

**UNIVERSITY OF PENNSYLVANIA  
THE WHARTON SCHOOL  
DEPARTMENT OF LEGAL STUDIES & BUSINESS ETHICS**

**LEGAL STUDIES 612-004, 006  
Spring 2014, Quarter 4  
RESPONSIBILITY IN PROFESSIONAL SERVICES**

Instructor: David Zaring  
Contact Information: zaring@wharton.upenn.edu  
Classroom: Huntsman 240 (004, 006)  
Office: Sixth Floor Huntsman Hall  
Class times: T-Th 9:00-10:20 (004), 10:30-11:50 (006)  
Office Hours: Tuesday 1:30-3:15, or by appointment

**Instructor:**

David Zaring is an Assistant Professor at the Wharton School, and has taught at the Penn, Washington & Lee, Vanderbilt, Bucerius, and NYU law schools. Before entering academia, he served in the Department of Justice, handling matters related to ecommerce and internet censorship, health care, and affordable housing. He also served as a political aide to Andrew Cuomo. He writes at the intersection of financial regulation, international law, and domestic administration, and has published over thirty articles, including in the NYU, Michigan, Virginia, and Cornell law reviews, and a number of international law journals. He has consulted for the World Bank, securities regulators on three continents, and writes an occasional column on financial regulation for the New York Times's DealBook vertical. His class approach mixes cases with other exercises and discussion.

**Overview:**

This course introduces students to the important legal and ethical challenges they will face as leaders in such fields as financial services and consulting. The scope of the course is not limited to these two contexts, however, and will be broadly useful to students preparing for any managerial position that is likely to place them in the role of an advisor and agent representing and owing duties to third parties such as employers, clients, suppliers, and customers. The focus of the course will be on developing skills in ethical and legal analyses that can assist managers as they make individual-level and firm-level decisions about the proper courses of action when duties, loyalties, rules, norms, and interests are in conflict.

**Grading:**

1. **Overall Contribution to Class:** (25%) Class attendance, instructor evaluation, and peer ratings will comprise 25% of the grade. Because class participation may not come easily for

some, I am happy to discuss strategies for successful classroom participation. Many of these strategies may be helpful beyond this class as well.

2. **Exam** (25%). An open-book exam will be given in Class 9; it will focus on the legal environment in which business decisions must be made.

4. **Final** (50%). An essay-based, take home final exam will be handed out in the final class and will be due within one week of the last class.

### **Class:**

The readings and other materials will be available at Study.net, along with the course ethics matrix.

Class will be conducted according to concert rules:

1. Class starts and ends on time. Students and faculty are expected to be timely.
2. Students are to sit according to a seating chart.
3. Students should remain in attendance for the duration of class, except in an emergency.
4. Students should display name plates.
5. All phones and electronic devices, including laptops, should be turned off.

## **CLASS TOPICS AND ASSIGNMENTS**

### **Topic 1: Managers:**

This section of the course focuses on legal and ethical rules that arise for managers as they make organization-affecting decisions. It also introduces some basic distinctions to structure analysis of legal and ethical issues.

#### **Tuesday, March 18: Moral Obligations and Mandatory Rules**

Thomas Donaldson and Patricia Werhane, "Introduction to Ethical Reasoning," in Thomas Donaldson and Patricia Werhane, eds., *Ethical Issues in Business: A Philosophical Approach*, 8th edition (Upper Saddle River: Prentice Hall, 2008).

Case: The Analyst's Dilemma (HBS 394-056, 1993)

#### **Thursday, March 20: Employment at Will: A Managerial Perspective**

Employment At Will: A Legal Perspective (HBS Note 9-306-036).

Case: Two Tough Calls (HBS Case 9-306-027)

#### **Tuesday, March 25: Freedom of Contract: An Employee Perspective**

Norman Bishara & Michelle Westerman-Behaylo, “The Law and Ethics of Restrictions on Employee’s Post-Employment Mobility,” *Am. Bus. Law J.*, Vol. 49, pp. 1-31 (2012)

Case: Wharton Student Gets a Surprise  
Exercise: The Fee Dispute (in class)

Thursday, March 27: **Managing Legal Risk**

G. Richard Shell, “The Strategist’s Dream,” in *Make The Rules Or Your Rivals Will* (2009)

Samuel Bodily, “When Should You Go to Court?” *Harv. Bus. Rev.* (May-June 1981).

G. Richard Shell, “A Comment on Business Strategy and Litigation”

Exercise: Dunkle v. Mercury Drug Co.

**Topic 2: Organizations**

This section of the course focuses on legal and ethical rules that arise for firms. It also focuses on the particular legal structural requirements imposed on firms with regard to their duties to shareholders and third parties.

For those interested in learning more about the basic structures of corporations and obligations of its principals, portions of a useful short treatise, William A. Klein, John C. Coffee, Jr., and Frank Partnoy, *Business Organization and Finance* (2010), pp. 106-112, 156-70, 187-207, are included in your materials as optional background reading for your optional enjoyment.

Tuesday, April 1: **Within-Firm Obligations**

*A. Gay Jenson Farms. Co. v. Cargill, Inc.*, 309 N.W.2d 285 (Minn. 1981).  
*Meinhard v. Salmon*, 164 N.E. 545 (N.Y. 1928).

Thursday, April 3: **Firm Obligations To Shareholders And Others**

*Dodge v. Ford Motor Co.*, 170 N.W. 668 (1917).  
*A.P. Smith Manufacturing Co. v. Barlow*, 98 A.2d 581 (Del. 1953).  
Alan R. Palmiter, *Corporations, Examples and Explanations* 213-27 (6<sup>th</sup> ed. 2009).

Tuesday, April 8: **Mergers and Acquisitions**

The Fiduciary Relationship: A Legal Perspective (HBS Note: 9-304-064).

Case: Oracle vs. PeopleSoft, (HBS Case 9-306-058).

Thursday, April 10: **Securities Regulation and Insider Trading**

Jane P. Mallor, "Securities Regulation," in *Business Law And The Regulatory Environment* pp. 125-37 (2001).

G. Richard Shell, *The Basic Elements of Business Fraud*

Cases: The Employee Exit Interview  
The Inside Trader

Tuesday, April 15: **Exam: Rules for Managers and Organizations**

**Topic 3: Systems**

This section of the course focuses on legal and ethical considerations for managers as they operate within society at large. To whom do they owe obligations? How does government, domestic and international, affect the range of choices?

Thursday, April 17: **The Purpose of the Corporation**

Lynn Stout, "The Problem of Corporate Purpose," *Issues in Governance Studies* (Washington, D.C.: The Brookings Institution, 2012).

Milton Friedman, "The Social Responsibility of Business Is To Increase Its Profits," *The New York Times Magazine* (Sept. 3, 1970).

Jay Feinman, "When Is A Manufacturer Liable For Injuries Caused By Its Products?" *Law 101* pp. 167-173 (2010).

Case: "Dicing with Death? A case study of Guidant Corporation's implantable defibrillator business" (Martin Sandbu, 2007).

Tuesday, April 22: **Counterparty Obligations**

Greg Smith, "Why I Am Leaving Goldman Sachs," *The New York Times* (March 14, 2012)

Case: SEC v. Goldman Sachs (Darden Case: UVA-GEM-0101).

Thursday, April 24: **The Global Context**

Thomas Donaldson, "Values in Tension: Ethics Away from Home," *Harvard Business Review*, September-October, 1996.

Case: Yahoo! in China (HBS Case 9-609-051)

Final: Responsibility for Managers (distributed at the end of class; due by Thursday, May 1, at 5:00 pm)