

Ethics in the Land Title Industry

Michael Holden
Vice President, Strategic
Agency Manager
North American Title
Insurance Company



Overview

- The study of ethics in general
- Different viewpoints about ethics
- Rise of business ethics as a part of ethical philosophy
- Values versus ethics
- What determines ethical behavior
- Boeing case
- Establishing an ethical organization



What is Ethics?



- The study of ethics dates back to Socrates or Aristotle in the 4th Century BCE
- Sometimes called Moral Philosophy
- The examination of beliefs about right and wrong – is an action right or wrong absent of context?

>> Ethical Theories

- Immanuel Kant – Categorical Imperative
- Utilitarianism
- Machiavelli “ends justify the means”
- Milton Friedman, “maximize corporate profits”

>> Business Ethics

- Do businesses have a *moral duty* to act in a certain way? (such as provide jobs to the unemployed or provide safe products)
- Freidman's “maximize profit” theory
- Corporate Social Responsibility theory (CSR)



>> Unethical Behavior Happens Somewhere Else

- Tendency to think of ethical failure as always occurring in organizations other than our own
- Spectacular examples of ethical failure – Enron, Space Shuttle, Katrina, BP Gulf Oil Spill



» Ethics Is About More Than Financial Propriety

- Spectacular and public examples of ethical failure usually focus on financial impropriety
- Financial impropriety is usually indicative of more basic breakdown in basic relationships within an organization and between the organization and the wider community
- Enron and other such cases are extreme examples of more common and everyday ethical failures at the level of relationships

» Unethical Behavior



Unethical behavior is probably more common, more mundane and much closer to home.

» Ethics Are Rooted in Values

- Beliefs about right and wrong
- Yardsticks for ethical behavior that draw on feeling and thinking
- Sentiment and reason lead to action

Business Ethics Come from Values

- “Do unto others as you would have done to you” = “Treat customers as you would want to be treated”
- “Think about the consequences before you act” = “Examine the effect on employees, customers and society before acting”
- “Don’t do anything you wouldn’t be proud to tell your mother” = “Don’t do anything you would not want to see on the front page of the paper”

Examples of Values

- Honesty
- Fidelity
- Courage
- Charity



Ethical Business Principles

- Maximize profit but follow “rules of the game” (Friedman’s approach)
- First do no harm (Hippocrates)
- Do what you would want others to do to you (Care-based or Golden Rule Approach)

So How Do Good People Make Bad Choices?

>> The Sources of Unethical Practice

- Structural determinants – often most directly related to systems of communication and consultation, transparency and accountability
- Cultural determinants – aspects of organizational style and rhetoric
- Behavioral determinants – aspects of individual character, conduct and commitment



>> Structural Determinants

- Most easily modified, although change must be managed
- Typically modification of structure is the first 'port of call' in organizational change
- Structural change achieves little in the absence of cultural and behavioral change

ALTA Principles of Fair Conduct

- 1) To engage only in business practices that are lawful and consistent with a high standard of ethical behavior.
- 2) To encourage a culture of compliance within their organizations for federal and state laws that govern the title insurance business and for these Principles.
- 3) To treat consumers in a fair and ethical manner.
- 4) To provide consumers with timely and comprehensive information regarding their policies, services, products and prices so as to enable consumers to shop effectively among providers of title-related services.
- 5) To encourage and assist consumers to be educated purchasers of title insurance and title-related services.



Ethics In The Title Industry

Cultural Determinants

- Often harder to modify than structural determinants, mainly because they are less readily identifiable and understood
- Essentially tied to the style or ethos of an organization's management and leadership
- Typically determined from the top – largely dependent on the example set by senior management



Ethics In The Title Industry

Changing Organizational Culture

- What are the **five** most important values you would like to see represented in your organizational culture?
- Are these values compatible with your current organizational culture? Do they exist now? If not, why not? If they are so important, why are you not attaining these values?



Ethics In The Title Industry

Behavioral Determinants

- Behavioral determinants are much harder to address than structural or cultural because they are based in personality and character
- Behavioral determinants are often based in problematic features of character and conduct that are not recognized as such by individuals concerned
- Behavioral determinants are often related to features of character and conduct that are positively selected for in many organizations – that are encouraged by the organizational culture

Problematic Aspects of Behavior

- Failure to listen or to respond properly to concerns
- Failure to open conduct to more general scrutiny
- Failure to face up directly to instances of real conflict
- Willingness to rely on physical presence or other forms of implicit or explicit threat to promote compliance
- Willingness to use insult or public disparagement against subordinates
- Willingness to exploit or sacrifice relationships to achieve one's ends

Unethical Conduct of Individuals

Unethical conduct of individuals often based in:

DEADLY TRIANGLE OF UNETHICAL BEHAVIOR

- Perceived Opportunity
- Perceived Pressure
- Rationalization

>> The Corrosion of Character

American Social Theorist Richard Sennett described the way in which changes in the character of many contemporary work practices (structural and cultural) appeared to lead to a loss of trust, fragmentation in social relations, lack of social and ethical responsibility.

(The Corrosion of Character, New York: W. W. Norton, 1998)

>> Cultural Factors

Cultural factors that encourage unethical conduct:

- Emphasis on "results" – positive evaluation given to the "tough" manager
- Devaluation of deliberative processes in favor of executive decision
- Emphasis on short-term perspectives in evaluation of success
- Individual integrity replaced by procedural adequacy
- Reliance on relations of personal "patronage"
- Inability to recognize the limited and often failing character of all managerial practice

>> Breakdown of Ethics and Integrity

- Ethical conduct ultimately dependent not on systems and structures, but on character, style and ethos
- Unethical organizations are those that allow and promote the "corrosion of character" – loss of individual ethical integrity and understanding
- The corrosion of character occurs through the dissociation of individuals (and organizations) from a wider social context

How To Build An Ethical Organization

How to Build an Ethical Organization



- Building ethical organizations is a matter of building personal character and integrity
- Building character is a matter of establishing the right organizational ethos and style
- Organizational structure can support ethos and integrity, but cannot create it

How to Build an Ethical Organization

- Create a structure that supports ethics: **code of conduct, ethical training, resources**
- Promote ethical behavior from the top of the organization
- Choose associates on the basis of ethics and how they would contribute to the ethics of the organization



The Boeing Case

INATIC SIMPLE. THAT'S RIGHT. Ethics In The Title Industry

Boeing and Ethics

- Boeing's past ethical problems
 - Federal corruption and the release of CEO Phil Condit
 - The release of CEO Harry Stonecipher
 - New CEO Jim McNerney as of July 2005, and ethics as a core value
- Jim's philosophy:** "We'd rather have you not deliver what you have promised ... than cut corners."



INATIC SIMPLE. THAT'S RIGHT. Ethics In The Title Industry

Boeing and Ethics

The purpose of the Ethics and Business Conduct program is to:

- Communicate the Boeing values and standards of ethical business conduct to employees
- Inform employees of company policies and procedures regarding ethical business conduct
- Establish companywide processes to assist employees in obtaining guidance and resolving questions regarding compliance with the company's standards of conduct and the Boeing values
- Establish companywide criteria for ethics education and awareness programs

INATIC SIMPLE. THAT'S RIGHT. Ethics In The Title Industry

Boeing and Ethics

- Boeing socially responsible
 - Boeing is a member of the Foundation for Corporate Social Responsibility
 - One of Boeing's several charitable contributions was on September 12, 2005, when they donated \$3 million towards Muntu Dance Theatre of Chicago for new performance space.
- Steps for Boeing to stay ethically responsible
 - Ethical Executive and Ethics Advisor
 - Code of Conduct

Boeing and Ethics

Organizational mindset

- Boeing has been a visionary company that values quality excellence and innovation.
- Boeing management sustains the core ideologies of the company and relates the values and purposes to its employees
- Long-term investment in Boeing has proved to be a successful venture

Boeing and Ethics

Organizational mindset *(continued)*

Boeing Mission Statement:

People working together as one global company for aerospace leadership



Boeing and Ethics

Human factor

Boeing takes care of their employees

- This has changed from a task-oriented culture to a people-oriented culture within the past 10 years
 - Pays for higher education
 - Encourages you to move to different departments and jobs if you are not happy at your current position
 - Encourages a broad base to further employees' development
 - Provides excellent health care and retirement packages

How Do We Make Ethical Choices?

Go, No-Go Model

Evaluate each ethical situation on three criteria:

- Is it ethical?
- Is it effective?
- Is it legal?

Take immediate action only if all three criteria are met (legal, ethical and effective)



Thinking Critically About Ethical Choices

- Would you like to read all about it – your decision or action – on the newspaper’s front page?
- Imagine explaining your decision or action to your mother
- **Consider your personal integrity:**
 - What kind of person would do this?
 - Do I want to be this kind of person?
 - Do I want to be known as this kind of person?

Making Ethical Choices: Dilemmas

Right vs. Right

- Truth vs. Loyalty
- Individual vs. Community
- Short-term vs. Long-term
- Justice vs. Mercy



Ranking Responsibilities

- First of all, Do No Harm
 - The most stringent; the negative obligation
- Remedy or Relief
 - For problems we create
- Affirmative Assistance
 - For problems that others cause
- Voluntary Charity
 - The least stringent; doing good works

Establishing An Ethical Organization

Building Ethics In

- Ethics Policies/Programs
- Integrating Ethics into Your Organizations – Intervention Strategies



Ethics Programs and Policies

- Basic prohibitions – Conflict of interest and abuse of office
- Financial disclosure
- Appearance of impropriety standard
- Impartial commission
- Authority to investigate and to advise

Ethics Programs and Policies

- Basic prohibitions – Conflict of interest and abuse of office
- Financial disclosure
- Appearance of impropriety standard
- Impartial commission
 - Authority to investigate and to advise

Ethics Programs and Policies

- Supplementary restrictions – For example, post employment
- Criminal sanctions and administrative penalties
- Procedural protections for both complainant and employee



Ethics in the Organization

Some intervention strategies

- Do both compliance and integrity training and counseling
- Give briefing on common ethical problems to new hires
- Designate senior manager for integrity issues (separate from compliance/ investigative unit)

» Ethics in the Organization

- Publicize positive, noteworthy role models
- Require annual sign-off on prospective commitment and compliance
- Raise ethical considerations at meetings and through regular communication channels
- Train middle managers to recognize and commend employees' statements about ethical concerns

» Ethics in the Organization



- Give serious attention to ethical treatment of subordinates, clients and others
- Get the whole team – all employees, all levels, all units – to participate

» The Challenge of Ethics

- Ethics requires personal and organizational development
- Ethics is not an option, but essential to personal and organizational well-being
- There are no easy answers, no quick fixes, just ongoing attentiveness, reflection and commitment

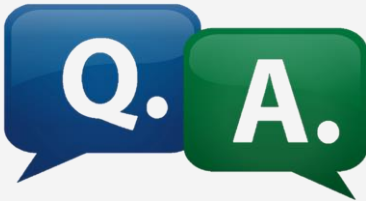


Whistle Blowing



- Last resort
- Not a casual choice
- Appropriate only after
- Verification of facts
- Soul searching
- Administrative channels exhausted
- Are you ready to accept the consequences if you are correct ... but fail to act?

Wrap Up – Questions



The Last Word

“Always do right. This will gratify some people and astonish the rest.”

– Mark Twain

“Do your duty, and history will do you justice.”

– Harry S. Truman

Thank You

NATIC
NATIONAL ASSOCIATION OF TITLE EXAMINERS

Ethics In The Title Industry
