The background features a stylized graphic of the Texas state flag. It includes a white five-pointed star on a blue field in the upper right, a white field in the lower right, and a red field in the bottom right. A large, stylized arrow shape, composed of teal and orange stripes, points from the left towards the center of the page.

A CPA'S GUIDEBOOK FOR ETHICAL BEHAVIOR

A Continuing Professional
Education Ethics Course for Texas
CPAs

By Allison M. McLeod, LL.M, CPA

Electronic Quiz and Evaluation URL:

<https://rb.gy/rjsz9n>



Please complete quiz and evaluation. Certificates will be emailed to those scoring 70% or higher.

Part I: Framework of Ethical Thought



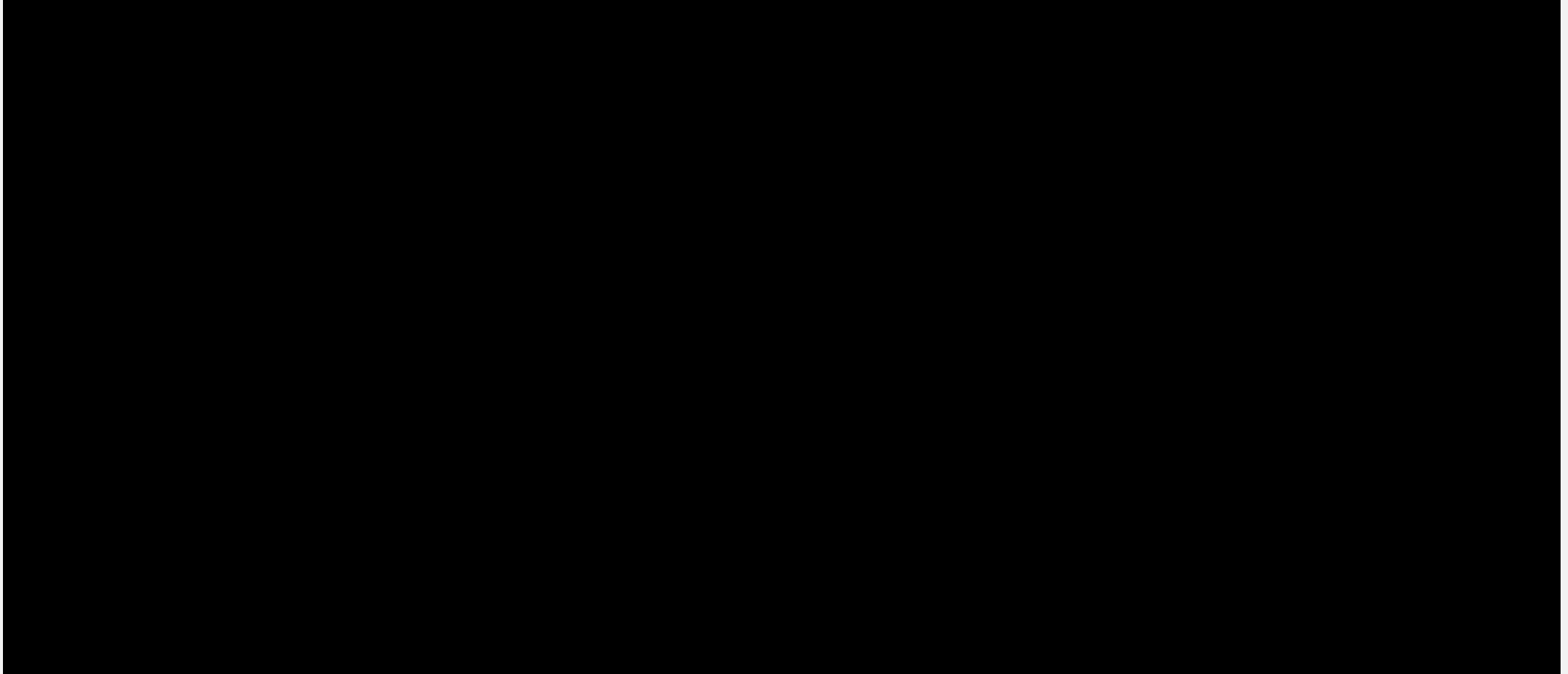
What are ethics?

1. A general pattern or “way of life.”
2. A set of rules of conduct or “moral code.”
3. An inquiry about ways of life and rules of conduct.

Primary Branches of Ethical Thought

- *Normative Ethics*, which is the study of how define right and wrong action – covered in Part I and II of these materials.
- *Applied Ethics*, which discusses how to put ethics into action – covered in Part III.

Bikers and the Ripple Effect



Types of Normative Ethical Theory

- Consequentialism
- Deontological Theory
- Virtue Ethics

Consequentialism

- The right action is based on the consequences of the action.
- Encompasses the axiom “ends justifies the means.”
- Individuals often evaluate only the short-term instead of long-term consequences, and foreseeable vs. possible consequences.

Case Study

**Paul Daugerdass,
former Jenkins & Gilchrist Tax Partner**

Deontology

- Focuses on “doing your duty for duty’s sake.”
- A person must tell the absolute truth even though the fall-out could be significant.
- The right thing is determined by universal ethical values such as honesty, promise-keeping, fairness, loyalty, justice, responsibility, compassion, and respect for human beings/property.

Theranos



Virtue Ethics

- States that having the right character, or virtues, is the most important aspect of morality.
- What makes an action right is that it is one that a virtuous person would take.
- Aristotle is the most famous proponent of virtue ethics.

Aristotle's Virtue

1. *Courage*
2. *Temperance* - moderation
3. *Liberality* – spending money well
4. *Magnificence* – living “well”
5. *Pride* – taking pleasure in accomplishments
6. *High handedness* - concern with the noble, not with the petty
7. *Diligence* – between reckless ambition and total lack of effort

Aristotle's Virtues (cont'd)

8. *Gentleness* - concern for others
9. *Truthfulness*
10. *Wit* - pleasure in group discussions
11. *Friendliness* - pleasure in group associations
12. *Modesty* - pleasure in personal conduct
13. *Righteous indignation*
14. *Justice*

What Not to Do



10:00



Part II: Codes of Conduct for CPAs



“[These] Principles call for an unswerving commitment to honorable behavior, even at the sacrifice of personal advantage.”

--ET § 0.300.020.2

Codes of Conduct for CPAs

- CPAs are subject to specific codes from state boards of public accountancy, the SEC, the GAO, the Treasury Department, the Internal Revenue Code, common law and other national or international rule-setting bodies.
- Texas CPAs refer to the Texas Rules of Professional Conduct and the AICPA Code of Professional Conduct.

Texas Rules of Professional Conduct

- “TX RPC”
- Found in Texas Administrative Code
- Requires the Texas CPA to:
 - Maintain independence
 - Improve professional skills
 - Maintain client confidentiality
 - Establish high standards of personal and professional conduct

AICPA Code of Professional Conduct

- “ET” or “Code”
- Governs a CPA’s ethical and professional conduct.
- Should apply the most restrictive provision.

Test Your Knowledge!

Jose, CPA, serves as the partner-in-charge of the external audit of Get 'em Going Travel Agency, which is publicly traded on the New York Stock Exchange. Jose's friend, Ralph, is going through financial difficulties. Jose becomes aware of crucial information about Get 'em Going which he passes on to Ralph. Ralph uses the insider tips to make profitable trades on the travel agency's stock, resulting in \$1.2 million in profits. He gives Jose a solid gold Rolex watch as a thank-you, but otherwise Jose does not personally profit from the insider information.

Test Your Knowledge!

- a. Jose has not violated the Code of Conduct since he did not personally profit from trade on his client's stock.
- b. Jose has violated the Rules of Professional Conduct since he did not maintain client confidentiality.
- c. All of the above.
- d. None of the above.

Answer is B

Integrity

“Integrity requires a member to be, among other things, honest and candid within the constraints of client confidentiality. Service and public trust should not be subordinated to personal gain and advantage. Integrity can accommodate the inadvertent error and honest difference of opinion; it cannot accommodate deceit or subordination of principle.”

-- ET § 0.300.40.3

Valeant



Integrity and Objectivity Rule – TX RPC § 501.73

Texas CPAs shall maintain integrity and objectivity, shall be free of conflicts of interest and shall not knowingly misrepresent facts nor subordinate his or her judgment to others.

Test Your Knowledge!

Deeba is the newest CPA hired on by the Tax Department of Feel Better Surgical Center, L.P. Her supervisor has asked her to take an extraordinary position in reporting a transaction on the tax return. Even though Deeba is a recent graduate and has very little accounting experience, she feels certain based on some research she has done that the position is unsupported by the Internal Revenue Code, Treasury Regulations and case law. Deeba must:

Test Your Knowledge!

- a. Cave in to her boss's demands since her boss has more experience than Deeba.
- b. Do what her supervisor says since Deeba is being paid only to fill out the tax return, not to use independent judgment.
- c. Not sign off of a position for which the CPA cannot find proper support.
- d. Take the extraordinary position since she is protected from liability as she is just obeying orders.

Answer is C

Independence – TX RPC § 501.70

A CPA shall conform in fact and in appearance to the independence standards established by the AICPA, the SEC, the US GAO, the PCAOB and other national or international regulatory or professional standard setting bodies.

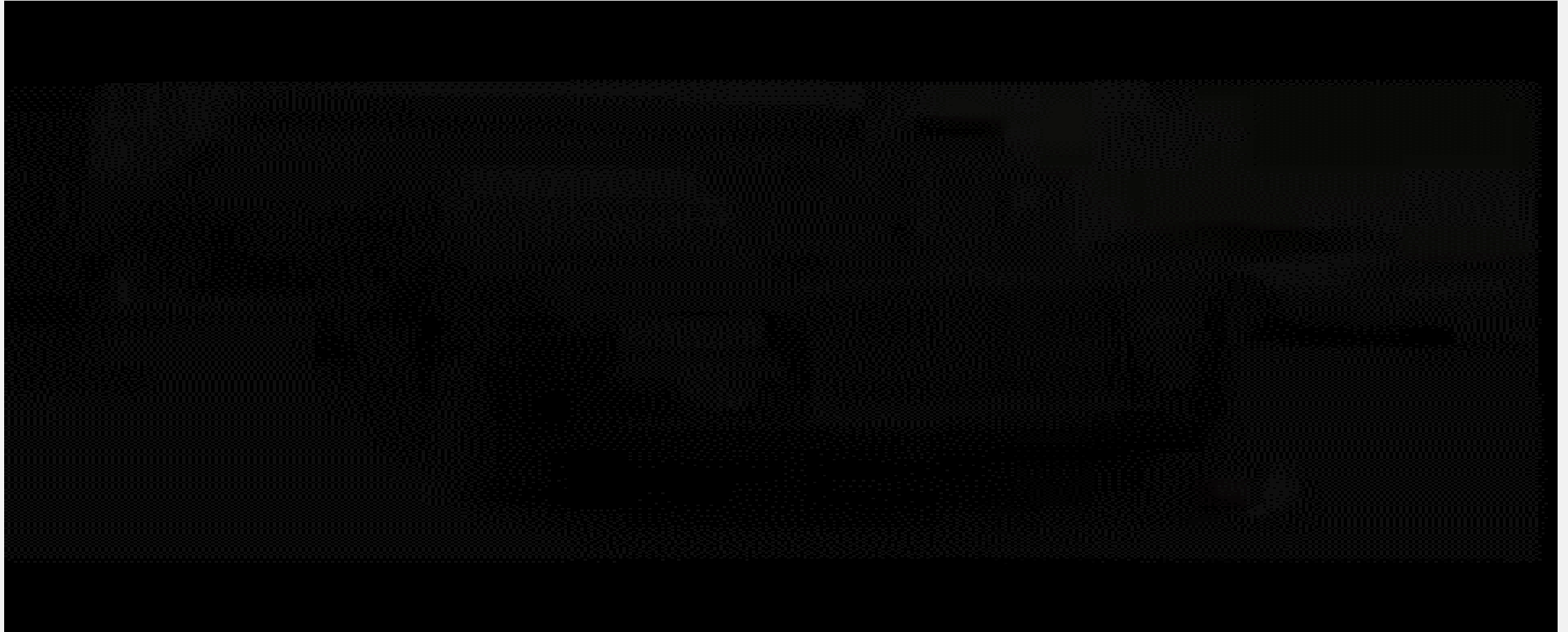
Independence - ET § 0.400.21

Consists of two elements:

1. Independence of mind

2. Independence in appearance

Washington D.C. - \$48 m Embezzlement



Case Study: Integrity and Objectivity

James, CPA, is a manager in a company's financial reporting department. He was asked by his supervisor to offset period expenses with "cookie jar reserves" – such as a warranty liability account – instead of properly charging such items through the P & L (profit and loss statement). James has determined that his bosses' request would run afoul of the IFRS and FASB rules, although it would result in analysts' expectations being met for this quarter's earnings release.

Case Study: Integrity and Objectivity

He is also aware that year-end bonuses could be affected and that the stock price could plunge if expectations are not met. It was also rumored that a former co-worker who had refused to comply with a similar request had been mysteriously “laid-off.” James has a stay-at-home spouse and three young school-aged children.

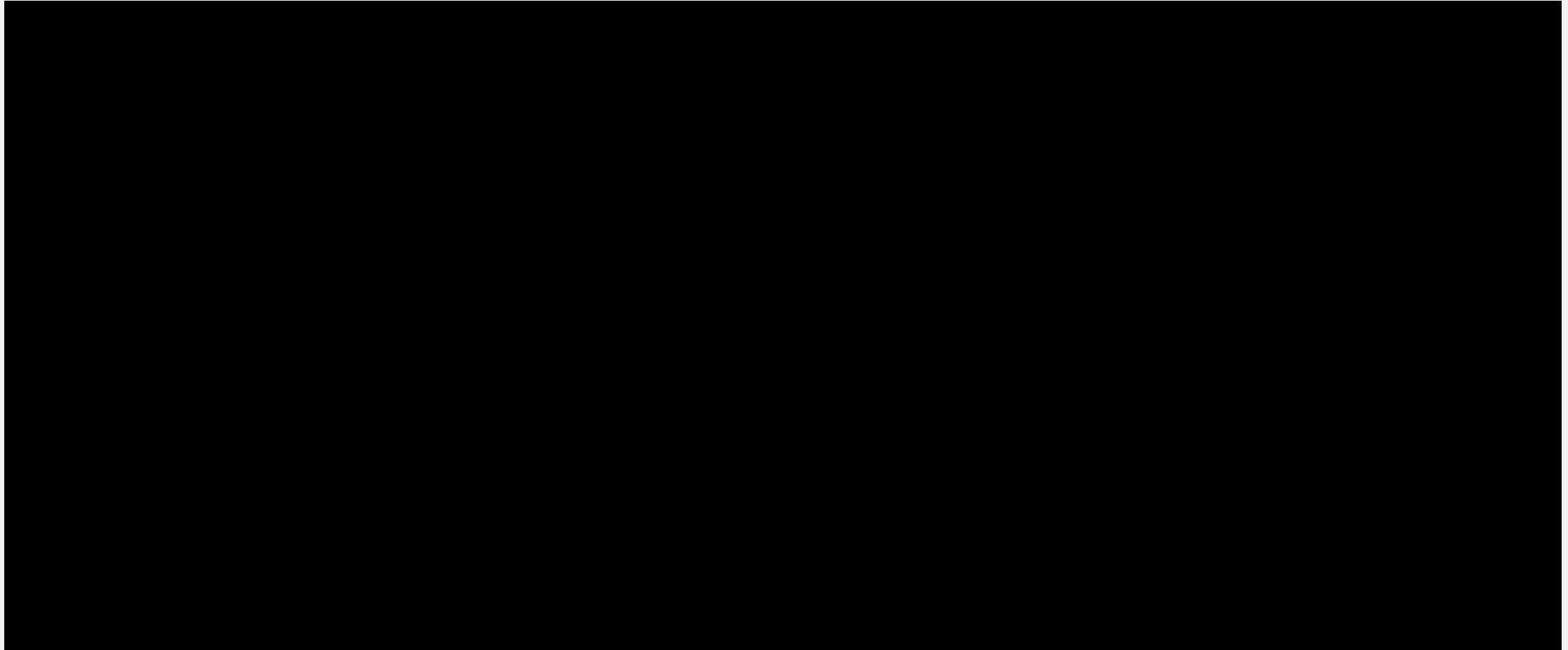
Case Study: Integrity and Objectivity (cont'd)

While James knows that the correct treatment of the expenditure in question is to currently expense it through the P & L, James may feel conflicted since he knows that potentially, his career (and by extension his family) could be adversely affected should his boss decide to retaliate. The Code requires James to show integrity and objectivity by using the correct accounting treatment despite the possible consequences. James must act independently of his management and cannot subordinate his own judgment to his supervisor's.

Threats to Independence - ET § 1.210.010

“Many different relationships or circumstances . . . can create threats to compliance with the ‘Independence Rule’ [1.200.001]. . . Many threats fall into one or more of the following seven broad categories: adverse interest, advocacy, familiarity, management participation, self-interest, self-review, and undue influence.”

Brain Games



Conflicts of Interest - ET §§ 1.110.010/2.110.010

“When a conflict of interest exists, the member should disclose the nature of the conflict to the relevant parties, including to the appropriate levels within the employing organization and obtain their consent to undertake the professional service. The member should disclose the conflict of interest and obtain consent even if the member concludes that threats are at an acceptable level.”

Test Your Knowledge!

Klutzy Ski School and Orthopedic Clinic has plans to go public in the near future but does not have sufficient funds to hire an external auditor. Klutzy asks Donald, CPA, if he would be willing to perform the audit in exchange for a 10% ownership stake in Klutzy and free snow ski lessons to Donald's six children.

Test Your Knowledge!

- a. Donald can accept the engagement since the ownership stake and the value of the lessons would approximate what he would bill for the audit work.
- b. Donald can accept the engagement as long as he has experience in the resort and medical clinic industry.
- c. Donald should decline the engagement since the ownership stake would constitute a conflict of interest.
- d. Both a and b.

Answer is C

Test Your Knowledge!

Blake and Miranda are in the middle of bitter divorce proceedings. Jeremy, CPA, agrees to prepare net worth statements for both individuals and has promised an arbitrator that he will present numbers which Jeremy believes is a fair property split and alimony payment. Jeremy's actions constitute:

- a. Maximizing client fees.
- b. A good idea.
- c. A conflict of interest.
- d. None of the above.

Answer is C

Knowing Misrepresentations - ET § 1.130.010

Examples:

- CPA makes or directs another to make, materially false and misleading entries in an entity's financial statements or records.
- CPA fails to correct an entity's financial statements or records that are materially false and misleading when he/she has the authority to record the entries.
- CPA signs, or directs another to sign, a document containing materially false and misleading information.

Threats - ET § 1.000.10/2.000.10

CPAs are obligated to:

1. *Identify* threats.
2. *Evaluate* the significance of a threat.
3. Identify and *apply safeguards*.

Responsibility to the Public

“A distinguishing mark of a profession is acceptance of its responsibility to the public. The accounting profession’s public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of members to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on members.”

-- ET § 0.300.30.2

Firm Names – TX RPC § 501.83

- A firm name may not be misleading to the public or cause confusion as to the legal form or ownership of the firm.
- A name is considered misleading if:
 - It implies the quality of services or special expertise, unless firm actually possesses this expertise.
 - It includes the name of a non-owner or a non-CPA
 - Includes designations such as “and company,” “associates,” and “group” unless there are at least two employed licensees involved in the practice.

Advertising – TX RPC § 501.82

- False, fraudulent, misleading or deceptive statements or claims with respect to a person's professional services is not permitted.
- CPAs cannot use coercion, duress, compulsion, intimidation, threats, overreaching or vexatious or harassing conduct in communicating with clients or potential clients.

Responsibilities to Clients or Employers

“The quest for excellence is the essence of due care. Due care requires a member to discharge professional responsibilities with competence and diligence. It imposes the obligation to perform professional services to the best of the member’s ability, with concern for the best interest of those whom the services are performed, and consistent with the profession’s responsibility to the public.”

-- ET § 0.300.060.2

Competence – TX RPC § 501.74

- A CPA cannot accept an engagement if he/she is unable to complete it with due professional competence.
- Competence is determined in part by a person's technical qualifications and the ability to supervise and evaluate the quality of the work being performed.
- If the CPA cannot obtain the necessary competence prior to or during the course of the project, then he/she must decline the engagement and suggest another CPA who is competent.

Competence – TX RPC § 501.74 (cont'd)

- A CPA is charged with due care in rendering professional services.
- Appropriate documentation must be maintained showing reasonable basis for conclusions and recommendations.
- A CPA shall adequately plan and supervise engagements.

Test Your Knowledge!

LuAnn, CPA, specializes in forensic accounting but finds herself in need of additional revenue. She therefore posts flyers in her area and puts on her websites/social media accounts that she is highly experienced in individual tax matters and will obtain higher refunds than recognized franchise S & H Circle Tax Preparers. LuAnn has never worked in the tax field in her entire career. Has LuAnn violated any rules of professional conduct?

Test Your Knowledge!

- a. No, because LuAnn should be able to advertise in any way that would garner her more clients.
- b. Yes, because ET § 1.400.090 states that false, misleading or deceptive acts in promoting or marketing professional services constitutes an “Acts Discreditable” under ET § 1.400.001.
- c. Yes, because TX RPC § 501.82 does not permit a CPA to advertise or solicit in a way that is false, misleading, or deceptive.
- d. Both b and c.

Answer is D

Test Your Knowledge!

The Due Care principle under TX RPC § 501.74 includes which of the following:

- a. Strive to continually improve competence
- b. Work to improve quality of services
- c. Discharge professional responsibility to the best of the CPA's ability
- d. All of the above.

Answer: D

Records and Work Papers – TX RPC § 501.76

- A CPA must return original client records within 10 business days upon request even if the client's account are not current.
- Original records include documents or information handed over by the client, documents obtained on behalf of the client, but generally do not include internal work papers.
- No fee can be charged for returning the records.

Records and Work Papers – TX RPC § 501.76 (cont'd)

- Work papers do constitute part of the client's books and records and must be provided upon request if information is not otherwise available to the client. A reasonable fee can be charged in this circumstance.
- If a CPA has already provided to the client their tax return or any other report or document, he/she may charge a reasonable fee to furnish a copy of such items.

Unpaid Fees - ET § 1.230.010

“Threats to [Independence] would not be at an acceptable level . . . if a covered member has unpaid fees from an attest client for . . . service provided more than one year prior to the date of the current-year report. Accordingly, independence would be impaired. Unpaid fees include fees that are unbilled or a note receivable arising from such fees.”

Client Confidentiality – TX RPC § 501.75

- A CPA cannot disclose client information
- Disclosure is permitted if client gives permission or if the information is already made public to others not having a confidential communications relationship.

Client Confidentiality – TX RPC § 501.75 (cont'd)

Disclosure is also permitted if the CPA is subject to the following circumstances:

- Subpeonias
- Summonses
- Court Orders
- Peer Review
- Investigations by TSBPA
- Ethical investigations by CPA organizations

Contingency Fees – TX RPC § 501.72

- A CPA cannot receive a contingent fee for any services requiring independence.
- No contingent fees permitted original or amended tax returns.
- Fees are not considered contingent if fixed by judicial or regulatory bodies or if subject to a substantive review by a taxing authority.
- CPAs serving as expert witnesses cannot charge a contingent fee.

Test Your Knowledge!

Rubeena serves as a forensic accounting expert witness. Which one of the following situations describes when she can take a contingent fee for her services?

- a. Rubeena and her client have agreed to a contingent fee in their signed engagement letter.
- b. Expert witnesses cannot ever take contingent fees.
- c. She can take a contingent fee only if she and her client don't tell anyone.
- d. The client does not have ready cash and can pay only if they win the lawsuit.

Answer is B

Commissions/Referral Fees– TX RPC § 501.71

- CPAs requiring independence cannot receive commissions or referral fees for referring a client to a product or service.
- CPAs who are permitted to receive commissions or referral fees must disclose that fact in writing to any clients prior to the recommendation being made.

Discreditable Acts – TX RPC § 501.90

- A CPA may be subject to license suspension or revocation for committing an acts discreditable to the profession.
- Examples of discreditable acts include:
 - Fraud in obtaining a CPA license
 - Dishonesty, fraud or gross negligence in the practice of public accountancy.
 - Violation of the independence status.

Examples of Discreditable Acts (cont'd)

- Fiscal dishonesty or breach of fiduciary responsibility.
- Final conviction of a felony, deferred adjudication in connection with a criminal prosecution of a felony, including crimes associated with alcohol abuse, controlled substances or physical harm.
- Knowingly participating in the preparation of a false or misleading financial statement or tax return.

Test Your Knowledge!

Shaggy, a partner in a public accounting firm, allowed his CPA license to lapse a couple of years ago. He, however, has continued to hold himself out as a CPA this entire time. Which of the following statements is true?

Test Your Knowledge!

- a. Shaggy has committed an Acts Discreditable since he used the CPA credential during a period when his license was not current.
- b. Shaggy has done nothing wrong.
- c. Shaggy has a three year grace period to get his license reinstated and meanwhile, is permitted to hold himself out as a CPA.
- d. Both b and c.

Answer is A

Examples of Discreditable Acts (cont'd)

- Failure to comply with a final order of any court
- Repeated failure to respond to a client's inquiry within a reasonable time without good cause.
- Threats of bodily harm or retribution to a client.

Test Your Knowledge!

When the public interest of transparency in financial reporting or fair administration of the tax law is in conflict with the agenda of the CPA's employer/client, the CPA must:

Test Your Knowledge!

- a. Subordinate the public interest since loyalty to the employer/client is more important.
- b. Try to resolve the conflict. If the conflict cannot be resolved, the CPA may need to resign.
- c. Place public interest over the employer's/client's agenda even if it means loss of job or the client.
- d. Both b and c.
- e. None of the above.

Answer is D

Responsibilities to the Board/Profession

Discrimination and Harassment in Employment Practices - ET § 1.400.010/2.400.010

“A member would be presumed to have committed an act discreditable to the profession. . . if a final determination, no longer subject to appeal, is made by a court or an administrative agency. . . that a member has violated any antidiscrimination laws . . . including those related to sexual and other forms of harassment.”

Responsibilities to the Board/Profession (cont'd)

Failure to File a Tax Return or Pay a Tax Liability - ET § 1.400.030/2.400.030

“A member who fails to . . . (a) the timely filing of the member’s personal tax returns or tax returns of the member’s firm that the member has the authority to timely file or (b) the timely remittance of all payroll and other taxes collected on behalf of others may be considered to have committed an act discreditable to the profession”

Responsibilities to the Board/Profession (cont'd)

Negligence in the Preparation of Financial Statements or Records - ET § 1.400.040/2.400.040

“A member shall be considered in violation of the ‘Acts Discreditable Rule’ [1.400.001] if the member, by virtue of his or her negligence, does any of the following:

- Makes, or permits or directs another to make, materially false and misleading entries in the financial statements or records. . .
- Fails to correct an entity’s financial statements that are materially false and misleading when the member has the authority to record an entry.
- Signs, or permits or directs another to sign, a document containing materially false and misleading information. “

**PART III: BEHAVING
ETHICALLY: PUTTING THE
RULES INTO ACTION**



Ethics Alarms: Unethical Rationalizations and Misconceptions

1. The Golden Rationalization, or “Everybody does it.”
2. Ethics Surrender, or “We can’t stop it.”
3. A Sicilian Ethics, or “They had it coming”
4. Marion Barry’s Misdirection, or “If it isn’t illegal, it’s ethical.”
5. The “Tit for Tat” Excuse
6. The Trivial Trap (“No harm no foul”)
7. The Unethical Tree in the Forest, or “What they don’t know won’t hurt them.”

Ethics Alarms: Unethical Rationalizations and Misconceptions (cont'd)

8. The King's Pass, The Star Syndrome, or "What Will We Do Without Him?"
9. The Saint's Excuse, "It's for a good cause"
10. The Futility Illusion: "If I don't do it, somebody else will."
11. The Perfect Diversion: "Nobody's Perfect?" or "Everybody makes mistakes?"
12. The Victim's Distortion "I'm being punished for doing the right thing."

Ethics Alarms: Unethical Rationalizations and Misconceptions (cont'd)

13. The Prospective Repeal: “It’s a bad law / stupid rule”
14. The Troublesome Luxury: “Ethics is a luxury we can’t afford right now”
15. “We’ve never had a problem with it!”
16. The Apathy Defense, or “Nobody Cares.”
17. Tessio’s Excuse, or “It’s just business”
18. “I’m all right with it!” organizational abuse

Surfside Condo



Seven Signs of Organizational Collapse

1. Pressure to maintain numbers
2. Fear and silence
3. Young 'uns and a larger-than-life CEO
4. A weak board
5. Conflicts of interest and nepotism
6. Innovation like no other
7. Belief that goodness in some areas atones for wrong doing in others

Situations Leading to Moral Failure

- The individual fails to recognize the existence of a moral problem.
- The person may recognize a moral dilemma but does not know how to resolve it.
- The employee knows the right thing to do but fails to do it because he/she puts a higher priority on other values
- The involved party does right thing occasionally but not all the time.

Ethical Conflicts - ET §§ 01.000.020 / 02.000.020

An ethical conflict arises when a member encounters one or both of the following:

- a. Obstacles to following an appropriate course of action due to internal or external pressures
- b. Conflicts in applying relevant professional standards or legal standards

Test Your Knowledge!

Roy is the CFO of Duct Tape R Us, Inc. He is also is a principal of Pikachu Technologies, LP. Roy convinces the management of Duct Tape R Us to hire Pikachu to upgrade the accounting systems. Roy directs Susan, the controller of Duct Tape R Us, to pay Pikachu's inflated bills even though there have been almost no technology services rendered. Roy orders Susan to incorrectly charge the expenditure to Prepaid Capacity.

Test Your Knowledge!

- a. Roy has a conflict of interest.
- b. Roy has committed an Acts Discreditable since he directed a subordinate to make a false and misleading entry.
- c. Roy has done nothing wrong, since all he is trying to do is make a living.
- d. Both a and b.
- e. None of the above.

Answer is D

Keeping Yourself on the Straight and Narrow

1. Know what you believe is right and wrong. Write down the values you will live by and what you will do if your values collide.
2. Guard against being lulled into thinking you're not capable of making bad decisions. . . Keep in mind that what is legal and what is ethical are sometimes different. .
.
3. Ask yourself: Would I be comfortable with my decisions landing on the front page of a newspaper? . .
4. Practice ethical decision making every day. . .

Keeping Yourself on the Straight and Narrow

5. Discuss tough ethical dilemmas with others you respect.
6. Find your courage. [“Courage is fear that has said its prayers.”] . . .
7. Apply the same code of ethics whether at home, work, school or a house of worship. . .
8. Pay attention to your instincts. . . .
9. Above being loyal to your superiors, be loyal to your principles. ..

From: Cooper, Cynthia, *Extraordinary Circumstances* (NJ: Wiley & Sons, 2008), pgs. 365-366.

Steps for Rebuilding Moral Character

Recognize what is wrong

Feel remorse - be sorry for the action, not because you got caught

Resolve to change

Plan new behavioral intentions

Demonstrate improved moral behavior

Captain Sir Tom Moore

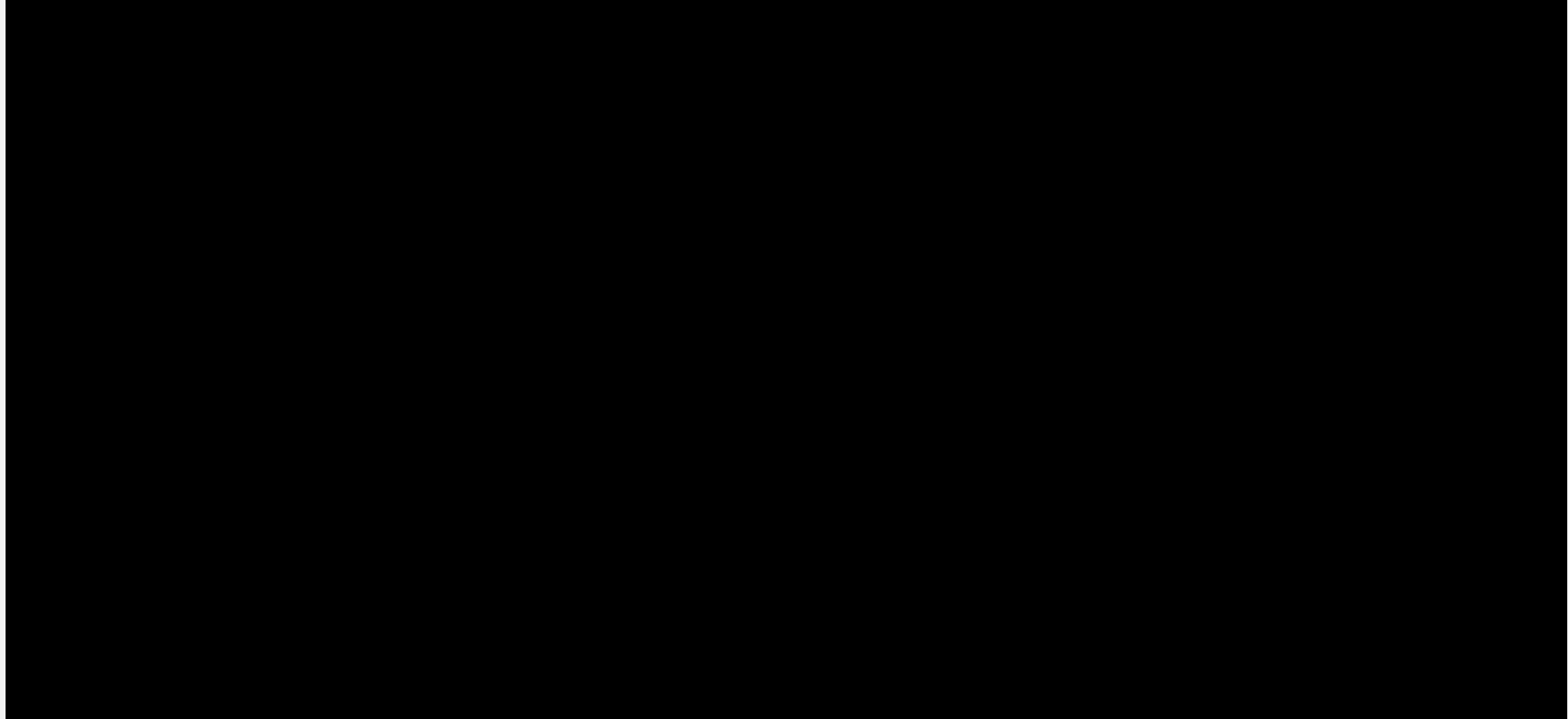


Sir Captain Tom Moore

- Locked down with his daughter and her family during the pandemic.
- At the age of 99, wanted to honor the doctors, nurses and staff of the National Health System (NHS) for taking such good care of him following a skin cancer diagnosis and a hip replacement.
- Started a fundraiser with an initial goal of £ 1,000 to be donated to an NHS charity. Captain Tom would walk 100 laps around his garden in the one month run up to this 100th birthday on 4/30/2020 in exchange for donations.
- Raised about £ 32,000,000 (\$40 million) by the time he took his 100th lap on his birthday.



Happy Birthday from the Royal Opera House



Sir Captain Tom Moore



Knighthed by Queen Elizabeth II on July 17, 2020





Thank You!

Contact Us!

Allison M. McLeod, LL.M., CPA

A Professional Limited Liability Company

Email: a_m_mcleod@yahoo.com

Phone: 214-403-8622

Live lectures available.

Electronic Quiz and Evaluation URL:

<https://rb.gy/rjsz9n>



Please complete quiz and evaluation. Certificates will be emailed to those scoring 70% or higher.