-Oxley Act of 2002 (a.k.a., SOX), new regulations from the Securities Exchange Commission, and new listing rules by major stock exchanges. The strongest impact by far, however, is from SOX.

SOX-compliance has become a corporate mantra, since with this legislation, public companies, their senior executives and board members may be held legally accountable for violations: in fact, **personally** accountable with senior execs and board members. Though the intricacies of SOX are too numerous to detail here, there are three sections which should be mentioned.

Section 301 requires corporate complaint procedures in matters concerning accounting, internal accounting controls, auditing, as well as “the confidential and anonymous submission by employees...of concerns regarding questionable accounting or auditing matters.” This has led to the implementation of SOX hotlines by many public companies. These hotlines are typically managed by independent companies which prudently and scrupulously deal with complaint calls. These are **not** 1-800-RATFINK lines which encourage cranky, disgruntled, backstabbing or gossipy sorts of complaints, but are effective ways of strengthening SOX-compliance.

Section 406 requires public companies to develop and implement a code of ethics for senior financial officers which mandates, among other things, disclosures of conflicts of interest. This is a most sound requirement because there are three initial steps that must be taken to rectify any conflict of interest which are: disclosure, disclosure and disclosure.

Section 806 requires protection for employee whistleblowers in public companies who, based on their reasonable belief that there has been a violation of SEC rules or Federal law, report the violation and/or assist in an investigation. Such whistleblowers, by penalty of law, are not to suffer threats, harassment, discrimination, demotion or discharge.

Needless to say, compliance is vitally important for corporations today, but is that all there is to ethics? A Deloitte & Touche (D&T) website (www.deloitte.com) stresses that in today's corporate world, ethics and compliance have to be positioned as the responsibility of each employee and as a respected part of company culture. The site urges corporations to embed ethics deep within their corporate cultures, and to do so, the difference between ethics and compliance must be recognized. Compliance "means obeying the law. Ethics is the intent to observe the spirit of the law – in other words, it is the expressed intent to do what is right."

D&T's words are truly worthwhile and stirring. From a practical perspective, however, it must be asked, "How can a corporation effectively grow a healthy culture of ethics and not settle for mere compliance, especially in regard to corporate accounting?" The answer that many corporations have realized is that ethics education and training are critical, both within a corporation and higher education.

The website of The American Institute of Certified Public Accountants poses a key question: "Many states require CPA licensees to have a minimum number of CPE credits in ethics each reporting period, but do these CPAs know how to apply ethics rules?" Simply put, can the CPAs learn to have ethics and do ethics in their profession?

Amy Haas indicates that according to a 2003 survey by the American Accounting Association only 46% of colleges or universities offered a separate course in ethics for accounting students ("Now Is the Time for Ethics in Education," *CPA Journal Online*, June 2005). The majority of these courses, moreover, did not provide adequate coverage of ethics, values and appropriate professional conduct.

Haas further indicates that the accounting profession can self-regulate only if individual professionals can understand and apply ethics in actual practice. The obstacle, however, as I perceive it, is the all too common belief in corporations and universities that while compliance is teachable, values and ethics can't be taught. The root of this belief is what is called "situation ethics." This view of ethics maintains that because there are no objective, definite moral principles, what is right or wrong depends entirely on the situation in which the professional is involved. So, what is morally right for one professional in a situation isn't necessarily right for another professional in a similar situation. Morality and ethics are, thereby, up for grabs, and of course then, how could they be taught?

Situation ethics, however, is misguided. What should replace it is the view of "ethics in the situation," which holds that there are definite, objective moral principles, and the aim is to educate professionals about them so that they can be effectively applied to ascertain the ethical thing to do in a given situation.

Now, certainly many professors and accountants would complain that how can I be so sure that there are such objective moral principles which can be applied in situations. So, I guess a demonstration is in order.

One of the fundamental moral problems in corporate accounting is cheating: cheating in regard to reporting revenue to shareholders and/or the government, cheating in billing customers, cheating on budgets to justify executive salaries and profit-sharing income, etc. Why are such acts of cheating morally wrong? Because they involve deception and misrepresentation. But why are these types of acts morally wrong? Because they are acts of fraud. So, why is fraud wrong? Because fraud is a type of lying. And now the big question: why is lying wrong?

There are at least three compelling arguments which taken together demonstrate that any act of lying is wrong. These arguments do not imply that all acts of lying are wrong in the same degree – a little "white lie" can be less wrong than a huge lie, like cooking books to fatten executives' salaries - but a lie is a lie and therefore fundamentally wrong.

Lying is wrong because: 1) Lies contradict the purpose of communication between people. The purpose of such communication is to convey information. Lies do not transmit information but disinformation, and therefore lies pervert communication and are wrong. 2) Lies disrespect the dignity of those who are lied to. Whenever we lie, we are using other people as means to our own ends. We are manipulating them, treating them as instruments for our own aims. And, to undermine the dignity of another is wrong. 3) Finally, whenever we lie we are implicitly affirming that it would be okay if we were lied to. But, we do not like to be lied to; we want the truth (at least in most situations). So, if we don't want to be lied to, we should communicate the truth and not lie.

Since lying is wrong, fraud, which is a type of lying, is also wrong, and cheating, which is a type of fraud, is wrong as well. It does not depend on the situation: corporate accountants who cheat in any way are morally wrong because they are liars. Such a fundamental moral principle can and should be understood and applied to assess the ethics of relevant accounting situations.

Values, morality and ethics can be taught, learned and practiced in accounting and in any profession. Compliance with SOX, SEC rules and stock exchange mandates are very important first steps toward developing a culture of ethics in a corporation or in a profession. But they are only **first** steps. The additional steps to comprehending morality and practicing ethics must come with education and training in higher education and corporations, which recognize the merit and truth of ethics in the situation.