

“ITS A GRAY AREA”

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RESUMEN:

La Zona Gris

El artículo muestra, como introducción, el proceso de racionalización del ser humano cuando trata de internalizar lo que un área gris significa en su propio contexto, y presta especial atención al hecho de que para la mayoría es cuestión de no ir más allá de lo que es correcto; en otras palabras, alejarse de lo que es incorrecto.

Luego, se acerca al problema de analizar el área gris desde una perspectiva que va más allá de cuestiones éticas, a un territorio analítico en el mundo de los negocios, en el cual las decisiones no se toman en términos de si son éticamente correctas o incorrectas, sino teniendo en cuenta lo que las mismas pueden significar y cómo pueden beneficiar a la organización. Además, el artículo destaca el peligro de adentrarse en el área gris, cruzando la línea de lo moralmente aceptable ya que esta línea se va desdibujando poco a poco hasta que se termina en el terreno de lo no aceptable.

Finalmente, el artículo hace que el lector reflexione acerca de la complejidad de acostumbrarse a tolerar las excepciones a lo establecido, ya que pueden generar confusión en las organizaciones. Lo recomendado sería ser lo más vertical posible y apearse en tanto se pueda a los principios establecidos.

ABSTRACT:

The article shows, as an introduction, the process of rationalization through which a human being may go

when trying to internalize what a gray area stands for in his /her own context, paying special attention to the fact that for most of us it is a matter of not going beyond what is right, in other words, staying away from what is wrong.

Then, it approaches the matter of analyzing the gray area from a perspective that goes beyond ethical issues, to bring it into more analytical grounds in the world of business, where decisions are not much to be made in terms of what is ethically right or wrong, but what such decisions may mean, and how they may benefit the organization. In addition, the article highlights the danger of entering the grey area, crossing the line of ethically acceptable behavior, because the line tends to become blurred, and one may end in the domain of unacceptable behavior.

Finally, the article makes the reader reflect upon the complexity of getting used to accepting exceptions, since this may lead to confusion in the organizations. The advisable behavior would be being as close to absolutes as possible.

PALABRAS CLAVE:

Área gris, ética, decisiones, racionalizar, excepciones morales, principios morales

KEYWORDS:

Gray area, ethics, rationalize, decisions, moral exceptions, moral absolutes

THE CONFORT OF A MODERN AND SOPHISTICATED RATIONALIZATION

I was talking with my 11-year-old son about his experience earlier that day with the state standardized exam. He had endured the grueling, three-and-one-half hour creative writing portion of a statewide test that determines everything from student placement in advanced classes to, eventually, graduation. He explained that he had written for a bit more than 2.5 hours, checked his essay and decided he was done. “But I wrote seven pages,” he added. Curious as to whether he was the norm, an outlier or just bored with the whole process, I asked, “Well, how much did the other kids write?” His eyes flashed as he responded, without missing a beat, “Mom, how would I know? I’m not allowed to look at their papers!”

The lad had a lesson for his ethics professor mother. This interaction provides a bit of a parable about how our sophistication often blurs those distinct lines between right and wrong. In his mind, and under the excellent tutelage of strong teachers, he had drawn a definitive line: You do not look at other students’ papers, desks, work or beings for any reason during testing. My son has developed a smart and sensible approach to staying out of trouble. In my adult and sophisticated world, I had already developed an exception to this standardized testing moral absolute: It is perfectly fine to look at others’ papers just to see if you are in the ballpark on length of response. My son

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took the high road. He labors in black and white. I had created a world of gray.

So it is in business, particularly in financial reporting. Knowing how long the other students’ papers are has no impact on your grade, unless of course you gauge from the peek that you are an underperformer and return to writing to make up for that length deficiency. We find ourselves dabbling in what has become known as “a gray area.” In fact, “It’s a gray area” has become the standard resolution for many ethical dilemmas. We discuss the issue, conclude that it is a “gray area,” and are then prepared to move forward. So long as we are in a gray area, we are legal, ethical and done with the issue.

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Would that ethical analysis were that simple: “Find a gray area and stay within it,” could be our motto. The problem with the gray area begins with its existence. The gray area is an existential one. We like to believe that it exists, much is written about it and we find it mysterious and alluring. However, there truly are very few gray areas. Narrowing the field and exploring this notion of grayness is a critical part of any financial issue, decision or disclosure. Herewith, some safety tips on those “gray areas.”

EXPLORE YOUR INTENT: WHY ARE YOU MAKING IT GRAY?

At the Senate hearings conducted by the Permanent Subcommittee on Investigations into the collapse of Enron, Exhibit 1 was a chart entitled “Red Flags Known to Enron’s Board.” The chart described several events

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that demonstrate the prevalence of the gray mentality at the company and also with its outside auditor. Those shades of gray would eventually lead to crossing the line into illegality. One of those events is quintessential gray. In February 1999, Andersen partner David Duncan told the audit committee of the Enron board that Enron's accounting practices tended to "push limits" and were "at the edge" of GAAP. Not illegal, not technically in violation of GAAP, but as close to the edge as possible: gray.

Why did Mr. Duncan present them as gray? Because Enron was a \$50 million per year client for Andersen and a substantial portion of the Houston office revenues. For the audit committee and board, pulling back on that aggressive, gray accounting would have had a substantial impact on Enron's reported earnings and a resulting impact on its share price. Given that board compensation came in the form of company stock, there was some self-interest in the decision.

Therein lies the key to many a gray area. Before reaching your conclusion on "it's a gray area," examine the self-interest in reaching that conclusion. Why is it important to you that the area remain gray? On the CIO.com website, one executive offered this revealing look at his intent in what he viewed as a "gray" situation:

I was tasked with setting up a data center in China, in order to get equipment into the country I was being asked by local officials to pay a service charge, which I knew was another name for a bribe. My management expected this equipment to be delivered and the data center built. If I had gone to the CEO, his answer would have been to get the job done. If I had gone

to our Legal Department they would have told me that it was illegal. If I had gone to HR they would have discussed the ethics. I got the job done.

He knows the answer – that he is paying a bribe, but through the self-promotional rationalization of performance completed, he made it gray in his mind. Asking the introspective question on a "gray matter" often brings moral clarity and a brighter line than we have been seeing because of our personal desire and benefits for the gray conclusion.

THINK MORE DEEPLY ABOUT THE BUSINESS INTERESTS AND LESS ABOUT GRAY

Dabbling in gray areas is rarely in the best interest of a business. The Institute for Global Ethics has a hypothetical that is often presented as an example of a "gray area." The VP of sales is not fudging, but smoothing, the company sales numbers. As his efforts are described, this company veteran has been smoothing out the peaks and valleys of the quarterly sales numbers so as not to throw the sales force off with these interim measures. Another officer has become aware of the smoothing and is in a quandary about what to do. This smoothing is, after all, immaterial in an accounting sense. Many experts and practitioners respond to the dilemma with the classic line, "It's a gray area."

As I admonish my students in a discussion of a hypothetical such as this one (that I fear occurs far too frequently), forget about any ethical issues for the moment and discuss the business issues here. Eventually, the students come around to the realization that by not disclosing what has been going on with the VP's smoothing, they are flying

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in the face of every sound principle of business management that they have learned in every other course. How can they make good decisions without accurate data? Most particularly, how can you know what is happening in markets and with sales if you do not have accurate quarterly sales figures? Isn't it better to zero in on problems as they evolve than wait and hope that they turn around? How can you set a proper strategic course in product lines, marketing and finance if you do not know what market issues exist?

In nearly all “gray area” dilemmas, there are compelling business interests that we fail to explore in our haste to rationalize the decision. Going back to the bribe example, the issue is not whether the payment is or is not (technically or however) a bribe. One issue is how are you going to be able to continue doing business in a country with this culture of corruption? Another issue is how payment presently will affect the cost of doing business and crossing government hurdles in the future. Gray conclusions offer expedient solutions that mask or create long-term business crises.

GRAY AND SLIPPAGE

I never permit my students to offer only the facile analysis, “It’s a slippery slope.” I place that limit on their contributions because I want them to think more deeply, as I have cautioned, about the business issues and their intent before concluding so easily. I also realize that “It’s a slippery slope” may not be as effective in an organization that will often swear it can stop at any time. However, the students are correct that continual dabbling in gray does create slippage. I am reminded of a great excerpt

from a Harlan Coben novel, *No Second Chance*,

You slip-slide into evil, he thought. You cross the line for just one moment. You cross back. You feel safe . . . The line is still intact. Okay, maybe there’s a smudge . . . And the next time you cross, maybe that line smudges a little more. . . , you remember where it is. Don’t you?

You look at the others’ papers for length, and then you are glancing for how they are organized. Then you are checking to see if they double-spaced. Before you know it, you are picking up pieces of content. And how did they spell “neighbor?” There is this gradual devolution that is so typical of financial fraud. We ease ourselves into larger missteps by getting comfortable with smaller ones that seem harmless, particularly at the time. When Enron’s board waived its own code of ethics prohibition to allow Andrew Fastow to be a part-owner in one of the entities doing business with Enron, it seemed like a small and one-time exception. That rule would go on to be waived thousands of times as an empire of off-the-book entities was built. When Scott Sullivan first proposed capitalizing WorldCom’s wire expense, several staff accountants balked at the questionable accounting practice. He assured them it was a one-time exception. Some \$11 billion later, the staff accountants who balked have been sentenced and Mr. Sullivan is doing five years.

GRAY CREATES ORGANIZATIONAL CONFUSION

My young son’s teachers have shown great wisdom and knowledge of organiza-

tional behavior with their moral absolute on looking at others' papers. When managing a diverse culture of personalities, job functions, backgrounds and experience, the greater clarity that can be offered with rules, the easier the task of honoring and enforcing them. Exceptions to rules made by an organization create confusion and a rumor mill. The exception may indeed be well grounded in reason and facts. The difficulty lies in making sure that the full factual scenario makes its way around as part of the scuttlebutt for the exception. Staying as close to absolutes as possible in an organization provides the assurance that the rules will have meaning, will be honored and will not suffer

from gray danger. The simplicity of an absolute makes it easier to understand the rule and infinitely easier to follow.

In our sophistication and over-analysis of ethical issues, we seek the comfort of gray. However, for the sake of the business, the organization and moral clarity, dig more deeply on the gray to find the bright line that has been masked, just temporarily so.

REFERENCE

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