NEW YORK UNIVERSITY
LEONARD N. STERN SCHOOL OF BUSINESS

Professional Responsibility:
Market, Ethics and Law
SYLLABUS: FALL AND SPRING COURSES

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OVERVIEW

OBJECTIVES

This is a course in professional responsibility. It is designed to enable students to think critically about the broader context and consequences of the decisions they will make as professionals and managers. To this end, the course demonstrates that ethical considerations are important in the decision-making process. The course then develops analytical reasoning skills that enable the student to identify and weigh competing ethical concerns, and lastly, through specific examples and case discussion, the student is made aware of the importance of understanding the interdependence of markets, ethics, and law in a free market society.

The course also introduces a broad range of "non-market" issues encountered by managers and business professionals, and helps develop a set of analytical perspectives for making judgments when such issues arise.

More directly, students exercise professional ethical judgment through discussion and analysis. This requires the examination of cases, as indicated on the course outline. The readings accompanying the cases provide the ethical reasoning tools of analysis.

PREPARATION FOR CLASS

This is a case course. Accordingly, the student's primary obligation is to prepare for class discussions by thorough reading and analysis of assigned materials. Case discussions and in-class activities are the principal means to achieve the course's objectives. Adequate preparation involves four elements:

1. Cases and accompanying readings
2. Supplementary materials
3. Study questions
4. Memorandums

Cases and Accompanying Readings. This is a seven-week course. The first week introduces the course, develops the concepts of ethical reasoning tools (ERTs), includes a number of readings which provide the fundamental ethical reasoning tools and the opportunity to analyze a case. Students should read all of the assigned articles, which are found in the two appendices at the end of the text in the course and in the Supplementary Materials for the first week of the course.

In the six weeks that follow there are 12 modules each dealing with a different ethical issue. Students should read all of the cases listed in each module as well as the accompanying readings. Although the individual cases deal with a specific situation, they all contain information, which contributes to finding an ethical solution.
Supplemental Materials. Prior to the week when an ethical issue is to be discussed, the instructor will provide Supplementary Materials to amplify the information in the text. They are brief and should not be viewed as a substitute for the assignments in the text.

Study Questions. Each ethics module contains a series of Study Questions, which serve to assist students in analyzing the cases and provide a useful structure for classroom discussion. Students are responsible for mentally preparing answers to these study questions before coming to class. The instructor may ask some students to provide their answers to these questions as a basis for discussing the case.

Memorandums. Students are required to submit four memorandums during the course. All students are required to submit a memorandum for the Gifts, Side Deals and Payoff Module or the Social Responsibility Modules, which are assigned for the second week of the course. To be assured that memorandums are written on all four cases (two in each module) the instructor will assign them during the first class. This will provide all students with an early opportunity to analyze a case and receive feedback from the discussion of the cases in class and in the form of written comments on your memorandum. Since some students are uncertain as to what is required on the first memorandum, you have the option of submitting a fifth memo to replace the grade on the first one. All memorandums must be submitted prior to the discussion in class. Memorandums will be graded on a zero to ten basis and will be returned at the next class.

The remaining three memorandums may be selected from any of the remaining modules with the exception of the cases in the two classroom simulations - Moral Standards Across Borders: "The Oil Rig" case, and Sales Ethics in Financial Markets: "Commission on Sales at Brock Mason" brokerage case.

In preparing your memorandum, please keep the following in mind:

1. All memorandums must be submitted by the class when the subject (Module) is discussed. If for some reason you are unable to be present at the class the memorandum can be left in my mailbox or under my office door in the Economics Department Room 7-84 of the KMC, or faxed to my office at (212) 995-4218. To avoid recurrent problems with Email attachments, no Email submissions will be accepted.

2. Confine your analysis to one of the cases in the Module.

3. Only one memorandum (case) can be submitted per Module.

4. Memorandums should be typed, double spaced and two to three pages in length. Abbreviations and acronyms may be used.

5. Study Questions should not, as a rule, be used to format your memorandums.
**Simulations.** To add a dynamic element to the course there will be two simulations during the semester. These involve the "Oil Rig" (Model #8, Moral Standards Across Borders) and "Commission on Sales at Brock Mason" (Module #10, Sales Ethics in Financial Markets) cases. Each simulation involves four students who volunteer to be principals in the case. The balance of the class serve as the decision making body. Students who choose to volunteer prepare oral testimony regarding the ethical issue at hand (two pro, two con). They are graded on the basis of their respective presentations. To encourage participation they receive credit for one written memorandum as well as class participation credit.

The balance of the class, which will constitute the decision making bodies (board of directors and arbitration panel), can earn class participation credit based on the questions they ask the respective witnesses as well as their comments and contributions to the deliberation process.

In addition to the information provided in the textbook (case texts and readings Modules #8 and #10). The instructor will provide supplementary material.

The "Oil Rig" simulation is scheduled for the fifth week of the course and the "Commission on Sales at Brock Mason Brokerage" on the sixth week of the course.

**Classroom Discussion.** Given the importance of classroom discussion it is important they be held in an effective and congenial manner. Please read and follow the attached guidelines.

Moreover, given the subject matter of the course it is natural that in the course of classroom discussions a variety of viewpoints will be expressed. This course is not designed to challenge students' respective views. Rather it seeks to instruct as to one's professional responsibilities. In this context, it is the instructor's function to direct the discussion to the norms currently prevailing in society. He must also assure that all students in the class have an equal opportunity to contribute to the discourse.

**Attendance.** Ideally, all students should attend every class. At the same time, it is recognized that work pressures, illness or family obligations may prevent some students from doing so. It is better to attend part of a class than to miss an entire class. The instructor would appreciate it if you are going to be late for a class or have to leave early for business or family reasons to let him know in advance.

Given that classroom discussions are a critically important part of this course, students who are absent from classes will suffer in terms of the learning process and in their grades.

**Grading.**

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<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Class Participation</td>
<td>20%</td>
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<tr>
<td>Memorandums</td>
<td>40%</td>
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<tr>
<td>Final Exam</td>
<td>40% (given at the second half of the 7th week)</td>
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Grade Distribution. Professional Responsibility is a core course. The Stern School suggested grade distribution for core courses is as follows:

- A’s 20% to 35%
- B’s 55% to 75%
- C’s 10% to 15%

It is recognized that particular sections may vary somewhat from the above schedule.


GUIDELINES FOR CLASSROOM DISCUSSION

About Listening. This course relies heavily on classroom discussion so it is appropriate to give some thought to how we should go about it. The following is a short list of suggestions, which will make our discussions more productive. Each class session lasts 170 minutes. During this time, you will spend at most 10 minutes speaking. The rest of the time, about 160 minutes, you will be listening. It is important, then, to listen well. It is recommended:

1. that you look at the person who is speaking
2. that you actively try to understand what he or she is saying
3. that you do not speak when someone else is speaking
4. that you do not raise your hand while someone else is speaking
5. that you always show patience and courtesy.

About Speaking. As noted, it will not be possible for every student to speak during each class period. Thus, when you do get an opportunity to speak the time should be used productively. To this end the following is suggested:

1. that any time you speak, you make one major point, not more
2. that you reference earlier comments, whenever appropriate
3. that you rely on cases and reading, not extraneous material
4. that you speak loudly and clearly to be heard throughout the room
5. that you express disagreements with courtesy and respect.
## ETHICAL REASONING TOOLS (ERTs)

1. Consequential Ethical Theories (CET)
2. Utilitarianism (U)
3. Nonconsequential Ethical Theories (NET)
4. Deontological Theories (DT)
5. The 4Rs of Professional Responsibility (4Rs)
6. Market Failures (MFs)
7. New Game Theory (NGT)
8. Why Good Managers Make Bad Ethical Choices (WGM…)
9. Optimum Ethical Outcomes (OPT)
10. Neutral Omnipartial Rule Making (NORM)
11. Employment at Will (EW)
12. Fiduciary Duties (FD)
13. Friedman’s Social Responsibility Concept (FRS)
14. Stakeholder Analysis (SA)
15. Nemo.Dat Principle (NDP)
16. The Property Concept of the Corporation (PC)
17. The Social Entity Concept of the Corporation (SEC)
18. Trade Secret Protection (TSP)
19. De George's Conditions for Whistle Blowing (DGC-WB)
20. James' Checklist for Whistle Blowing (JC-WB)
21. Corporate Sentencing Guidelines (CSG)
22. Product Liability Law (PLL)
23. Moral Hazard (MH)
24. Donaldson’s Algorithm (DA)
25. Fair Information Practices (FIP)
26. Limited Paternalism (LP)
27. SEC Insider Trading Rules 10b5 and 14e3 (10b5, 14e3)
28. EEOC Guidelines on Sex Discrimination (EEOC)
SCHEDULE OF TOPICS AND ASSIGNMENTS

FIRST WEEK

INTRODUCTION TO THE COURSE: BASIC ETHICAL CONCEPTS
(APPENDIX I & II)

1. The Heightened Importance of Ethical Concerns
2. IQ vs. EQ
3. Ethical Reasoning Tools (ERTs)
4. Fundamental Ethical Theories: Consequential and Nonconsequential Theories
5. The Four R’s of Professional Responsibility
6. Market Failures and Regulation
7. Structuring the Business Environment to Yield Ethical Behavior: New Game Theory
8. Why Good Managers Make Bad Ethical Choices
9. Optimum Ethical Outcomes: Case - “Promises, Promises”

Read:
"Introduction to Ethical Reasoning"
by Thomas Donaldson and Patricia H. Werhane
(Appendix I)

"Economics Theories of Regulation Normative vs. Positive"
by Linda N. Edwards and Franklin R. Edwards
(Appendix II)

" Ethics and The New Game Theory"
by Gary Miller (Appendix I)

“Why Good Managers Make Bad Ethical Choices”
(Supplemental Materials)
SECOND WEEK: PART 1

GIFTS, SIDE DEALS AND PAYOFFS (MODULE #2)

Cases:
“Rodger Berg”
by Ronald M. Green

“Buynow stores”
by Bruce Buchanan

Read:
“Battling International Bribery 2000”
by U.S. Department of State

"Neutral Omni-Partial Rule Making"
by Ronald M. Green (Appendix I)

Study Questions:

1. Apply Neutral Omnipartial Rule Making (NORM) to the "Rodger Berg" case. Does it meet all of the requirements of this ERT? Explain.

2. Using Consequential Ethical Theories (CET), who are the winners and losers in the Rodger Berg case? Is the net benefit to society positive or negative? Support your conclusion with other ERTs.

3. What alternative course of action could Rodger have taken which would have yielded a more optimum ethical outcome (OPT)?

4. Apply NORM to the "Buynow Stores" case. Does it meet all of the requirements of this ERT? Explain.

5. If the buyer keeps the envelope of cash provided by the suppliers, who are the winners and losers? Use appropriate ERTs in your answer.

6. What alternative action could the buyer take which would yield a more optimum outcome (OPT)?
SECOND WEEK: PART 2

SOCIAL RESPONSIBILITY (MODULE #5)

Cases:
“Plasma International” (Module #4)
by T.W. Zimmer and P.L. Preston

“Enron Rose Meteorically Only to Disintegrate, Leaving Many Victims in Its Wake”
by Daniel E. Diamond

Read:
“The Social Responsibility of Business is to Increase Its Profits”
by Milton Friedman

"Our Schizophrenic Conception of the Business Corporation"
by William T. Allen (Module #4)

“Business Ethics and Stakeholder Analysis”
by Kenneth Goudpaster

Study Questions:

1. Utilizing the Consequential Theories ERT who are the winners and losers in the Plasma International case? Is there a net gain or loss to society? Also, apply Nonconsequential Theories (NET) to this case. Does this analysis contradict or support the CET analysis? Explain.

2. Apply Stakeholder Analysis (SA) to the "Plasma International" case. Do the same with Friedman's Social Responsibility Concept (FSR). Can you reconcile the two ethical concepts? Do the same with the Property Concept and Social Entity Concept of the Corporation.

3. Identify the principal economic, financial and social factors which enabled Enron to grow and prosper.

4. Utilizing appropriate ERTs, explain the apparent reasons for aberrant and alleged illegal activities of Enron’s independent auditor, Arthur Anderson, and its principal investment bankers, J.P. Morgan Chase and Citicorp.

5. What remedial actions would you recommend to prevent another Enron from occurring?
THIRD WEEK: PART 1

TERMINATION AND DOWNSIZING (MODULE #14)

Cases:  
"The Reckoning: Safeway LBO Yields Vast Profits But Exacts A Heavy Human Toll"  
by Susan Faludi

"Facing Raiders, Kroger Took Another Path"  
by Susan Faludi

"Re-engineering, With Love"  
from The Economist

Read:  
Employment at Will and the Question of Employee Rights"  
by Patricia Werhane

Study Questions:

1. In the reading by Patricia Werhane, summarize the arguments for and against the "Employment at Will" concept. Utilizing ERTs not mentioned by Werhane analyze the reasons why this principle should be modified and/or limited in today's economy.

2. Utilizing appropriate ERTs (including the analysis developed in question"1"), critically evaluate the actions taken in the "Safeway Case." Do the same for the "Kroger Case."

3. Contrast the actions taken by the Corning Co. in restructuring (re-engineering) its firm vs. that of Safeway. How do you explain the reasons for the difference in behavior - utilize ERTs in your answer?
THIRD WEEK: PART 2

INDUSTRIAL ESPIONAGE AND TRADE SECRETS (MODULE #6)

Cases:  
“Stockbrokers Story”  
by Bruce Buchanan  

“Secret Suit: What Did He Know?”  
by William M. Carley  

Read:  
"Trade Secrets, Patents and Morality"  
by Robert L. Frederick and Milton Snoeyenbos  

“Protecting Trade Secrets: Using “Inevitable Misappropriation” and the Exit Interview”  
by Michael B. Carlinsky and Lars Krieger  

Study Questions:

1. In the Stockbrokers Story Case, was Carol Hoffman justified in taking a diskette with the names, addresses, telephone numbers and financial holdings of all her clients at Smith & Co. to her new position at Jones and Co.? Support your answer with appropriate ERTs.

2. In the Secret Suit Case, was the fact that a number of Bayer’s Agfa key personnel had been hired by its rival GE in the last few years, evidence that GE was engaged in a concerted effort to learn Bayer’s technical secrets? What other evidence in this case would support such an assertion? Use ERTs in your analysis.
THIRD WEEK: PART 3

WHISTLE BLOWING AND LOYALTY (MODULE #3)

Cases:  "Delta Industries"
        by Lawrence Zicklin

        "The Copper "O" Company"
        by Thomas E. McMahon

Read:  "Emile Stache"
       From www.whistleblower.com

        "The Return of Qui Tam"
        by Priscilla R. Budeiri

Study Questions:

1. Is Sam Phelps in the "Delta Industries" case justified in blowing the whistle? Use your whistle blowing ERT and other appropriate ERTs to support your answer.

2. Is Bill Jones in the "Copper "O" Case" justified in blowing the whistle? Use the whistle blowing ERT and other appropriate ERTs to support your answer.

3. Is there a way for Sam Jones to blow the whistle in a manner that may minimize the chances of him losing his job?
FOURTH WEEK: PART 1

CONTROL BY LAW: COMPLIANCE AND THE CORPORATE SENTENCING GUIDELINES
(MODULE #7)

Cases:  “Why Daiwa Bank will Pay $340 Million Under the Sentencing Guidelines”
by Jeffery M. Kaplan

“Pollution Case Highlights Trend to Let Employees Take the Rap”
by Dean Starkman

Read:  “Living with the Organizational Sentencing Guidelines"
by Jeffery M. Kaplan, Linda S. Dakin and Melinda R. Smolin

"When the Company Becomes a Cop"
by Linda Himelstein

Study Questions:

1. Does it seem fair that Daiwa Bank, which has incurred a major loss, should be so heavily penalized by the U.S. government? Explain utilizing appropriate ERTs.

2. How could Daiwa or any other company, which violated Corporate Sentencing Guidelines, lessen the severity of fines and/or imprisonment.

3. In the Darling International Inc. case (Pollution Case), where did the employees go wrong? Use appropriate ERTs in your analysis.

4. How or will the Corporate Sentencing Guidelines affect your behavior vis-à-vis your company as you pursue your career goals?
FOURTH WEEK: PART 2

PRODUCT LIABILITY (MODULE #9)

Cases:
“A. H. Robins: Dalkon Shield”
by A.R. Gini & Terry Sullivan

“In Breast Implants Scandal, Where was Dow Corning’s Concern for Women?”
by Andrew W. Singer

“Will the Lawyers Kill Off Norplant?”
by Gina Kolata

Read:
"Moral Hazard" (Appendix 2)
by Robert Pindyck & Daniel Rubinfeld

“Legal Myths: The McDonald’s ‘Hot Coffee’ Case”

Note: The ERT for Product Liability- PLL (Product Liability Law) is in the supplement for this Module distributed in class

Study Questions:

1. What ethical norms were breached in the Dalkon Shield and Breast Implant Cases? Support your answers with appropriate ERTs.

2. How do you explain the behavior of A.H. Robins given that they were a pharmaceutical company attuned to a strict regulatory process under the aegis of the FDA?

3. How does the circumstances of the Norplant case differ from the Dalkon Shield and Breast Implants Cases? Using appropriate ERTs, do you believe the suits against Norplant were justified?

4. Several states have or are seriously considering limiting the size of jury awards in product liability cases. The U.S. Congress is also considering such legislation. Do you support these actions? Explain utilizing ethical reasoning tools.

5. What role can "Moral Hazard" play in product liability situations? Where else does this concept apply?
FIFTH WEEK: PART 1

MORAL STANDARDS ACROSS BORDERS (MODULE #8): SIMULATION

Case:  “The Oil Rig”
by Joanne B. Ciulla

Plus additional case information distributed in class

Read:  “Labor Standard Clash with Global Realty”
by Leslie Kaufman and David Gonzales

Note:  Since this is an in class simulation the focus is on only one case. Similarly, the Study Questions should be utilized by both the role players and the balance of the class to prepare their respective participations in the simulations.

Study Questions:

1. Donaldson presents a list of moral minimums plus an algorithm for resolving home/host country conflicts. Apply Donaldon’s concepts to the Oil Rig Case. List the differences in treatment between the Expats and Angolans. Which are justified? Which, if any, are not? Keep in mind that the home country standards that you identify cannot exceed those actually practiced (prevailing) in the home country. Be sure to utilize appropriate ERTs to justify your positions.

2. Using Consequential Ethical Theories (CET) who are the winners and losers in the Oil Rig Case? Also, apply Nonconsequential Theories (NET) to the case. Does this analysis contradict or support CET analysis?

3. Are there other ERTs that are helpful in analyzing this case? Explain.

Note:  Since this is a simulation no Memorandums should be submitted for the Oil Rig Case.
FIFTH WEEK: PART 2

RIGHTS TO PRIVACY? (MODULE #13)

Cases:
"Open Secrets"
by Ellen Schultz

"When Patient Records are Commodities for Sale"
by Gina Kolata

"Prying Times"
by Ann Carrns

Read:
“By the Water Cooler in Cyberspace, the Talk Turns Ugly”
by Reed Ableson

Study Questions:

1. Based on the "Open Secrets" case, evaluate, utilizing appropriate ERTs, the positive and negative impacts of Employee Assistance Programs (EAPs). Does your current (or most recent employer) offer these services to its employed? How could they be structured to protect the privacy of those who choose to participate?

2. Should information on an individual's medical/psychological treatment by a hospital or medical professional be treated differently than other data? Explain using appropriate ERTs.

3. Do you believe the current state of privacy rights on the internet is adequate? Support your answer with appropriate ERTs.

4. Given the pervasiveness of electronic information gathering in our society can you suggest any steps to protect the privacy of individuals?
SIXTH WEEK: PART 1

SALES ETHICS IN FINANCIAL MARKETS (MODULE #10) SIMULATION

Case: “Commissions on Sales at Brock Mason Brokerage”
by Tom L. Beauchamp

Plus additional case information distributed in class

Read: “Betrayal on Wall Street”
by Shawn Tully

Note: Since this is an in class simulation the focus is on only one case. Similarly, the Study Questions should be utilized by both the role players and the balance of the class to prepare their respective participation in the simulation.

Study Questions:

1. Describe the relationship (duty) of the broker to his company (Brock Mason) vs. his relationship to his client (Mrs. Sternwell) Are these obligations incompatible?

2. Given Mrs. Sternwell's background, financial profile and goals, evaluate each of the investments in which her funds were placed by her broker. Which ones are appropriate, which are not? Use appropriate ERTs in your assessments.

3. Does Mrs. Sternwell bear any responsibility for her plight? Explain.

4. Utilizing an appropriate ERT explain how the basic conflict between a broker and a client could be resolved by changing the compensation structure for security brokers. Use appropriate ERTs in your discussion.

Note: Since this is a simulation no Memorandum should be submitted for the Brock Mason case.
SIXTH WEEK: PART 2

INSIDER TRADING (MODULE #11)

Cases:  "An Accountant's Small Time Insider Trading"
by Tom L. Beauchamp

"Raymond Dirks and Equity Funding of America"
by Roy C. Smith

“The Tip”
by Ted C. Fishman

Read:  "The Cost of Inequity"
by The Economist

Note:  The ERTs for Insider Trading - SEC Rules 10b5 and 14e3 are in the Supplement for this Module distributed in class.

Study Questions:

1. In the Accountants case which SEC regulation (Insider Trading Theory) did the bank president Werner Wolf violate? Is the accountant Donald Davidson correct in his assessment that by trading on the information given to him by Mr. Wolf he will encounter no problems? Explain utilizing ERTs.

2. Utilizing appropriate ethical reasoning explain why the Supreme Court overruled the SEC's reprimand at Raymond Dirks in the Equity Funding case in the 1960's.

3. In "The Tip" case, was Robert Sacks merely an amateur, seeking "to make a buck" or a violator of the SEC rules on Insider Trading?

4. Do you believe, as is argued in the text of the Accountant's Case, that Insider Trading prohibitions inhibit the efficiency of financial markets? Or do you agree with the Supreme Court and the SEC that the current Insider Trading regulations are essential to the fairness and growth of financial markets? Use Ethical reasoning tools in your analysis.
SEVENTH WEEK: PART 1

PATTERNS OF DISCRIMINATION (MODULE #12)

Cases:
"Foreign Assignment"
by Thomas Dunfee and Diana Robertson

"Propmore Corporation"
by Peter Madsen and John Fleming

Read:
"EEOC Guidelines on Discrimination Because of Sex"

"In 1998, Supreme Court Set Standard for Sexual Harassment Liability"
by Ronald M. Coreen and Aesia Kantor (Supplementary Materials)

Study Questions:

1. In the Foreign Assignment case, has Sara Strong experienced "sexual harassment"? In this regard, evaluate the behavior of Bill Vitan her colleague in Mexico and executive vice president Tom Fried?

2. If Sara decides to leave the Bank's employment, apply Consequential Ethical Theories and determine the winners and losers. Are there other ERTs that would be helpful in this case? Explain.

3. Do the circumstances of the Propmore case qualify as “Sexual Harassment”? What action, if any, should Jane Thompson’s boss take?

4. Given current EEOC guidelines and 1998 Supreme Court decisions on "Sexual Harassment," how can a company limit its potential liability when one of its employees alleges sexual harassment?
SEVENTH WEEK: PART 2

FINAL EXAMINATION

Students will be required to analyze two cases they have not seen before. This is a closed book exam. The instructor will provide a list of the Ethical Reasoning Tools (ERTs) used in the course.