LOFTY EXPRESSIONS OF ETHICAL CONDUCT DO NOT INSURE ADHERENCE

by John R. White, CRE

Note: This article is largely based on two chapters written by Mr. White in the Real Estate Development Manual, *edited by Jerome B. Alenick, and published by Warren, Gorham & Lamont, 1990. The first is* Ethics in The Development Industry *and the second is* Real Estate Counseling in the Development Process. *Considerable new material, including the case studies, has been added.*

To discuss ethics and how it relates to the Counselor of Real Estate, one must define what is meant by real estate counseling. The real estate service business generally consists of *brokers*, who are paid commissions under the laws of agency on the basis of successful performance for sales or leasing, and, *managers*, who operate real estate and are paid from the gross operating income of the property, usually on an agreed percentage basis, or occasionally on flat fees. Appraisers occupy a special niche in providing detached, impartial, objective service to owners and others in the valuation of the client's property or prospective interest in the property. Counselors are unique because they may provide a wide range of passive or active services that could otherwise be performed by brokers, managers and appraisers. Counselors also are distinctive because of their special advisory relationship with the client and because of their method of compensation.

Real estate counseling is the business of analyzing specific real estate problems and needs for agreed fees, drawing conclusions and making recommendations to a client. Some real estate counselors regard themselves as professionals. However, they may better be described as business people with professional motivations. The concept of professional motivation requires adherence to a more strict code of ethics and standards of practice than may be characteristic of many businesses. But, have the CREs created a sufficiently descriptive code of ethics in keeping with their fiduciary obligations? This article will attempt to answer that question. The nature of the consulting problem frequently calls for an objective, dispassionate and professional solution. In this instance, the counselor acts in a passive way on the client's behalf. If, thereafter, the counselor is engaged to implement his recommendations, then he will serve in an active role.

Types Of Compensation

Most counselors in the larger realty companies are paid on a salary basis and also receive an annual bonus for their production and ability to obtain new business. The prevailing counselor culture is to join people together in a common mission by stressing the importance of teamwork in the consultative process. Thus, the intra-office work environment is almost wholly non-competitive, and, the concept of ethical conduct starts in-house. It is a

John R. White, CRE, is a noted author whose recent works have included "THE OFFICE BUILDING From Concept to Investment Reality" *and a soon to be released book on shopping centers. For 30 years he was instrumental in the operation of Landauer Associates of New York where he served as chairman and CEO. White is a past president of The Counselors of Real Estate.*

comparative rarity for a counselor to be paid by his company on a piecework basis, i.e., a certain percentage of the gross fee earned by the company on each account. On the other hand, counseling fees payable by the client to the individual counselor or company are usually, but not always, agreed to in advance. If the counselor is engaged to study the feasibility of site development, he will make the study for a flat, agreed amount, or may identify a range of fees, with the final amount dependent on hours, changes in the scope of services or unusual circumstances.

Sometimes monthly or quarterly retainers are negotiated where the services are long-range or varied as to scope, or both. Where retainers are employed, there is generally some arrangement for additional compensation based on hours, performance or the success of any development effort. If the advisory services are of a non-transactional nature, the adjustment for compensation over the retainer is usually on an hourly basis. However, where a sale, purchase, lease or financing is arranged, an agreed incentive fee above the non-refundable retainer amount is paid by the client. The total fee is partially contingent, i.e., dependent on the counselor effecting a transaction on satisfactory terms for the client.

Some have criticized this method of charging on ethical grounds saying that it smacks of pure brokerage. This is simply not the case. First, brokerage implies an open agency arrangement in which brokers compete with one another to effect a sale. A counselor would never accept business on an open agency basis. If there is a similarity, it is with the exclusive agent, who acts on behalf of a client on a fiduciary basis. The counselor, also exclusively engaged, is nevertheless still distinguishable from the exclusive agent. The counselor receives a non-returnable retainer or other agreed fee in advance of services, and all marketing and promotional costs are usually borne by the client. Counselors are regarded as team players. They have a more professional philosophy in conducting their business, because they tend to be salaried and share annual bonuses. Then, counselors are schooled by The Counselors of Real Estate in offering analytical, detached and objective services.

The market realities also demand that counselors receive some type of success fee in a transaction. Otherwise, it would not be possible to attract the high-quality, educated, professionally motivated person to the counselor ranks. The professional mind-set remains, however, because of the counselors' dedication to providing quality advisory services.

Real Estate Counseling: A Business With Professional Motivations

To what extent can a counselor consider himself to be a real estate professional rather than merely a businessman? At the moment, counselors lack professional standing because the organization that represents them, The Counselors of Real Estate, (CRE) is a non qualifying society that issues invitations for membership without any formal educational or examination requirements. Nevertheless, The Counselors' invitational standards are very high. A person is invited only after extensive interviews, reference checks, and appropriate documentation which indicate the provision of past counseling services for agreed fees, negotiated in advance of performing services.

CRE has both a Code of Professional Ethics and Standards of Professional Practice. The Counselors are insistent that each member establish his contractual relationship and method of compensation before taking any overt action on the client's behalf. It also vigorously opposes conflicts of interest and compels its members to disclose such a possibility to all parties and to obtain the consent prior to providing services. CRE constantly seeks to attract, then qualify, and finally invite those who spend a portion or all of their time on counseling assignments.

There is nothing fundamentally different from any other business or profession in operating a real estate counseling practice. The question of appropriate and acceptable business conduct is indeed universal. Within an industry or profession, there may exist customs and practices that differ and on which codes of ethics and standards of professional practice are customized. Real estate comprises an important and integral part of our economic society. It fosters relationships, contractual or otherwise, with industry related business people and entities, and in the course of these relationships, ethical problems invariably arise. Thus, it naturally follows that any set of generalized statements on standards of conduct have universal application which should be expected of all business people. The problem lies in being specific about violations of ethical standards. The counselor should not be as influenced by lofty statements as by actual illustrations of improper conduct.

How Counselors Like To Regard Themselves

The quest for profits is the driving force in business. Aside from material gain, how can the counselor burnish his image in a manner that reflects positively on his business and himself? Can those qualities be identified which lead to an enviable reputation? In an informal survey I conducted of investors, brokers and counselors, the respondents were asked which traits of character they ideally

wanted to be recognized for and possess. The following five were the attributes most wanted.[1]

Credibility. Credibility is the quality of being able to inspire in others belief and trust in oneself. Credibility can only be earned through the maintenance of consistently high standards of performance and conduct.

Integrity. Integrity requires an uncompromising adherence to a code of moral, artistic or other values; it requires utter sincerity, honesty, candor and avoidance of deception, expediency, artificiality or shallowness of any kind. This is a more difficult achievement than credibility because its emphasis is on setting the highest personal standard, while credibility measures the person's belief and trust of others. It may be fair to say that integrity is a prerequisite for credibility and that credibility cannot be recognized without integrity. Integrity, like many idealistic words, is frequently loosely used or abused. *Society generally has reservations about those who proclaim their own integrity. The prevailing societal view is that it must be recognized by others rather than espoused.* The word integrity appears to invite relative standards, since by its very definition, insistence on the word "uncompromising" seems almost incapable of complete fulfillment.

Courtesy. Courtesy is defined as well-mannered conduct indicative of respect or consideration for others. Thus, the courteous person is thoughtful about relations with others and essentially is helpful, kind and attentive. For example, it is simple courtesy not to keep a visitor waiting unduly, without explanation or accommodation. Keeping people appropriately informed is another illustration of courtesy. Much discourtesy or rudeness occurs by omission rather than commission, but lack of thoughtfulness cannot be excused on any grounds.

Discretion. Discretion is the quality of prudent silence with respect to confidences. How frequently this attribute is disregarded in a world seemingly characterized by disrespect, forgetfulness and self-importance! The need for confidences arises in every business. Those individuals and companies that respect and honor the trust inherent in confidences often rise to the fore. Those who violate confidences (in many cases, in an effort to establish their inner circle status) violate the attributes of trust in the most rank way.

Recognition. Recognition is the derivative from the prior character attributes. It is the satisfaction of being regarded as exceptional in one's field. In many instances, the gratification is basically nonmaterial and not necessarily profit-oriented. For example, many scientists, technicians and professionals derive more gratification from recognition of their achievements than from material gain. The very nature of the real estate industry, however, tends to attract persons who primarily want to gain recognition for their profitable accomplishments. Whatever the motivation, counselors (and others) oftentimes value recognition.

Defining Ethical Business Standards And Practices

Modern businesses operate within certain standards of conduct that are embodied in codes of ethics and standards of professional practice. Many codes are framed in lofty generalizations, devoid of specific reference to illegal, immoral or wrongful conduct. These ideals would have more practical application if case illustrations were provided in a separate document. The document could also specify a list of prohibited practices which could result in disciplinary action against the violator.

The Urban Land Institute set forth a listing of ideals as a standard for conduct: respect for land; the profession; the consumer; the public equality of opportunity; others in the profession; the environment; the future; future generations; and personal integrity. Sprinkled throughout are references to reputation, integrity, proficiency and honesty. The code of the Associated General Contractors of America is couched in equally lofty terms of skill, integrity, responsibility, trust and honor. Neither this code nor the ULI code provide case illustrations of practices and procedures that do not meet commonly accepted standards of morality and good conduct.

Oddly, neither the Code of Ethics nor the Standards of Professional Practice of The Counselors define the word "ethics." Similar to the previously cited codes, the CRE Code of Ethics contains generalizations of a sweeping nature in which conduct, cooperation, respect for others, avoidance and compliance are the dominant words. Whatever specificity exists is found in the Standards of Professional Practice which sets forth 12 standards with which the counselor must comply. To The Counselors' credit, six of the 12 practices provide an added rationale which serves to further explain the standard's meaning and offers a concept of how it may be interpreted. Nevertheless, taken together, the Code and the Standards fall short of providing full case study illustrations of unethical conduct. The Counselors do have a Procedural Manual, separate from the Code and the Standards, which details how complaints are received and adjudicated, and it defines the four degrees of disciplinary action the member may face, namely: admonishment, censure, suspension or expulsion. The question may reasonably be raised whether the four possible actions should be mentioned as a prefatory note in either the Code or the Standards. There is no doubt

that any member of a trade association would be more aware and more serious about the consequences of probable misconduct if disciplinary action is set forth, if not in the Code, then at least in the Standards.

Turner Construction Cited

As an example, Turner Construction Corporation, founded in 1902, has maintained a high standard of personal and corporate integrity. It is one of the few national general contracting companies that publishes internally its business conduct guidelines and insists on compliance from its employees. Turner takes a serious view of its relations with clients, architects, engineers, suppliers and subcontractors. It cautions its employees against accepting gifts and entertainment that clearly exceed the bounds of propriety. "Gifts of more than minor value, gifts of cash in any form or amount, lavish entertainment or substantial favors must not be offered or accepted." "Employees must not accept gifts or entertainment where to do so might result in an obligation . . . to conduct business with the donor in such a way as to reflect less than an independent, arm's length relationship." A mechanism exists for an employee to seek guidance when he thinks a gift may exceed ethical constraints.

Turner's guidelines especially are emphatic in stating that cash or its equivalent may not be paid to any government official at any level or jurisdiction. Kickbacks, bribes or other improper payments may not be directly or indirectly made or received from anyone. If Turner has direct knowledge or suspects that a subcontractor is paying bribe money to either a government employee or a union official, it informs the subcontractor to "clean up your act," that is cease and desist illegal payments, or be stricken from Turner's approved bidding list. No political contribution may be made in the company's name without the express written consent of the corporation's general counsel. Turner also monitors compliance with its guidelines by requiring key company employees to furnish their managers with an annual statement of compliance.

Parade of Indictments

There has been much scandal concerning shoddy business practices that stain the national business character. These questionable or illegal practices are not only the hallmark of the real estate industry. Cases in point are:

- the preferences accorded some years ago to prominent political figures or politically well-represented developers in disregard of contrary professional staff judgments in the Department of Housing and Urban Development.
- the inadequacy of many real estate appraisals which often result from ethical misconduct by the appraiser.
- the shabby business practices by the savings and loan industry in the 1980s characterized by fraudulent loans with inadequate collateral or by considerations of personal aggrandizement.
- the Wall Street insider trading scandals which were an embarrassment to the securities industry.

This parade of indictments has heightened public consciousness to recognize the absolute need for more effective ethical controls. There are signs now that all industries are imposing higher standards of conduct and demanding vastly improved ethical behavior of their employees.

The Difficulty Of Distinguishing Favors From Bribes

Favors are defined as friendly regard, goodwill or esteem toward another, especially a superior, or partiality, leniency or anything tending to somone's particular advantage. In a social setting, favors arise out of a personal relationship in which the parties are more than willing to help each other in special cases and tend to act out of regard, respect or affection. However, in a business setting the parties must carefully consider whether doing a favor constitutes responding to a bribe or making someone beholden. A bribe is defined as the giving or promising of something of value; to induce or to influence; or a price, gift or equivalent given to pervert the judgment and corrupt the conduct of another. Independence is the obvious answer to any solicitation of a bribe. One need only ask himself whether one's independence of thought or action is being compromised if a gift or its equivalent is accepted. The best solution is never to accept even the most modest gift or favor.

What Is Meant By Ethical Conduct?

The discipline known as ethics is concerned with good and bad or right and wrong. It is basically a group of moral principles or set of values. It is closely linked to morality which is defined as a positive doctrine or system of ideas concerned with personal conduct. Morality imposes the highest standards of goodness and uprightness of behavior, conforming to the customs or accepted standards of a particular culture. Ethics, on the other hand, is concerned with distinguishing good and bad practices, customs and habits.

The word propriety has a broader meaning of socially acceptable conduct expressed in terms of what is proper or fitting and acceptable in behavior and speech. On the other hand, corruption is the impairment of integrity, virtue or moral principles; it involves inducement by improper consideration. Corruption results in a change for the worse and perverts people into a state of moral weakness or wickedness.

No one is totally beyond temptation. Many cynically believe that everything has its price. Few believe there is anything close to uncompromising integrity. There is always the disposition to temporize in the interests of expediency. Sacrosanctity is an attribute that relatively few possess. Therefore, the only realistic way in which ethical conduct can be improved is through an increased awareness based on educational programs at the university and trade association level. It is simply insufficient to raise one's level of consciousness about ethical conduct by reading code of ethics that are clothed in generalities. Ultimately, exemplary conduct can become almost a reflex action. Yielding to inducements will never become extinct, but its significance can be sharply reduced by making people aware of what constitutes good from bad or right from wrong.

Examples Of Unethical Conduct

I. Contract Obligations

A well known, large urban real estate agency offered real estate consulting services in addition to the conventional brokerage, management and insurance services. It entered into a verbal contract to advise its client on how to re-lease an empty building recently vacated by a major tenant. The contemplated services were to survey the market and make direct approaches to the most logical tenants. The fee was to be based on the number of hours, times an agreed hourly rate, with a 10% bonus of the total if the consultant was successful in the releasing effort. Halfway through the search, the agency sensed that a major tenant could be obtained. It then requested a modification of its services to a contingent leasing broker status and the termination of the verbal consulting arrangement. The client refused, citing the contract in force. The lease deal was made and the broker sued for commission.

Comment: Not only was this a frivolous suit by the agency in defiance of its contract obligations, it was also a clearly unethical act even to request modification of the contract. A cardinal rule in counseling is: "Never change horses in the middle of the stream." The agency did not understand the fiduciary nature of its consulting relationship with the client. It did not perceive that any such change would deprive the client of objective, professional and detached services and leave the client at a critical moment without professional advisory services. Rather than providing its client with the best services, the agency was motivated by greed.

II. Conflict Of Interest

A real estate agency offered counseling and appraisal services in addition to the conventional brokerage and management. Its appraisal department was engaged to make an estate tax appraisal in connection with a decedent's estate. It completed the assignment with dispatch. While it appeared to observe all the appraisal ethics, it arrived at a reasonably conservative result, i.e., low end of the market value range. The estate then decided to sell the property. The agency offered to act as a consultant in the disposition of the property. Its fee was to be a fixed, non-contingent minimum, plus an agreed amount on sale. However, it suggested a taking price that was 30% higher than the appraisal department's figure made just a few months earlier for estate tax purposes. Was there an inherent conflict of interest for the agency to propose a sale at such a significantly higher price than the appraised value? Is this a circumstance where: The appraisal department should routinely turn down estate tax appraisals knowing the sales department of the agency had an excellent chance of winning the disposition assignment The agency should adopt a rule not to conduct estate tax appraisals to avoid the appearance of a conflict of interest when it simultaneously solicited sales agencies from decedent's estates.

Comment: This is an uncomfortable situation in which the reputation of the agency can be cast in doubt because of the inconsistent and possibly insincere quality of the services rendered. This example represents a distinct conflict of interest regarding the assignment and the motives involved. The solution here is to adopt and enforce a company rule that prohibits the appraisal department from accepting such assignments.

III. Full Disclosure

A counselor entered into a six-month contract to sell a 200-unit rental apartment house located in an upscale section of the market area at a mutually agreed price for a non-contingent fee. After two months, the apartment house had not been sold although the counselor had been diligent in his sales efforts. Subsequently, the owner of a comparable property in a comparable location asked him to offer this property for sale on essentially the same contractual basis as cited in the first instance. The counselor agreed to undertake the sale but did not inform either the first or second client that he would be simultaneously offering for sale two highly competitive properties. Was this proper conduct on his part?

Comment: This is a flagrant violation of a basic rule of ethics: One must fully disclose the existence of competitive contracts. Obviously, the second client might have chosen another counselor or agent if he had been informed of the circumstances. In any event, the counselor has a duty to disclose; he cannot potentially put a client in a competitively disadvantageous circumstance with the possibility of a monetary loss because he does not disclose a possible conflict of interest.

IV. Bribery

A consultant was under contract to obtain a zoning change and an approved sub-division plan on behalf of an absentee land owner. He was able to obtain the zoning change and a sub-division into 20% more lots than had been anticipated. At the time the zoning change was under consideration, a zoning official asked for a free delivery of "excess" topsoil to his son's house. The consultant agreed. The next summer, the same official asked about a summer job for his son, and the consultant grudgingly acceded to the request. Consequently, the consultant realized he had been bribed and now was captive to the official who regarded the favors as recompense for the zoning change.

Comment: Some years later, the consultant remarked, in confidence, that he was uncomfortable about being compromised. He fully understood that disclosure would severely damage his career and would inadvertently be detrimental to the client, who was not a party to the bribes. The moral is clear: in one's anxiety to perform exceptionally well for a client, one cannot undertake unethical acts to achieve the best results.

V. Non-contingent Fees

A CRE, also a licensed real estate broker, entered into a year's exclusive contract to sell a suburban office park for the developer. Certain vexatious problems confronted the CRE. The project, consisting of 600,000 square feet of space in four buildings, was 18% vacant, and the first mortgage financing of $40 million was a mini-perm with only a 5-year remaining term. The CRE realized that a comprehensive office marketability study was required to inform prospective purchasers about what to expect on absorption. It would also be essential to complete an in-depth IRR analysis in support of the selling price. Thus, much professional work was required to ready the property for sale.

The engagement contract provided for a minimum non-contingent fee of $100,000, payable in 12 monthly installments. The CRE also was to receive an additional performance fee of $200,000 if a sale was negotiated on terms and conditions satisfactory to the seller. A fellow CRE learned of the fee payment method by the developer to the counselor and complained to The Counselors' Ethics Committee asserting that non-contingent fees were unethical because they deprived the CRE of objectivity and professionalism.

Comment: Both The Counselors' Code and the Standards permit partially contingent fees under carefully defined circumstances. The fact the counselor was to receive such a substantial minimum fee served to assure that his objectivity and sense of professional obligation to his client was unimpaired. Counseling requires a certain mind-set which assures a fiduciary relationship. The counselor also prepared studies and analyses of a high order before the property was marketed. In my opinion, such high level support and preparation could not be assured if only a fully contingent commission was offered.

The realities are the CREs could not attract to its ranks those particularly qualified marketing and negotiating specialists if those specialists knew that the Code of Ethics restricted their method of compensation to an hourly rate basis. Otherwise, the temptation to act as a broker would be too strong. The counselor in this case had fully disclosed to the prospects the general nature of his engagement, and, the substantial up-front, non-contingent fee assured the counselor's objectivity to his client.

VI. Impropriety

A counselor was engaged to make a site-specific marketability study for a proposed new office building on a major urban site. The developer had prior commitments to lease one-third of the building, but he could not obtain a permanent mortgage take-out or a construction loan without a professionally accomplished market study to analyze the economic base in the market area and all the real estate supply and demand factors. The study would serve as a basis to estimate the rental value and the critical absorption rate. The study would take 90 days.

In the first 30 days, the developer invited the counselor and his wife to his country club for dinner. The counselor considered this merely an expression of friendship and goodwill by the developer. In the next 30 days the developer invited the counselor to join a group of male friends for a weekend of hunting at his lodge. The counselor desperately wanted to go because two of the guests represented outstanding new business opportunities. He accepted, despite misgivings. On the return car trip, the developer offered his condominium in Aspen for two weeks during the following winter. The counselor never had previously been socially close to the developer, yet he agreed to the use of the condominium for his family because both his son and daughter were avid skiers. Was the counselor compromised by his acceptance of these favors?

Comment: Unquestionably, the intent of the developer was to induce the counselor to arrive at a positive answer on the probable rent level and absorption rate. It was particularly indiscreet for the counselor to accept these favors prior to the rendering of his report, especially in view of the previous non-social nature of the relationship. The counselor clearly should have understood that his independence and professional sense of objectivity had

been compromised. Even if the counselor personally believed that his integrity had been maintained, he should have avoided the appearance of an impropriety, especially since the circumstances could become known. Further, the counselor should have recognized that his conclusions in rents and absorption inevitably were colored by the favors he had received. In a sense, he was almost forced to write a report supportive of the developer's needs. This is a clear case of impropriety and a violation of ethical conduct.

Propriety As a Factor In Ethical Conduct

It is difficult to separate ideal personality traits from ethical conduct. For example, what is proper or fitting usually is considered to be ethical. A person who acts with propriety likely is ethical. On the other hand, it is possible to be ethical and not fully meet all the tests of propriety imposed by business society. The safest course is to be proper and ethical. What then constitutes ethical conduct that meets the highest standards of business society? As an ideal that only a very few can achieve, one may aspire to the following admittedly difficult status.

An ethical businessman is well-mannered, neatly attired, attentive of mind and thoughtful of others. He is direct and forthright without being blunt or intimidating. He is devoid of ulterior motivation and forms opinions and conclusions on the merit as he sees them. He never is supercilious or condescending. He has a broad and tolerant view of others and dislikes pretense and snobbery. He never acts in an obsequious or sycophantic manner. He practices respect for others but considers undue deference as insincere. He is an excellent listener who does not feel the need to dominate a conversation or impress others with his knowledge. He distains self-righteousness. He is positive and cheerful and seldom negative or morose. He prizes his independence of view and will espouse it on occasion, but never forces his views on others. Scheming is alien to his personality, while discretion is ingrained in his character. He is caring about others and does not practice self-preoccupation. His first concern is always for others rather than for himself. He is generous of spirit and always tactful. He speaks his mind and does not blow in the wind as a reed. Above all, an ethical businessman is loyal to his family, his friends and to those public and private institutions that form the basis for his being.

The description presented above represents the goals to which I think all business people should subscribe no matter how difficult the attainment.

Ethical Conduct Starts In-house

Consultants, investors, brokers and managers frequently think that adherence to a code of ethics exists mainly or only in one's relations with third parties outside the firm. Nothing can be more wrong. The proprietor of a consulting company or department within an agency must drive home the point that ethics begins in-house. Full disclosure, honesty in one's representations, candor in one's dealings, cooperation with other employees and sharing in a common mission are precedent attributes before any employee deals with the general public. If an employee fails to live up to his company's own code of ethics, there is almost a 100% chance he will be involved in an improper act in dealing with the general public.

I strongly recommended that the real estate company - counseling, appraisal or standard brokerage - frame its own internal code of ethics and standards of professional practice, which may be modeled after those of a trade association, but in which the company's corporate culture is interwoven. Only then, can the employee venture forth, confident about the manner in which he represents himself.

Ethics Must Be Taught

Writing some years ago in *The New York Times*, Zymunt Nagorski, president of the Center for International Leadership, asked, "Can you teach business ethics? Probably not in traditional ways. But, if you expose businessmen—and students getting ready to go into business—to real ethical dilemmas, then you have a chance." This is being done currently by universities and public interest trusts. It should also be done by real estate and investment trade associations. Seminars should be conducted by the associations on the specifics of ethical conduct utilizing case studies. Associations also should create new or revised standards of practice which detail unethical acts and cite what would constitute ethical behavior in each instance.

In the same article, Nagorski said that most business people escape into gray areas when the dilemma is exposed for discussion by their peers. The exercise ultimately forces them into the black and white but not before they attempt to squirm and wiggle out of direct answers. In the end, they must make a moral choice, because there is nothing in life more precious than integrity.

A real, long-term effort should be made by The Counselors to raise the consciousness of its members to the continuing existence of unethical conduct. Both NAR and the Appraisal Institute now compel their members to take a refresher ethics course every four years as a condition of continuing membership. The CRE could do likewise but with a greater concentration on case studies. This can be accomplished effectively by devising formal curricula taught by members trained as ethicists, say, in three-hour sessions at agreed time intervals, e.g., three to five years. To heighten interest and

sharpen judgment, a few of the case studies could be truly borderline, where the counselor's examination might result in sharply divergent views and discussion on decision making and ethical judgment.

The most effective approach is to require the participants to evaluate the circumstances of each case in small breakdown sessions. Each participant would be expected to enter into a discussion on the pros and cons. Case studies would be presented in as much detail as required to identify all the influencing facts and circumstances. It is expected that the end result of the discussion would produce a surprising unanimity of opinion, and the counselor would leave the course with a heightened understanding of what constitutes propriety in business dealings. The counselor, in turn, would then impart to his employees the practical application of ethics learned in the session(s).

Conclusion

There are two guidelines in ethics that the counselor must constantly observe. The first is to be sensitive to the slightest perception of impropriety even if none exists. What may fully satisfy the counselor regarding ethical conduct may not be as readily apparent to the public with whom the counselors deal. A second important guideline is to avoid conflicts of interest that tend to compromise the counselor's integrity. Some counselors naively believe that conflicts of interest are routinely resolved by full disclosure and by agreement with those third parties affected by the possible conflict. In many cases, it is patently insufficient to conclude that informing all parties will make the problem go away. Chances are the third party who is the most adversely affected soon will discover the disadvantage he sustains from consenting to full disclosure as a solution. Human beings are by nature susceptible to influence. Fortunately, through education, environmental, cultural and societal exposure, and parental guidance, one can improve his conduct and effectively relate to others in a trustworthy manner.

NOTE

1. The definitions relating to or concerned with ethical conduct are from Webster's Third Unabridged Dictionary.