

## Where Were the Ethics Officers?: A Look At Some High Profile Cases and What Might Have Made a Difference

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### Example One: Kmart's CEO and CFO

- Officers were cleared of wrongdoing by board
- The next day they were charged civilly by SEC
- Inventory issues: \$805 million
- Depends on the meaning of the word "seasonal"
- Calling the inventory "seasonal" permitted an overstatement on financial performance

## Example Two: Coca-Cola and the Questionable Marketing Studies and Invoices

- “Seasonalizing the data”
- Landing the customer
- Strategic planning vs. manipulated success

## Example Three: Financial Aid

- College and university financial aid officers receiving gifts, consulting contracts, stock options from student lenders
- Professional association rejected recommendations from task force on limiting gifts, relationships

## Example Four: KPMG and OPIS, FLIPS, FOPS, FOBS, FICA, FUTA, FLORA, FAUNA

- Tax courts and circuits are split on the law with regard to tax shelters
- \$124 million in fees; \$14 billion in unpaid taxes; \$456 million settlement with IRS + outside monitor
- 9 indictments
- *“We came to the party late, we drank more, and we stayed longer.”*

Former KPMG board member

## Example Five: Hewlett-Packard

*“How does Ron [Ron DeLia, Boston PI] get cell and home phone records? Is it all above board?”*

H-P senior counsel and ethics officer, Kevin Hunsaker

*“We are comfortable there are no Federal [sic] laws prohibiting the practice.”*

Anthony Gentilucci, H-P global security officer

*“I shouldn’t have asked.”*

Hunsaker in response

## Example Six: UnitedHealth Group

- Dr. McGuire, as a pulmonologist had coordinated the care for the wife of Williams Spears, one of the directors when Mrs. Spears became ill
- Dr. McGuire's foundation gave generous donations to the charities that the directors were involved in
- The compensation committee was comprised of close allies of Dr. McGuire including Mr. Spears, Mary Munding (dean of the Columbia School of Nursing), Thomas H. Kean (former governor of New Jersey and head of the 9/11 Commission).
- The committee charged with investigating the McGuire options also consisted of close allies of Dr. McGuire who exercised control over the investigation and lawyers
- The board had granted Dr. McGuire broad authority to grant options to officers as well as authority to decide on his strike dates
- There were few records to show that the board had approved the options date and some of the minutes from the compensation committee meetings were missing
- Approval for the stock options was left to Mr. Spears, but there was no documentation and little documentation to support Dr. McGuire who said that he was "a man of high ethical standards."

## Characteristics Across the Cases

1. Did not begin as frauds or crimes
2. No hardened criminals involved
3. Not exactly gray areas that did them in
4. The initial decision was flawed
5. Inability to see how far they were slipping
6. Unethical conduct makes you stupid

## What Really Needs To Be Fixed

- Compute the slope (CFA Institute)

$$P = f(x)$$

P = probability of an ethical outcome

x = amount of money involved

- The Power of Example – The 75% source of employee integrity standards

## What Gets in the Way of Integrity?

### DRIVERS

1. Pressure (results)
2. Lack of core values
3. Lack of definitive lines
4. Failure to see issues 360 degrees
5. High comfort level (complacency; rationalizations; labels)
6. Short-term focus
7. Failure to see limitations (truth)
8. Lack of historical perspective and knowledge
9. Failure to quantify risk properly

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### ENABLERS

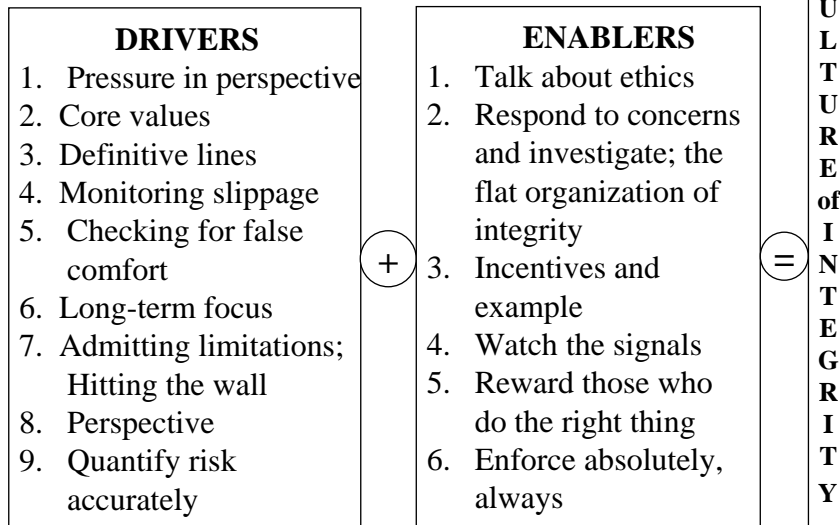
#### Communicating the Wrong Message

1. Failure to make integrity everyone's responsibility
2. Retaliation
3. Organizational Behavior: Incentives; Example
4. Signals: direct and indirect
5. No rewards for right
6. Lack of enforcement

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**Ethical  
Safety  
Legal  
Debacles**

# Communicate and Do the Right Thing



# Components of Culture

