

The sarbanes oxley
act dealt with four
major issues
accounting essay



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What responsibilities did David Duncan owe to Arthur Andersen? To Enron's management? To Enron's stockholders? To the accounting profession?

David Duncan owed Arthur Anderson the responsibility to do what a reasonable employee would do in any situation to include a duty to work with reasonable care and skill. Not to disrupt business, not to compete in business against Arthur Anderson while still working for them as an employee or conduct acts of corporate espionage, nor to disclose Arthur Anderson's confidential information. Duncan had the duty and responsibility to be honest, and carry out and follow the orders of Arthur Anderson, so long as they were legal, and if not to disclose the wrongdoing, even if this will incriminate him.

As a professional accountant, David Duncan had an obligation to record, provide, and attest to information regarding the economic affairs of Enron. Because investors and creditors place great reliance on financial statements in making their investment and credit decisions, it is imperative that the financial reporting process be truthful and dependable.' Thus, the responsibility Duncan owed to Enron's management and Enron's Stockholders was to exercise the general duty of performance, skill and care of the ordinarily prudent accountant in the same circumstances and observe a standard of ethical or social responsibility. This duty is not only morally right, but it is required by law, and arises from the law of negligence, contract, and fiduciaries; required by those in professional services, such as accountants.

David Duncan owed a responsibility to the accounting profession to uphold and adhere to the ethical code of the profession. These codes of ethics are established throughout the professional associations of accountants such as The American Institute of Certified Public Accountants, The Institute of Management Accountants and the Institute of Internal Auditors. These codes provide guidelines for responsible behavior by accounting professionals, and emphasize integrity, objectivity, confidentiality, and competency.

Duncan failed in his responsibilities to Arthur Anderson, Enron's management and stockholders, and the accounting profession. He did not maintain his integrity, objectivity, confidentiality, and competency. He did not properly follow Generally Accepted Accounting Principles and disclose Enron's true financial status, resulting in an adverse impact to Arthur Anderson employees and Enron's stockholders and employees. When he suspected Enron of unethical behavior, he failed to inform management at Enron or Arthur Anderson, his silence was a passive permissiveness to their behavior. The American Institute of Certified Public Accountants code of ethics suggests that the best interest of the client is served when accountants fulfill their responsibility to the public, once again Duncan failed.

What are the ethical responsibilities of a corporate attorney, such as Nancy Temple, who works for an "aggressive" client wishing to push the envelope of legality?

The professional duties of an attorney, who represents or advises auditors, as was the case with Nancy Temple and Arthur Anderson, must incorporate an awareness of the auditor's professional responsibilities.

Nancy Temple ultimately owes her duty to Arthur Andersen as in-house counsel and was ethically bound to pursue the interests of her client and in doing so serves the public interest best by representing Arthur Andersen's interests. As an attorney admitted to the Illinois bar, Nancy Temple was subject to the Illinois Rules of Professional Conduct. These rules impose professional obligations of competence, diligence, communication, and confidentiality. Under both the Illinois Rules and the Model Rules, if a lawyer representing an organization " knows that an officer, employee, or other person associated with the organization" is violating the law in a manner that is " likely to result in substantial injury to the organization," the lawyer shall respond by taking " reasonably necessary" measures that are " in the best interest of the organization." Such measures may ultimately result in the lawyer's resignation, but shall be designed to minimize the risk of revealing confidential information.

Nancy Temple, although not be required to disclose Arthur Andersen's confidential information, she could have elected to discontinue representation of Arthur Anderson's due to their involvement in fraud and illegal acts.

Under what conditions should an employee such as Sherron Watkins blow the whistle to outside authorities? To whom did she owe loyalty?

Although touted as the " Enron whistle-blower" Sherron Watkins never really blew a whistle. Whistle-blowing is the release of information by a member or past member of an organization who has evidence of illegal or immoral conduct in the organization, or conduct in the organization that is not in the

public interest. Whistle-blowing reveals information that would not be ordinarily revealed in everyday context. In almost every case whistle-blowing involves an actual or at least a declared intention to prevent something bad that would otherwise occur (Beauchamp, Bowie, & Arnold, 2008; Boatright, 2000).

Sharron Watkins, as a whistle-blower should have written the letter to the Houston Chronicle; Watkins wrote it to Ken Lay, stating “ We’re such a crooked company” and warned him of potential whistle-blowers lurking among them, and recommended actions to downplay, or minimize the damage (Time Magazine; Beauchamp, Bowie, & Arnold, 2008).

In the determination and under which conditions an employee should blow the whistle to outside authorities there are two theories, DE Georges? Standard theory and Davis? s Complicity theory.

According to DE Georges? Standard Theory, whistle-blowing is permissible when the company will do serious harm, the whistle-blower has reported the threat to her superior but concludes it will not be fixed, and the whistle-blower has exhausted other internal reporting procedures. Furthermore, whistle-blowing is required when there is convincing evidence to an impartial observer, and a good reason to think revealing the threat will prevent the harm at reasonable cost (Beauchamp, Bowie, & Arnold, 2008).

According to Davis? s Complicity Theory, whistle-blowing is morally required when the information derives from the individuals work at the organization and not obtained through illegal means, such as spying. That the individual is a voluntary member of the organization and are not being held against their

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will or coerced. The individual believes there is serious moral wrong-doing, not a harm. The individual believes their work will contribute or in some way be supportive to the moral wrong if they do not go public (Beauchamp, Bowie, & Arnold, 2008).

Sharon Watkins, Vice President and a certified public accountant, knew the information was damaging, both harmful and morally wrong, to investors, stockholders, and employees alike. She did inform her supervisor CEO Ken Lay of perceived irregularities in the accounting practices of Fastow's Special Purpose entities. Therefore, within the context of both theories, she was justified to alert outside authorities.

To whom did Sharron Watkins owe loyalty? Ronald Duska argues that the employee does not have an obligation of loyalty to a company, and that whistle-blowing is permissible, especially when a company is harming society (Beauchamp, Bowie, & Arnold, 2008). Additionally, since Sharron Watkins was a member of a professional organization as a Certified Public Accountant, she was required by their professional code of ethics to report unethical behavior on the part of her fellow professionals in order to regulate their profession, therefore she owed loyalty to the public, her profession and herself.

To whom does the board of directors owe their primary responsibility? Can you think of any law or regulations that would help ensure that boards meet their primary responsibilities?

In the United States, corporate law dictates that a board of directors must monitor the leadership of the firm to ensure that the corporation is run
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correctly and effectively in the long-term interest of shareholders. Thus, the board of directors owes their primary responsibility to investors; they owe both the duty of care, or due diligence, and the duty of loyalty, or putting the investors first in their decision-making.

Boards of directors are generally recognized as having five key charges. First, and most important, they must select, monitor, evaluate, and when necessary replace the CEO of the firm, with a key underlying duty of engaging in careful, advance succession planning. Second, the board is responsible for ratifying the company's overarching vision and strategic plan, once it is developed by the CEO and his or her staff. Advising and counseling the CEO and other top managers as needed is a third function of the board, underscoring the importance of a board's diversity of expertise. The board's fourth responsibility is to locate and nominate high-quality board members and to evaluate the processes of the board and the performance of both the board and its members. Finally, the board is responsible for ensuring the adequacy of the firm's internal control systems, a duty that is now reinforced by the Sarbanes-Oxley Act.

The Sarbanes-Oxley Act of 2002 act was designed to protect shareholder value and the general public from corporate wrongdoing. The Sarbanes-Oxley Act dealt with four major issues in corporate governance of public corporations. First, the act created an oversight board to set and enforce auditing standards and discipline public company auditors. Second, the act intended to foster auditor independence. Third, the act increased corporate responsibility, by requiring that CEOs and CFOs certify all periodic reports containing the company's financial results. Having knowledge of the <https://assignbuster.com/the-sarbanes-oxley-act-dealt-with-four-major-issues-accounting-essay/>

certification of false statements is subject to criminal liability. Finally, the act enhanced financial disclosure with regard to the off-balance-sheet transactions and obligations with consolidated entities and individuals. These key provisions of the Sarbanes-Oxley Act have significantly strengthened the role of the board of directors and have made managements more accountable.

What responsibilities do government regulators owe to business? To the market? To the general public?

“ One of the principal responsibilities of government regulators is to ensure that the laws they enforce are regularly reviewed, and occasionally adjusted, to take account of changing conditions in the world.? Federal Trade Commission

Government regulators, such as the U. S. Securities and Exchange Commission, are responsible for administering laws written to provide protection for investors. The responsibility government regulators owe to businesses is to ensure they are in compliance with the laws in effect. With regard to the market, the responsibility to ensures markets are fair and honest, and if necessary, enforce the laws through the appropriate sanctions. To the public, regulators owe the responsibility of trust, to provide the confidence to the public that the market and business are conducting operations in a fair, and legal manner and to provide for informed investment analysis and decision making by the public investors, principally by ensuring adequate disclosure of material information

Are accounting and law professions or businesses? What is the difference?
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A business is a legally recognized organization designed to provide goods, services, or both to consumers or other business in exchange for money. Whereas a profession is a vocation that is to supply disinterested counsel and service to others for a direct and definite compensation without expectation of other business gains. In that the primary motive of business is to make a profit, and in doing so may fail, a professional is comparatively safe as he earns fees for his services and there cannot be negative fees. In establishing a business, no special educational or technical qualifications are required, other than providing a need, service, or commodity to the market, a professional is required to acquire a particular degree or qualification prescribed by a particular professional body. Most importantly, in a business upon completion of the transaction there is no assumption or implied contract of any sort, but in a profession their actions, deeds, or services do accompany an implied contract, a contract which provides that the service or information provided is truthful, complete, and verifiable. A professional's good reputation is one of his or her most important possessions

People need to have confidence in the quality of the complex services provided by professionals. Because of these high expectations, professions have adopted codes of ethics, also known as codes of professional conduct. Codes of professional conduct are of utmost importance to professionals and those who rely on their services. These ethical codes call for their members to maintain a level of self-discipline that goes beyond the requirements of laws and regulations.

Professionals know that people who use their services, especially decision makers, expect them to be highly competent, reliable, and objective. Those

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who work in a professional field must not only be well qualified but must also possess a high degree of professional integrity.

Both accountants and attorneys are professions, in that they both must supply disinterested counsel for a set fee, they are hired or contracted to perform a service and in doing that service, are to provide an honest assessment or truthful information. Thus they have a professional responsibility to their clients, to the government, and to the public.