

Ethics and Negotiation

Presented by
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Definition of Ethics

1. a system of moral principles: *the ethics of a culture.*
2. the rules of conduct recognized in respect to a particular class of human actions or a particular group, culture, etc.: *medical ethics; Christian ethics; tribal ethics.*
3. moral principles, as of an individual: *His ethics forbade betrayal of a confidence.*
4. that branch of philosophy dealing with values relating to human conduct, with respect to the rightness and wrongness of certain actions and to the goodness and badness of the motives and ends of such actions.

The Golden Rule

All you need to know about ethics you learned in Sunday school:

“Do to others whatever you would have them do to you.”

Matthew 7:12

Rules of Life

1. God's Law
2. Morals
3. Man's Law
4. Ethics
5. Professional Ethics
6. Business Ethics

Rules of Life

- Listed in descending order of absoluteness: God's law does not change, while business ethics change the most.
- Listed in increasing order of man's influence: man does not influence God's law, while he influences business ethics the most.

Rules of Life

- We do not decide what is right and wrong in the big sense.
- In areas where arbitrary rules are needed, we determine the rules of the game.
- In most cases, we are safe in relying on the top of the list.

Rules of Life

The penalty for breaking the rules, absent forgiveness, is exclusion from the group:

- Exclusion from the Kingdom
- Exclusion from society (incarceration)
- Exclusion from a profession (loss of license)
- Exclusion from an association (AAPL, HAPL)

Professional Ethics

Some professional groups, such as doctors, lawyers and real estate agents, can prohibit the professional from practicing. These professions require a license to practice, which can be revoked or suspended for legal or ethical violations.

Professional Ethics

Land professionals currently are not required to be licensed, therefore, the worst punishment AAPL, NALTA or NADOA can impose is expulsion from membership in the association. This does not prevent the guilty from practicing his or her profession.

Professional Ethics

We as an association, and we as individuals, strive to enforce our rules of ethics on our peers in order to protect ourselves individually, in order to protect ourselves as a group of professionals, and in order to protect the public from unethical practices.

Licensing of Landmen

On February 18th, 2009, Texas State Representative Charlie Geren of Fort Worth filed HB 1405 which would have licensed all landmen under the Texas Real Estate Commission. This bill was filed in response to a number of allegations of unethical behavior by landmen, primarily during negotiations.

"Landman" Defined

"Landman" means a person who, in the course and scope of the person's business:

(A) acquires or manages petroleum, natural gas, or mineral interests;

“Landman” Defined

(B) performs title or contract functions related to the exploration, exploitation, or disposition of petroleum, natural gas, or mineral interests;

"Landman" Defined

(C) negotiates for the acquisition or divestiture of petroleum, natural gas, or mineral rights, including the acquisition or divestiture of land or petroleum, natural gas, or mineral rights for a pipeline; or

“Landman” Defined

(D) negotiates business agreements that provide for the exploration for or development of petroleum, natural gas, or minerals.

In order to protect the public...

To protect the public, the Texas Real Estate Commission, by rule, shall:

- Establish the eligibility requirements for a landman license holder, including education, experience, and examination requirements as appropriate;
- Establish the moral character requirements, including honesty, trustworthiness, and integrity, an applicant or license holder must satisfy to hold a landman license;

In order to protect the public...

- Establish the form and procedures for applying for a landman license;
- Set the application and license fees;
- Establish the term of the license and renewal procedures and fees;

In order to protect the public...

- Establish continuing education requirements;
- Determine the scope of practice by a landman license holder; and
- Require a landman license holder to comply with the standards of conduct and ethics established by the commission for a person licensed under this chapter.

Codes of Ethics

- The Enron Code of Ethics was a 64-page booklet.
- The AAPL Code of Ethics is one page.
- First enacted 1960
- Made part of by-laws 1978
- Ethics Committee formed 1980

The AAPL Code of Ethics and Negotiation

Curtis D. Horne, CPL

AAPL Code of Ethics

The Code of Ethics shall be the basis of conduct, business principles and ideals for the members of the AAPL; and it shall be understood that conduct of any member of the Association inconsistent with the provisions set forth in this Article shall be considered unethical and said individual's membership status shall be subject to review for possible disciplinary action as prescribed in Article XVII of these Bylaws.

AAPL Code of Ethics

In the area of human endeavor involving trading under competitive conditions, ethical standards for fair and honest dealing can be made increasingly meaningful by an association organized and dedicated not only to the definition, maintenance, and enforcement of such standards, but to the improvement and education of its members as set out in the Standards of Practice. Such is the objective of AAPL and such is its public trust.

AAPL Code of Ethics

Section 1. It shall be the duty of the Land Professional at all times to promote and, in a fair and honest manner, represent the industry to the public at large with the view of establishing and maintaining goodwill between the industry and the public and among industry parties.

AAPL Code of Ethics

The Land Professional, in his dealings with landowners, industry parties, and others outside the industry, shall conduct himself in a manner consistent with fairness and honesty, such as to maintain the respect of the public.

AAPL Code of Ethics

Section 2. Competition among those engaged in the mineral and energy industries shall be kept at a high level with careful adherence to established rules of honesty and courtesy.

A Land Professional shall not betray his partner's, employer's, or client's trust by directly turning confidential information to personal gain.

AAPL Standards of Practice

The Bylaws of the American Association of Professional Landmen (AAPL) provide that a Code of Ethics has been established "to inspire and maintain a high standard of professional conduct" for the members of the Association. The Code of Ethics is the basis of conduct, business principles and ideals for AAPL members. This standard of professional conduct and these guiding principles and ideals mandated by the Code of Ethics within the AAPL Bylaws are summarized as follows:

AAPL Standards of Practice

- A. Fair and honest dealing with landowners, industry associates and the general public so as to preserve the integrity of the profession (Article XVI, Section 1);

- C. Avoiding business activity which may conflict with the interest of his employer or client or result in the unauthorized disclosure or misuse of confidential information (Article XVI, Section 2);

AAPL Standards of Practice

G. Avoiding any act or conduct which causes disrespect for or lack of confidence in the member to act professionally as a land professional (Article V, Section 9).

AAPL Standards of Practice

1. In justice to those who place their interests in his care, a land professional shall be informed regarding laws, proposed legislation, governmental regulations, public policies, and current market conditions in his area of represented expertise, in order to be in a position to advise his employer or client properly (D, E).

AAPL Standards of Practice

2. It is the duty of the land professional to protect the members of the public with whom he deals against fraud, misrepresentation, and unethical practices. He shall eliminate any practices which could be damaging to the public or bring discredit to the petroleum, mining or environmental industries.

AAPL Standards of Practice

3. In accepting employment, the land professional pledges himself to protect and promote the interests of his employer or client. This obligation of absolute fidelity to the employer's or client's interest is primary but it does not relieve the land professional of his obligation to treat fairly all parties to any transaction, or act in an ethical manner (A, B).

AAPL Standards of Practice

6. A land professional shall provide a level of competent service in keeping with the standards of practice in those fields in which a land professional customarily engages. The land professional shall not represent himself to be skilled in nor shall he engage in professional areas in which he is not qualified such as the practice of law, geology, engineering or other disciplines (D).

AAPL Standards of Practice

8. The land professional shall not acquire for himself or others an interest in property which he is called upon to purchase for his principal, employer or client without the consent of said principal, employer or client. He shall disclose his interest in the area which might be in conflict with his principal, employer or client. In leasing any property or negotiating for the sale of any block of leases, including lands owned by himself or in which he has any interest, a land professional shall reveal the facts of his ownership or interest to the potential buyer (C).

AAPL Standards of Practice

10. The land professional shall not accept any commission, rebate, interest, overriding royalty or other profit on transactions made for an employer or client without the employer's or client's knowledge and consent (B).

AAPL Standards of Practice

15. The land professional shall not participate in conduct which causes him to be convicted, adjudged or otherwise recorded as guilty by any court of competent jurisdiction of any felony, any offense involving fraud as an essential element, or any other serious crime.

Definition of Fraud

Elements of **fraud**:

- Material representation (by commission or omission)
- False and known to be false
- Intended to be relied upon
- Relied upon by the other party
- Induced action
- Damaged the other party

Ethics and Negotiation

Can a landman ever
lie to a landowner?

Cowboy Ethics – James P. Owens

Take pride in your work.

Do what has to be done.

Be tough, but fair.

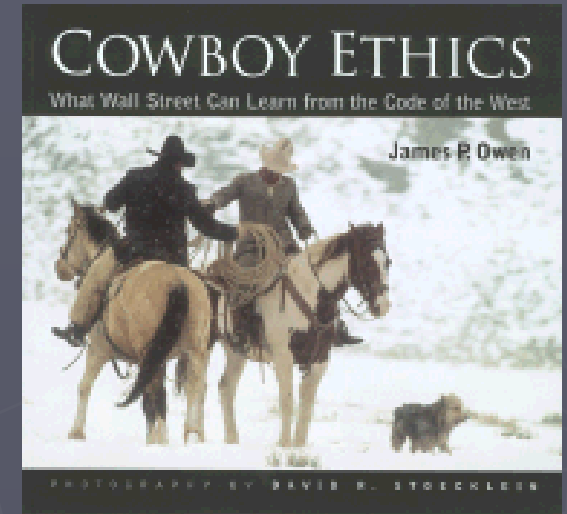
When you make a promise, keep it.

Talk less and say more.

Remember that some things aren't for sale.

Know where to draw the line.

Ride for the brand.



Ethics and Negotiation

*"Always do right.
That will gratify some people and
astonish the rest."*

Mark Twain

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“Do right and risk the consequences”

Sam Houston

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QUESTIONS?

Special thanks to Justice Rick Strange of the 11th Court of Appeals, Eastland, Texas, for some of the material used in this presentation.