

## How Ethics Guides Practitioners

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Monday, April 21, 2014  
Allegheny Tax Society

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Go Ahead and Say it

• “Why am I here????”

• Is this a waste of time?

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## Stress-Filled Life?

- Acquiring New Clients
- Keeping Current Clients
- Current with Changes in Regulations
- Producing Quality Work
- Operating a Business
- Making a Profit
- Dealing with Employees
- Maintaining a Presence in the Community
- Getting CPE/CLE credits
- Staying even/ahead of the competition
- Life outside Work
- Relaxation

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Realize what We are

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Common Thread  
• Criminal statutes; Civil laws; Administrative Code  
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• CONDUCT

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Another Stressor?  
• March, 2013 Kroll Advisory report

① ~~51%~~ No  
② ~~75%~~ ~~75%~~ 50% - That's a lot  
③ 75% - 67% - 26% ~~75%~~  
④ ~~75%~~ 50%  
⑤ Smart Phone

**Purpose of Course**

- Veering from what we have learned is either intentional or grossly reckless
  
- Likewise, we have to **intend to** be ethical

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**Increase in ethics hours**

- “[A] mandatory professional ethics component is desirable to reinforce the critical importance of discharging professional duties not only with the requisite technical competency, but also with due regard for the principles of **honesty** and **integrity** that must be the threshold attributes of anyone credentialed to practice public accounting in Pennsylvania.”

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**Message from CLE Board**

- 1 to 2
  
- 11 down to 10
  
- 4 to 6

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**REASON FOR HOURS**

**• *Lawyers and accountants are in the knowledge business and continuing education is not a vacation because that is a betrayal of future partners and present clients; an accountant and a lawyer's commitment to excellence is a lifelong process.***

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**Murder by an Attorney**

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**Murder by an Accountant**

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Alcohol and Marijuana

4/21/2014

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**Reason #1 to be Ethical**

- Membership in a **PROFESSION**
  - Self-Governance
  - Extended study in Specialized field
  - **Voluntary** Membership
  - Voluntary Compliance
  - Peer Pressure
  - Sanctions (Deterrence)
- Protection of Public
- Assumptions of Public

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**Reason #1 to be Ethical**

- Membership means:
  - Cultivate knowledge of accounting/law
  - Use knowledge to reform accounting/law
  - Strengthen education
  - Self-regulation maintains independence

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Consequences of a Profession

- **NO MORE PRIVATE SELF**
- Group over self

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Atty.: Current D.W.I.

- 39 YOA
- 2003 DUI
- 2012 DB PROBATION VIOLATION HRG
- 64 YOA
- 2003 DUI
- MULTIPLE VIOLATIONS OF PROBATION

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Domestic Violence

- March/2010
- Worthington, Ohio
- Suspended due to Allegheny County Court Order of Dec/2009 issued under the Domestic Relations Code

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**C.P.A.: "Off-duty Conduct?"**

- 1995, CPA in PA
- 1998, moved to IL
- 2007, Application for Reinstatement
- REINSTATED
- 8/28/07
- Arrested for a Hate Crime
- Apology, Angry
- 5/16/08
- "EXCESSIVE"

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**Esq: RPC 8.4(b)**

- "...misconduct for a Lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

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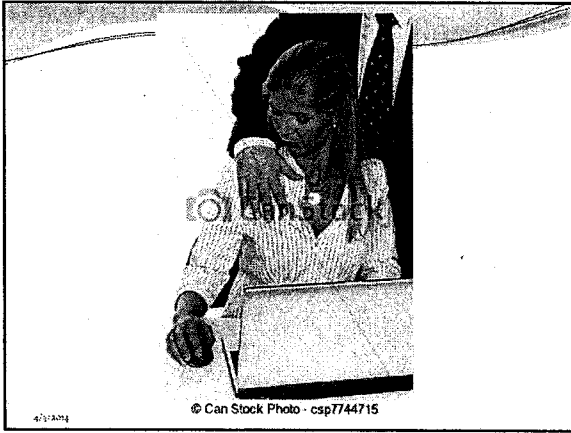
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### Civil Rights Lawsuits

- Sexual Harassment
  - Discrimination against one's gender
- Title VII of the 1964 Civil Rights Act

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### Types of Inappropriate Behavior

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|---|--|
| <ul style="list-style-type: none"> <li>• Leering</li> <li>• Wolf whistles</li> <li>• Discussion of one's partner's sexual inadequacies</li> <li>• Sexual innuendo</li> <li>• Comments about women's bodies</li> <li>• "Accidentally" brushing sexual parts of the body</li> <li>• Lewd and threatening letters</li> <li>• Tales of sexual exploitation</li> </ul> | <ul style="list-style-type: none"> <li>• Inappropriate invitations (e.g., hot tub)</li> <li>• Sexist jokes and cartoons</li> <li>• Hostile put-downs of women</li> <li>• Exaggerated, mocking "courtesy"</li> <li>• Public humiliation</li> <li>• Obscene phone calls</li> <li>• Displaying pornography in the workplace</li> <li>• Insisting that workers wear revealing clothes</li> </ul> |
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### Types of Inappropriate Behavior

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Graphic descriptions of pornography</li> <li>• Pressure for dates</li> <li>• Sexually explicit gestures</li> <li>• Unwelcome touching and hugging</li> <li>• Sexual sneak attacks (e.g., grabbing breasts or buttocks)</li> <li>• Sabotaging women's work</li> <li>• Sexist and insulting graffiti</li> <li>• Demanding, "Hey, baby, give me a smile"</li> </ul> | <ul style="list-style-type: none"> <li>• Inappropriate gifts (ex. lingerie)</li> <li>• Hooting, sucking, lip-smacking &amp; animal noises</li> <li>• Pressing or rubbing up against the victim</li> <li>• Sexual assault</li> <li>• Soliciting sexual services</li> <li>• Stalking</li> <li>• Leaning over, invading a person's space</li> <li>• Indecent exposure</li> </ul> |
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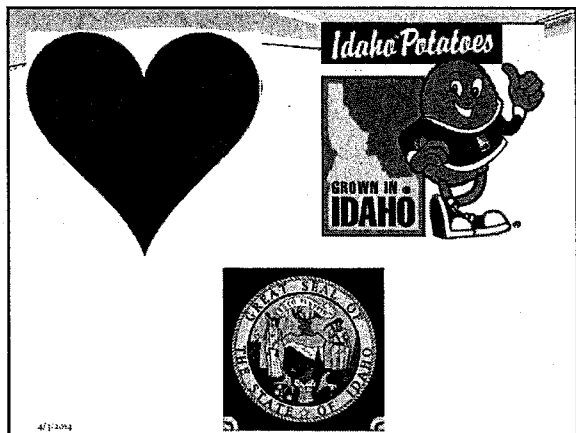
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**Both: Intimate Contact**

- Without Consent
  - "Don't ask Ben!!!"
  - Use Big Ben as an example of penalties



- Criminal Judicial System and all its consequences

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**Both: Intimate Contact**

- Sexual harassment
  - Can be "unwanted touching"
  - Can be inappropriate sexually oriented comments
- One-time or Relationship
  - Sanction?
  - Pattern of conduct?
    - Sanction?

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**Both: Intimate Contact**

- "... if in the exercise of his professional judgment on behalf of his client, the client will be or reasonably may be affected by his own personal interests."

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**Still Have a Private Self??**

- What did the Board do and why?

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**Reason #2: Controlling Statutes**

- **AICPA CODE OF PROFESSIONAL CONDUCT**
  
- **PA RULES OF PROFESSIONAL CONDUCT**

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### Codes Affecting Tax Practitioners

- AICPA Code of Professional Conduct
    - includes "Principles" and "Rules"
  - CPA Law of Pennsylvania
    - 7 March 1984, Public Law 106
  - CPE Regulations
- nnsylvania CPA Board

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### PA C.L.E. Board Regulations

- 42 Pa.C.S. (following CLE Rules)
- Preamble
  - *"The public properly expects that lawyers, in the practice of the law, will maintain throughout their careers certain standards of professional competence and ethical behavior....."*

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### CPA Law Section 9.1

- "REVOCATION OR SUSPENSION OF CERTIFICATE, REGISTRATION OR LICENSE"
- MAY REVOKE IF:
  - > DISHONESTY
  - > FRAUD
  - > GROSS NEGLIGENCE IN THE PRACTICE OF PUBLIC ACCOUNTING
  - > DO ANYTHING IF NOT PROPERLY AUTHORIZED OR LICENSED
  - > VIOLATION OF RULE OF PROFESSIONAL CONDUCT

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### CPA Law Section 9.1

- PLEADING GUILTY
- PLEADING NOLO TO A STATE/FEDERAL FELONY OR CRIME OF DISHONESTY OR FRAUD;
- CANCELLATION, REVOCATION OR SUSPENSION OR REFUSAL TO RENEW ABILITY TO PRACTICE ANYWHERE;
- SUSPENSION OR REVOCATION TO PRACTICE BEFORE ANY STATE OR FEDERAL AGENCY;
- FAILURE TO FURNISH PROOF OF SATISFACTION OF CONTINUING EDUCATION REQUIREMENTS

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### C.P.A.: Don't Like 80 Hours?

- Female CPA, Mercer County
- Persuaded office worker to sit and complete CPE
- 3 month suspension, 1 year Probation

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- Impersonation
- CPE classes for 2 months
- \$2,500.00 CP

### C.P.A.: Don't Like 80 Hours?

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**CPA Misconduct Provisions**

1. FRAUD OR DECEIT IN OBTAINING A CERT
2. DISHONESTY, FRAUD OR GROSS NEG IN PRAC
3. VIOLATION OF ANY SECTION 12
4. VIOLATION OF A RULE OF PROFESSIONAL CONDUCT
5. STATE OR FED FELONY
6. GUILTY W ELEMENT OF DISHONESTY, FRAUD
7. STATE OR FED REFUSAL TO RENEW
8. STATE OR FED SUSPENSION/REVOCAION

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**Atty. Misconduct Provisions**

1. ATTEMPT OR VIOLATE R.P.C.
2. CRIM ACT (HONESTY, TRUST OR FITNESS)
3. CONDUCT INVOLVING DISHONESTY, FRAUD, DECEIT OR MISREPRESENTATION
4. PREJUDICIAL CONDUCT (ADMIN OF JUST.)
5. IMPLY OR STATE ABILITY TO INFLUENCE
6. ASSIST A JUDICIAL OFFICER IN VIOLATION OF JUDICIAL OR OTHER LAW

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**Duty to Report? Self? Others?**

- ALWAYS SELF-REPORT
- "MITIGATING" CIRCUMSTANCE
  
- CONVICTED OF A "SERIOUS" CRIME MUST REPORT IT TO DB WITHIN 20 DAYS
  
- CPAs????

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**Duty to Report Others?**

- Rule 8.3 of the R.P.C.
- Knowledge
- Violation of the R.P.C.
- Substantial issue
- Honesty
- Trustworthiness
- Fitness

• Shall inform the D.B.

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**Atty.: Other Codes of Conduct**

- PA RULES OF DISCIPLINARY ENFORCEMENT
- CLE RULES
- CLE BOARD REGULATIONS

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**Rules of Disciplinary Enforcement**

- 21 sections
- 203 (Grounds)
  - Conviction of a crime
  - Fail to appear for censure, private reprimand or informal admonition
  - Willful of any section
  - Fail to comply to an order
  - Not meeting license requirements
  - Material misrepresentation on application

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### Rules of Disciplinary Enforcement

- 204 (Discipline)
  - Disbarment
  - Suspension of < 5 years
  - Public censure w or w/o probation
  - Probation
  - Private reprimand w or w/o probation
  - Public reprimand
  - Private informal admonition
  - Revocation of license

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### Code of Civility

- 42 Pa.C.S. (following Rules of Conduct)
- "... adherence to standards of professional responsibility and civility."
- "...appearance of justice as well as dispensation..."
- Judge to Lawyers--15 duties
- Lawyers to Lawyers and Court--19 duties

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### Code of Civility

- Speak and write with respect
- No disparaging personal remarks
- No "mis" anything
- Punctual
- Talk only to Judge
- Be nice to Court personnel
- Defend dignity of Judiciary

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**Disciplinary Board Rules**

- 42 Pa.C.S. (following Rules of Enforcement)
  - Formal proceedings (Ch. 89)

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**Pennsylvania Bar Admission Rules**

- 42 Pa.C.S. (following Judicial Conduct rules)

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- 42 Pa.C.S. (following Bar Admission Rules)
  - Waiver
    - When an active lawyer because of circumstances beyond his or her control, cannot in any reasonable manner meet the requirement for continuing education in any given reporting year, these rules may be waived, in whole or in part.
  - [www.pacle.com](http://www.pacle.com)

**Pennsylvania Continuing Legal Education Rules**

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**C.P.A.: Discipline Continuum**

- Mandatory completion of CPE courses
- Condition of Remedial Action
- Censure or Public Reprimand
- **Revoke, Suspend, Limit or Restrict**

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**Atty. Discipline Continuum**

- Private Informal Admonition
  - Conditions may be attached
- Private Reprimand w or w/o Probation
- Probation by the Supremes under supervision of the Board
- Public Censure by the Supreme Court w or w/o Probation
- Suspension by the Supremes for a period of not more than 5 years
- Since 2002, Public Reprimand

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**Atty. Discipline Continuum**

- Disbarment by the Supremes
- Revocation of an Attorney's admission or license to practice law

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**Not Accepting the Authority of the Court**

- Example of Attorney confronting a Tribunal

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**The Professional's Choice**

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**Thanks for Listening!**

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