

# COURSE 3

## ETHICAL AND LEGAL CONSIDERATIONS IN SELLING

### Glengarry Glen Ross



What were the principal ethical predicaments which Sheldon Levine (Jack Lemmon) and his cohorts faced?

How could Shelley's extenuating circumstances justify his actions?



What types of external pressures influenced the salespeople's unethical selling practices?

How did the sales manager (Kevin Spacey) and top management (Mitch & Murray) foster the unethical practices?



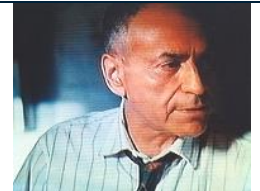
How the nameless motivational speaker (Alec Baldwin) address the issues of ethics?



How does Dave Moss (Ed Harris), rationalize breaking the law?



How does George Aaronow(Alan Arkin) violate rules of ethics?



What was unethical about Ricky Roma's (Al Pacino) methods in prospecting and closing James Link (Jonathan Pryce)?

Why was Ricky Roma's handling of Mr.Link 's cancellation unethical?



# The Power of Ethical Management

by Dr. Ken Blanchard & Dr. Norman Vincent Peale

The basic message of their book is simple:

- + You don't have to cheat to win!
- + "Nice guys may appear to finish last, but usually they are running in a different race."
- + Cheating, lying, and short-changing the customer on service
- + may bring a satisfactory profit today,
- + but it is a sure way to court failure for the future.

## Is the language of ethics different from other uses of language?

### Guidelines for Ethical Behavior

Universal Nature

The golden rule

Truth Telling

Everyone plays by the same rules  
Trust facilitates cooperation

Responsibility for One's Actions

Don't blame others for your problems  
The "victim" mentality



# THE ETHICAL DILEMMA: Do honest salespeople finish last?

## Ethical Questions

- ✦ What method do we use to determine moral standards?
- ✦ Why be moral at all?
- ✦ Are there moral standards which are common to all humanity?
- ✦ Is free will a necessary condition for moral praise or blame?

## The Origin of Ethics

Legal Standards are enforced

Ethical standards come from society



## Bases for Ethical Systems

Deontological

Standards-based ethics

uses specific rules  
Results-Based Ethics

Teleological

defines right and wrong in terms of end results  
Started by Jeremy Bentham (1748-1832)

Tried to reform some of the unfair laws in England

Utilitarianism

Developed a theory that the morally correct rule was the one that provided

*“the greatest good to the greatest number of people. The greatest good for the greatest number”*

Ethical Ambivalence

results from learning that everything is relative.

Are there any moral absolutes?

# INFLUENCES ON THE SALESPERSON'S ETHICS

## Company Code of Ethics

Government action and fear of retribution have induced more companies to adopt a code

### Typical issues covered

- ✦ Expense accounts
- ✦ Gift giving
- ✦ Unethical demands by a buyer
- ✦ Promises about performance or delivery
- ✦ selling unnecessary products

## Role Modeling by Executives and Sales Managers

## Examples Set by Colleagues and Competitor

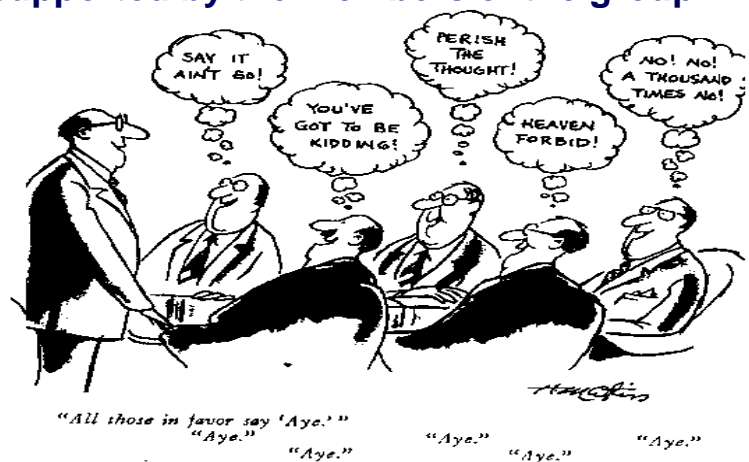
### The Bottom Line

- Profit?
- Survival?

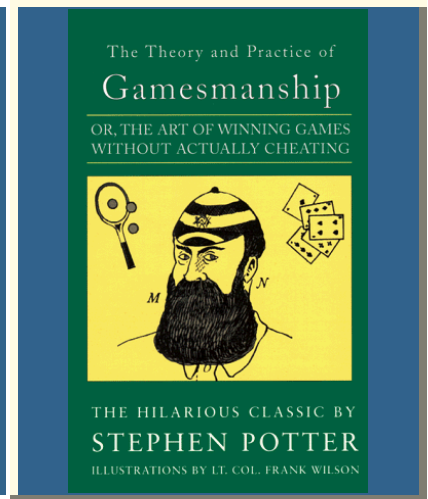
### Groupthink

peer pressure

group develops a set of shared perspectives that may be unrealistic but are strongly supported by the members of the group.



# Gamesmanship winning for the sake of winning



**Responsibility  
to Self**

**your conscience**

**Responsibility  
to your Company**

**Inaccuracies in Expense Accounts  
Honesty in Using Time and Resources  
Accuracy in Filling Out Order Forms  
Representing the Company**

**Responsibility  
to Competitors**

**Responsibility  
to Customers**

**Overselling and Misrepresenting  
Products or Services  
Keeping Confidences  
Gifts & Entertainment**

## OPERATING IN A GLOBAL ENVIRONMENT

**Some cultures have different  
expectations**

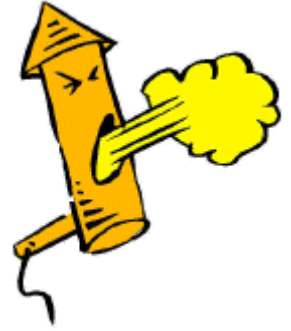
**U.S. citizens are expected to follow U.S.  
laws**



# ETHICS AND JOB TENURE

## Whistle-Blowing

- You may be held legally accountable for inaction
- Recent rulings encourage whistle blowing
- Sometimes the best policy may be to keep quiet until solid evidence can be accumulated against a wrongdoer.
- A word of caution... inaction can even be grounds for legal action.



## How Does the Company Treats the Salesperson

- Some incentives encourage fudging
- Management may not be accessible to help with dilemmas
- Do control mechanisms exist for
- Customer complaints
- Salesperson dissatisfaction
- Expense accounts
- Are sales goals impossible
- Be sure managers fairly manage the distribution of sales territories

# SEXUAL HARASSMENT

Nearly 16000 complaints per year

Look for a harassment policy including

- Company Leadership
- Immediate complaint investigation
- Privacy rights protected
- Thorough follow up
- Sensitivity training
- Review training for comprehension
- Periodic refresher courses

# ETHICS AS GOOD BUSINESS

**Unethical activity costs business**

**Check Points in Ethical Decision-Making**

**Is it legal?**

**Is it fair to all concerned?**

**Would I want someone else to act this way to me?**

**How would I explain my actions to someone else?**

**How will it make me feel about myself?**



**Remember...There is no pillow as soft as a clear conscience.**

# LEGAL ISSUES FACING THE SALESPERSON

It is easy to violate many of the laws

## Some Legal Traps

- Quality below standard specified
- Violation of delivery date
- Pricing concessions
- Incomplete or incorrect instructions
- Price fixing
- Delivering a different brand than that sold
- Misrepresentation of product usage
- Slandering competitor
- Kickbacks to buyer
- Charges after the sale
- Misuse of proprietary data
- Signing agreements without the proper authorization

## Categories of Laws

- Antimonopoly
- Deceptive actions
- Preserve competition

## SPECIFIC ANTITRUST LAWS AND THEIR SALES IMPLICATIONS

### The Sherman Antitrust Act of 1890

Federal Trade Commission Act of 1914

- Unfair methods of competition and commerce
- Unfair or deceptive acts or practices

The Robinson Patman Act of 1936

- Defines price discrimination
- Gives FTC the right to limit quantity discounts
- Prohibits unfair promotional allowances
- Brokerage allowances only go to brokers



# THE UNIFORM COMMERCIAL CODE (UCC)

## Guidelines for Selling

Written or verbal offers to sell may be binding

Financing must be explained clearly and completely

Salesperson must know legal responsibilities of both parties

## Warranties and guarantees

Express warranties are made by salesperson or in writing

Implied warranties

State law

Unless a disclaimer is made

---



## COOLING-OFF LAW

## How to keep out of Legal Trouble

"Puffery" vs. statements of fact.

Educate the customer thoroughly before making the sale

Know technical specs, etc. for the product you sell.

Know your company's literature. Challenge it if it is false

Know the terms of sale policies. You can bind the company

Know federal and state laws regarding your product and its warranties

Don't guess at your product's capabilities