

ETHICS AND DISCLOSURE: AN ANALYSIS OF CONFLICTING DUTIES

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The ethics of many professionals, including accountants, have come under increasing scrutiny and have been frequently challenged. In the case of accountants an area of concern is fairness of disclosure. Frequently referred to as "the expectations gap", there seems to be a difference in perception on the part of the public and accounting professionals as to what constitutes fair disclosure.

This paper is an attempt to clarify the ethical duties of the accountants in the area of disclosure. It is shown that accountants sometimes have a genuine conflict between duties to comply with professional rules and duties to disclose information in the public interest. The conflict is analysed by bringing to bear the extensive research on conflicting ethical duties from the philosophy literature. Four criteria used in the philosophy literature are applied in an attempt to resolve the conflict.

The results of that analysis indicate that, at least sometimes, accountants are ethically compelled to violate rules requiring compliance with GAAP and/or maintenance of client confidentiality. The circumstances under which disclosure is ethically compelled relate to the certainty of outcomes and consequences of not disclosing.

This paper is not a prescription for practicing accountants, but is forwarded in the hope of enlightening policy makers to the ethical dimension of disclosure issues in practice. As it stands, professional rules in accounting do not necessarily support ethical behaviour on the part of accountants in regard to disclosure.

Introduction

The ethics of accounting professionals¹ have come under increasing scrutiny and have been frequently challenged by segments of the public. Fairness of disclosure is one of the key issues of concern. Frequently referred to as "the expectation gap", there is a difference between what the public and accounting professionals perceive as constituting fair disclosure. In short, the public expects more of accountants in terms of insuring against misleading accounting information than accountants accept as their duty².

The accounting profession has attempted to reduce the difference in expectations through a variety of efforts. Among them are attempts within the profession to raise ethical awareness through revision of existing, or adoption of new, statements of ethics³. Most closely related to the expectation gap issue, the American Institute of Certified Public Accountants (AICPA), following the recommendations contained in the Anderson Report,⁴ submitted to its

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membership a revision of the Institute's code of ethics which went into effect in 1988 as *The Code of Professional Conduct* (AICPA, 1988) (the Code). While the Code addresses the issue of disclosure, it does not resolve the issue of the accountant's responsibility for misleading information in a manner which leads to resolution of the expectation gap. Indeed, it will be illustrated that the Code reflects rather than resolves the controversy and contains a contradiction which may leave the accountant in a position of unresolvable conflict.

This paper is an attempt to clarify the ethical duties of accountants in the area of disclosure. Duties to disclose will be shown to be at times in conflict with one another and/or with other professional duties. The method for analysis will be to bring to bear the extensive research on conflicting ethical duties which appears in the philosophy literature. While the discussion in the paper will mainly concern the duties facing individual accountants, the primary implication of the paper is that the rules which establish expectations for professional behaviour are a source of ethical conflict.

The paper will focus on the duties facing members of the AICPA, whether they be in public practice or employed by industry or government. In spite of the discussion being limited to AICPA members, the analysis and conclusions will be general enough to be of interest to all accountants.

In the sections that follow, relevant and mandated disclosures are first discussed. This is followed by a discussion of professional duties in accounting, particularly for AICPA members. Next, a review of the philosophy literature pertaining to conflicting duties is introduced and the duties facing the accounting profession are discussed in the philosophical framework. Finally, the paper is summarized and its limitations are discussed.

Background—Relevant Versus Mandated Accounting Disclosures

Accounting disclosures provide information to users about conditions and events. In turn, accounting information may be used to make assessments and predictions which support decision making. Relevant disclosures are those which satisfy the decision-making needs of users. Depending upon their needs, the subset of information which is relevant may vary across users. Likewise, what is relevant may change over time as user needs change.

Required disclosures are those mandated as generally accepted accounting principles. If mandated accounting information were perfect, all relevant information would be disclosed and the required and relevant information subsets would be identical. In fact, accounting information is less than perfect; some relevant information is not required and some required information is not relevant. The difference between relevant and required disclosures develops from several sources, including changing socio-economic conditions, insufficient measurement techniques and an accounting policy-making process which is influenced by politics.

The existence of non-overlapping portions of the required and relevant information subsets may create a dilemma for accounts. Presumably, accountants will better fulfill their role as providers of information and will benefit society if they act to disclose some non-mandated, relevant informa-

ion and refrain from disclosing some mandated, irrelevant information. However, such behaviour may be seen as in conflict with other professional duties.

Professional Duties in Accounting

Professional duties may be explicit or they may be implicit. Explicit duties are specified in professional codes and standards. Implicit duties may be implied in professional codes and standards, or they may be derived from other sources such as the role of the profession in society⁵.

The AICPA's *Code of Professional Conduct* contains both Principles and Rules which constitute a source of professional duties for AICPA members⁶. According to the Code, the Principles "provide a framework for the rules" and "guide members in the performance of their professional responsibilities", while the Rules "govern the performance of professional services by members". Adherence to the Rules, but not the Principles, is required under the by-laws of the AICPA. Thus, the Principles are merely for guidance. They are a source which implies duties. Other sources which imply duties include the history and public image of the accounting profession, legal opinions, the auditor's report and the FASB's Conceptual Framework.

The Rules of the Code, on the other hand, are a source of explicit duties. They make clear what is right and wrong behaviour and are enforceable by the AICPA. Other sources of explicit duties like accounting and auditing standards are empowered by the Rules in the Code⁷. Given the overarching authority of the Code, the discussion of explicit duties below will be limited to those specified in the Rules as opposed to standards authorized by the Rules.

Explicit Duties

The Rules section of the Code makes explicit two duties with regard to disclosure. First, Rule 203 addresses the issue of duty with regard to accounting principles. Second, Rule 301 addresses the issue of confidential client information.

Rule 301⁸, which specifies that confidential information should not be disclosed without the specified consent of the client⁹, has been discussed elsewhere in the literature. Beach (1984) describes Rule 301 as the "Professional Catch 22". Beach cites *Wagenheim, J. S. (Consolidata Services Inc.) vs. Alexander Grant & Co.* as a case in which substantial compensatory and punitive damages were awarded to Consolidata Services because Alexander Grant had made an unauthorized disclosure of client information. As a contrast Beach cites the case of *Fund of Funds vs. Arthur Andersen & Co.* in which the jury found that Arthur Andersen had a contractual duty to disclose information, confidential or not. In summarizing the dilemma Beaches concludes:

"The clear implication is that there is conflict regarding duties. The disclosure of confidential information to the detriment of a client is an actionable wrong, but so too is the failure to disclose confidential information to the detriment of a third party. The accountant is damned if he does and damned if he doesn't!" (p. 314).

Rule 203 states that when financial statements or data contain any departure from generally accepted accounting principles (GAAP) which has a material effect on the statements or data as a whole, members shall not express an opinion or state affirmatively that the statements or data are in conformity with GAAP. An exception may be made, however, in cases where, "due to unusual circumstances", statements or data in compliance with GAAP would be misleading and an explanation is given of any departure from GAAP, its effects and the reason why GAAP would be misleading.

Thus, compliance with GAAP is mandated under Rule 203 with exceptions allowed only under "unusual circumstances". Exceptions are not mandated when GAAP is misleading¹⁰. This could lead to two types of situations in which the public interest is not served. When confronting circumstances which are misleading but *are not* "unusual", Rule 203 requires an accountant to provide the misleading information and Rule 301 effectively forbids the disclosure of non-mandated information which is more revealing. When confronted with circumstances which *are* "unusual", Rule 203 does not forbid the disclosure of additional information. However, since the Rule does not require departures from GAAP, an accountant could use the Rule to justify providing misleading information without disclosing its dubious nature. In other words, if the misleading information is consistent with GAAP and, additional, more revealing disclosures are not required, the more revealing information could be concealed without there being a rules violation.

Congressional testimony about the failure of Lincoln Savings & Loan Association serves to illustrate the implications of Rule 203. A regional director for Ernst & Young is cited in *The Wall Street Journal* (Thomas, 1989) as saying that "accounting firms aren't auditing to determine the safety and soundness of the firm. . . 'we audited the statements to see if they complied with generally accepted accounting principles.' She said that all of them did". Meanwhile, several members of the House Banking Committee were described as "appalled that the accounting principles appeared to be adhered to in form only".

The two disclosure-related duties which are made explicit in the Rules section of the AICPA's Code of Professional Conduct appear to at times foster conflict about the duties of members of the accounting profession. However, these explicit duties may have more than a potential internal conflict, they may also conflict with the accountant's implicit duties.

Implicit Duties

As was discussed earlier in this paper, required accounting disclosures are not perfect information. This means that accountants may be able to provide more relevant information than that which is required and/or withhold misleading information which is required. Accountants are implicitly duty-bound to provide more relevant information or withhold misleading information only if:

1. it can be shown to be in the public interest to do so;
2. it is their implicit duty to act in the public interest; and
3. the duty supersedes other duties which obligate accountants.

Barring the impact of violating a conflicting duty, the public interest would at least sometimes be best served through the provision of all relevant, and the withholding of all misleading, information. Even without the caveat "at least sometimes", this seems consistent with economic models which rely on perfect information to facilitate resource allocations. With the caveat, the statement requires for validity only a single instance where the public interest would be served through a departure from disclosure requirements.

There also appears to be a duty to act in the public interest. In the Principles section of the Code the issue of the public interest is specifically addressed. The accounting profession's public is said to consist of:

"clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of certified public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility. . . The public interest is defined as the collective well-being of the community of people and institutions the profession serves" (p. 4).

Furthermore, there is an acknowledgement of the potential for conflict:

"In discharging their professional responsibilities, members may encounter conflicting pressures from among each of those groups. In resolving those conflicts, members should act with integrity, guided by the precept that when members fulfill their responsibility to the public, clients' and employers' interests are best served" (p. 4).

Other sources which provide an indication of the duties facing accountants in the area of disclosure include, specifically, the auditor's report and, generally, the public image of the accounting profession and public expectations of its role in society. The auditor's report clearly states that the financial statements are the responsibility of the Company's management. However, audit procedures are described as adequate to have obtained reasonable assurance that the statements are free from material misstatement and the procedures include an assessment of the accounting principles and estimates used by management. Furthermore, the report states that the financial statements present fairly, in all material respects, the financial position of the Company. This can be read as a clear indication that relevant information is not being withheld, and that misleading information is not being disclosed in financial statements.

The public image of accountants is that they are trustworthy professionals¹¹. The public's trust in accounting professionals results in an expectation that accounting disclosure is complete and free from bias. While the accounting profession makes it clear that the financial statements are the responsibility of management, the public does not view management as free from bias. The duties implied by this public perception are less clear than the duties implied by the stated Principles, but it is clear that at least some people expect accounting professionals to act in the public interest. This general expectation seems to underlie much of the expectation gap.

While it seems clear that accountants have the ability and the duty to disclose information in the public interest, it is not clear whether this duty supersedes duties made explicit in Rules 203 and 301¹². The balance of this paper (and its key analysis) will address the issue of conflicting duties.

Positive and Negative Duties

The above discussion was intended to indicate the nature of professional duties in accounting. The professional duties may be explicit or implicit and the duties may conflict. Extensive research on conflicting ethical duties has been reported in the philosophy literature and that research will now be reviewed and utilized to gain insight into the possible resolution of the conflict in the area of accounting disclosure.

The nature and relative importance of positive duties and negative duties¹³ has been discussed at great length by contemporary ethical theorists. Positive duties are obligations to bring about good, to be meritorious. Consequently, positive duties require action. In contrast, negative duties are duties not to do bad, not to harm. Negative duties often require inaction or compliance with rules defining one's role. Many ethical theorists feel that negative duties are more obligatory than positive duties.

Duties to comply with professional standards are seen here as negative duties. Duties beyond the duty to comply with the rules of professional conduct are seen here as positive duties. Such duties require action for their fulfillment, but they are most fundamentally distinguished from negative duties by the result of failures to fulfill. The failure to fulfill a positive duty does not necessarily constitute an ethical violation. Positive duties are duties of beneficence, duties to do good or prevent bad. The failure to fulfill a positive duty generally does not cause harm. Rather, it only fails to prevent harm.

In contrast, the failure to fulfill a negative duty is an ethical violation. Negative duties are duties not to act unethically, thus the failure to fulfill them results in an ethical violation. This direct unethical action is what leads to the view that, all other things being equal, negative duties are stronger than positive duties. It also may explain why the possibility of violating professional standards in the interest of ethics is in some ways counter-intuitive.

The philosophy literature contains much debate concerning the ethical validity of the positive/negative duty dichotomy. While those who argue against the significance of the distinction (e.g. Bennet, 1966; Tooley, 1972; Rachels, 1975) have successfully raised doubts about the universality of any significance, others, (e.g. Foot, 1967; Trammell, 1975; Blumfield, 1981; Abelson, 1982) seem to have successfully argued that negative duties are stronger in at least some circumstances.

Ruland (1984) argues that the positive/negative duty distinction is not only valid ethically in the accounting policy-making context, but is the basis of a strict ordering of duties. Three criteria for evaluating duties are applied to the positive/negative duty debate. The three criteria are relentlessness, the uncertainty of outcomes and nature of responsibility for positive duties. These same criteria will be applied here in the context of disclosure issues facing accounting professionals. In addition, a fourth criterion, magnitude of the consequences, will be applied. This criterion is also used in Ruland (1984), but is there included as a characteristic of the responsibility criterion.

Relentlessness

Several philosophers (e.g. Blumfield, 1981; Trammell, 1975) have concluded that positive duties are not obligatory because they can never be discharged

because they are relentless). In other words, positive duties can only be satisfied when all possible acts of beneficence have been performed. In the general social context this would require that good deeds be performed until all social ills such as injustice have been alleviated. Clearly, this would be relentless and beyond the scope of what can be expected of persons. Positive duties can only be discharged and thus can only be obligatory if they can be limited by some criterion¹⁴.

The duty to disclose all relevant information is clearly relentless. Relevant information could range in impact from billions of dollars (e.g. savings and loan insolvency) or life and death (e.g. toxic waste) to matters of minor importance concerning a single user. It is obviously not possible to satisfy all these preferences. The implication of this finding is that, even if accountants are obligated to fulfill positive duties, the obligation does not extend to all circumstances where someone would benefit from action. Positive duties can only be obligatory under circumstances that can be defined as less than relentless.

Certainty of Outcomes

Some philosophers (e.g. Trammell, 1975) have established that the strictness of a positive duty is related to the probability that something bad will occur or that something good will not occur if the duty is not fulfilled. If a negative duty is violated there is generally little or no chance that a bad will be avoided or that a good will be realized. For example, if Gwen violates a negative duty not to kill Sam, there is no chance that Sam will not be dead. However, if a positive duty is violated, in most circumstances there are other means by which any bad can be avoided or good realized. The failure of John to save a drowning man at a crowded beach does not prevent others from saving the man.

There are circumstances, however, in which the failure to act on a positive duty will have an almost certain outcome. If John were the only person on the beach and a man was drowning, it would be a near certainty that the man would die if John did not act. Likewise, drowning would be a near certainty if many people were at the beach but no one else was making an effort to save the man.¹⁵ Circumstances such as this exist, but are relatively uncommon. When the circumstances do occur they could (depending on the specifics) change the relative strictness of a positive duty to act.

In the case of accounting practice *vis a vis* disclosure, a violation of a rule such as the one regarding compliance with GAAP leaves no chance that a bad (violation of GAAP) will be avoided. This is, by definition, a characteristic of negative duties. The positive duty to make disclosures in the public interest, on the other hand, appears to have excepting cases which distinguish it from many other positive duties. Unlike many other positive duties, the duty to disclose will at times have a near certain outcome. Because of his/her expertise and unique relationship with the client, the accountant could be the only person with sufficient knowledge, ability and motivation to make a disclosure which is in the public interest.

Consider, for example, the case of problem loans that have been made by banks. Accounting rules do not require revaluation of loans to market value

and thereby result in accounting reports which serve to keep relevant information from the public. It is not at all certain that this information could be effectively disclosed by another source since other sources may lack expertise, credibility or motivation to assess the situation and/or make the disclosure. Therefore, accountants could be in a unique position to identify institutions in risk of financial collapse. But to do so would require acceptance of a positive duty to act and a violation of a negative duty.

The fact that acts on the part of accountants may sometimes be necessary to ensure complete and unbiased disclosure strengthens positive duties. This finding furthers the possibility that there are circumstances in which accountants are obligated to fulfill positive duties and disclose information in the public interest.

Responsibility

Philosophers both favouring (e.g. Green, 1980; Trammell, 1975) and opposing (e.g. Morillo, 1977) the moral significance of the positive/negative duty distinction seem to agree that responsibility is a contributing factor in determining the strictness of a duty. Important to the distinction is a difference in the responsibility of persons for the good or bad that results from violations of negative duties as opposed to failures to fulfill positive duties.

A person is clearly responsible for violations of negative duties. If Gwen kills Sam she is clearly responsible for Sam's death. However, when a person fails to fulfill a positive duty he/she is not always so clearly (or deeply) responsible for the results. The extent of responsibility is dependent on the circumstances both in general and as they pertain to the person in particular. In many cases, John can be said to be more responsible for the fate of a drowning man on a deserted beach than he would be on a crowded beach.

John's responsibility depends on his own role and the role of others. His responsibility would be greatly higher if he were a champion swimmer who held a lifesaving certificate or, even more, if he were a lifeguard. It would be greatly lower if he were a weak swimmer or if he had other duties such as caring for a toddler who, if left unattended, could be swept away by the waves. Likewise, the level of responsibility would vary depending on who else was in the area. If a lifeguard were at the beach, and John himself was not a lifeguard, John's duty and thus his responsibility for any bad outcome would be greatly diminished.

The reason for this changing level of responsibility is that some circumstances create special duties for particular persons. Accountants are clearly responsible for the results when they violate their duty to adhere to explicit rules. They also can be seen as having special duties and thus responsibilities relative to disclosure in the public interest. The duties emanate somewhat from accountants' role as citizens given the sometimes relative certainty that acts are necessary for bad to be avoided or good to be realized. Moreover, the duties and resulting responsibilities are grounded both in the professional standing of accountants and the role of accountants in society. This makes the duties special and results in accountants being seen by the public as responsible for failures to disclose relevant information.

The strength of this responsibility is affected by who, if anyone, is also responsible and the nature of any responsibility shared by others. Other parties, in addition to accountants, share responsibility for disclosure. As was discussed previously, management has the primary duty to act in the public interest *vis a vis* disclosures. In the case of management though, there is a recognized conflict of interest and a lack of expectation on the part of the public. Indeed, accountants are expected to monitor management and to fulfill a duty to the public when management fails to meet its duty to disclose.

In some circumstances (e.g. depository institutions) it can be argued that regulators have the primary responsibility to protect the public. However, accountants can be seen as primarily responsible when regulators do not fulfill their role. Like management, regulators may have a conflict of interest, in their case due to the political nature of their positions.

In short, the duty of accountants to disclose is not "defeated"¹⁶ when management or regulators shirk their responsibilities to the public. This explains why accountants are viewed as responsible for the failure to disclose in the public interest¹⁷.

Magnitude

Philosophers generally recognize that the strictness of positive duties is at least somewhat related to the consequences of inaction. For example, while Smith finds moral significance in the positive/negative duty distinction, she states that "(a) trivial negative duty does not override a significant positive duty" (Smith, 1990, p. 22). Abelson (1982) refers to the "gravity of foreseeable consequences" as the "most conspicuous factor" which should affect the strictness of duties (1982, p. 223).

The strictness of a duty to disclose is affected by the magnitude of any resulting consequences¹⁸. For example, the strictness of the duty to disclose the market value of a bank's loan portfolio varies with the consequences of failing to disclose. If the consequence is some investors paying a 10% premium over the economic value for the bank's stock, the duty is less strict than it would be if the consequence was concealed insolvency which led investors to pay 100% more than the stock value and perhaps an increase by millions of dollars in the cost of a government bailout.

A difficulty with a consequences criterion for disclosure is that consequences may not be foreseeable. However, while it can be argued that the consequences of failing to disclose relevant information are often not foreseeable, the magnitude of the "disclosure gap" itself certainly is foreseeable by accountants. The disclosure gap is the difference between what is disclosed about an attribute and the relevant measurement of that attribute. It is likely that magnitude of the consequences of failing to disclose is correlated with the size of the disclosure gap. Thus, accountants can absolve themselves of responsibility for adverse consequences by disclosing, particularly in circumstances where the disclosure gap is significant¹⁹. In short, disclosure addresses the problem of foreseeability.

Codification

The analysis above established that for accountants positive duties *vis a vis* disclosure in the public interest are more strict under some circumstances than under others. It is yet to be established under what conditions, if any, the duty is so strict that an accountant is obligated to act beyond and/or in violation of professional rules. Any conclusion drawn must be based on the weight of the evidence in light of the four criteria applied in the preceding section.

When the application of the four criteria, relentlessness, certainty, responsibility and magnitude, is considered in total, the duty to disclose appears to be very strict in at least some circumstances. While the positive duty to act in this context is relentless, the results of a failure to fulfill the duty could at times have near certain consequences, the responsibility for failing to disclose ultimately lies with the accountant, and the consequences of failing to disclose vary in magnitude. These last three characteristics serve to define and therefore limit the circumstances under which there is a duty to disclose. Limiting the circumstances under which there are duties mitigates the relentlessness of the duties. Thus, all four criteria are met. This means that there are circumstances under which the ethical duty of the accountant is to act beyond and possibly even in violation of professional rules. At times accountants are obligated to violate rules requiring confidentiality of client information and/or compliance with GAAP in order to disclose information which is in the public interest.

Accountants are only so obligated when they are responsible for the consequences of failing to disclose. When accountants are responsible, the circumstances where positive duties to disclose are obligatory have two dimensions which together create a strict duty. They are the probability of the desirable outcome occurring (or undesirable outcome not occurring) if no action is taken, and the magnitude of the good or bad that potentially would occur²⁰.

The current savings and loan crisis in the United States is an example where, at some point, the outcome of failing to disclose was relatively certain and accountants at least share responsibility. The consequences from not acting on a positive duty to disclose the financial instability of these institutions are enormous. However, as described earlier, accountants who have been implicated for failing to disclose the problem have cited GAAP in their defense. The analysis in this paper indicates that compliance with GAAP does not always absolve accountants of their ethical duty to disclose information which is important to the public interest.

Conclusions and Limitations

Practicing accountants sometimes have a genuine conflict between duties to refrain from rules violations and duties to disclose information in the public interest. When the consequences of failing to disclose might be extreme, accountants seem to be ethically compelled to act beyond rules requiring compliance with GAAP even if it means violating client confidentiality.

This conclusion calls into question the AICPA's *Code of Professional Conduct*, which requires a public interest orientation in principle but neither considers the public interest in its Rules nor requires violation of the Rules when the Rules do not serve the public interest. The conclusion provides support, on the other hand, for the positions of legislators and judges who consider accountants responsible beyond compliance with professional rules. There are several limitations to this study which should be acknowledged. First, the legal environment of accounting has not been considered. Practicing accountants may feel constrained in their behaviour due to their liability for client injury resulting from a rules violation. The reader should bear in mind, though, that this paper is not a prescription for practicing accountants, but is forwarded to enlighten policy-makers to the ethical dimension of disclosure issues in practice. Policy-makers could change the rules and provide better legal protection to accountants who act ethically *vis a vis* disclosure.

A second possible limitation of this paper is the use of the positive/negative duty dichotomy to analyse accountants' conflicting duties. Some readers may wish to criticize the appropriateness of the dichotomy to professional duties. However, the conclusions in this paper would be little different if the positive/negative duty distinction were dropped. Use of the dichotomy put the burden of proof on the concept that duties to disclose could override duties to refrain from rules violations. This burden of proof seemed appropriate given the propensity of accountants to view compliance with GAAP as a satisfactory execution of their ethical duties.

A third limitation of this paper is the focus on AICPA members and the AICPA Code of Professional Conduct. It is assumed that the duties discussed here in fact extend to all professional accountants whether or not they are AICPA members. The analysis is fundamentally about professionalism and the requisite duties of professionals to the public. The extent to which the conclusions of this analysis can be generalized to all practicing accountants will be limited to the extent that differing roles create differing strict duties. In any case, the analysis is at least applicable to AICPA members, and they represent a large and prominent group of practicing accountants.

Finally, the conclusions of this study were drawn from the weight of the evidence, and the evidence consisted of our analysis of the ethics literature in the accounting context. Consequently, our conclusions are not above debate. Hopefully, this study will encourage others to investigate the ethical issues facing accountants. We invite their analysis and interpretation. As important as ethics is in accounting, the accounting profession and society as a whole can only benefit from more research in this area.

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Notes

1. This paper is about the duties of accountants and auditors in general. The terms accountants or accounting professionals are sometimes used for expository purposes when referring to both accountants and auditors.
2. The duties of auditors at times are different than the duties of other accounting professionals. Auditor behaviour is governed by the AICPA Code of Professional Conduct which in turn designates the Statements on Auditing Standards issued by the Auditing Standards Board as authoritative. Since these standards are only applicable to auditors, they can be seen as distinguishing auditor duties regarding disclosure from those of other accounting professionals. However, it is assumed here that the distinction relates to the rigor of review procedures, not to the objectives of disclosure. For example, the audit report states "presents fairly" but this does not mean that non-audited statements do not present fairly. The audit report simply makes a more explicit statement of what is implied for all accounting reports.
3. Other efforts include the issuance of Statement of Auditing Standards numbers 53 through 59 by the Auditing Standards Board of the American Institute of Certified Public Accountants. These are commonly referred to as the "expectation gap standards". Efforts to improve ethics education in accounting can also be seen as addressing the expectations gap.
4. The report was issued in 1986 and is commonly named after George D. Anderson who was chair of the AICPA's Special Committee on Standards of Professional Conduct for Certified Public Accountants. The actual title of the report is *Restructuring Professional Standards to Achieve Professional Excellence in a Changing Environment* (AICPA, 1986).
5. W. D. Ross (1930), a Kantian scholar, calls these duties *prima facie*. For a discussion on Ross and the duties which face accounting policy-makers see Ruland (1984).
6. The Code is applicable to all members of the AICPA whether they be in public practice, in industry, in government or in academe. Certain parts of the Code are only applicable to members in public practice.
7. Rule 202 of the Code establishes that members must comply with the standards promulgated by bodies designated by the Council of the AICPA. In turn, the Council has designated bodies, including the FASB and the Auditing Standards Board, as authoritative.
8. Rule 301 is applicable only to AICPA members in public practice. The issue under discussion is applicable to a wider range of accountants, however, because the rule has a parallel in the codes of other professional accounting groups (e.g. The Institute of Management Accountants).
9. The code makes exception only for subpoena and summons, authorized practice review and inquiries by recognized investigative or disciplinary bodies.
10. Furthermore, Rule 203 is limited in scope to compliance with accounting principles and does not address situations which are simply not covered by GAAP (e.g. improper handling of hazardous waste).
11. Several surveys have shown that accountants are perceived to be among the most ethical of all professionals. For example, a survey of 795 business people ranked accountants on the top of the list of 16 professions in regard to business ethics (AICPA, 1989).
12. Disclosing in the public interest also may place the accountant in conflict with personal duties, like providing for family, since it could put an accountant in conflict with a client and/or employer. In other words, accountants may be vulnerable when acting in the public interest because the rules do not necessarily support such behaviour.
13. The positive and negative duty debate has also been termed a conflict between acts and omissions (e.g. Glover, 1977), and doing and letting happen (e.g. Abelson, 1982). The debate is also similar to that between positive and negative responsibility (see Williams, 1973), though responsibility is a concept which pertains to consequences where duty may refer to intent without regard to consequences. It is worth noting that the terms positive and negative have opposite meanings when applied to duties and responsibilities. In other words, a positive duty gives rise to a negative responsibility and a negative duty gives rise to a positive responsibility. Since such terminology might be confusing, Ruland (1984) used the terms acting and refraining to describe the two types of duty. This has caused some confusion itself (e.g. see Ingram & Rayburn, 1989; Ruland, 1989), so the more commonly used terms in the philosophy literature, positive and negative duty, are used in this paper.
14. Smith (1990) provides additional criteria for determining if a positive duty is obligatory. Among them is "minimal action", which means little effort is required to fulfill the duty in a given circumstance. In the accounting context minimal action may mean that the information in question is easily available to the accountant and, thus, can be easily disclosed. In many circumstances an accountant would already have or easily could have relevant information available for disclosure. For example, market value information pertaining to loans made by banks is often available or readily determinable by accountants through present value techniques.

- h. Smith (1990), when discussing the problem of defeasibility of duties, claims that, if no one acts, the number of persons who could take action does not alleviate each person of the duty to bring aid.
- i. For a discussion of the defeasibility of duties see Smith (1990).
7. Due to their professional standing and clearly special duties in the area of disclosure, accountants are seen as more responsible than management for disclosure. For a discussion of the relative responsibility of accountants (auditors) for deception in financial statements see Gaa and Smith (1985).
3. The conclusion that the economic consequences are the responsibility of accountants is not made on consequentialist grounds. Accountants are seen here as responsible for the consequences of failures to disclose relevant information. A consequentialist would claim that adverse consequences of disclosing relevant measurements would also be the responsibility of accountants. That claim is not being made here.
9. Given that there may be multiple attributes which are relevant, there may be multiple disclosure gaps. Accountants can remedy the gaps by disclosing information about multiple attributes.
10. If it is assumed that the acceptable measure of consequences is expected utility, the absolute value of the expected utility multiplied times the probability of occurrence without action by the accountant would be a measure of compulsion to disclose. The higher the measure, the more compelling is the duty to disclose. Without an acceptance of expected utility additional judgments would need to be made.

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