COURSE OBJECTIVES

The purpose of this course is to introduce the student to a broad range of “non-market” issues encountered by managers and business professionals, and to help the student develop a set of analytical perspectives for making judgments when such issues arise. In economics many of these issues can be described as market failures or imperfections. To a limited extent, we will illustrate how the legal system is used to redress such failures of the market economy. We will also examine the role of ethical norms and reasoning in resolving such issues in managerial life, and in establishing standards of professional responsibility.

More directly, the student in this course will exercise professional judgment through discussion and analysis. Most such exercises will require the analysis of one or more cases, as indicated on the attached schedule of class assignments. In addition, we will study writings in the fields of ethical reasoning, professional responsibility, and the law.

DIGITAL COURSEPACK

All cases and readings for this course are found in the digital course-pack:

Professional Responsibility: Markets, Ethics, and Law
Cases and Readings for 2006-07

The digital access codes can be purchased at the NYU Professional Bookstore. Note that the course-pack for the current academic year, 2006-07, is different from prior course-packs. Make sure you have the current course-pack.
**PREPARATION FOR CLASS**

Note: Class attendance for all three sessions is mandatory. Each class session consists of several study modules. Each study module contains readings and study questions. Your primary obligation in this course is to prepare for class discussion by thorough reading and analysis of assigned materials. Case discussions and in-class activities are an essential part of the course. All students are responsible for mentally preparing answers to all of the study questions before coming to class. The instructor will ask some students to provide their answers orally, as a basis for further discussion.

**GRADING**

The weights for the student’s overall grade are:

- Class Participation: 20%
- Homework: Written Study Question Analysis: 40%
- Term Paper Project: 40%

**HOMEWORK: WRITTEN STUDY QUESTION ANALYSIS (2 to 3 pages typed)**

Each student should perform a written analysis for three study questions over the course of the term. **You must do either question 1 or question 2 in unit one. For two other units of his/her choosing** the student should write out his/her analysis for any one of the assigned study questions. These analyses should be 2-3 pages in length. The student can submit more than three written analyses, but only the top three grades will count. **Each assignment must be received by the teaching assistant prior to the class in which it will be discussed.**

**TERM PAPER PROJECT: (7 – 9 pages typed & double-spaced)**

DUE: July 30, 2007, 5 pm.

The purpose of this paper is to allow the student to apply principles of professional responsibility to an actual, specific business situation. The student will describe a situation with which he or she has first-hand familiarity. The student may have been a major or minor actor in the situation, or may have merely witnessed the situation. In any event, the requirements are that the situation raise ethical or legal issues and that the student was there. It would not be appropriate to analyze a situation if you were not in a position to observe it directly.

Organize the term paper as follows:

**I. Situation**

Provide a description of the situation or practice; this description must be detailed and rich enough to allow the reader to get a clear sense of the issues and circumstances (2 pages).

**II. Analysis**

Apply some method or methods of ethical (or perhaps legal) reasoning to the situation and examine the results of this application. Are the results logical, beneficial, counter intuitive, or in any other way problematic? Here the student should apply, wherever appropriate, concepts from the course and its readings. Also, the student should cite the relevant law (3+ pages).
III. Resolution & Conclusion
Describe how the situation was actually resolved. Discuss this resolution in light of the ethical analysis from section II (3+ pages).

Evaluation of Term Paper Project: Good performance (hence good grades) on this assignment consists of systematically and thoroughly applying relevant concepts and methods from the course to the situation, and in testing the worth of those concepts and methods in resolving the ethical issues it presents.

Confidentiality of Term Paper Projects:
The contents of the term paper projects that you submit are held strictly confidential. The term papers are not read by anyone other than the professor and are not disseminated in any fashion to other person(s).

NOTE: Written projects due 5 pm, July 30, 2007. No extensions will be granted.
## MARKET FAILURES & PROFESSIONAL DILEMMAS

### READINGS

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<th>Economic Theories of Regulation: Normative vs. Positive’</th>
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<td>Dean Starkman</td>
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<td>Making An Ethical Decision</td>
<td>Terry Halbert &amp; Elaine Ingulli</td>
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### STUDY QUESTIONS

1. Based on the Edwards article which market failures or imperfections are present in the “Lobster Thermidor” case? In the “Pollution” case?

2. Based on the Halbert & Ingulli reading identify at least one market failure related to your employment situation and apply the methods of ethical reasoning to this market failure.

## TRUTH & DISCLOSURE

### READINGS

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<td>Roy C. Smith</td>
<td>True &amp; Disclosure</td>
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### Study Questions

1. Would Gillespie ("The Business of Ethics") voice any objections to the (i) corporate actions of Boots described in “Bitter Pill” and (ii) Towers Perrin in the “Familiar Refrain” case? Do you agree with Carr? Can you identify any market failures in “Bitter Pill” and “Familiar Refrain”?

2. How would Gary Miller (“Ethics & the New Game Theory”) and Arthur Levitt (“The Numbers Game”) assess the long-term effects of bluffing as applied to (i) the job of an equity analyst (“Today’s Analyst”) and (ii) the criteria for revising a stock ratings system discussed by Hoffman (“You Have the Only Hard Copy”)?

3. Is there anything ethically wrong about the actions of the medical ghostwriters as described in “Ghost Story”? What would happen if all or most drug companies behaved in similar ways? Do their actions fall within the scope of business bluffing according to Gillespie (The Business of Ethics”)?

### Date: July 8, 2007

**Gifts, Side Deals & Conflicts of Interest**

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<td>Marsh &amp; McLennan Companies</td>
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<td>Drug Maker’s Efforts to Compete in Lucrative Insulin Market are Under Scrutiny</td>
<td>GSD&amp;CI</td>
</tr>
</tbody>
</table>
STUDY QUESTIONS
1. Make a list of all the gift practices described in Buynow Stores. In your judgment, which of these, if any, are inappropriate? Use ethical concepts and methods from the Green and Halbert/Ingulli readings to support your position.

2. Do the Roger Berg and Wall Street Nursery School cases differ materially from Buynow Stores? Use ethical concepts and methods from the Green and Halbert/Ingulli readings to support your position.

3. Has Novo Nordisk and their “anchor in office program” created any market failures or engaged in any conflicts of interest in their current insulin drug marketing practices (“Drug Makers Efforts to Compete in Lucrative Insulin Market Are Under Scrutiny”)? Are the Novo sales representatives engaging in bribery? Should drug companies refrain from such activities and risk losing business?

4. What was Marsh & McLennan’s exposure to reputational risk versus Putnam’s profits from the firm’s allowing hedge funds to engage in late trading and market timing? If you conclude that the risks exceeded the returns, why did the firm engage in the practice?

DATE: JULY 8, 2007
AGENCY & FIDUCIARY DUTY

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<td>My Patients Are Dying</td>
<td>Lawrence Zicklin</td>
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<td>At The Center of Fraud, WorldCom Official Sees Life Unravel</td>
<td>Susan Pulliam</td>
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STUDY QUESTIONS
1. Sketch out the relationships between parties described or implied in the case “Quality Department Stores.” Which of these can be called “fiduciary” relationships? Given your analysis, how should the investment manager vote?

2. Which fiduciary duties might be at issue in “Old City Enterprises” and in “Plasma
International”? Are Ed Stevens in Old City and Sol Levin of Plasma acting properly in terms of shareholder interests and ethical standards? Are there any moral hazards present here?

3. Considering the Gimein reading (“You Bought, They Sold”) what are appropriate limits, if any, on sales of stock by corporate insiders? Does this behavior present any moral hazards, particularly to shareholders? Do the fiduciary duties materially differ with the behavior of Chung Wu, broker (“Man Who Paid The Price”)?

4. Describe the various fiduciary relationships in “My Patients Are Dying.” Are any fiduciary responsibilities owed to the patients who are dying? Have any fiduciary duties been breached in this case?

DATE: JULY 15, 2007
WHISTLE BLOWING & LOYALTY

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<td>Aircraft Brake Scandal</td>
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<td>A Whistle-Blower Rocks an Industry</td>
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<td>Doctor Explains Why He Blew the Whistle”</td>
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<td>How Ex-Accountant Added Up To Trouble for Humbled Xerox</td>
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<td>Fraud Busting Begins At Home</td>
<td>Mark Green</td>
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</table>

STUDY QUESTIONS
1. Consider the position of Searle Lawson in the “Aircraft Brake Scandal” case. At what point, if any, should he have blown the whistle to someone outside B.F. Goodrich? Use ethical concepts and reasoning to support your position.

2. Discuss the role(s) that whistle blowing laws play in the health care industry. Are these laws primarily a mechanism for preventing health care fraud against the
government (“A Whistle-Blower Rocks an Industry”) or do these laws serve other purposes as well (“Doctor Explains Why He Blew The Whistle”) and (“Legal Tangle At The Fountain of Youth”)?

3. Mark Jorgeson (“He Told He Suffered” - Prudential) and James Bingham (“How Ex-Accountant” - Xerox) worked at major corporations where they tried to bring truthful accounting numbers to the attention of top management and investors. What personal risks did they run? How did the outcomes of their cases reflect their different approaches to whistle blowing?

4. Do you agree with Mark Green (“Fraud Busting Begins At Home”) that enacting whistle blowing laws is a good idea for state legislatures? Should private corporations also utilize whistle blowing; that is, should corporations offer rewards to employees who blow the whistle on their colleagues?

DATE: JULY 15, 2007
SALES AND MARKETING

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<td>West Virginia CIF</td>
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<td>Disorders made to Order</td>
<td>Brendan I. Koerner</td>
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<td>Responsibility Yes, but to Whom</td>
<td>Lawrence Zicklin</td>
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<td>Drug Makers Scrutinized Over Grants</td>
<td>Gardner Harris</td>
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STUDY QUESTIONS
1. In the “Brock Mason” case, Mr. Tithe, the branch manager, describes the situation with the widow as “unfortunate” but not “unfair.” Do you agree? Use ethical methods and concepts to justify your position. Is the situation at Brock Mason similar to that in the “Responsibility Yes, but to Whom” case?

2. In what ways, if any, could we determine that pharmaceutical companies (“Disorders Made to Order”) are ethically responsible for promoting new mental illnesses in order to boost their profits from drug sales (“Drug Makers Scrutinized Over Grants”)? Or, companies that support causes such as breast cancer (“Selling of Breast Cancer”) to market their brand?
3. In his article, “Investment Management: Business . . . or Profession,” John Bogle implies that much of the mutual fund business is driven by moral hazards and fiduciary duty problems. Do you agree? Are any of these problems evident in the “West Virginia CIF” case?

**STUDY QUESTIONS:**

1. Apply the Business Judgment Rule (Jane P. Mallor) to the situations faced by the boards of directors of Walt Disney (“Testing the Limits” & Lessons From The Not So Wonderful World of Disney”) and Enron (“Committee Investigating Enron”). Were the actions taken by these boards of directors justified by the business judgment rule?

2. The nature of a corporation has been defined by the 1978 and 1990 Business Roundtables on Governance (“Director’s New Clothes”) as well as by Allen (“Schizophrenic Conception”) – contrast and compare their definitions of a corporation. Which conception of the business corporation do you think currently dominates the crisis in corporate governance?

3. Does the issue of executive compensation (“Off To The Races Again” & “CEO Pay in Crosshairs”) reflect a failure in corporate governance according to Smith (“Crisis of
Corporate Ethics)? Are there any market failures created when corporate executives are paid excessive amounts? And if so, how would you remedy this situation?

**DATE: JULY 15, 2007**
**INSIDER TRADING**

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<td>The Case for Insider Trading</td>
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<td>The Cost of Inequity</td>
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**STUDY QUESTIONS**
1. Should the accountant, Davidson, trade on the information he has obtained from Wolff (“Accountant’s Small Time”)? Use legal theories of insider trading (“Insider trading Notes”) and ethical concepts to support your position.

2. Compare the behavior of Dirks (“Raymond Dirks”) with that of Stewart (“Martha Stewart”) in relationship to the concept of fiduciary duty. Why was Dirks reprimanded by the SEC but ultimately exonerated by the Supreme Court? Use legal and ethical concepts to support your position.

3. Read “Trading Room Ethics” carefully and outline the exact procedure Teri Forman employs to move large blocks of stock. Is this insider trading? Why or why not?

4. Do laws forbidding insider trading make financial markets more or less efficient? Use ideas from both economics and ethics to justify your position as well as including Manne’s thesis (“The Case for Insider Trading”) on insider trading.

**DATE: JULY 22, 2007**
**SOCIAL RESPONSIBILITY TO STAKEHOLDERS**

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STUDY QUESTIONS

1. What advice would Friedman (“The Social Responsibility of Business is to Increase Its Profits”) and Allen (“Our Schizophrenic Conception of the Business Corporation”) give to the CEO of Larami Corp., manufacturer of the Super Soaker (“Toymaker Faces Dilemma”)? Would you agree with Friedman and/or Allen? Use ethical methods and concepts of fiduciary duty to support your position.

2. If you were the manager of “Bally’s Grand Casino”, would you do anything differently with respect to Elaine Cohen? What would Friedman (“Increase Profits”) and Allen (“Schizophrenic Conception”) advise the manager to do? Use ethical methods and legal concepts to support your position.

3. Did the CEO of Smith & Wesson fulfill his fiduciary duties (“The Right Thing”)? Justify your position. How would Applbaum (“Restricted Reasons & Permissible Violation”) judge his behavior?

4. Does IBM owe any duty to Asbeck (“Cut Loose”) regarding his health care benefits upon retirement? How would Allen (Schizophrenic Conception”) and Friedman (“Increase Profits”) respond to IBM’s behavior?
5. Do companies violate any fiduciary duties when they outsource American white-collar jobs to cheaper labor markets in third world countries (“Down & Out in White Collar America”)? Apply ethical concepts and market failures to this dilemma.

DATE: JULY 22, 2007
MORAL STANDARDS ACROSS BORDERS

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<td>Evildoers? How the West’s Net Vanguard Toils Behind the Great Firewall of China</td>
<td>Mure Dickie &amp; Stephanie Kirchgaessner</td>
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STUDY QUESTIONS
1. According to the “United States Bill of Rights” and the “Universal Declaration of Human Rights” have any basic human rights been violated in the “Oil Rig” case? Are the ex-pats justified in getting better treatment than the Angolans?
2. Should cruise workers that service US ports enjoy the rights of other US workers (“Life Is No Love Boat”)? Are sweatshops unethical according to Krugman (“In Praise of Cheap Labor”) or the Dalai Lama?


4. Do human rights exist? If so, as a corporation how would you apply these ideas to workers in Bangladesh (“Lives Held Cheap in Bangladesh Sweatshops”), Costa Rica sweatshops (“Low-Wage Costa Ricans Make Baseballs for Millionaires”) and Jordan (“An Ugly Side of Free Trade: Sweatshops in Jordan”)?

5. Is Google ethically justified in restricting internet access in China (“Evildoers? How the West`s Net Vanguard Toils”)? Apply ethical concepts in support of your position. What about from the human rights perspective (Universal Declaration of Human Rights & Dalai Lama)?

**DATE: JULY 22, 2007**

**PRODUCT LIABILITY**

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<td>Good Pill, Bad Pill: Science Makes It Hard to</td>
<td>Gina Kolata</td>
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STUDY QUESTIONS
1. Should A.H. Robins have introduced the Dalkon Shield when it did (“A.H. Robins”)?
Which legal theories of product liability (Clarkson, et al) may apply to A.H. Robins? Do they have any defenses? What method of ethical reasoning seems most appropriate to this problem?

2. Was McDonald’s “negligent” and/or strictly liable, i.e. “strict product liability” (Clarkson, et al) for selling “unreasonably dangerous” coffee in the “hot coffee” case (“McDonald’s Hot Coffee Case”)? Does McDonald’s have any legal defenses? Can the “Greene v Boddie Noell Enterprises, Inc.” case be distinguished from the McDonald’s case?

3. In terms of litigating product liability cases can you draw any distinctions between the Vioxx (“Vioxx ‘Trial in a Box’ Cuts Cost of Filing Suit”), Norplant (“Will the Lawyers Kill Off Norplant?”) and breast implants (“In Breast Implants Scandal, Where Was Dow Corning’s Concern for Women?”) cases? Are there moral hazards present in these cases or in product liability cases in general?

4. Have any fiduciary duties been breached in the Guidant heart device case (“Repeated Defect in Heart Devices Exposes a History of Problems”) and the Vioxx situation (“Good Pill, Bad Pill: Science Makes it hard to Decipher”). And can you identify any market failures?
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<td>Ann Zimmerman</td>
<td>Discrimination</td>
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**STUDY QUESTIONS**

1. In the “Foreign Assignment” case, how would you judge the actions of Bill Vitam? Use ethical concepts as well as the law, to justify your position. According to the EEOC, can the bank (employer) be held liable for sexual harassment created by its employees? Does the bank have any affirmative defenses as provided by the EEOC?

2. Is discrimination based on age (“Too Old to Work?”) different from discrimination based on sex (“Now Look Who’s Taunting, Now Look Who’s Suing”)? Should similar laws and regulations be applied to all of these classes? Justify your position.

3. Is discouraging unhealthy job applicants a form of discrimination (“Can Employers Alter Hiring Practices to Cut Health Costs?”)? What about avoiding hiring capable minority applicants due to potential litigation costs (“When Fear of Firing Deters Hiring”)?

**DATE: JULY 22, 2007**

**PRIVACY**

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**STUDY QUESTIONS**

1. Should firms face any restrictions on the internal use of data gathered from their own employees? Consider this specifically with respect to medical/psychological information. Use ethical concepts and methods to justify your position.
2. Is the idea of privacy for individuals becoming obsolete in the Internet age? How do privacy and technology interact?

3. What market failures surround the issue of privacy? How, then, does the right to privacy interact with economic efficiency?

4. (A) Draft a policy guideline for a firm as to what aspects of its employees lives are to be considered private, along with applicable safeguards. Assume this memo will be distributed to all employees, both current and prospective. (B) Briefly state your reasoning in setting this policy.