SAMPLE

LEONARD N. STERN SCHOOL OF BUSINESS
NEW YORK UNIVERSITY

PROFESSIONAL RESPONSIBILITY: MARKETS, ETHICS & LAW (B02.3101. 90) SUMMER 2002
(MANHATTENVILLE)
Dates: August 9th, 10th & 11th (Fri., Sat. & Sun.)
Time: 9:30am - 5:00pm (lunch will be provided each day)
Classroom: Room W4, Brownson Hall

PROFESSOR KOWAL
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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. 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 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.

TEXTBOOK
Professional Responsibility: Markets, Ethics & Law: Case Readings for 2001-02
This textbook is available in the NYU Professional Bookstore. The edition for the current academic year,
2001-02, is different from prior editions.

PREPARATION FOR CLASS
Each class session consists of several study modules labeled A, B, C, etc., respectively. 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. Class discussions 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. You may be called upon during class to provide answers to these study
questions.

COURSE REQUIREMENTS
1. Attend all scheduled class sessions.
2. Homework: 3 Written Study Question Analyses (2 - 3 pages each): Due August 9, 10 & 11, respectively
3. Term Paper Description (1 page): Due August 11 (Sunday)
4. Term Paper (8-12 pages): Due August 24 (Friday)
1. ATTENDANCE
There are only 3 sessions for this course. Therefore, you are required to attend all 3 sessions in their entirety (Friday, Saturday & Sunday from 9:30am - 5:00pm). If you do not attend all 3 classes then you will not receive credit for the course. If due to work or personal circumstances you doubt your capacity to attend all 3 classes then you should drop this section and register for another section.

2. HOMEWORK: 3 Written Study Question Analyses (2-3 pages typed)
Each student is responsible for handing in a total of 3 written homework assignments - one per class session. Each homework assignment consists of a 2 - 3 page written analysis of one study question of your choice from the study module(s) we will be discussing that day in class. You may submit more than 3 written homework assignments but only the top 3 grades will count.

3. TERM PROJECT DESCRIPTION: (1 page typed)
A one-page description of your term paper project as described below.

4. TERM PAPER PROJECT: (8 - 12 pages typed & double-spaced)
Students are responsible for a term paper. 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. 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.
The paper should follow this format:
I. Situation
Provide a description of the situation or practice; this description must be detailed enough to allow the reader to get a clear sense of the issues & circumstances (2-4 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 as well as cite the relevant law where appropriate (2-4 pages).
III. Resolution & Conclusion
Describe how the situation was actually resolved. Discuss this resolution in light of the ethical analysis from section II (2-4 pages).

Important Term Paper Grading Point:
This assignment is graded based upon how systematically and thoroughly the student applies 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.

Note on 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).

Handing In Term Paper Projects:
Since the term papers are due after our class sessions have ended you may hand in your term paper using one of the following 3 options:
1. Email: Email term paper to Professor Kowal (rkowal@stern.nyu.edu) as a Word file attachment. Note that the confidentiality of email cannot be guaranteed.
2. Mail: Mail term paper to Professor Kowal's office: Stern School of Business, NYU, 40 West 4th Street, Tisch Hall Room 307, Accounting Department, New York, New York, 10012-1118
3. Hand Deliver: Hand deliver term paper to Iantha Coleman, Professor Kowal's secretary, in Suite 300, Tisch Hall, during regular business hours.

GRADING
The weights for the student's overall grade are:
1. Class Participation 20%
2. Homework 40%
3. Term Paper Project 40%

COURSE SCHEDULE

AUGUST 9th: Morning Session Topic & Assignments

A. INTRODUCTION: MARKET FAILURES & PROFESSIONAL DILEMMAS

3. "Pollution case Highlights trend to Let Employees Take the Rap." by Dean Starkman (p.189)

Study Question:
1. Based on the Edwards article (i) identify all of the market failures in the "Pollution" case and (ii) examine your employment situation and identify at least one market failure related to your job or the business that your firm is in.

B. TRUTH & DISCLOSURE

Read: 1. "Is Business Bluffing Ethical?" by Albert Carr
2. "Ethics and the New Game Theory" by Gary Miller (Appendix I)

Cases: 1."Bitter Pill" by Ralph T. King, Jr.
2. "Today's Analyst Often Wears Two Hats" by Roger Lowenstein
3. "How Did So Many Get It So Wrong?" by Gretchen Morgenson
4. "Familiar Refrain: Consultant's Advice on Diversity was Anything but Diverse" by Douglas A. Blackmon

Study Questions
1. Would Albert Carr voice any objections to the (i) corporate actions of Boots in the "Bitter Pill" case 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 assess the effects of bluffing as applied to (i) Wall Street analysts ("Today's Analyst Often Wears Two Hats" & "How Did So Many Get It So Wrong") and (ii) diversity consulting firms ("Familiar Refrain").

C. GIFTS, SIDE DEALS & PAYOFFS

Read: 1. "Neutral Omni-Partial Rule Making" (Appendix I) by Ronald M. Green
2. "Introduction To Ethical Reasoning" (Appendix I) by Thomas Donaldson & Patricia Werhane

Cases: 1. "Buynow Stores" by Bruce Buchanan
2. "Roger Berg" by Ronald M. Green

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 & Donaldson/Werhane readings to support your position.
2. Does the Roger Berg case differ materially from Buynow Stores? Use ethical concepts and methods from the Green & Donaldson/Werhane readings to support your position.

LUNCH HOUR MOVIE: "THE PIRATES OF SILICON VALLEY"

AUGUST 9th: Afternoon Session Topic & Assignments

D. INDUSTRIAL ESPIONAGE & TRADE SECRETS
Read: 1. "Trade Secrets, Patents, and Morality" by Robert E. Frederick & Milton Snoeyenbos

Cases: 1. "Stockbroker's Story" by Bruce Buchanan
2. "Fare Game" by William M. Carley
3. "Protecting Trade Secrets: Using 'Inevitable Misappropriation' & the Exit Interview" by Michael B. Carlinsky & Lara Kreiger
4. "Corporate Spies: The Pizza Plot" by Adam Penenberg & Marc Barry

Study Questions:
1. Are customer records, such as those described in "Stockbroker's Story" trade secrets, or do they belong to the departing broker? What criteria can we apply is making this determination?

2. How does the situation in "Fare Game" differ with respect to "Stockbroker's Story" with respect to the idea of a trade secret?

3. What practices in "The Pizza Plot" do you judge to be inappropriate? What are your criteria for saying so?

E. MANAGERS & DIRECTORS: FIDUCIARY DUTIES
Read: 1. "Directors on Board Have a Duty of Loyalty" by Robert G. Heim.

Cases: 1. "Quality Department Stores" by Lawrence Zicklin
3. "Share and Share Unalike" The Economist

Study Questions
1. Sketch out the relationships between parties described or implied in "Quality Department Stores." Which of these can be called "fiduciary" relationships and which fiduciary duties apply? Given your analysis, how should the investment manager vote?

2. How would you, as CEO of Plasma International, defend its actions in the press? What ethical methods and concepts are you applying? Is the Business Judgment Rule satisfied?

3. Why should a company award stock options to its senior executives, and under what terms? Are shareholders interests best served by such options? Is there any potential liability involving fiduciary duty or the business judgment rule

AUGUST 10th: Morning Session Topic & Assignments

A. INSIDER TRADING
Cases: 1. "An Accountant's Small Time Insider Trading" by Tom L. Beauchamp
2. "Raymond Dirks and Equity Funding of America" by Roy C. Smith
3. "Trading Room Ethics" by Lawrence Zicklin

**Study Questions**
1. Should the accountant, Donald Davidson, trade on the information he has obtained from Warner Wolff? Use the legal theories of insider trading as well as ethical concepts to support your position.

2. Is Ray Dirks' behavior consistent with the concept of fiduciary duty and the various legal theories of insider trading? Why was he reprimanded by the SEC but ultimately exonerated by the Supreme Court? Use ethical and legal 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?

**B. CONTROL BY LAW**

Read: 1. "Living with the Organizational Sentencing Guidelines" by Jeffrey Kaplan, Linda S. Dakin, Melinda R. Smolin
3. "Follow Sentencing Guidelines Compliance Measures, Court Tells Directors" by Jeffrey M. Kaplan
4. "When the Company Becomes a Cop" by Linda Himelstein
5. "Getting Religion on Corporate Ethics" by Amy Zipkin.

**Study Questions:**
1. How do you think the Corporate Sentencing Guidelines will change corporate behavior? Are the compliance costs that the guidelines imply justified? Use ethical concepts and methods to support your position.

2. What are the implications of the Corporate Sentencing Guidelines for the individual employee? Use your own intended career path as a basis for judgment, and be as specific as you can.

**LUNCH HOUR MOVIE: "WALL STREET"**

AUGUST 10th: Afternoon Session Topic & Assignments

**C. PRODUCT LIABILITY**

2. "Moral Hazard" (Appendix II) by Robert Pindyck & Daniel L. Rubenfeld

Cases: 1. "A.H. Robins: Dalkon Shield" by A. R. Gini & Terry Sullivan
2. "The Class-Action Quandry: Cash Payment, No Apology" by Meryl Gordon
3. "Will the Lawyers Kill Off Norplant?" by Gina Kolata
4. "Legal Myths: The McDonald's Hot Coffee Case" published by Public Citizen

**Study Questions**
1. Should A.H. Robins have introduced the Dalkon Shield when it did? What methods of ethical reasoning seem most appropriate to this problem? Which legal theories of product liability may apply to A.H. Robins? Do they have any defenses?

2. Was McDonald's "negligent" in the "hot coffee" case? Should McDonalds also be subject to "strict" product liability? Does McDonald's have any legal defenses? What are your criteria for deciding?
3. Can you draw a distinction between the Dalkon Shield and Norplant cases? Are there any moral hazards present in these cases?

D. SOCIAL RESPONSIBILITY
Read: 1. "The Social Responsibility of Business is to Increase Its Profits" by Milton Friedman
2. "Our Schizophrenic Conception of the Business Corporation" by William T. Allen

Cases: 1. "Bally's Grand Casino, For Elaine Cohen, Is Her One True Home" by Heidi Evans
2. "Toy Maker Faces Dilemma as Water Gun Spurs Violence" by Joseph Pereira
3. "Smith & Wesson to Temporarily Close Two Plants" by Staff Wall Street Journal
4. "The Right Thing: When Good Ethics Aren't Good Business" by Jeffry Seglin

Study Questions
1. What advice would Milton Friedman and William Allen give to the CEO of Larami Corp., manufacturer of the Super Soaker? Would you agree with Friedman and/or Allen? Use ethical methods and concepts 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 and Allen advise the manager to do? Use ethical methods and concepts to support your position.

3. Did the CEO of Smith & Wesson fulfill his fiduciary duties? According to Friedman and Allen was the CEO of Smith & Wesson justified in doing what he did?

AUGUST 11th: Morning Session Topic & Assignments

NOTE: TERM PROJECT DESCRIPTIONS (1-page) DUE TODAY: I will hold individual conferences during the breaks and lunch hour to go over your term project descriptions.
A. PATTERNS OF DISCRIMINATION
Read: 1. "EEOC Guidelines (excerpt)"
2. "When Fear of Firing Deters Hiring" by Jeffry Seglin
3. "Wall Street's Secret Society" by Alan Deutschman

Cases: 1. "Foreign Assignment" by Thomas Dunfee and Diana Robertson
2. "Now Look Who's Taunting, Now Look Who's Suing" by Jane Gross
3. "Is this the Right Time to Come Out" by Alistair D. Williamson

Study Questions
1. In the "Foreign Assignment" case, how would you judge the actions of Bill Vitam using legal and ethical concepts to justify your position? Can the bank (employer) be held liable for sexual harassment, according to the EEOC, for the actions of its employees? Does the bank have any possible defenses or could the bank change its structure to get better results?

2. Is sexual harassment against men a legitimate concern? Is the situation at Jenny Craig comparable to that in Foreign Assignment? Why or why not?

3. Is discrimination because of sexual orientation different from discrimination because of sex? Should similar laws and regulations be applied to both? Justify your position.

B. RIGHT TO PRIVACY
Read: 1. "The Eroded Self" by Jeffrey Rosen
Cases: 1. "Open Secrets" by Ellen Schlutz  
2. "If You Use Your Firm's Counselors, . . ." by Ellen Schlutz  
3. "When Patient Records Are Commodities for Sale" by Gina Kolata  
4. "Monday 9:01 A.M." by Ronald Smithies  
5. "Prying Times" by Ann Carrms.  
6. "By the Watercooler in Cyberspace, the Talk Turns Ugly" by Reed Abelson

Study Questions
1. Should firms face any restrictions on the internal use of data gathered from their own employees, specifically medical/psychological information? Why or why not? Use ethical concepts and methods to justify your position.

2. What market failures surround the issue of privacy? Is the idea of privacy for individual becoming obsolete in the Internet age? How, then, does the right to privacy interact with economic efficiency?

3. Draft a policy guideline for a firm as to what aspects of its employee's lives is 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.

LUNCH HOUR MOVIE: "THE INSIDER"

AUGUST 11th: Afternoon Session Topic & Assignments

C. WHISTLE BLOWING & LOYALTY

Read: 1. "The Return of Qui Tam" by Priscilla R. Budeiri

Cases: 1. "Aircraft Brake Scandal" by Kermit Vandivier  
3. "He Told. He Suffered. Now He's a Hero" by Kurt Eichenwald

Study Questions
1. At what point, if any, should Searle Lawson in the "Aircraft Brake Scandal" have blown the whistle to someone outside B.F. Goodrich? Do the ideas in "Introduction to Ethical Reasoning" by Donaldson and "Neutral Omni-Partial Rule Making" by Green help to clarify the ethical issues in this case? Show how they do.

2. According to Ronald Green's "Neutral Omni-Partial Rule Making", is Mark Jorgensen justified in blowing the whistle in "He Told. He Suffered. Now He's a Hero."? Why or why not?

3. Is the Qui Tam policy is a good idea? Should corporations also use it; that is, should corporations offer rewards to employees who blow the whistle on their colleagues? Does it remedy any market failures?

D. MORAL STANDARDS ACROSS BORDERS

Read: 1. "In Praise of Cheap Labor: Bad Jobs at Bad Wages Are Better than No Jobs at All" by Paul Krugman

Cases: 1. "The Oil Rig" by Joanne B. Ciulla  
2. "Stretching Federal Labor Law Into the South Pacific" by Seth Faison  
3. "For Cruise Workers, Life is No Love Boat" by Joshua Harris Prager  
4. "Lives Held Cheap in Bangladesh Sweatshops" by Barry Bearak  
5. "Labor Standards Clash with Global Reality" by Leslie Kaufman & David Gonzalez  
6. "This Little Kidney Went to Market" by Michael Finkel
**Study Questions**

1. Should cruise workers that service US ports enjoy the rights of other US workers? Is this an unethical situation according to Krugman or other ethical thinkers we have studied?

2. Should US labor & safety laws apply to the Northern Mariana Islands? According to Krugman and other ethical thinkers we have studied are sweatshops unethical?

3. What market failures are described in “This Little Kidney Went To Market”? What regulations and/or laws would help this market to work better?

**E. CONCLUDING DISCUSSION**