New York University
Stern School of Business Administration

Professional Responsibility (B02.3101)
Markets, Ethics & Law

SYLLABUS

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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.

Preparation for Class
The student’s 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. Sessions each have a number of study questions. All students are responsible for mentally preparing answers to all these questions before coming to class. The instructor will ask some students to provide their answers orally, as a basis for further discussion.

Written Journal
Each student will keep a written journal of each and every session. This journal is NOT A SUMMARY of the session; rather it is a REACTION TO THE SESSION. I want to know what you think of the ideas discussed in the session, and more importantly, that you did think.
Term Project
Students are responsible for a term paper, described on the next page.

Grading
The weights for the student’s overall grade are:

- Class Participation 20%
- Written Journal 20%
- Term Project 60%

Textbook
All cases and readings for this course are found in:

Professional Responsibility: Markets, Ethics, and Law
Cases and Readings for 2005-06

The textbook is available in the NYU Professional Bookstore. Note that the edition for the current academic year, 2005-06, is different from prior editions. Make sure you have the current edition.
TERM PROJECT: GUIDELINES FOR CASE ANALYSES

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.

The paper should have the following major sections:

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 (2-4 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. Also, the student should cite the relevant law (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).

In sum, this paper should be roughly 8-12 typed, double-spaced pages.

IMPORTANT: 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.

NOTE: Written Projects Due 9/10/06.
TOPIC AND ASSIGNMENTS

SESSION #1A Introduction - Market Failures & Professional Dilemmas
DATE: 8/25/06 a.m.

Read: “The Price of Lobster Thermidor” from The Economist (p.365)

“Economic Theories of Regulation: Normative v Positive”
by Linda N. Edwards and Franklin R. Edwards (p.5)
(A. Economics of Market Failure)

“Making an Ethical Decision”
by Terry Halbert and Elaine Ingulli (p.15)
(B. Ethical Theories)

Study Questions
1. Why do market failures tend to bring about law or regulation to counter their effects?

2. What market failures or imperfections are present in the “Lobster Thermidor” case?

3. How might ethical methodology help an executive or legislator to make more effective decisions in the presence of market imperfections?
SESSION #1B Truth & Agency  
DATE: 8/25/06 a.m.

Cases: “Bitter Pill” by Ralph T. King, Jr. (p.53)

“Familiar Refrain: Consultant’s Advice on Diversity was Anything but Diverse” by Douglas A. Blackmon (p.59)

“Today’s Analyst Often Wears Two Hats” by Roger Lowenstein (p.65)

“Corporate Spies: The Pizza Plot” by Adam L. Penenberg and Marc Barry (p.210)

“The ‘Number’s Game’” by Arthur Levitt (p.67)

Read: “Is Business Bluffing Ethical?” by Albert Z. Carr (p.73)

“Ethics and the New Game Theory” by Gary Miller (p.26)

Study Questions
1. Would Albert Carr 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 assess the long-term effects of bluffing as applied to the job of an equity analyst (Lowenstein readings)? Would Albert Carr agree?

3. Is there anything ethically wrong about the actions of Towers Perrin, as described in “Familiar Refrain”? What would happen of all or most consulting companies behaved in similar ways?
SESSION #2A  Gifts, Side Deals & Conflicts of Interest  
DATE: 8/25/06 p.m.  

**Cases:** “Buynow Stores” by Bruce Buchanan (p.85)  
“Roger Berg” by Ronald M. Green (p.88)  
“Wall St. and the Nursery School: A New York Story” by Gretchen Morgenson and Pat McGeehan (p.99)  
“A Bribe by Any Other Name”, by Neil Weinberg (p.96)  
‘Hat Trick,” by Gretchen Morgenson (p.102)  

**Read:** “Neutral Omni-Partial Rule Making” by Ronald M. Green (p.22)  
(B. Ethical Theories)  

Visit: www.transparency.org  

**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.
SESSION #2B Whistle Blowing & Loyalty
DATE: 8/25/06 p.m.

**Cases:** “Aircraft Brake Scandal” By Kermit Vandiver (p.133)
  
  “He Told. He Suffered. Now He’s a Hero.” by Kurt Eichenwald (p.143)
  
  “How Ex-Accountant Added Up To Trouble for Humbled Xerox” by James Bandler and Mark Maremont (p.160)
  
  “Former Mattel Employee’s Battle Shows Whistle-Blowers Walking a Fine Line” by Michael Hitzik (p.164)

**Read:** “The Return of Qui Tam” by Priscilla R. Budeiri (p.167)

  “States Passing Whistleblower Statutes” by Steve Seidenberg (p.158)

**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. Mark Jorgeson (“He Told He Suffered” - Prudential) and James Bingham (“Hoe 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? And how did the outcomes of their cases differ with their approach to whistleblowing?

3. Is the Qui Tam policy a good idea? Should corporations also use it; that is, should corporations offer rewards to employees who blow the whistle on their colleagues?
Cases: “Quality Department Stores” by Lawrence Zicklin (p.109)

“Plasma International” by TW. Zimmer and P.L.Preston (p.115)

“You Bought, They Sold” by Mark Gimein (p.117)

“The Man Who Paid the Price For Sizing Up Enron” By Richard A. Oppel, Jr. (p.113)

Read: “Duties of Principals and Agents” By Kenneth Clarkson, et al. (p.124)

“Moral Hazard” by Robert Pindyck and Daniel L. Rubenfeld (p.10)
(A. Economics of Market Failure)

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? Justify your answers. Given your analysis, how should the investment manager vote?

2. Which fiduciary duties might be at issue in “Plasma International”? Are Ed Stevens in Old City and Sol Levin of Plasma acting properly in terms of shareholder interests as well as 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?
SESSION #3B Management & Directors - Corporations & Shareholders
DATE: 8/26/06 a.m.

**Cases:**
“The Business Judgment Rule” by Jane P. Mallor (p.233)

“Testing the Limits of the Business Judgment Rule”
by Roger Leroy Miller & Gaylord Jentz (p.244)

“The Director’s New Clothes” (p.236)
by Joan Lubin

“Excerpts from the Report of the Special Committee Investigating Enron”
(p.245)

“Boeing CEO Resigns Over Affair With Subordinate”
by Renae Merle (p.231)

**Read:**
“Our Schizophrenic Conception of the Business Corporation”
by William T. Allen (p.35)

“Crisis of Corporate Ethics” by Roy C. Smith (p.257)

**Study Questions:**
1. According to William Allen which conception of the business corporation currently dominates the crisis in corporate governance and why?

2. What roles does Smith (“Crisis of Corporate Ethics”) see for both ethics and law in resolving problems in corporate governance?

3. Are there limits to the business judgment rule? What does the Disney case suggest they might be?
SESSION #4A Control by Law
DATE:  8/26/06 p.m.

Read: “Living with the Organizational Sentencing Guidelines” by Jeffrey Kaplan, Linda S. Dakin, Melinda R. Smolin (p.324)

“When the Company Becomes a Cop” by Linda Himelstein (p.310)

“Pollution Case Highlights Trend to Let Employees Take the Rap” by Dean Starkman (p.312)

“Life in a Federal Prosecutor’s Cross Hairs” by Ann Davis (p.314)

“The Revised Corporate sentencing Guidelines,” by Jeffrey Kaplan (p.332)

“The Case of Hank Greenberg” (p.302)
by David Boies

Study Questions:
1. How do you think the U.S. Sentencing Guidelines will change corporate behavior? Consider this from the perspective of the corporation in the Himelstein (“Company Becomes Cop”) and Starkman (“Pollution Case”) readings.

2. Are the compliance costs that the U.S. sentencing guidelines imply justified?

3. What are the implications of the Corporate Sentencing Guidelines for the individual employee? Consider the situation of the Darling employees (“Pollution Case”) and Sharon Hogge (“Prosecutor’s Cross Hairs”). Also use your own intended career path as a basis for judgment and be as specific as you can.

4. How do the revised corporate sentencing guidelines change the responsibilities of senior management and directors with respect to compliance?
SESSION #4B Insider Trading
DATE: 8/26/06 p.m.

Cases: “An Accountant’s Small Time Insider Trading” by Tom L. Beauchamp (p.271)

“Raymond Dirks and Equity Funding of America” by Roy C. Smith (p.287)

“Trading Room Ethics” by Lawrence Zicklin (p.278)

“The Case for Insider Trading” by Henry G. Manne (p.284)

Read: “The Cost of Inequity” The Economist (p.276)

“Insider Trading Notes” by Constance E. Bagley (p.290)

Study Questions
1. Should the accountant, Donald Davidson, trade on the information he has obtained from Warner Wolff? Use ethical concepts and methods to support your position.

2. Is Ray Dirks’ behavior consistent with the concept of fiduciary duty? Why was he reprimanded by the SEC but ultimately exonerated by the Supreme Court? Use ethical concepts and methods 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.
SESSION #5 – RIGHTS AND RESPONSIBILITIES

SESSION #5A Social Responsibility To Stakeholders
DATE: 8/27/06 a.m.

**Cases:** “Toy Maker Faces Dilemma as Water Gun Spurs Violence” by Joseph Pereira (p.341)

“Bally’s Grand Casino, For Elaine Cohen, Is Her One True Home” by Heidi Evans (p.343)

“The Right Thing: When Good Ethics Aren’t Good Business” by Jeffrey Seglin (p.350)

“Cut Loose” by Anne-Marie Cusac (p.352)

**Read:** “The Social Responsibility of Business is to Increase Its Profits” by Milton Friedman (p.358)

“Restricted Reasons and Permissible Violation” by Arthur Isak Applbaum (p.19)

**Study Questions**

1. What advice would Milton Friedman give to the CEO of Larami Corp., manufacturer of the Super Soaker? Would you agree with him? 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? Use ethical methods and concepts to support your position.

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

4. Does IBM owe any duty to Fran Asbeck (“Cut Loose”) regarding his health care benefits upon retirement? How would Allen (Schizophrenic Conception of the Business Corporation”) and Friedman (“Social Responsibility is to Increase Profits) respond to IBM’s behavior?
SESSION #5B Moral Standards Across Borders  
DATE: 8/27/06 a.m.

**Cases:** “The Oil Rig” by Joanne B. Ciulla (p.367)

“For Cruise Workers, Life is No Love Boat”  
by Joshua Harris Prager (p.369)

“Stretching Federal Labor Law Into South Pacific”  
by Seth Faison (p. 371)

“Lives Held Cheap in Bangladesh Sweatshops” by Barry Bearak (p.375)

**Read:** “In Praise of Cheap Labor: Bad Jobs at Bad Wages  
Are Better than No Jobs at All” by Paul Krugman (p.380)

His Holiness the Dalai Lama

**Study Questions**

1. Should cruise workers that service US ports enjoy the rights of other US workers? Would Krugman (“Praise of Cheap Labor”) or any of the other ethical thinkers we have studied think that this was an unethical situation?

2. Should US labor and safety laws apply to the Northern Mariana Islands? Why or why not? Are sweatshops unethical according to Krugman or Donaldson or any other ethical methods that we have studied?

3. Donaldson argues for the existence of 10 basic human rights. Do human rights exist? If so, what responsibilities do corporations have to see that they are respected? And how would you apply these ideas to workers on cruise ships or in the Bangladesh sweatshops?
SESSION #6A&B Discrimination
DATE: 8/27/06 p.m.

**Cases:**
“Foreign Assignment” by Thomas Dunfee and Diana Robertson (p.429)

“Now Look Who’s Taunting. Now Look Who’s Suing” by Jane Gross (p.431)

“Is this the Right Time to Come Out?” by Alistair D. Williamson (p.422)

“Too Old to Work?” by Adam Cohen (p.447)

**Read:** “EEOC Guidelines Excerpt” (p.439)

“Sexual-Orientation Protection Added to New York Law” by Casey J. Dickinson (p.450)

**Discrimination Study Questions**
1. In the “Foreign Assignment” case, how would you judge the actions of Bill Vitam? Use ethical concepts and methods, as well as the law, to justify your position. Can the bank (employer) be held liable, according to the EEOC, for the sexually harassing behavior of its employees? Does the bank have any defenses?

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. If a group such as white males is over-represented in terms of demographic proportions within certain executive job categories, can a firm actively favor women or non-whites in filling future vacancies? And if so, what are the criteria?

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