

Chapter 2

Ethics at Work

SOLUTIONS

True/False Questions:

1. True
2. False
3. False

Explanation: Business ethics is a type of applied ethics. Metaethics is concerned with what constitutes the good and the bad, while business ethics deals with the ethics of particular situations and within a particular discipline.

4. False

Explanation: This is one of the limits of consequentialism. Although it judges an action by the consequences, it is unable to predict every possible consequence.

5. True
6. True

Explanation: This is the hallmark of deontology.

7. False

Explanation: This is the goal of virtue ethics.

8. False
9. True
10. True

Explanation: A specific transaction can cause a specific person to have the right to have a loan repaid.

Fill-in-the-Blank Questions:

11. truthful
12. maximize
13. allocated
14. need

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15. character
16. Aristotle
17. utilitarianism
18. hedonism
19. same
20. facts, stakeholders

Multiple-Choice Questions:

21. c

Explanation: Answers a and b are true statements.

22. b

Explanation: According to Kant's categorical imperative, the end does not justify the means.

- Answers a, b, and c are all consistent with Kant's categorical imperative. If Kant thought the end justified the means, he would have been a consequentialist.

23. c

Explanation: According to the virtue theory of ethical behavior, the most important aspect of morality is found within an individual's character.

- Answer a is incorrect because deontology emphasizes duty
- Answer b is incorrect because utilitarianism emphasizes consequences

24. d

Explanation: Answers a, b, and c are true statements.

25. a

Explanation: Anne would be using some of the consequences of her possible response to guide her behavior.

26. b

Explanation: She would be using her sense of duty (in this case telling the truth) to guide her behavior. Duty is the guiding principle of deontology.

27. a

Explanation: This type of thinking is considered a shortcoming of consequentialism. At times, it can permit egregious acts in the name of the greater good.

28. a

Explanation: Another limit of consequentialism is that the scope of the consequences is often unclear.

29. b

Explanation: Autonomy is not a cardinal virtue.

- The cardinal virtues are: courage, temperance, wisdom, and justice.

30. c

Explanation: Self-defense rights were not identified by Sterba

- Sterba identified action rights, *in persona* rights, *in rem* rights, and recipient rights.

For Discussion:

31. Responses will vary. Here are some possible reactions:

Possible Virtue	Possible Description
Honesty	Preparing financial statements that fairly represent the entity's financial position and the results of its operations
Diligence	Working hard and with accuracy to get a job done; finishing a task one is given
Courage	Speaking out against unethical business practices; refusing to prepare fraudulent financial statements.
Wisdom	Knowing when to speak out
Fairness	Not having favorites; keeping all users of financial statements in mind
Generosity	Spending time on mentoring less experienced accountants.

Considering the cultivation of virtues, since virtue ethics is about the virtuous person, often virtue ethics is taught by example and/or through narrative. A way to teach business virtues might be through a story about a virtuous accountant. Students may elect to write a tale about a virtuous accountant that teaches lessons about how a virtuous person may respond to difficult ethical business dilemmas.

Aristotle thought virtues were cultivated through habit. In this view, small and regular behaviors shape character. To cultivate the virtue of generosity, for example, one might start on a small-scale by giving a dollar to a homeless person on the street, bringing brownies to give out at work, or being generous with one's time by genuinely asking and listening to how a co-worker is doing. Also in this view, one does not magically become a courageous whistle-blower, for example, but rather the virtue of courage is fostered through day-to-day courageous acts, such as speaking out against gossip, admitting when one makes a mistake, and offering one's suggestions at a work meeting.

32. Responses will vary. Here are some possible reactions:

Those who assert that virtues in business are related to virtues in personal life may support their answers with some of the following beliefs: virtues exist in unity; virtues are developed through habit; a person's life cannot be compartmentalized, but must be treated as an integrated whole. If someone believes virtues are developed through habit, as Aristotle thought, that person is likely to assume that vices in one's personal life will lead to vices in one's business practice. For example, if a husband lies to his wife, he will become habituated to lying, making it easier to lie on balance sheets. Conversely, the husband who is a good communicator and who is always honest with his wife is more likely to communicate well and value honesty in the workplace.

Others may regard one's personal life as distinct from one's professional life. This group may believe that personal and professional lives have an impermeable barrier and/or are governed by entirely different, and thus unrelated, virtues. For instance, one may believe that intimate relationships require a totally different set of virtues than business relationships, and thus these are unrelated. And/or one may not think virtues are acquired through habit and so lying to one's spouse does not make it easier or more likely that one will lie on balance sheets.

Some may think that the virtues exist in unity because they belong to one agent. In this view, it is unlikely that one is very honest and at the same time lacks courage. For example, one could not be very honest without courage because courage is necessary to tell

the truth in difficult situations. Also, being honest can help to foster courage as a commitment to honesty inspires courage.

Others may think it is entirely possible to possess some virtues and some vices because they regard the virtues as unrelated. This group may choose seemingly disparate virtues to make this case. For example, a person who is honest, but not just, such as a manager who is very honest about his or her biases against certain employees.

33. Responses will vary. Here are some possible reactions:

Some may think intention matters in so far as a right action is not truly right unless it is motivated by good intentions. Others may think intention matters insofar as a wrong action is permissible if it is for the right reasons. This logic follows the saying, “The end justifies the means.” Some may think intention is important, but that it does not determine if an action is right or wrong.

A strict consequentialist may believe that only consequences count, so even if one’s intentions are coming from a good place, it is only the outcome that matters. For example, someone wants to improve the business of a group of farmers and gives them a popular grain seed that unintentionally wipes out all their crops. Although the person meant well, the consequentialist may assert that the consequences indicate that the person acted wrongly. (Issues of intent also bring up notions of culpability, which are beyond the scope of this chapter. However, it is important to note that there is a distinction between causal culpability—causing the destruction of crops, in this case—and moral culpability, i.e. the extent to which one is morally responsible for the destruction of the crops.)

To the strict deontologist, an action performed out of a sense of duty has more moral value than the same action taken because of its likely consequences in that specific situation.

Virtue ethics is most able to take into account intent because it is concerned with the character of the whole person and with all of that person’s character traits.

34. Responses will vary. Here are some possible reactions:

The best answer will first define happiness. One definition of happiness is that it is a type of persistent, peaceful joy (as opposed to an ecstatic, manic, euphoric, and fleeting feeling). This background joy remains constant during temporary disappointments and difficulties.

For some, acting ethically is accompanied by happiness even when acting ethically is hard. For example, standing up for a co-worker who is being picked on may not make one popular at work and it may not be easy, but it may also be accompanied by a sense of calm and satisfaction knowing that one acted ethically. Wrong actions may be accompanied by great anxiety, such as when one is involved in a web of lies or when one cheats on a test.

Others will think that the costs of right action may be too great. For example, it does not feel good to become a pariah at work for standing up for a co-worker who is picked on. It is possible that some may think that they would feel happier if they cheated on a test rather than failed a class and had to repeat it.

35 (a). Responses will vary. Here are some possible reactions:

For some, this example is the quintessential reason why duty ethics are vital. Here, the manager's sense of duty overrides her negative feelings for the employee, enabling the employee to receive the deserved promotion based on timely and accurate work over the last two years. Thus, this example illustrates why duty and reason are crucial to business practice.

Others will feel slighted that the promotion is not inspired by the manager's opinion that the employee is a likeable and congenial worker. These people may want to be promoted because the boss has a positive attitude towards them, and not because the boss is following protocol, rules, and duty.

35 (b). Responses will vary. Here are some possible reactions:

For some, the managing partner's ability to offer a promotion in spite of her biased feelings will show great integrity and fairness. Letting reason and not emotions guide her decisions will be looked upon by some as very ethical.

Others will not be impressed that the boss gave the promotion only because she felt duty-bound to do so. They will think that her lack of authentic and genuine enthusiasm for the employee undermines the morality behind her actions. These people may think that

abiding by rules and duties are not enough to make someone an ethical person and that the boss should feel the genuine desire to give the promotion.

36. Responses will vary.

Some things to consider include pay discrepancies between men and women; promotions for men and women; the presence of a ‘glass ceiling’ for women; how maternity leave is treated for fathers and mothers in the workplace; and social expectations of men and women in the workplace. For instance, are women and men sometimes held to different standards of dress in the business world? Are they held to different standards of behavior? Is there a difference between how co-workers perceive a long response from a woman versus a long response from a man? If there is a difference, which attitude is rewarded? Is there a difference or a perceived difference in the way women and men approach taking risks in business? If there is a difference, which approach is rewarded? Is there a difference or a perceived difference in the way women and men promote themselves? If there is a difference, which approach is rewarded? Is there a difference or a perceived difference between male and female styles of management? If so, which style is most likely to be rewarded or respected?

CASE STUDY:

Peter Madoff, Brother of Bernard Madoff and Former Chief Compliance Officer and Senior Managing Director of Bernard L. Madoff Investment Securities, LLC

a (i).

Stakeholder	Consequence	Source
Peter Madoff	Temporary gain of wealth, luxurious lifestyle, prestige; Followed by long-term money loss, imprisonment, embarrassment, separation from	U.S. Attorney Preet Bharara said, “He will now be jailed well into old age, and he will forfeit virtually every penny he has.”

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	family, despised by clients & former friends	
Law abiding taxpayers	Paid taxes when Madoff did not	<p>IRS-CI Acting Special Agent in Charge Toni Weirauch said, “One of the consequences of the concealment is that the IRS was hindered from performing its lawful duty, thus harming our nation’s law abiding taxpayers, along with the defrauded victims.”</p> <p>Special Agent Robert L. Panella said, “During today’s plea, Peter Madoff admitted to his role in a fraud scheme that harmed the savings of thousands of investors.”</p>
IRS	IRS was hindered from performing its lawful duty; public money was lost	
Thousands of investors who were defrauded	Lost money, sometimes lost most of their retirement savings & had to return to work; fooled, cheated, lied to	
Employees	Economic security lost, benefits lost, Inability to support family	<p>Special Agent Robert L. Panella said that Madoff “undermine[d] the financial well-being of workers.”</p> <p>Madoff also “Failed to protect the integrity of employee benefit plan assets....”</p>
Regulators	Were all tricked into believing falsehoods; were unable to perform their jobs appropriately	<p>“Madoff created numerous false compliance documents in which he stated that he had performed compliance reviews of the trading in the BLMIS IA business on a regular basis, when, in reality, the reviews were never performed. The false statements were designed to mislead regulators, auditors, and IA clients”</p>
Auditors	Were all tricked into believing falsehoods; were unable to perform	See above quote.
IA [Investment Advisory] clients		“The numerous false statements in the Forms ADV created the false

Bernard L. Madoff Investment Securities (BLMIS) clients	their jobs appropriately Thought they were investing in an elite, thriving company	appearance that BLMIS's IA business had a small number of highly sophisticated clients and far fewer assets under management than was actually the case."
His wife Marion	Short-term gain of money; long-term loss of money and life- style, separation from father/husband, severe embarrassment	"The government has entered into a settlement with Madoff's family that requires the forfeiture of all of his wife Marion's and daughter Shana's assets and assets belonging to other family members."
Daughter Shana	Short-term gain of money; long-term loss of money and life- style, separation from father/husband, severe embarrassment	See above quote.

a (ii).

Based on the consequences discussed above, it seems as if all stakeholders suffered negative consequences. The positive consequences for Madoff and his family were enjoyed in the short-term only. Based on the utilitarian notion to choose the action that gives the greatest good to the greatest number, Madoff should not have committed his crimes.

a (iii).

Egoism is a type of consequentialism that judges actions by the benefits for only oneself. According to the article, Madoff was only concerned about himself and his favorites: "DOL-EBSA New York Regional Director Jonathan Kay said, 'Today's plea is a testament to the good work and strong collaboration among multiple federal agencies. This agency remains committed to protecting worker benefit plans from those who would defraud them for **personal** gain.'" Special Agent Panella said that Peter Madoff "personally benefited from proceeds gained as a result of these false statements." Many

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people suffered for Madoff’s narcissistic actions: “Manhattan U.S. Attorney PreetBharara said, ‘Peter Madoff enabled the largest fraud in human history....We are not yet finished calling to account everyone responsible for the epic fraud of Bernard Madoff and the epic pain of his many victims.’” If Peter Madoff had considered the consequences for people other than himself, he may have acted differently.

b (i).

Responses should take the following into account:

Duty	How Madoff Fell Short of His Duty
Fulfill his commitment to conduct reviews	<p>“He certified that periodic reviews established the firm’s compliance with internal and regulatory rules. In fact, Peter Madoff conducted no reviews. He certified that his examination of the firm’s trading process established its integrity. He did not—indeed, he could not—conduct any such examination.”</p> <p>“He made a pretense of compliance; he was really about complicity.” (Janice K. Fedarcyk)</p>
Honesty	<ul style="list-style-type: none"> • “Madoff created false and misleading BLMIS compliance documents.” • “False reports that were filed with the U.S. Securities and Exchange Commission (SEC)....” • “The numerous false statements in the Forms ADV created the false appearance that BLMIS’s IA business....”
Civic responsibility	<p>Evading taxes:</p> <ul style="list-style-type: none"> • Peter Madoff received approximately \$15,700,000 from Bernard L. Madoff and his wife and executed sham promissory notes to make it appear that the transfers were loans, in order to avoid paying taxes; • Madoff gave approximately \$9,900,000 to family members, and in order to avoid paying taxes, executed sham promissory notes to make it appear that the transfers of these funds were loans; • Madoff did not pay taxes on approximately

	<p>\$7,750,000 that he received from BLMIS;</p> <ul style="list-style-type: none"> • Madoff received approximately \$16,800,000 from Bernard L. Madoff from two sham trades, and disguised the proceeds of the trades as long-term stock transactions in order to take advantage of the lower tax rate for long-term capital gains; • Madoff charged approximately \$175,000 in personal expenses to a corporate American Express card and did not report those expenses as income. Madoff also arranged for his wife to have a “no-show” job at BLMIS from which she received between approximately \$100,000 to \$160,000 per year in salary, a 401(k), and other benefits to which she was not entitled.
Fairness	“Madoff agreed with others to send the \$300 million that remained in the IA accounts to preferred employees, family members, and friends”
Duty to take care of his employees	Robert L. Panella said that Madoff, “Failed to protect the integrity of employee benefit plan assets and personally benefited from proceeds gained as a result of these false statements.”

b (ii).

Responses may vary. Some students may argue that reason and duty were not sufficient to prevent Madoff from unethical behavior and that companies need more oversight and/or there should be stricter laws governing accounting practices and/or we need better compliance of the laws already in place. Others may maintain that Madoff lacked a moral compass and a character strong enough to withstand the temptation to enrich himself. Others may argue that he did not consider the consequences of his actions.

c (i).

Responses will vary, but should include that consequentialism accounts for the far-reaching repercussions of Madoff’s specific actions and deontology does not.

Consequentialism identifies all of the stakeholders affected by Madoff’s fraud as well as the far-reaching consequences. On the other hand, deontology focuses on the unwavering

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commitment to principle and duty, in this case, for example, the moral imperative to be honest at all times.

c (ii).

Some students may find consequentialism more persuasive for the reason that it forces one to consider the far-reaching consequences to all the stakeholders. Some may think the consequences are the most egregious parts of the act, while others will think skirting obligations are the worst parts of the crime. They may believe that a commitment to the moral imperative to always tell the truth would best prevent this kind of offense.

c (iii).

Some students will think one system is best for all cases, while others will think each issue needs its own system. There are also those who may believe that when faced with an ethical dilemma, one should analyze it in terms of all three frameworks.

d.

Responses may vary, but should include the following:

(Answers are in bold)

Using the American Accounting Association Ethical Decision-Making Model:

1. Determine the facts—who, what, when, where, and how?
What do we know or need to know, if possible, that will help define the problems?

Who? A chief compliance officer working for Madoff

What? Securities fraud, tax fraud conspiracy, falsifying books and records, and making false statements to investors

When? 1996-2008

Where? Bernard L. Madoff Investment Securities (BLMIS), New York, NY.

How? “Madoff created false and misleading BLMIS compliance documents, as well as false reports that were filed with the U.S. Securities and Exchange Commission (SEC) that materially misstated the nature and scope of BLMIS’s Investment Advisory (IA) business.”

2. Define the ethical issue.
 - a) List the significant stakeholders
See answer to Case Study Question a (i) above

b) Define the ethical issues

Make sure precisely what the ethical issue is; for example: conflicts involving rights, questions over limits of an obligation, etc.

Securities fraud, tax-fraud conspiracy, falsifying books and records, making false statements to investors, lying to family and friends

3. Identify major principles, rules, or values.
For example, integrity, quality, respect for persons, and profit.
Honesty, fairness, integrity, duties to employees
4. Specify the alternatives.
List the major alternative courses of action, including those that represent some form of compromise or point between simply doing or not doing something.
In this case, it does not seem that a moral compromise was possible—it is never permissible to misrepresent one's company, or to cheat and steal from one's clients.
5. Compare values and alternatives. See if a clear decision is evident.
Determine if there is one principle or value, or combination, which is so compelling that the proper alternative is clear—for example, correcting a defect that is almost certain to cause loss of life.
All major ethical frameworks would appear to lead to the conclusion that the chief compliance officer should not turn a blind eye to the fraud.
6. Assess the consequences.
Identify short and long, and positive and negative consequences for the major alternatives. The common short-run focus on gain or loss needs to be measured against long-run considerations. This step will often reveal an unanticipated result of major importance.
See answer to Case Study Question a (i) above
7. Make your decision.
Balance the consequences against your primary principles or values and select the alternative that best fits.
It is likely that all approaches will lead to the decision that this fraud was morally wrong and should not be committed.