WORKERS BEHAVING BADLY

WHERE DO YOU DRAW THE LINE?

BY VADIM LIBERMAN

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This article is written for workplace miscreants who steal from, lie to, bribe on behalf of, and deceive their bosses and businesses.

Not you, of course. Not only is the angel on your left shoulder restraining Satan on the other side—page thirty-four in the company manual forbids such hijinks.

But ask yourself: Have you ever slipped a pencil from your desk into your purse? Ever surfed the Internet in the office to check the score of this afternoon's game? Dropped a holiday package in the mailroom outbox? If you answered *no* to all the above, congratulations! You'd be the ideal ethically pure executive—that is, if your *no* weren't an outright lie.

Oh, come on, you might be thinking—it's just a pencil. True, and no one's demanding that the SEC investigate Pencilgate. But you know that the issue isn't the pencil so much as the act of pocketing it.

In the wake of Tyco and Enron, we've all heard CEOs, HR execs, consultants, and all sorts of alleged experts deliver earnest, zero-tolerance sermons upholding the sanctity of ethics, as if one small misstep by Bob in accounting represents a giant leap into the evils of corporate malfeasance. Indeed, the notion that to address a wrong is never wrong is hard to dispute—we've all seen what can happen to organizations and their leaders who elect to look the other way. Before you know it, there's rampant harassment, larceny, cover-ups, and Jeff Skilling. all Very Bad. But what about employee behavior that is simply bad with a lowercase b?

The executive who expenses a few kinda-sorta-but-probably-not-really work-related dinners or cab rides, the colleague who comes in a bit late every morning, the employee who charges a hotel-room movie to the company, the worker who expenses a new stapler and takes it home, the manager who knows he needs a receipt for a reimbursement of $25 but since he doesn't have one decides to submit two requests for $12.50 . . . the question isn't whether these individuals are acting unethically. They probably are. The *real* question is: Should a company care?

Should organizations concern themselves with *all* of their workers' ethical infractions? Or just specific bad behavior? Or just specific workers? Or just at specific times? Where do you draw the line?

ONE PENCIL AT A TIME

To begin with, you better not draw it at home with a company pencil, says Victoria Sweeney, ethics and compliance principal at KPMG. "It's pretty basic," she instructs: "Don't take things that don't belong to you." Ignoring Sweeney, every year we swipe about a billion dollars' worth of things that don't belong to us, from paper clips to stationery to all sorts of items that disappear from supply closets right around the time that kids start school each September. Research suggests that about a third of employees pilfer occasionally, half do so regularly, and about one-fifth steal large volumes . . . which covers pretty much everyone. Additionally, for every workplace criminal who embezzles millions, there are surely millions more who—one pencil at time—are gradually erasing their companies' profits.

There's another way to look at this, of course: Some sociologists suggest that pilferage actually benefits an organization, citing a "hydraulic effect," whereby it's better to allow employees to release frustrations by engaging in minor ethical wrongs rather than clamp down on such actions, which could ultimately drive workers to act out in more detrimental ways.

But even with a better-the-devil-you-know approach, there's still a devil. As such, Rand Corp. organizational psychologist Jerald Greenberg characterizes pilfering as "deviant workplace behavior." But you have to wonder: When multiple studies suggest that the majority of employees engage in such conduct and see nothing wrong with it, do most of us qualify as deviants? Moreover, since these types of infractions have ingrained themselves so pervasively into our work lives, maybe it's about time all organizations accept them as a normal cost of doing business—much as the retail industry prices products to account for employee theft.

After all, for companies to dispatch an ethics Gestapo to storm hallways and micromanage workers is probably not just futile but counterproductive. "To become that ethically critical might have negative consequences on the work environment and make everyone in the office uncomfortable," says Michael Hoffman, executive director of Bentley University's Center for Business Ethics. "There has to be rationality, where you're not trying to be an ethical fanatic."

So why not let employees get away with the small stuff? The answer, of course, is because it's unclear when small becomes big. You know the argument: A pot smoker today is a coke addict tomorrow. (Granted, the slippery-slope argument is itself so slippery that it often slides into absurdity supported by anecdotes but little concrete evidence. If every pencil thief became an embezzler, the only labor you and most everyone else would be doing would be the forced kind, behind bars.)

Still, a corporate criminal's first violation will never be the one that makes *The Wall Street Journal*, so it's understandable that an organization might worry that turning a blind eye to any ethics abuse might later lead to a painfully pricey slap across its face. "If the goal is to create an ethical culture, you must enforce the rules," says Linda Treviño, distinguished professor of organizational behavior and ethics at Penn State's Smeal College of Business. "If you let the little things go, it sends a message that the rules don't matter."

But where is the rule that says that all rules must always matter? "Companies often misplace energy at easy gotchas," complains Steve Priest, president of Wilmette, Ill.-based Ethical Leadership Group. "Rules don't always need to be top priorities." For instance, each year, corporations of all sizes ignore legal regulations and their own ethics codes by allowing and even encouraging March Madness basketball pools. "Every one of these companies has made a conscious decision to look the other way," Priest says. "So even companies that say they draw the line at illegal behavior, which is the easiest bright line to draw, don't do that." And that's OK, he adds: "I don't want to work for a company where there's an ethics cop on every corner."

How about just the public corner, then, where your organization interacts with outside stakeholders? "Inside an organization, managers ought to be allowed a fair bit of discretion in how they deal with workers' ethical lapses," suggests Chris MacDonald, who writes the Business Ethics Blog and teaches philosophy at St. Mary's University in Halifax, "but if employees are treating outsiders unethically, then the behavior becomes an unethical act of the organization. That should never be condoned."

WHAT PRICE ETHICS?

Suppose you discover your top salesman padding his expense account or charging a few too many dinners at the Four Seasons? Should you question him about his questionable activities?

WHEN THE APPLES AREN'T THE PROBLEM

People who do bad things aren't necessarily bad people. Most don't wake up and think, *Today is the day I'm going to screw my company*. But when they do, your company—by wagging a finger solely at such offenders—may be inadvertently giving itself the finger by ignoring a larger problem.

Now, no one's arguing against personal accountability, but sometimes it's the system, stupid. "When people misbehave, they're responding to perverse incentives," explains James O'Toole, co-author of *Transparency: How Leaders Create a Culture of Candor*. "When a salesman plays with numbers and moves sales forward or back into quarters, it is because he is rewarded for doing so.

"The problem is that we're spending a fortune on ethics training," O'Toole continues. "When ethics trainers come in, they are exhorting and preaching to people down the line to be good. If that money were spent creating systems in which people are incentivized to do good, then you'd have a truly ethical culture."

WORKERS WHO HAVE A GREATER STAKE IN A COMPANY ARE LESS PRONE TO TOLERATE UNETHICAL BEHAVIOR BY OTHERS.

Rather than discourage your workers from being bad, encourage them to be good. Negative reinforcement reinforces nothing but negative feelings within your employees. "The problem is not with bad apples but with the barrel makers who create the system," claims O'Toole, who recommends profit-sharing and stock ownership to increase positive peer pressure to do good. Workers who have a greater stake in a company are less prone to tolerate unethical behavior by others. Likewise, an open-book management approach, which shares financial numbers and greater decision-making among all employees, makes it that much harder to game the system.

Most importantly, de-emphasize the dollar, says Timothy Keane, director of the Emerson Ethics Center at Saint Louis University; he claims that "the focus on pure profitability puts undue stress on individuals." Look back to 2002, when the state of New Jersey charged Sears, Roebuck and Co. with running auto-repair shops that charged customers for unnecessary work. The company responded by immediately scrapping its commission-based pay system. "You could say the Sears workers were bad apples without any morals," says Working Ethics consultancy founder Marvin Brown, "but it was really an incentive system based on commissions that led to this. Once Sears changed its incentive system, that kind of behavior stopped." —V.L.

Certainly, you'd be justified in asking him to right his wrongs, but he's your key rainmaker, and in this economy, you can't afford a drought by initiating a conversation that risks demoralizing him. So which is more vital to your enterprise—financial success or ensuring that one employee is following rules?

To answer that question, think back to the example of pilfering office supplies. It's easy to condemn stealing items ranging from copy paper to toilet paper (yes, it happens!) because it hacks into a company's operating budget. However, given that you risk a greater net loss by taking to task your top talent, playing dumb to his self-appointed "perks" might be not only your smartest move but also your most ethical if it means making enough money to keep other workers employed.

Unless, that is, the ethics of pocketing Post-Its, creative expensing of accounts, and other misdeeds hinges on something other than the *immediate* impact on your firm's financial health. By winking at your star performer's exploits, you're valuing his morale over that of the rest of your workforce, who will stare back at you in anger over what they'll surely perceive as unfair, preferential treatment. "Managers have to at least recognize," MacDonald says, "that by taking these risks, there might be some kind of corrosive effect on morale," which can cause productivity and corporate earnings to plummet in the long term. In which case, you're not really weighing egalitarianism against profit-making.

By maintaining your eye on the bottom line, your actual conundrum is this: Whose motivation and productivity is more important when it comes to bringing in the cash—your high performer's or everyone else's?

Cost-benefit calculations are nothing new to business, but we don't like to think we're squinting through goggles with dollar signs when deliberating about ethics. Nonetheless, the capitalist within us is always battling our inner ethical Marxist. Consequently, "companies sweep stuff under the rug all the time," says David Callahan, author of *The Cheating Culture: Why More Americans Are Doing Wrong to Get Ahead.* "They do it for their own self-interest, because they don't want to lose a good employee, or because they don't want to risk public embarrassment."

Nevertheless, explanations for why organizations look the other way are not justifications—but they could be. How's this for a straightforward reply to an employee who whines about feeling demoralized by the injustice of double standards: "Hey, when you haul ass and get to the top of the sales chart, then we'll look the other way with you, too." OK, you might not use those words, but at least they would clarify that the company draws its line based on performance. What's so unfair about that? After all, haven't elite employees earned the right to special consideration? Isn't the prospect of privileged treatment partly what drives us to excel?

"If the rules don't apply to high performers," cautions Linda Treviño, "the rest of your employees will dismiss them as irrelevant. Perceived fairness is one of the most important aspects of an ethical culture." And here's where slippery-slope thinking offers a legitimate warning: While someone who gets away with exaggerating an expense report by $5 probably won't ever misappropriate $5,000, his action nonetheless sends a message to other workers that the company makes some exceptions for minor theft. Consequently, more employees are likelier to model such behavior. Which isn't to imply that unethical employees can't compose a financially successful company. Take a hard look around your own workplace! However, "if the top people are behaving with integrity, others will too, and you'll stand a better chance at having a financially stronger company in the long run," counsels Andrew Singer, editor of the business-ethics journal *Ethikos*.

PLAYING DUMB TO HIS SELF-APPOINTED "PERKS" MIGHT BE NOT ONLY YOUR SMARTEST MOVE **BUT ALSO YOUR MOST ETHICAL** IF IT MEANS MAKING ENOUGH TO KEEP OTHERS EMPLOYED.

Intuitively, this all makes sense—except when it doesn't. Quite often, the only person aware of an employee's misdeeds is his manager. Since others can't mimic behavior they can't see, since this is a star performer reeling in astronomical profits, since there's no reason to think he'll become the next Bernie Ebbers, what does a manager stand to gain by confronting his subordinate, given a potential decrease in the worker's motivation, engagement, performance, productivity, and company profits?

"Look, when unethical behavior persists in the long run, it's a chronic disease that poisons relationships," Singer says. "If the employee is very productive but doesn't live up to the company's values, then get rid of him," adds Libby Sartain, who formerly headed up HR at Yahoo! and Southwest Airlines. "You can find somebody else who will produce *and* live up to the values"—especially if he's a senior leader.

Ah, the tone-at-the-top maxim preached about literally every facet of business. "The real culture is set not in value and mission statements but in how the boss behaves," says James O'Toole, the University of Denver's Daniels Distinguished Professor of Business Ethics. "That is why the people at the very top have to hold themselves to the very highest standards of behavior. The leader has to be the most virtuous person in the organization."

That a company's top people must be its most upright, however, automatically implies a hierarchical approach to ethics, in which a worker's ethical bar is only as high as his ladder rung. "The moral example leaders give is a fundamental and legitimate aspect of their overall leadership," explains Kirk Hanson, executive director of the Markkula Center for Applied Ethics at Santa Clara University. "If they fail, it is a more serious flaw in their performance." As a result, Hanson argues, corporations should apply the same ethical expectations regardless of a person's title, but those at the top should be subject to harsher punishments for similar ethical lapses. If a senior executive won't lead by good example, then the company should make an example out of him. And here's an example:

Rick Shreve, a business-ethics professor at Dartmouth's Tuck School of Business, tells a story from some years back about an employee who decided for himself to spy on a competitor. Rummaging through a Dumpster outside the ballroom where the competing company was holding a meeting, the worker unearthed a detailed product-introduction plan. He took the information back to his own organization, where he and his team spent a lot of time and money developing a competing product—until their chief executive got wind of the project.

The CEO gathered all the team's work on its new product and sent it to the competitor. He also hired a consultant and presented him with his firm's long-range plan as it appeared the day before his company snatched the information from the trash. The CEO then instructed the consultant to determine whether his organization had departed in any way from its pre-existing plan that would indicate taking advantage of the dubiously acquired information. "That's a great story and a part of the company's culture now," Shreve says. "It shows that, regardless of any impact on finances, the company won't look away from unethical conduct."

BLURRING THE LINES

"When it comes to ethics, drawing a line is more art than science," says Andrew Singer, but even so, you want to use the

IS BAD THE NEW GOOD?

You can pretty much guess how a tough economy impacts ethics in the office: Nervous, unsure, and jittery employees act in all sorts of ways they otherwise wouldn't during better times.

And that's great news! It's the silver lining to a blackened economy.

It *is* true that workers' ethical behavior changes during economic downturns, but not in the ways that you were probably thinking. According to recent research by the Ethics Resource Center, ethical behavior has *improved* since 2007. A bad economy, it seems, is good for workplace ethics.

The Center's 2009 National Business Ethics Survey shows that observed misconduct, willingness to report misdeeds, and pressure to cut corners all improved over the past two years, despite the recession. "The anxieties of a shrinking economy did not translate, in general, into a free fall in ethical behavior. Far from it," said ERC president Patricia Harned.

The finding is no anomaly: The ERC survey detected a similar pattern between 2000 and 2003, when the dotcom bubble, 9/11, and numerous corporate scandals stunned the market.

Today's ethical silver lining, however, can easily tarnish. "I believe there's a bit of lag time when it comes to reporting misconduct," explains KPMG ethics and compliance chief Victoria Sweeney. "It isn't always a bank robbery, where you see it right away. You may discover misconduct that happened during the recession when there's an uptick in the economy." Indeed, right after 2003, as the economy picked up, ethical conduct went the opposite route. The explanation is obvious: No one wants to play a game of Catch Me If You Can with an employer if getting caught means getting fired.

Regardless, even though workers are behaving better these days, don't delude yourself into thinking that a recession has produced some ethical utopia. Though the ERC research indicates that the number of employees who observed workplace misconduct is down 7 points from 56 percent two years ago, that still means nearly half of all workers have witnessed lying, privacy breaches, expense- and timesheet falsifications, improper hiring practices, and company-resource abuse. So get ready, because when the economy recovers, who knows what a bursting ethics bubble will release? —V.L.

right brushstrokes in painting an ethical workplace. It's understandable if after performing the above mental acrobatics, with one what-if somersault spun into another, you're left too dizzy to dismount on an ethical line that isn't arbitrary. Having contemplated the severity of the act, an individual's job performance and title, group morale, and corporate profits, you're probably still wondering: When is it OK for your company to look away?

"You *can* draw a line at a pencil, but does that *really* make sense?" asks business-ethics consultant Lauren Bloom. "You have to be reasonable, because if you become too draconian, you're not going to have an employee left in your office. Every situation will depend on its own merits. You need to have rules, but they need to be flexible. Unless you're talking about illegal things, ethics are always to some degree a bit of a judgment call."

This may be the worst advice you'll hear, since it continues to leave you staggering through a gray fog . . . but wait—it may also be the best advice, because it *does* offer a way out of the haze.

Where do you draw the line? The best answer is: *You don't.*

Acknowledging that you can't wholly separate black from white to account for reason and common sense doesn't necessarily trap you in an ethical maze. It's not only possible to work within the gray—it may even be preferable.

The reality is that that you can't codify everything. If you try, you'll end up with a thick corporate manual that your employees will bury in their file cabinets right under a folder labeled "1996 Invoices," with HR's inevitable photocopied updates and additions recycled before reading. (Just ask Enron's bad boys at what point they consulted the company's sixty-four-page code of ethics.) Even if you could devise regulations to cover every possible scenario, chances are that your company is unlikely to follow all of them—since it probably doesn't even uniformly follow the rules it sets now. (Rest un-assured that your employees will discover ingenious ways to get around them, anyway.) Policies enforced randomly, unfairly, or not at all are useless. And yet no one would blame you for confusing some corporations' code of ethics with the IRS manual. Why this continued obsession with rules?

Blame it on lawyers. "Companies are writing forty-page codes to cover their backsides rather than writing rules employees can really live with," Lauren Bloom complains. "Being compliant is the price of entry, a threshold," insists Kathleen Edmond, Best Buy's chief ethics officer. "Ethics extends beyond legalities." Putting aside that no culture in the world is 100 percent compliant anyway, according to Steve Priest, without rules to guide behavior, how can your company cultivate an ethical culture?

By focusing instead on values and principles. Think of

AS LONG AS YOU CONCENTRATE NOT ON DRAWING A LINE BUT ON ALWAYS **PUSHING IT IN THE RIGHT DIRECTION**, YOU'RE MORE LIKELY TO CREATE A WORTHY ETHICAL CULTURE.

Google's now-familiar edict, "Don't be evil." Yes, Google's and other firms' dos and don'ts are more aspirational than prescriptive. But vagueness is precisely their advantage. By offering guides rather than rules, they allow managers the freedom to use discretion. They permit managers to . . . manage.

Of course, slapping your corporate logo onto the Ten Commandments and calling it your ethics handbook is only the beginning, after which you'll realize that the *real* line to draw is between ambiguity and specificity. In sketching that fuzzy line, "companies will have lawyers in one room developing codes of conduct based on laws, and HR in another room working on values," says Ron James, president and CEO of the Center for Ethical Business Cultures at the University of St. Thomas in Minneapolis, "but this is an area where everyone, including the leaders, has to be involved." People are more apt to follow rules when they've had a say in how they were developed. "It's Social Contract 101," adds David Callahan.

Additionally, because every ethical culture is unique, no consultant can possibly understand an organization's ethical landscape like the employees already working inside a company. "I've been asked to write a code of ethics for an organization, and I told them no," Chris MacDonald says. "I can write it *with* them, but not *for* them. Companies need to have some ownership of their codes. And you definitely don't buy a code of ethics off the rack."

Nonetheless, regardless of how you balance values with rules, the risk remains that different managers will deal with different employees unevenly. Bear in mind, though: *Unequal* is not the same as *unfair* treatment.

Forget about treating all your workers equally. You already don't. "We give people raises, bonuses, and promotions based on merit," MacDonald explains. Your goal, then, is not equality but equal consideration, which entails addressing everyone with respect. "I don't want to come off as an HR weenie," says Steve Priest, "but roughly two-thirds of incidents that come into ethics hotlines could have been eliminated if only the manager and the employee talked things through respectfully."

The more transparent you are in explaining your ethics assessments, the less likely you'll give an impression that you're making decisions arbitrarily. For instance, if you intend to make merit-based exceptions when it comes to general policies regarding expense accounts or company time and property, you might want to put that in writing. For example, to address theft of office supplies, a company may choose to allow employees "*reasonable* use of company property for personal purposes" or "the *occasional* taking home of supplies of a *nominal* value." Though some might argue that this would increase unethical acts, in actuality it only codifies existing behavior. "Mainly, managers need only to make sure that their decisions are defensible, reasonable, and do not take workers by surprise," says Lauren Bloom.

To a certain extent, all this is simply good management rather than terribly sophisticated ethical focusing," MacDonald says. Of course, you still want to do what's right, but most ethical quandaries don't offer clear win-win outcomes. But that doesn't mean there needs to be a loser. As long as you concentrate not on drawing a line but on always pushing it in the right direction, you're more likely to create a worthy ethical culture.

"It's all like raising children," suggests Rand's Jerald Greenberg. "There's a general set of values and norms to guide their behavior. If you bring kids up right and they know what's expected, they will make the right decisions." Most of the time, anyway. ■