

# BE GOOD, PLAY NICE

by Lawrence A. Kell, CRE

Share your toys—be good—don't hit. Mothers all over the world say these expressions to their children; and since everyone has a mother, we undoubtedly heard these expressions, and others similar, as children. The biblical Ten Commandments set forth a series of guidelines for human behavior. Laws, ordinances, rules, regulations, administrative decisions, uniform standards and codes of ethics are additional models or patterns for human behavior.

When asked to consider writing an article on how ethics serve the client and the real estate counselor, I began by checking my *Webster's Dictionary* for the definition. The English language is not as precise as others, German for instance, and it may not have specific words which clearly delineate specific meanings as might be expected; however it is disappointing to consult the dictionary and find the definition for ethics contains the word itself—and I quote:

*ETHIC: "1. n. a system of ethics 2. adj. ethical, dealing with ethics, an ethical theory relating to morality of behavior, ethical standards conforming with an accepted standard of behavior, e.g. in a profession or trade."*<sup>1</sup>

The dictionary's definition of ethics is much like the mother's instructions to play nice—nice not being defined in terms of specific activity, but rather, in the more global sense of the result as opposed to specific actions leading to the result. In order for the child to "play nice" the child must have an understanding of what is embodied in the mother's instructions rather than reliance on the specific words used to convey the instruction.

## Subjective Versus Objective Measurement

Ethics has the same position in adult society. It's almost as though if one has to define the word, one does not understand the concept; and conversely, if the concept was understood no definition would be necessary. While I believe this circumstance is well understood by professionals, and particularly by members of The Counselors of Real Estate, the lack of a specific measurement may lead to subjective interpretations rather than objective measurement. When the highway speed limit is 55 miles an hour, this is a precise measurement of whether a vehicle is traveling at the speed limit, or over or below it. The measurement is objective and the same results are derived regardless of who takes the measurement.

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Subjective criteria are not susceptible to specific objective measurement. Be nice might have one meaning in our society and a different meaning in another. The measurement is subjective within each cultural group, and, perhaps, even subjective at the level of the individual parent issuing the instructions.

Subjective measurement is not appropriate for adult society, and certainly not appropriate for professional societies. Accordingly, a professional group wishing to identify its members as adhering to specific higher standards of behavior sets forth a code of ethics and professional practice guidelines for the members to follow. By establishing such objective criteria, both within and outside of the organization, there is a measurement for adherence to the adopted standards of the organization. By joining together to establish their standards, the members are expecting and inviting scrutiny of the individual and group behavior.

### **Different Standards For Different Groups**

As part of the background research for this article, I reviewed the ethics' provisions of the National Association of Realtors' specialty groups, or affiliates; and key words identifying member activities are summarized here as follows:

- be informed, objective, honest, helpful, truthful, loyal, accountable, diligent,
- and provide fidelity, maintain confidentiality, provide full disclosure, provide competent service, and cooperation in investigations.<sup>2</sup>

In The Counselors of Real Estate's Code of Ethics, each Member is bound to:

1. Conduct his professional activities in a manner that reflects credit upon himself and The Counselors of Real Estate. A Member must refrain from conduct that is detrimental to The Counselors, the real estate profession and the public.
2. Cooperate with other Members and, when appropriate, share with them his knowledge and experience. A Member shall assist The Counselors in carrying out its responsibilities to the users of counseling services and the public.
3. Respect the professional reputation of and the confidential relationship with other Members.
4. Preserve the confidential nature of the client relationship.
5. Avoid advertising or solicitation that is misleading or otherwise contrary to the public interest in promoting a counseling practice and soliciting counseling services.
6. Decline any counseling assignment which makes the fee contingent on the substance of the advice given.
7. Comply with the requirements of the Standards of Professional Practice and Bylaws of The Counselors.<sup>3</sup>

The existence of differing ethical standards for different occupations, as opposed to professions, is clearly understood in our society. Commissioned sales people are not held to the same ethical standard of conduct that one would expect of a bank trust officer. I believe society clearly understands that a sales person, working on a commission basis, is first and foremost seeking his own best interest. I believe over a long period of time, the most successful of any group are those individuals who place a higher value on the client's result than on their own; and that by either defining for themselves, or within a select group, a higher standard of ethical behavior, they rise above those individuals who might place their own personal gain ahead of their client's.

As we saw in the ethics' listing of member activities, the body of ethics contains a multitude of facets. One facet is trust. Two bank robbers may trust each other in terms of performance to an expected standard; however, neither individual would be trusted by society. Where then does this discussion on ethical behavior leave us? Your mother's instructions to be good and play nice did not come with a specific set of rules and regulations; however, they were embodied in the charge.

### **Why Have Standards Of Professional Behavior?**

The formation of a policy on ethics and standards of professional behavior has three primary purposes: The first, to identify to society as a whole and specifically to potential users of the service provided and to the professional practice community as a whole, what is expected of the particular organization's members. The second is the internal statement of those expectations and procedures to follow if concerns are raised. I would think, in practice, particularly within a professional society such as The Counselors, reference to the ethics and standards is more likely to occur in response to some event, such as a challenge within or without the organization.

Most of us are at one time or another involved with occupancy leases for real estate. A lease usually is thoroughly negotiated between the parties and then filed away. The lease remains in the file drawer until a specific question might arise which requires the parties to go back to the specifics of an understanding (the lease), as opposed to operating on what is understood between the parties on a day-to-day basis.

The same practice probably follows a professional society's code of ethics and standards of professional practice. The general canons of ethics at the professional society level are understood by the members and are practiced on a routine basis without specific reference to the guidelines for each act a person might undertake. Like "be good and play

nice," the intent of the ethical provisions is well understood, and it is only in times of scrutiny that the ethics' document would be called upon as part of the objective measure of a particular act or omission to determine if an individual's activities were within acceptable behavior, as defined by the ethical statements of the particular group. When the organization fails to uphold its own standards of professional practice, the entire organization may be tainted by the activities of a relatively few number of its members. The professional stature of one organization within the real estate community is such that the letters of its designation are used to represent performance to the desires of a client as opposed to performance that meets or exceeds the ethical standards of the group. Professional societies are not clubs in which the members are given license to behave in a manner which would not be appropriate for a candidate aspiring to join the particular professional group.

The third purpose of the standards of professional conduct and the delineation of ethical behavior is the members' protection from practices by other individuals who do not meet the standards. Strict adherence to a higher standard is what truly sets one professional organization apart from the run of the mill. Achievement of a particular

professional designation, either by virtue of intellectual accomplishments, experience or a combination of these elements, bestows upon the member a designation that sets that individual apart from the general practitioner within the industry. The designation CRE (Counselor of Real Estate), which is granted to members of The Counselors, is considered by many to be the premier real estate designation within the National Association of Realtors. CRE members of The Counselors willingly and voluntarily choose to uphold a high standard of professional behavior for the benefit of The Counselors, and to the benefit of their clients.

In a business climate that is rapidly changing and widely diverse, it is important to service providers and to inform clients that organizations exist to foster high ethical standards. Thus, clients and potential clients can choose those providers who subscribe to and support standards which work to the betterment of the industry and to the professional practitioners.

#### NOTES

1. *The New Lexicon Webster's Dictionary of the English Language*, 1988 edition, s.v. "ethic."
2. *Code of Ethics and Standards of Practice*, National Association of Realtors, Jan. 1994.
3. *Code of Ethics*, The Counselors of Real Estate, rev. 1989.

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